

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

In the Matter of the Accusation)
Against:)
)
ANDREW RUTLAND, M.D.)
)
)
Physician's and Surgeon's)
Certificate #G-24947)
)
Respondent.)
_____)

Case No: 18-1999-101122


DECISION AND ORDER

The attached Stipulation for Surrender of Physician and Surgeon's Certificate and Physician Assistant Supervisor License is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 24, 2002.

IT IS SO ORDERED September 24, 2002

MEDICAL BOARD OF CALIFORNIA



Steven Rubins, M.D.

Panel B

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 D. KENNETH BAUMGARTEN
Deputy Attorney General
3 State Bar No. 124371
California Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92816-5266
Telephone: (619) 645-2195
6 Facsimile: (619) 645-2061

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	)	CASE NO. 18-1999-101122
)	
12 ANDREW RUTLAND, M.D.	)	OAH NO. L-2002070042
7495 Hummingbird Circle)	
13 Anaheim Hills, CA 90807	)	STIPULATION
	)	FOR SURRENDER OF
14 Physician and Surgeon's	)	PHYSICIAN and SURGEON'S
Certificate No. G 24947	)	CERTIFICATE NO. G 24947
	)	and
15 Physician Assistant Supervisor	)	PHYSICIAN ASSISTANT
16 License No. SA 18870	)	SUPERVISOR LICENSE
	)	NO. SA 18870
)	
17 _____)	
Respondent.)	

18
19 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties to
20 the above-entitled proceedings, that the following matters are true:

21 1. Complainant, Ron Joseph, is the Executive Director of the Medical Board
22 of California, Department of Consumer Affairs ("Board") and is represented by Bill Lockyer,
23 Attorney General of the State of California by D. Kenneth Baumgarten, Deputy Attorney
24 General.

25 2. Respondent, Andrew Rutland, M.D., is represented by Mr. Peter R.
26 Osinoff, Esq., of Bonne, Bridges, Mueller, O'Keefe & Nichols, 3699 Wilshire Blvd., 10th
27 Floor, Los Angeles, CA 90010-2719; (213) 738-5838.

28 ///

1 3. Respondent has received and read the Third Amended Accusation in this
2 matter, filed June 28, 2002, which is the culmination of multiple Medical Board investigations
3 reflecting the following case numbers: 18-1999-101122;18-2000-112939;18-2000-117679; 18-
4 2000-114677; 18-2000-114683; 18-2000-116414; 18-2000-114224; 18-2000-114700; 18-2000-
5 112937; 18-2000-114678; 18-2000-115566; 18-2002-134646 (M.A.); 18-2002-134650 (BJG);
6 18-2002-134651 (VG); 18-2002-134647 (J.W.); 18-2002-134903 (Medical Record No.
7 365409).

8 This Third Amended Accusation is presently on file and pending before the
9 Board and the Division of Medical Quality, hereinafter "Division", a copy of which is attached
10 hereto as **Exhibit A** and is incorporated herein by reference.

11 4. On July 3, 2002, an full Interim Suspension Order was issued by the
12 Office of Administrative Hearings in Los Angeles suspending Respondent from the practice of
13 medicine in California pending a disciplinary hearing on the charges in the Third Amended
14 Accusation. This Interim Suspension Order is presently on file with the Board and the Division,
15 a copy of which is attached hereto as **Exhibit B** and is incorporated herein by reference.

16 5. Respondent understands the nature of the charges alleged in the Third
17 Amended Accusation and that, if proven at hearing, such charges and allegations would
18 constitute cause for imposing discipline upon Respondent's license issued by the Board.

19 6. Respondent is aware of each of his rights, including the right to a hearing
20 on the charges and allegations; the right to be represented by counsel at his own expense; the
21 right to confront and cross-examine witnesses who would testify against Respondent; the right
22 to testify and present evidence on his own behalf, as well as to the issuance of subpoenas to
23 compel the attendance of witnesses and the production of documents; the right to contest the
24 charges and allegations; and other rights which are accorded Respondent pursuant to the
25 California Administrative Procedure Act (Gov. Code, § 11500 et seq.) and other applicable
26 laws, including the right to seek reconsideration, review by the superior court, and appellate
27 review.

28 ///

1 7. Respondent, having discussed this matter with his counsel, freely and
2 voluntarily waives each and every one of the rights set forth in paragraph 6.

