

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to)	
Revoke Probation:)	
)	
Jesse James Joplin, M.D.)	Case No. D1-2009-202098
)	
Physician's and Surgeon's)	
Certificate No. G 41971)	
)	
Respondent)	
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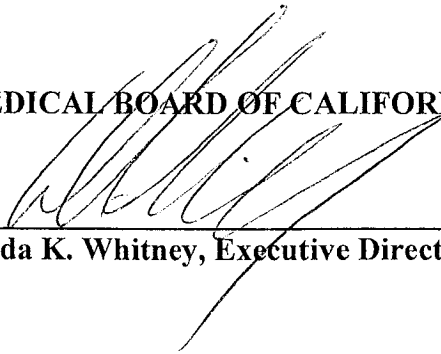
DECISION

The attached Stipulated Surrender of License is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 20, 2011.

IT IS SO ORDERED September 13, 2011.

MEDICAL BOARD OF CALIFORNIA

By: 

Linda K. Whitney, Executive Director

1 KAMALA D. HARRIS, Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General [SBN 111898]
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
5 Telephone: (415) 703-5544
Fax: (415) 703-5480
6

7 Attorneys for Petitioner/Complainant
8

9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 **In the Matter of the Petition to Revoke**
Probation:

13 **JESSE JAMES JOPLIN, M.D.**
14

15 Physician's and Surgeon's Certificate No. G41971
16

Case No. D1-2009-202098

STIPULATED SURRENDER OF
LICENSE

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 1. Linda K. Whitney (Petitioner/Complainant) is the Executive Director of the
20 Medical Board of California. This action has at all times been maintained solely in the official
21 capacity of the Executive Director of the Medical Board of California, who is represented by
22 Kamala D. Harris, Attorney General of the State of California, by Jane Zack Simon, Deputy
23 Attorney General.

24 2. Jesse James Joplin, M.D. (Respondent) is representing himself in this
25 proceeding. His current address is P.O. Box 672, Santa Clara, CA 9052-0672.

26 3. Respondent has received, read and understands the Petition to Revoke
27 Probation (Petition) which is presently on file and pending in case number D1-2009-202098,
28

1 a copy of which is attached as Exhibit A.

2 4. Respondent has carefully read and understands the charges and allegations
3 in the Petition. Respondent also has carefully read and understands the effects of this Stipulated
4 Surrender of License.

5 5. Respondent is fully aware of his legal rights in this matter, including the
6 right to a hearing on the charges and allegations in the Petition; the right to be represented by
7 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
8 the right to present evidence and to testify on his own behalf; the right to the issuance of
9 subpoenas to compel the attendance of witnesses and the production of documents; the right to
10 reconsideration and court review of an adverse decision; and all other rights accorded by the
11 California Administrative Procedure Act and other applicable laws.

12 6. Respondent voluntarily, knowingly, and intelligently waives and gives up
13 each and every right set forth above.

14 7. Respondent agrees that the Board has jurisdiction and cause to revoke the
15 probation that was previously stayed by virtue of the allegations set forth in the Petition and
16 pursuant to Business and Professions Code §822. Respondent is currently unable to practice
17 medicine and is pursuing his recovery. He wishes to surrender his California license at this time.

18 8. Pursuant to section 2224(b) of the Business and Professions Code, this
19 Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent
20 understands and agrees that the Medical Board's staff and counsel for Petitioner/Complainant
21 may communicate directly with the Board regarding this stipulation and settlement, without
22 notice to or participation by Respondent. By signing this stipulation, Respondent understands
23 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
24 time the Board considers and acts upon it. In the event that this stipulation is rejected for any
25 reason by the Board, it will be of no force or effect for either party. The Board will not be
26 disqualified from further action in this matter by virtue of its consideration of this stipulation.

27 ///

28 ///

1 9. Upon acceptance of this stipulation by the Board, Respondent understands
2 that he will no longer be permitted to practice as a physician and surgeon in California, and also
3 agrees to surrender and cause to be delivered to the Board any license and wallet certificate in his
4 possession before the effective date of the decision.

5 10. The admissions made by Respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Medical Board or other professional
7 licensing agency is involved, and shall not be admissible in any other criminal or civil
8 proceeding.

9 11. Respondent fully understands and agrees that if he ever files an application
10 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
11 reinstatement, and Respondent must comply with all laws, regulations and procedures for
12 reinstatement of a revoked license in effect at the time the petition is filed.

