STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Thomas C. Trotta, MD
Master Case No.: M2010-1311
Document: Stipulation to Informal Disposition

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of **THOMAS C. TROTTA, MD** License No. MD00023082 Respondent.	**No. M2010-1311** **STIPULATION TO INFORMAL DISPOSITION**

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) alleging the conduct described below. Respondent does not admit any of the allegations. This Stipulation to Informal Disposition (Stipulation) is not formal disciplinary action and shall not be construed as a finding of unprofessional conduct or inability to practice.

1. ALLEGATIONS

1.1 On July 25, 1985, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently active. Respondent is board certified in general surgery.

1.2 Patient A's primary care physician (PCP) referred her to Respondent for a right upper quadrant mass after suspecting a hernia. In his written referral to Respondent, the PCP stated that Patient A's present illness was "Abdominal pain in RUQ from hernia...Refer to surgeon to evaluate RUQ mass/pain."

1.3 In October 2008, Respondent examined Patient A and noted that Patient A presented with "a painful bulge in the R lateral abdominal wall," she was 75 years old, 5'4" tall, 240 pounds, and suffered from hypertension. The pre-operative note also indicated that Patient A would not accept a blood transfusion. This is significant considering that Patient A's pre-operative laboratory report showed a low platelet count of 84,000.

1.4 Although Patient A had been experiencing significant pain and her PCP had suspected and noted the likelihood of a hernia, Respondent believed the abdominal mass to be lipoma. Respondent did not obtain any pre-operative image studies.

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Instead, Respondent scheduled Patient A for surgery at an outpatient, ambulatory surgery center, where he also works. Respondent did not take into account that complex hernia repairs that may require bowel repair or resection are not appropriate for same day surgical procedures and outpatient centers as they are not equipped for such eventualities. At a minimum, without a preoperative image study, Respondent should have scheduled Patient A for surgery at the hospital so that whatever issue was encountered could be properly addressed.

1.5 In November 2008, Respondent attempted surgery on Patient A at the ambulatory surgery center. Respondent used the subcostal approach and discovered that in fact, Patient A had a hernia and not the lipoma he had anticipated. The hernia was stuck to the undersurface of the abdominal area where Respondent found dense adhesions.

1.6 The surgery had to be stopped 25 minutes after its start because the surgery center lacked the instrumentation and equipment for hernia surgery. As a result of the more difficult and involved surgery required, the conscious sedation started by the anesthesiologist was insufficient to control Patient A's discomfort, and a laryngeal mask airway was needed and provided. Patient A was immediately transferred by ambulance to the hospital.

1.7 The surgery center's anesthesiologist's report stated that Patient A had a "likely bowel perforation." If the anesthesiologist's note is correct, the requisite delay in repairing the perforation could potentially expose Patient A to an increased risk of wound infection. A bowel perforation requires emergent repair, and any delay poses serious consequences.

1.8 Respondent denied perforating Patient A's bowel during the surgery at the surgery center but his own hospital admission report states that Patient A has "a probable perforation of the hepatic flexure." The hospital's report also contains a contradicting note where Respondent states that Patient A had begun outpatient surgery to remove a right-sided abdominal mass which "ended up perforating bowel." This hospital's report further acknowledged that Patient A was admitted for "bowel resection as this could not be done at the surgery center."

1.9 At the hospital, Respondent undertook the more extensive surgery which confirmed that the bowel was perforated. Respondent performed this second surgery

with a subcostal retroperitoneal approach despite his recognition of dense adhesions and presumed bowel injury, as well as the earlier difficulty in exposing the large hernia in his morbidly obese patient.

1.10 Respondent's discharge summary states that Patient A had experienced purulent drainage from her incision. However, Respondent did not document his evaluation of Patient A's wound prior to discharging Patient A from the hospital, nor did Respondent document Patient A's complaint of pain. Respondent discharged Patient A to a rehabilitation center.