3 8. For the purpose of resolving the Third Amended Accusation, Respondent
4 hereby admits to the charges involving the Broussard matter, also known as "K.B.", as set forth
5 in paragraphs 12 (except sub-paragraphs Q and R) and 13 (except sub-paragraphs K and O) of
6 the Third Amended Accusation. Further, Respondent agrees that, at a hearing, Complainant
7 could also establish a factual basis for the one or more of the other charges in the Third
8 Amended Accusation. Respondent hereby gives up his right to contest these charges.

9 9. Respondent understands that by signing this Stipulation, he is enabling
10 the Division to issue its Order accepting the surrender of his licenses without further process. It
11 is also understood by Respondent that, in deciding whether to adopt this Stipulation, the
12 Division may receive oral and written communications from its staff and the Attorney General's
13 Office. Communications pursuant to this paragraph shall not disqualify the Division or other
14 persons from future participation in this or any other matter affecting Respondent. In the event
15 this Stipulation is not adopted by the Division, this Stipulation will not become effective and
16 may not be used for any other purpose, except for this paragraph, which shall remain in effect.

17 10. Upon acceptance of this Stipulation by the Division, Respondent agrees
18 to cause to be delivered to the Division, both his wall and wallet certificates before the effective
19 date of the Decision. Respondent further understands that, on or after the effective date of this
20 Decision, he will no longer be permitted to practice as a physician and surgeon in California.

21 **PAY CURRENT DISCOVERY COSTS**

22 11. Upon acceptance of this Stipulation by the Division, Respondent agrees
23 to pay to the Board the sum of \$3160.00 (three thousand, one hundred and sixty dollars) which
24 represents partial reimbursement for costs incurred in providing document discovery to
25 Respondent during this disciplinary action to date.

26 Respondent shall pay the \$3160.00 on or before the expiration of the 30 day
27 period preceding the effective date of the Decision by the Division in this matter. Should

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AUG 25 02 05:57p

Andrew Rutland MD

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1 Respondent fail to pay this amount when due. then he shall not be entitled to petition the Board
2 for reinstatement until the \$3160.00 is paid in full.

3 COST RECOVERY

4 12. Upon acceptance of this Stipulation by the Division, Respondent agrees
5 that if and/or when he ever meets the requirements by the California Medical Board for
6 reinstatement of his medical certificate, that after filing a petition for reinstatement, and prior
7 to re-issuance of a license, Respondent shall pay the sum of \$37,000.00 (thirty-seven
8 thousand dollars) which represents a portion of the cost recovery to which Complainant is
9 entitled in this matter.

10 CONTINGENCY

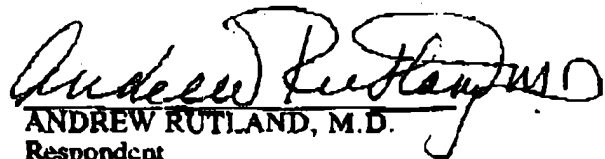
11 This Stipulation shall be subject to the approval of the Division of Medical
12 Quality. Respondent understands and agrees that Board staff and counsel for Complainant
13 may communicate directly with the Division regarding this Stipulation for Surrender, without
14 notice to or participation by Respondent or his counsel.

15 If the Division fails to adopt this Stipulation as its Order, the Stipulation shall
16 be of no force or effect, it shall be inadmissible in any legal action between the parties, and
17 the Division shall not be disqualified from further action in this matter by virtue of its
18 consideration of this Stipulation.

19 ACCEPTANCE

20 I have read the above Stipulation for Surrender and have fully discussed this
21 Stipulation and other related matters contained therein with my attorneys. I understand the
22 effect this Stipulation for Surrender will have on my Physician and Surgeon's Certificate, and
23 agree to be bound thereby. I enter this Stipulation freely, knowingly, intelligently and
24 voluntarily.


25 DATED: 25 Aug 02

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27 
28 ANDREW RUTLAND, M.D.
Respondent

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2 I have read and have fully discussed the terms and other matters contained in
3 this Stipulation for Surrender with Respondent, Andrew Rutland, M.D., and approve of its
4 form and content.


5 DATED: 8/26/02

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7 
8 PETER R. OSINOFF, Esq.
9 Bonne, Bridges, Mueller, O'Keefe & Nichols
Attorneys for Respondent

10 **ENDORSEMENT**

11 The foregoing Stipulation for Surrender is hereby respectfully submitted for
12 consideration by the Division of Medical Quality, Medical Board of California, Department
13 of Consumer Affairs.