13 12. Respondent understands that because this surrender of license is based on
14 Section 822 of the Code, he may not petition for reinstatement as a physician and surgeon for a
15 period of one (1) year from the effective date of his surrender. Information gathered in
16 connection with the Petition may be considered by the Board in determining whether or not to
17 grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations
18 in Petition to Revoke Probation No. D1-2009-202098, along with all investigative materials
19 obtained in that proceeding, shall be deemed to be admitted by Respondent, and Respondent
20 waives any and all defenses based on a claim of laches or the statute of limitations.


21 13. The parties understand and agree that facsimile or electronic copies of this
22 Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have
23 the same force and effect as the originals.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Surrender of License. I enter into it
26 freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my
27 Physician's and Surgeon's Certificate Number G41971 to the Medical Board of California, for its
28 formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its

1 formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and
2 surgeon in the State of California and I also will cause to be delivered to the Board any license
3 and wallet certificate in my possession before the effective date of the decision.

4 DATED: August 23, 2011.

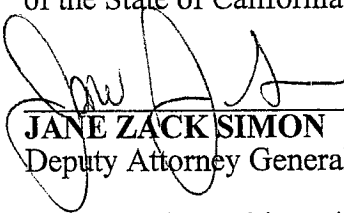
5 
6 **JESSE JAMES JOPLIN, M.D.**
7 Respondent

8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License is hereby respectfully submitted for
10 consideration by the Medical Board of California.

11 DATED: August 29, 2011.

12
13 KAMALA D. HARRIS., Attorney General
14 of the State of California

15 
16 **JANE ZACK SIMON**
17 Deputy Attorney General
18 Attorneys for Petitioner/Complainant

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EXHIBIT A

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General
4 State Bar No. 116564
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5544
6 Facsimile: (415) 703-5480

7 *Attorneys for Complainant/Petitioner*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 9 2011
BY: K. MONTALBANO ANALYST

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Petition to Revoke
13 Probation:

14 **JESSE JAMES JOPLIN, M.D.**
15 **P.O. Box 672**
Santa Clara, CA 95052-0672

16 Physician's and Surgeon's Certificate No. G41971

17 Respondent.

Primary Case No. D1-2009-202098
Consolidated Case No. 19-2011-216423

PETITION TO REVOKE PROBATION

18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant/Petitioner) brings this Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs.

23 2. On June 11, 1980, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number G41971 to Jesse James Joplin, M.D. (Respondent). On April 17,
25 1995 an Accusation was filed against Respondent's certificate; on January 29, 1997 a Decision
26 became effective under which Respondent's certificate was revoked, stayed, subject to five years
27 probation with terms and conditions. Respondent completed his probation on April 29, 2002. On
28 June 7, 2010 the primary disciplinary case was filed in Accusation No. 03-2009-202098; a First

1 amended Accusation was filed on June 14, 2010. Following a hearing, a Decision was issued,
2 effective April 22, 2011, revoking Respondent's license, stayed, and placing his certificate on
3 probation for seven years, with terms and conditions. Respondent's certificate will expire on
4 February 29, 2012, unless renewed. The certificate is SUSPENDED by virtue of an Interim
5 Suspension Order issued on July 25, 2011 pursuant to Government Code section 11529.

6 JURISDICTION

7 3. This Petition to Revoke Probation is brought before the Medical Board of
8 California (Board¹) under the authority of the following laws. All section references are to the
9 Business and Professions Code unless otherwise indicated.

10 4. Section 2004 of the Code provides that the Medical Board is responsible for the
11 administration and hearing of disciplinary action involving enforcement of the Medical Practice
12 Act (section 2000 *et seq.*) and the carrying out disciplinary actions appropriate to findings made
13 by a panel or an administrative law judge.

14 5. Section 2227 of the Code provides that a licensee who is found guilty under the
15 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
16 one year, placed on probation and required to pay the costs of probation monitoring, or such other
17 action taken in relation to discipline as the Board deems proper.

18 6. Section 2234 of the Code directs the Board to take action against any licensee who
19 is charged with unprofessional conduct. Unprofessional conduct includes, but is not limited to,
20 the following:

21 (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
22 the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
23 Practice Act].

24 (f) Any action or conduct which would have warranted the denial of a certificate.

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26
27 ¹ The term "Board" means the Medical Board of California; "Division of Medical
28 Quality" also refers to the Board.

1 7. Section 2239 of the Code provides that the use or prescribing for or administering
2 to himself of any controlled substance; or the use of any of the dangerous, or of alcoholic
3 beverages, to the extent or in such a manner as to be dangerous or injurious to the licensee, or to
4 any other person or to the public, or to the extent that such use impairs the ability of the licensee
5 to practice medicine safely or more than one misdemeanor or any felony involving the use,
6 consumption or self-administration of any of the substances referred to in this section, or any
7 combination thereof, constitutes unprofessional conduct.