1.11 Within 24 hours of discharge, Patient A immediately returned to the hospital by ambulance with a grossly infected wound. Patient A appeared septic, experienced constant, intense pain, with fever, chills, and brown, bilious-colored material draining from her surgical incision.

1.12 A CT scan showed draining fecal matter in her right abdomen. Patient A stated that her abdominal pain and wound drainage began three days prior to discharge from the hospital. The scan also revealed that Patient A had a significant intra-abdominal process that likely festered for some time. This raises the possibility that the drainage in the abdominal wound was the continuum of a process that was occurring intra-abdominally.

1.13 Patient A returned for a third surgery. Respondent again performed the surgery, this time using a midline incision. Respondent described the surgery as mildly bloody. During this surgery, in a purulent area in the right side of the abdomen, Respondent identified a perforation in Patient A's colon which was leaking air. Respondent resected Patient A's colon and broke down some hard adhesions. Because of the extensive peritonitis that had developed, Patient A had to have a colostomy. Patient A's health rapidly declined following the third surgery.

1.14 Patient A died less than thirty days after Respondent's initial surgery. Respondent prepared the death certificate, and he failed to accurately reflect that Patient A died of multi-organ system failure as a consequence of a bowel perforation that occurred from his abdominal surgery to repair a hernia. There is no mention for reason of organ failure and the only pathology mentioned are various organ system failures occurring just before death. A death certificate should accurately reflect the

course of events leading up to the patient's demise. Respondent neglected to properly document the actual cause of Patient A's death.

2. STIPULATION

2.1 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

2.2 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

2.3 Respondent agrees to be bound by the terms and conditions of this Stipulation.

2.4 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

2.5 If the Commission accepts the Stipulation it will be reported to the Health Integrity and Protection Databank (HIPDB) (45 CFR Part 61), the Federation of State Medical Board's Physician Data Center, and elsewhere as required by law. HIPDB will report this Stipulation to the National Practitioner Data Bank (45 CFR Part 60).

2.6 The Statement of Allegations and this Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's listserv, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

2.7 The Commission agrees to forego further disciplinary proceedings concerning the allegations.

2.8 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

2.9 A violation of the provisions of Section 3 of this Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

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3. INFORMAL DISPOSITION

The Commission and Respondent stipulate to the following terms.

3.1 **Authoritative Paper.** Within 90 days of the effective date of this Stipulation, Respondent shall write and submit for approval by the Commission or its designee a scholarly paper with annotated bibliography of a minimum of 1,500 words discussing Communication and Resolution Program (CRP) principles and the importance of integrating these principles into his practice. Respondent shall include a paragraph or two about the value of a collaborative periodic specialty group discussion of current outstanding issues such as complications, new surgical techniques, etc. Respondent shall also review and comment on the following MQAC Guidelines: MD2015-09: Physician and Physician Assistants' use of the Electronic Medical Record; and MD 2015-08: A Collaborative Approach to Reducing Medical Error and Enhancing Patient Safety. The Guidelines can be found on the Medical Commission website under "Medical Resources." Respondent shall submit his paper to one of the addresses listed in paragraph 3.4 below. Respondent should be prepared to discuss the subject matter of his paper with the Commission at his initial personal appearance following approval of the paper by the Commission.

3.2 **Presentation of Paper.** Within thirty (30) days of receiving approval of Respondent's Paper, Respondent will present his paper to the surgeon group that works at or is affiliated with Respondent's place of employment. Respondent will provide proof of his presentation by submitting to the Commission a declaration that lists the date and time of the presentation, and the signatures of participants.

3.3 **Personal Appearances.** Respondent must personally appear before the Commission in approximately six (6) months, or as soon thereafter as the Commission's schedule permits. The purpose of appearances is to provide meaningful oversight of Respondent's compliance with the requirements of this Stipulation. Thereafter, Respondent will make personal appearances every twelve (12) months or until the Commission terminates this Stipulation, unless the Commission waives the need for an appearance. The Commission will provide reasonable notice of all scheduled appearances. Dates and locations of appearances will be determined by the Commission.