14 DATED: August 26, 2002

15 BILL LOCKYER, Attorney General
16 of the State of California
17 
18 D. KENNETH BAUMGARTEN
19 Deputy Attorney General
20 Attorneys for Complainant

21 **Exhibit A:** Third Amended Accusation No. 18-1999-101122

22 **Exhibit B:** Interim Suspension Order, dated July 3, 2002

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EXHIBIT A
THIRD AMENDED ACCUSATION
NO. 18-1999-101122

1 BILL LOCKYER, Attorney General
of the State of California
2 D. KENNETH BAUMGARTEN, State Bar No. 124371
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, California 92101
5 P.O. Box 85266
San Diego, California 92186-5266
6 Telephone: (619) 645-2195
Facsimile: (619) 645-2061
7 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:
14 ANDREW RUTLAND, M.D.
7495 Hummingbird Circle
15 Anaheim Hills, California 90807
16 Physician's and Surgeon's
Certificate No. G 24947
17 Physician Assistant Supervisor
18 License No. SA 18870
19 Respondent.

Case Nos. 18-1999-101122; 18-2000-112939;
18-2000-117679; 18-2000-114677;
18-2000-114683; 18-2000-116414;
18-2000-114224; 18-2000-114700;
18-2000-112937; 18-2000-114678;
18-2000-115566; 18-2002-134646 (M.A.);
18-2002-134650 (BJG); 18-2002-134651 (VG);
18-2002-134647 (JW);
18-2002-134903 (Medical Record No.365409)

**THIRD AMENDED
ACCUSATION**

20
21 Complainant alleges:

22 PARTIES

23 1. Ron Joseph ("Complainant") brings this Accusation solely in his official
24 capacity as the Executive Director of the Medical Board of California, Department of Consumer
25 Affairs.
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27 ///
28 ///

1 JURISDICTION

2 2. This Accusation is brought before the Division of Medical Quality,
3 Medical Board of California ("Division"), under the authority of the following sections of the
4 Business and Professions Code ("Code").

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

9 4. Section 2234 of the Code states:

10 "The Division of Medical Quality shall take action against any
11 licensee who is charged with unprofessional conduct. In addition to other
12 provisions of this article, unprofessional conduct includes, but is not
13 limited to, the following:

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

17 "(b) Gross negligence.

18 "(c) Repeated negligent acts.

19 "(d) Incompetence.

20 "(e) The commission of any act involving dishonesty or corruption
21 which is substantially related to the qualifications, functions, or duties of a
22 physician and surgeon.

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

25 5. Section 125.3 of the Code provides, in pertinent part, that the Division
26 may request the administrative law judge to direct a licentiate found to have committed a
27 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
28 investigation and enforcement of the case.

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6. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

"(a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the relevant licensing board determines that compelling circumstances warrant the continued reimbursement during the probationary period of any Medi-Cal claim, including any claim for dental services, as so described. In such a case, the department shall continue to reimburse the licensee for all procedures, except for those invasive or surgical procedures for which the licensee was placed on probation."

7. Section 2261 of the Code states:

"Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct."

8. Section 2262 of the Code states:

"Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct."

"In addition to any other disciplinary action, the Division of Medical Quality or the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500) for a violation of this section."

9. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

10. Section 725 of Code provides that excessive prescribing or administering of drugs or treatment is unprofessional conduct.

11. Section 726 of the Code provides that: " The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct . . . "

1 **THE OBSTETRICAL PATIENTS**

2 **FIRST CAUSE FOR DISCIPLINE**

3 (Gross negligence, repeated negligent acts, incompetence)

4 **PATIENT K.B.**

5 12. Respondent is subject to disciplinary action under section 2234 of the
6 Code in that he was grossly negligent, incompetent, and/or committed repeated negligent acts in
7 his care and treatment of patients K.B., T.H., and Medical Record No. 365409. The
8 circumstances are as follows:

9 A. On or about July 22, 1999, K.B. went to the Labor and
10 Delivery Unit of the Martin Luther Hospital to have her first baby. She was 33-
11 years-old at the time. She had a history of congenital neurogenic bladder¹, and
12 had two operations as a child for this condition. She had been a patient of
13 respondent's since about June 1999.

14 B. K.B. had spontaneous rupture of her membranes when she
15 came to the hospital at about 2:50 a.m. on July 22, 1999.

16 C. Respondent made an admitting note at about 9:00 a.m. on
17 July 22, 1999, and noted his plan to assist labor with Pitocin. K.B. was dilated
18 about 1-2 cm. with the vertex at 0 station, and she had variable decelerations with
19 her contractions.