8 **CAUSE FOR REVOCATION OF PROBATION**

9 8. As stated above, an Accusation and First Amended Accusation were filed before
10 the Board, in which it was alleged that Respondent engaged in unprofessional conduct in that he
11 consumed alcohol to excess and to an extent that he endangered himself and others, and that he
12 had been criminally convicted on two separate occasions of offenses related to the use and
13 consumption of alcohol. A hearing was held on the allegations set forth in the First Amended
14 Accusation on January 31, 2011; thereafter the Board issued its Decision effective April 22, 2011
15 under which Respondent's license was revoked, stayed, with seven years probation. The terms
16 and conditions of probation were directed primarily to Respondent's substance abuse, and
17 required him to abstain completely from the use of products or beverages containing alcohol,
18 submit to biological fluid testing, undergo a psychiatric evaluation, participate in psychotherapy,
19 have a practice monitor, and not engage in the solo practice of medicine. The Decision
20 specifically provided that failure to fully comply with any term or condition of probation would
21 be a violation of probation and would authorize the Board to take action to carry out the
22 disciplinary order that was stayed. A copy of the Decision is attached to this Petition to Revoke
23 Probation as Exhibit A .

24 9. Respondent's probationary terms, which took effect on April 22, 2011, and which
25 continue to be in effect, include the following terms and conditions:

26 A. ALCOHOL - ABSTAIN FROM USE: Under the terms and conditions of
27 his probation, Respondent was required to abstain completely from the use of alcoholic
28 beverages. Respondent failed to comply with this term of his probation in that multiple bodily

1 fluid tests resulted in a positive test result for the presence of alcohol. A urine sample collected
2 June 30, 2011 had a positive Ethyl Glucuronide (EtG) of 778 and a positive Ethyl Sulfate (EtS) of
3 298; a sample collected on July 6, 2011 had a positive EtG of 2,879 and a positive EtS of 789; a
4 sample collected on July 11, 2011 had a positive EtG of 37,295 and a positive EtS of 9,330; and,
5 a sample collected on July 12, 2011 had a positive EtG of 9,848 and a positive EtS of 3,020
6 Respondent admitted during an interview with Board investigative and probation staff on June 20,
7 2011 that he had "slipped" and had been drinking. A sample collected at the June 20, 2011
8 meeting had a positive EtG of 79,944 and a positive EtS of 22,612. The cutoff value (used to
9 rule out incidental exposure to alcohol) for EtG is 250 ng/mL and EtS is 50 ng/mL.

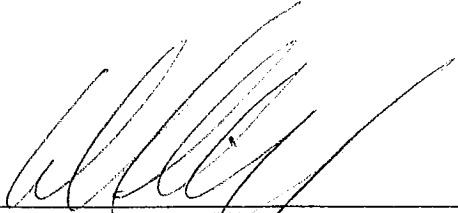
10 10. Grounds exist to revoke probation and to reimpose the order of revocation
11 in that respondent has failed to fully comply with the terms of his probation, as alleged above, and
12 the Board is therefore authorized to take further disciplinary action and to obtain the relief
13 requested herein.

14 **PRAYER**

15 WHEREFORE, Complainant prays that a hearing be held and that the Board issue an
16 order:

- 17 1. Revoking Physician's and Surgeon's Certificate Number G41971, issued to
18 Jesse James Joplin, M.D.;
- 19 2. Revoking Respondent's current probation, and carrying out the disciplinary
20 order that was stayed;
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: August 8, 2011

23
24
25 
26 LINDA K. WHITNEY
27 Executive Director
28 Medical Board of California
Department of Consumer Affairs
State of California
Complainant

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
Deputy Attorney General
4 State Bar No. 116564
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5544
6 Facsimile: (415) 703-5480

7 *Attorneys for Complainant/Petitioner*

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

Primary Case No. D1-2009-202098

12 In the Matter of the Petition to Revoke
13 Probation:

14 **JESSE JAMES JOPLIN, M.D.**
15 **P.O. Box 672**
16 **Santa Clara, CA 95052-0672**

Physician's and Surgeon's Certificate No. G41971

Respondent.

STATEMENT TO RESPONDENT

18 TO RESPONDENT:

19
20 Enclosed is a copy of the Petition to Revoke Probation that has been filed with the Medical
21 Board of California of the Department of Consumer Affairs (Board), and which is hereby served
22 on you.