3.4 **Quality Review Reports**. Respondent must arrange for the manager of the Quality Review Committee at all facilities where he provides patient care to submit quarterly reports addressing whether any surgical cases involving Respondent were discussed at the Quality Review Committee meetings. The manager shall submit quarterly reports to the Commission on the first business day of January, April, July, and October of each year. Following the first year after the approval of this Stipulation, the frequency of ongoing Quality Review reports shall be reevaluated by the Commission and the Commission may consider a reduction in reporting requirements. By signing this Stipulation, Respondent authorizes the Committee manager to discuss with the Commission or its designee any matters pertaining to the Quality Review report. Respondent waives any privileges or privacy rights under federal and state law regarding disclosures to the Commission. The Quality Review reports will be sent to:

1. medical.compliance@doh.wa.gov

2. Compliance Officer
   Medical Quality Assurance Commission
   P.O. Box 47866
   Olympia, WA 98504-7866

3.5 **Cost Recovery.** Respondent shall reimburse costs to the Commission in the amount of $1,000 which must be received by the Commission within ninety days of the effective date of this Stipulation. The reimbursement shall be paid by certified or cashier's check or money order, payable to the Department of Health and mailed to the Department of Health, Medical Quality Assurance Commission at P.O. Box 1099, Olympia, Washington 98507-1099.

3.6 **Termination.** Respondent shall be subject to the terms of this Stipulation for (2) two years. The Commission will release Respondent from this Stipulation after two years if Respondent has fully complied with all of the Stipulation's terms. A Compliance Officer will send Respondent a letter stating Respondent is released from the Stipulation to Informal Disposition

3.7 **Obey Laws.** Respondent must obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

3.8 **Costs.** Respondent must assume all costs of complying with this Stipulation.

3.9 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may take further action against Respondent's license.

3.10 **Change of Address.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing, of changes in his residential and/or business address within thirty (30) days of such change.

3.11 **Effective Date.** The effective date of this Stipulation is the date the Adjudicative Clerk Office places the signed Stipulation into the U.S. mail. Respondent shall not submit any fees or compliance documents until after the effective date of this Stipulation.

4. COMPLIANCE WITH SANCTION RULES

4.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions, including stipulations to informal disposition under RCW 18.130.172. Respondent's alleged conduct falls in Tier C of the "Practice Below Standard of Care" schedule, WAC 246-16-810. Respondent's failure to meet the standard of care caused severe harm or death.

4.2 Tier C of the schedule requires terms that range from a minimum of three years to permanent conditions, restrictions, or revocation. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. Respondent may complete the terms of this Stipulation in two years; therefore the sanctions in this Stipulation to Informal Disposition are a deviation. The Commission believes this deviation is appropriate, as provided by WAC 246-16-800(3)(d)(iii), because of the following mitigating factors: Respondent took responsibility for and learned from his error, Respondent was proactive in attending CME courses after the incident, Respondent has been practicing medicine for 31 years and has not been the subject of prior discipline. The Commission did not identify any aggravating factors, and believes that additional oversight beyond the terms in Section 3 is unnecessary. The Commission believes the sanctions will adequately protect the public. The sanctions include an independent research paper, quality review reports, personal appearance(s), and partial cost recovery.

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5. RESPONDENT'S ACCEPTANCE

I, THOMAS C. TROTTA, MD, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, James King, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

JL Trotta MD — 12/14/16

THOMAS C. TROTTA, M.D.
RESPONDENT

DATE

JAMES KING, WSBA #8723
ATTORNEY FOR RESPONDENT

12-19-2017
DATE

6. COMMISSION'S ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: Jan. 12, 2017

STATE OF WASHINGTON
MEDICAL QUALITY ASSURANCE COMMISSION

PANEL CHAIR

PRESENTED BY:

SEANA REICHOLD, WSBA #49163
COMMISSION STAFF ATTORNEY

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