20 D. K.B. received an epidural at about 11:00 a.m.

21 E. K.B. made progress in her labor, and was dilated about 3-4
22 cm. at 2:05 p.m. The fetal monitor showed some deep variable decelerations (to
23 80 bpm) with the uterine contractions and respondent ordered an amniocfusion.
24 By 3:47 p.m. K.B. was dilated to 6-7 cm. and still having deep variable
25 decelerations.

26
27
28 1. Neurogenic bladder means that the bladder is in a state of dysfunction due to lesions of
the central or peripheral nervous system.

1 F. K.B. started pushing at about 9:00 p.m. She had variable
2 decelerations to 90 bpm after almost every push/contraction.

3 G. Respondent did not continue to assist labor with Pitocin.
4 He waited for about two hours, and reassessed the position of the baby.

5 H. Respondent manually attempted to turn the baby's head
6 while K.B. was pushing and a nurse, pursuant to respondent's orders, applied
7 fundal pressure. Respondent tried to turn the head three or four times. While
8 respondent was attempting this maneuver, K.B. became completely dilated, and
9 respondent placed her legs in high stirrups.

10 I. Respondent applied forceps at this point, without first
11 activating the epidural catheter for pain relief. When the forceps were applied, the
12 vertex was at a +1 station; respondent attempted a midforceps delivery.

13 J. Respondent did not take K.B. to the operating room before
14 attempting delivery of K.B.'s baby. In addition, respondent did not have a
15 resuscitation team (a respiratory therapist or a neonatal nursery nurse) available
16 when he commenced the attempt to delivery the baby with forceps.

17 K. Respondent did not perform a caesarean section on K.B.
18 because of her previous bladder surgeries and her neurogenic bladder.

19 L. Respondent applied the forceps at about 9:30 p.m. K.B.
20 immediately complained of significant pain, and respondent stopped and called
21 the anesthesiologist, who restarted the epidural.

22 M. After the epidural was restarted, respondent pulled with
23 five or more contractions, using a side to side rocking motion. The fetal heart rate
24 monitor showed fetal distress during the forceps procedure. The baby's head
25 came to the perineum, respondent took off the forceps and asked K.B. to push.
26 The head slipped back and respondent reapplied the forceps. The baby was
27 delivered at 9:55 p.m.

28 ///

1 N. Respondent did not clear the baby's airway after delivery.

2 O. Respondent twice slipped the nuchal cord over the baby's
3 head; the cord was loose.

4 P. The baby appeared extremely floppy, and respondent
5 placed it on K.B.'s abdomen. Respondent slapped the baby repeatedly.
6 Respondent then asked for oxygen, but only K.B.'s mask was available. The
7 mask was too large for the baby, and the nurses called for a neonatal nursery nurse
8 to assist in resuscitating the baby. Respondent removed the baby from K.B.'s
9 abdomen and placed it on the warmer. Respondent continued to slap the baby
10 while it was being intubated and bagged.

11 Q. C.W., R.N., charge nurse on the postpartum floor on July
12 24, 1999, saw respondent with K.B.'s chart on or about that date. Respondent
13 removed a piece of paper from the chart and placed it in his pocket. Respondent
14 wrote notes in the chart dated July 22 and July 23, 1999. Respondent appeared to
15 be charting directly from the nurses' notes.

16 R. Dr. Janis Fee, M.D., reviewed respondent's progress notes
17 for July 22, 1999, and found a half-page of notes. When Dr. Fee reviewed
18 respondent's notes at a later time, she found that the half-page she had read the
19 day before was missing. Instead, Dr. Fee found two pages of notes by respondent
20 that had not been there the day before.

21 **PATIENT T.H.**

22 S. Patient T.H. was 27 years of age at the time in question,
23 had been pregnant twice but had no children, and was a class B diabetic². She had
24 been on oral agents during her pregnancy and conceived while taking Clomid.

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27 _____
28 2. As a class B diabetic, T.H. was diabetic before her pregnancy and was insulin-
dependent.

1 T. T.H. was started on insulin by respondent at about 27
2 weeks after she conceived. Respondent ordered 10 units NPH and 5 units regular³
3 each morning. Respondent instructed her to check blood sugar twice each day,
4 and adjusted her insulin dosages on a weekly basis. When her fasting blood sugar
5 levels were too high, respondent adjusted her insulin up to 45 units NPH and 40
6 units regular in the morning.