23 Unless a written request for a hearing signed by you or on your behalf is delivered or
24 mailed to the Board, represented by Deputy Attorney General Jane Zack Simon, within fifteen
25 (15) days after a copy of the Petition to Revoke Probation was personally served on you or mailed
26 to you, you will be deemed to have waived your right to a hearing in this matter and the Board
27 may proceed upon the Petition to Revoke Probation without a hearing and may take action
28 thereon as provided by law.

1 The request for hearing may be made by delivering or mailing one of the enclosed forms
2 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
3 section 11506 of the Government Code, to

4
5 **Jane Zack Simon**
6 **Deputy Attorney General**
7 **455 Golden Gate Avenue, Suite 11000**
8 **San Francisco, California 94102**

9 You may, but need not, be represented by counsel at any or all stages of these proceedings.

10 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a
11 specific denial of all parts of the Petition to Revoke Probation, but you will not be permitted to
12 raise any objection to the form of the Petition to Revoke Probation unless you file a further Notice
13 of Defense as provided in section 11506 of the Government Code within fifteen (15) days after
14 service of the Petition to Revoke Probation on you.

15 If you file any Notice of Defense within the time permitted, a hearing will be held on the
16 charges made in the Petition to Revoke Probation.

17 The hearing may be postponed for good cause. If you have good cause, you are obliged to
18 notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, CA 94612,
19 within ten (10) working days after you discover the good cause. Failure to notify the Office of
20 Administrative Hearings within ten (10) days will deprive you of a postponement.

21 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

22 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
23 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
24 control of the Board you may send a Request for Discovery to the above designated Deputy
25 Attorney General.

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
settlement is a binding written agreement between you and the government regarding the matters


1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
2 Medical Board of California but, once approved, it would be incorporated into a final order.

3 Any stipulation must be consistent with the Board's established disciplinary guidelines;
4 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
5 Disciplinary Guidelines is enclosed.

6 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
7 have any questions, you or your attorney should contact Deputy Attorney General Jane Zack
8 Simon at the earliest opportunity.

9
10 Dated: July 26, 2011

KAMALA D. HARRIS
Attorney General of California


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12 JANE ZACK SIMON
13 Deputy Attorney General
14 *Attorneys for Complainant/Petitioner*
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1 EDMUND G. BROWN JR.
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9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke
13 Probation:

14 **JESSE JAMES JOPLIN, M.D.**
15 **P.O. Box 672**
16 **Santa Clara, CA 95052-0672**

17 Physician's and Surgeon's Certificate No. G41971

Respondent.

Primary Case No. D1-2009-202098

REQUEST FOR DISCOVERY

[Government Code §11507.6]

18 TO RESPONDENT:

19 Under section 11507.6 of the Government Code of the State of California, parties to an
20 administrative hearing, including the Complainant/Petitioner, are entitled to certain information
21 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
22 Government Code concerning such rights is included among the papers served.

23 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
24 HEREBY REQUESTED TO:

- 25 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
26 including, but not limited to, those intended to be called to testify at the hearing, and
27 2. Provide an opportunity for the Complainant/Petitioner to inspect and make a copy of
28 any of the following in the possession or custody or under control of the Respondent:

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative proceeding;

4 b. A statement pertaining to the subject matter of the proceeding made by
5 any party to another party or persons;

6 c. Statements of witnesses then proposed to be called by the Respondent and
7 of other persons having personal knowledge of the acts, omissions or events which are the
8 basis for the proceeding, not included in (a) or (b) above;

9 d. All writings, including but not limited to reports of mental, physical and
10 blood examinations and things which the Respondent now proposes to offer in evidence;

11 e. Any other writing or thing which is relevant and which would be
12 admissible in evidence, including but not limited to, any patient or hospital records
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent pertaining
15 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
16 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
17 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
18 investigator in the course of his or her investigation, or (3) contain or include by attachment
19 any statement or writing described in (a) to (e), inclusive, or summary thereof.
20

21 For the purpose of this Request for Discovery, "statements" include written statements by
22 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
23 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
24 summaries of these oral statements.

25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
26 should be deemed to authorize the inspection or copying of any writing or thing which is
27 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
28 product.