7 U. Respondent did not order nor did he note in the medical
8 record any order for a consultation by a perinatologist.

9 V. Respondent started performing non-stress tests weekly
10 starting at 34 weeks. At that time, respondent noted a planned amniocentesis for
11 **January 17, 1997**, when T.H. would be in her 35th week. Respondent noted that
12 **if the patient were PG (phosphatidylglycerol) positive, he planned delivery of her**
13 **baby⁴.**

14 W. On or about January 17, 1997, T.H. came to respondent's
15 office for the amniocentesis. Respondent performed a sonogram, and learned that
16 the fetal heart rate was 120 beats per minute or "bpm" (respondent noted that the
17 normal fetal heart rate is 140 bpm; it is actually a range of 120-160 bpm). He also
18 found that the placenta was large and covered almost the entire anterior uterine
19 wall. Respondent found a clear pocket of fluid in the right lower quadrant and
20 performed an amniocentesis.

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25 3. "NPH" and "regular" insulin are two different types of insulin. NPH insulin is long-
26 acting, and "regular" insulin is short-acting. Generally, insulin-dependent diabetics need both
27 kinds of insulin to control diabetes.

28 4. A positive PG value is an indication of lung maturity when PG is present in the
amniotic fluid. The lungs of a diabetic baby mature more slowly than those of a non-diabetic.

1 X. Respondent had to puncture T.H. at least twice with the
2 amniocentesis needle to get a sample of the fluid. The sample was tinged with
3 blood. Respondent made no notes of how many times he inserted the
4 amniocentesis needle into T.H.

5 Y. Respondent called the hospital and made plans for a "stat"
6 caesarean section delivery. T.H. drove or walked to the hospital, and respondent
7 arrived first. When T.H. was admitted to Labor and Delivery, no fetal heart tones
8 were heard. The preoperative diagnosis was fetal bradycardia, or slow heart rate.
9 The postoperative diagnosis was placental abruption, or separation of the placenta
10 from the uterine wall. The baby's hematocrit (Hct) was 24 (it should have been
11 around 60).

12 Z. Pathologic examination of the placenta did not show an
13 abruption. The baby had seizures and died.

14 **Medical Record No. 365409**

15 AA. On June 6, 2002, respondent's patient, **Medical Record**
16 **No. 365409²**, was scheduled to deliver. The thirty-four year old patient had first
17 seen respondent on or about October 8, 2001. Of significance is that her blood
18 type was AB negative-antibody positive.

19 BB. At 4:45 p.m. on June 6th she was admitted with a vaginal
20 exam which showed she was 90% effaced, 3-4 cm dilated, vertex at -1 station. At
21 6:45 p.m. respondent examined the patient and ruptured the membrane. Nurse
22 Kanbar took over the patient's care and 7:00 p.m., and at 8:50 the patient was
23 given an epidural by the anesthesiologist. During her initial assessment at 7 p.m.
24 nurse Kanbar felt only an arm and not a head. She immediately called respondent
25 and told him about her findings. He said that when he examined her at 6:45 p.m.

26
27 2. Although the hospital has provided the patient's records and acknowledged that as a
28 result of this incident it suspended respondent's hospital privileges, the hospital redacted the
name of the woman involved and her identity has not yet been determined.

1 he, too, had felt the hand , and told her a compound presentation was not an
2 indication for a c-section. He said the baby would move the hand, and told nurse
3 Kanbar to continue the Pitocin and he would speak to the patient.

4 CC. The patient was having contractions every three to three
5 and a half minutes. The patient experienced variable decelerations of the fetal
6 heart rate four times and had five lates, meaning the baby's return to a baseline
7 heart rate after a deceleration was late. After the fifth late, nurse Kanbar called
8 respondent, this time at 11:53 p.m. She advised him of the five lates and the
9 decelerations. Respondent told her to stop the Pitocin. She again told respondent
10 that she did not feel comfortable feeling only the baby's arm and that respondent
11 ~~should come in~~ and check the patient and the fetal monitor strip. Respondent told
12 ~~her not to be concerned~~ by the arm and that he would come to the hospital.

13 DD. Respondent did not arrive at the hospital until twenty-eight
14 minutes after midnight. He performed a vaginal exam and told the patient to bear
15 down and push. Respondent had the patient push during three sets of two or three
16 contractions.

17 EE. Prior to pushing, the patient had been crying saying she had
18 waited ten years for this baby and she wanted a c-section. She asked for a c-
19 section again after the exam. Respondent reviewed the fetal monitor strip in front
20 of the patient and told her that the baby was fine. He told her that he invented
21 fetal monitoring. When the patient asked why the baby's heart rate was declining,
22 respondent said it was from the nurses giving the Pitocin. The patient continued to
23 beg for a c-section. Respondent ultimately relented, saying he would do so only
24 because she was not progressing not because the baby was in any danger.

25 FF. The baby's heart rate was fluctuating in the 50-70 range at
26 this time. The patient kept asking respondent about the baby's hear rate.
27 Respondent reassured her the baby was fine and left the room. When respondent
28 left the room nurse Kanbar thought he was going to scrub. When she saw no one

1 scrubbing she went to find respondent who was sitting in the doctor's lounge in a
2 chair rocking back and forth. Kanbar said the baby was not recovering and what
3 did he want her to do, He said to give the patient some Terbutaline to stop the
4 contractions, but he did not get up.

5 GG. When Kanbar returned to the room and saw that the heart
6 rate was still down, she went back to the lounge and told respondent she would
7 not give the medication and that he needed to come right now.

8 HH. Respondent went back to the room, and he performed a c-
9 section shortly thereafter. The newborn had very low APGAR scores and was
10 taken away by the NICU staff. When Kanbar went back to the O.R. to pull the
11 fetal monitor strip, she found it shoved into the chart. It was the nurses job to
12 retrieve the strip. When she did her own charting she discovered that a fifteen
13 minute portion of the strip was missing. She asked every one involved in case
14 except respondent if they had pulled the strip and each of them answered no.

15 13. Respondent's care and treatment of K.B. constituted gross negligence,
16 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

17 A. Respondent instructed the nurses to apply fundal pressure
18 while the patient was pushing and respondent was attempting to rotate the baby's
19 head.

20 B. Respondent elected to proceed with attempting to turn the
21 baby's head followed by a forceps delivery, instead of continuing to administer
22 Pitocin and waiting a reasonable time (about two hours) for the head to turn and
23 come down on its own.

24 C. Respondent placed the stirrups for K.B. in the wrong
25 position.

26 D. Respondent should have activated (or caused to be
27 activated) the epidural catheter before he placed the forceps.

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E. Respondent attempted a forceps delivery without taking K.B. to the operating room.

F. Respondent did not have a resuscitation team in the room before the delivery.

G. Respondent used an extreme side-to-side rocking motion while pulling the infant with the forceps.

H. Respondent pulled more than five times with K.B.'s contractions.

I. Respondent removed the forceps from the baby before its head came out, and failed to realize that K.B. would not give birth spontaneously **at that point.**

J. Respondent applied the forceps and tried to effect the delivery when the vertex was at +1, but documented that the vertex was at +2 in the chart.

K. Respondent charted the fact that the nuchal cord was tight, when in fact it was loose.

L. Respondent failed to clear the baby's airway prior to the delivery of the shoulders.

M. After delivery, respondent failed to immediately take the baby to the warmer and begin resuscitation. Instead, respondent excessively slapped the baby and placed it on its mother's abdomen.

N. Respondent did not perform a caesarean section on K.B. because she had a history of neurogenic bladder and had two bladder surgeries in her youth. This history is not a contraindication for caesarean section.

O. Respondent altered the medical record of his care and treatment of K.B.

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1 14. Respondent's care and treatment of T.H. constituted gross negligence,
2 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

3 A. Respondent should have taken T.H. off oral agents and
4 instituted insulin therapy before putting T.H. on Clomid.

5 B. Once T.H. was pregnant, respondent should have ordered
6 her to test blood sugar 4-7 times a day instead of only twice, and should have
7 instructed her to consult with him almost daily to adjust insulin dose instead of
8 once a week. T.H. should have received additional insulin doses each day.

9 C. Respondent failed to appropriately monitor and control
10 T.H.'s diabetes.

11 D. Respondent failed to institute fetal surveillance with non-
12 stress tests on a biweekly basis starting at between 30 and 32 weeks of pregnancy.

13 E. Respondent failed to chart any notes of a consultation with
14 a diabetes expert that respondent claims to have had.

15 F. Respondent performed the amniocentesis without clinical
16 indication.

17 G. Respondent failed to recognize that a fetal heart rate of 120
18 bpm is not bradycardia.

19 H. If respondent thought that there was bradycardia or other
20 fetal distress, he should have sent T.H. to the Labor and Delivery Unit at the
21 hospital for monitoring, which he failed to do.

22 I. Respondent improperly performed the amniocentesis in that
23 he failed to perform the procedure either in the Labor and Delivery Unit or
24 immediately adjacent to that Unit.

25 J. Respondent failed to get a perinatologist consultation for
26 T.H. during her pregnancy.

27 K. Respondent failed to recognize that T.H.'s large anterior
28 placenta increased the risk of performing an amniocentesis if that procedure were

1 necessary. Respondent also increased the danger to patient T.H. and her baby by
2 making multiple punctures with the amniocentesis needle.