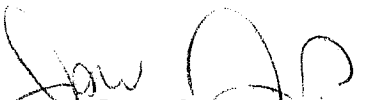
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Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant/Petitioner at the address on the first page of this Request for Discovery within 30 days after service of the Petition to Revoke Probation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

Dated: July 26, 2011

KAMALA D. HARRIS
Attorney General of California



JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

SF2010203002

Copy of Government Code Sections 11507.5, 11507.6, 11507.7 and 11455.10

PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Discovery Limitations

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Discovery Rights & Procedures

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

- (a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;
- (b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;
- (c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;
- (d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;
- (e) Any other writing or thing which is relevant and which would be admissible in evidence;
- (f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

(g) In any proceeding under subdivision (i) or (j) of Section 12940, or Section 19572 or 19702, alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is not discoverable unless it is to be offered at a hearing to attack the credibility of the complainant as provided for under subdivision (j) of Section 11513. This subdivision is intended only to limit the scope of discovery; it is not intended to affect the methods of discovery allowed under this section.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make it order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

SECTION 11455.10. Grounds for contempt sanction

A Person is subject to the contempt sanction for any of the following in an adjudicative proceeding before an agency:

- (a) Disobedience of or resistance to a lawful order;
- (b) Refusal to take the oath or affirmation as a witness or thereafter refusal to be examined;
- (c) Obstruction or interruption of the due course of the proceeding during a hearing or near the place of the hearing by any of the following:
 - (1) Disorderly, contemptuous, or insolent behavior toward the presiding officer while conducting the proceeding;
 - (2) Breach of the peace, boisterous conduct, or violent disturbance;
 - (3) Other unlawful interference with the process or proceedings of the agency.
- (d) Violation of the prohibition of ex parte communications under Article 7 (commencing with Section 11430.10);
- (e) Failure or refusal, without substantial justification, to comply with a deposition order, discovery request, subpoena, or other order of the presiding officer, or moving, without substantial justification, to compel discovery.

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke)	
Probation Against:)	File No. D1-2009-202098
)	
Jesse James Joplin, M.D.)	NOTICE OF DEFENSE
)	
Physician's and Surgeon's)	
Certificate No. G 41971)	
)	
Respondent.)	(Pursuant to sections 11505 and 11506,
_____)	Government Code)

I, the undersigned, the respondent named in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation, Statement to Respondent, Government Code sections 11507.5, 11507.6, 11507.7 and 11455.10, and two copies of a Notice of Defense.

I hereby request a hearing in this proceeding to permit me to present my defense to the charges contained in said Accusation.

DATED: _____

Respondent's Name	_____
Respondent's Signature	_____
Respondent's Mailing Address	_____
City, State and Zip Code	_____
Respondent's Telephone Number	_____

Check off appropriate box

I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name	_____
Counsel's Mailing Address	_____
City, State and Zip Code	_____
Counsel's Telephone Number	_____

I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address, and telephone number will be filed with you so that counsel will be on record to receive legal notices, pleading, and other papers.

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke)	
Probation Against:)	File No. D1-2009-202098
)	
Jesse James Joplin, M.D.)	NOTICE OF DEFENSE
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DATED: _____

Respondent's Name	
Respondent's Signature	
Respondent's Mailing Address	
City, State and Zip Code	
Respondent's Telephone Number	

Check off appropriate box

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Counsel's Name	
Counsel's Mailing Address	
City, State and Zip Code	
Counsel's Telephone Number	

I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address, and telephone number will be filed with you so that counsel will be on record to receive legal notices, pleading, and other papers.

DECLARATION OF SERVICE BY CERTIFIED AND FIRST CLASS MAIL

In the Matter of the Petition to Revoke Probation Against:

Jesse James Joplin, M.D.

File No. D1-2009-202098

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 2005 Evergreen Street, Suite 1200, Sacramento, California 95815. I served a true copy of the attached:

STATEMENT TO RESPONDENT; PETITION TO REVOKE PROBATION; REQUEST FOR DISCOVERY; GOVERNMENT CODE SECTIONS 11507.5, 11507.6, 11507.7 and 11455.10; NOTICE OF DEFENSE FORM (2 COPIES); A MANUAL OF MODEL DISCIPLINARY ORDERS AND MODEL DISCIPLINARY GUIDELINES

by U.S. Certified mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERTIFICATION #

Jesse James Joplin, M.D.
P.O. Box 672
Santa Clara, CA 95052-0672

7010 1060 0002 4830 2787


Jane Zack Simon
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102

First Class Mail


Each said envelope was then, on August 8, 2011, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, either as certified mail or first class U.S. mail, with the postage thereon fully prepaid, and return receipt requested for the certified mail.

Executed on August 8, 2011, at Sacramento, Calif

I declare under penalty of perjury under the laws of foregoing is true and correct.



Kelly Montalbano
Declarant

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
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Sent To Jesse James Joplin, M.D.	
Street, Apt. No. or PO Box No. P.O. Box 672	
City, State, ZIP Santa Clara, CA 95052-0672	
PS Form 3800, August 2006 See Reverse for Instructions	

7010 1060 0002 4830 2787