3 15. Respondent's care and treatment of Medical Record No. 365409
4 constituted gross negligence, incompetence, and/or repeated negligent acts as more particularly
5 set forth in this paragraph.

6 A. Respondent induced the patient in the absence of a vertex
7 presentation.

8 B. Respondent ruptured the membrane with the vertex in the
9 pelvis.

10 C. Respondent had the patient push at 6 cm when she was
11 already having decelerations.

12 D. Respondent failed to perform a crash c-section.

13 E. Respondent tampered with the medical record by ripping
14 out fifteen minutes of the fetal monitor strip.

15 SECOND CAUSE FOR DISCIPLINE

16 (Making False Statements)

17 16. Respondent is subject to disciplinary action under Code section 2261 in
18 that he made false statements regarding his care and treatment of K.B., T.H., and Medical Record
19 No. 365409. The circumstances are as follows:

20 A. Paragraph 11 of this Accusation is incorporated by
21 reference and is hereby realleged as if set forth in full.

22 **PATIENT K.B.**

23 B. Respondent charted that he tried to effect delivery when the
24 vertex was at +2, when in fact it was at +1.

25 C. Respondent charted that the nuchal cord was tight, when in
26 fact it was loose.

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1 D. Respondent's chart notes for July 22, 1999 and July 23,
2 1999, were placed in the chart at a later time, and that fact was not recorded in the
3 chart by respondent.

4 E. Respondent's chart notes for July 22, 1999 and July 23,
5 1999, were made from the nurses notes rather than respondent's own recollection,
6 and that fact was not recorded in the chart by respondent.

7 **PATIENT T.H.**

8 F. Respondent falsely noted in the record that he was
9 performing the amniocentesis for bradycardia, when in fact the amniocentesis was
10 planned in advance.

11 G. Respondent falsely stated that there was a fetal abruption,
12 **when in fact both clinically and pathologically there was no evidence of**
13 **abruption.**

14 **MEDICAL RECORD NO. 365409**

15 H. Respondent falsely documented the patient's desires
16 regarding having an AFP.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Alteration of Medical Records)

19 17. Respondent is subject to disciplinary action under section 2262 in that he
20 altered the medical records of his care and treatment of K.B. , and Medical Record No. 365409.

21 The circumstances are as follows:

22 A. Paragraph 11 of this Accusation is incorporated by
23 reference and is hereby realleged as if set forth in full.

24 **PATIENT K.B.**

25 B. On or about July 23, 1999, respondent removed his original
26 chart notes regarding his care and treatment of K.B. on July 22, 1999, which
27 consisted of approximately one-half page.

28 ///

1 C. Respondent replaced his original one-half page of notes
2 with two pages of notes he wrote directly from the nurses notes.

3 **MEDICAL RECORD NO. 365409**

4 D. Respondent removed fifteen minutes from the fetal monitor
5 strip from the patient's records.

6
7 **FOURTH CAUSE FOR DISCIPLINE**

8 (Failure to maintain adequate records)

9 18. Respondent is subject to disciplinary action under section 2266 of the
10 Code in that he failed to maintain complete, adequate and accurate records of his care and
11 treatment of K.B., T.H. and Medical Record No. 365409. The circumstances are as follows:

12 A. Paragraph 11 of this Accusation is incorporated by
13 reference and is hereby realleged as if set forth in full.

14 **PATIENT K.B.**

15 B. Respondent charted that he tried to effect delivery when the
16 vertex was at +2, when in fact it was at +1.

17 C. Respondent charted that the nuchal cord was tight, when in
18 fact it was loose.

19 D. Respondent's chart notes for July 22, 1999 and July 23,
20 1999, were placed in the chart at a later time, and that fact was not recorded in the
21 chart by respondent.

22 E. Respondent's chart notes for July 22, 1999 and July 23,
23 1999, were made from the nurses notes rather than respondent's own recollection,
24 and that fact was not recorded in the chart by respondent.

25 F. On or about July 23, 1999, respondent removed his original
26 chart notes regarding his care and treatment of K.B. on July 22, 1999, which
27 consisted of approximately one-half page.

28 ///

1 G. Respondent replaced his original one-half page of notes
2 with two pages of notes he wrote directly from the nurses notes.

3 **PATIENT T.H.**

4 H. Respondent falsely noted in the record that he was
5 performing the amniocentesis for bradycardia, when in fact the amniocentesis was
6 planned in advance.

7 I. Respondent falsely stated that there was a fetal abruption,
8 when in fact both clinically and pathologically there was no evidence of
9 abruption.

10 **MEDICAL RECORD NO. 365409**

11 J. Respondent removed fifteen minutes from the fetal monitor
12 strip from the patient's records.

13 K. Respondent falsely documented the patient's desires
14 regarding having an AFP.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 (Acts of Dishonesty or Corruption)

17 19. Respondent is subject to disciplinary action under section 2234(f) of the
18 Code in that he committed acts involving dishonesty or corruption substantially related to the
19 duties of a physician and surgeon in his care and treatment of K.B. , T.H. and Medical Record
20 365409. The circumstances are as follows:

21 A. Paragraph 11 of this Accusation is incorporated by
22 reference and is hereby realleged as if set forth in full.

23 **PATIENT K.B.**

24 B. Respondent charted that he tried to effect delivery when the
25 vertex was at +2, when in fact it was at +1.

26 C. Respondent charted that the nuchal cord was tight, when in
27 fact it was loose.

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1 D. Respondent's chart notes for July 22, 1999 and July 23,
2 1999, were placed in the chart at a later time, and that fact was not recorded in the
3 chart by respondent.

4 E. Respondent's chart notes for July 22, 1999 and July 23,
5 1999, were made from the nurses notes rather than respondent's own recollection,
6 and that fact was not recorded in the chart by respondent.

7 F. On or about July 23, 1999, respondent removed his original
8 chart notes regarding his care and treatment of K.B. on July 22, 1999, which
9 consisted of approximately one-half page.

10 G. Respondent replaced his original one-half page of notes
11 with two pages of notes he wrote directly from the nurses notes.

12 **PATIENT T.H.**

13 H. Respondent falsely noted in the record that he was
14 performing the amniocentesis for bradycardia, when in fact the amniocentesis was
15 planned in advance.

16 I. Respondent falsely stated that there was a fetal abruption,
17 when in fact both clinically and pathologically there was no evidence of
18 abruption.

19 **MEDICAL RECORD NO. 365409**

20 J. Respondent removed fifteen minutes from the fetal monitor
21 strip from the patient's records.

22 K. Respondent falsely documented the patient's desires
23 regarding having an AFP.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 20. Respondent is subject to disciplinary action under section 2234 of the
4 Code in that he committed general unprofessional conduct³ in his care and treatment of K.B.,
5 T.H., and Medical Record No. 365409. The circumstances are as follows:

6 A. Paragraph 11 of this Accusation is incorporated by
7 reference and is hereby realleged as if set forth in full.

8 B. Paragraphs 12, 13, and 14 of this Accusation are
9 incorporated by reference and are hereby realleged as if set forth in full.

10 THE GYNECOLOGICAL PATIENTS

11 SEVENTH CAUSE FOR DISCIPLINE

12 (Gross negligence, repeated negligent acts, incompetence)

13 21. Respondent is subject to disciplinary action under section 2234 of the
14 Code in that he was grossly negligent, incompetent, and/or committed repeated negligent acts in
15 his care and treatment of patients S.G., D.M-G., L.M., J.S.M., M.P., B.P., D.S., J.L.M., A.Y.,
16 B.R., J.W., M.A., B.J.G., and V.G. The circumstances are as follows:

17 **PATIENT S.G.**

18 A. Respondent first saw S.G. on November 27, 1996, at which
19 time an office sonogram was done and was found to show "? adenomyosis vs.
20 fibroids." Respondent told the patient she had adenomyosis and that she would
21 "burst and bleed to death" if she did not have the surgery respondent
22 recommended right away. Prior to the surgery S.G. went to the Red Cross and
23 donated her own blood in case she needed it for surgery.

24 B. On November 13, 1997, respondent saw the patient for
25 right side pain and was given options of Lupron or "BSO".

26 _____
27 3. General unprofessional conduct is defined as that conduct which breaches the rules or
28 ethical code of a profession, or conduct which is unbecoming a member in good standing of a
profession. Shea v. Board of Medical Examiners (1978) 81 Cal.App.3d 564, 578.

1 C. On November 25, 1998, an office sonogram showed a
2 complex right ovarian cyst.

3 D. On December 18, 1998, the 33-year-old patient was
4 admitted for evaluation of pelvic pain, recurrent endometriosis and ovarian cyst.
5 She underwent enterolysis, bilateral salpingo-oophorectomy, fulguration of
6 endometriosis and cystoscopy. At no time following the surgery was the patient
7 offered blood despite the fact she was significantly anemic post-operatively.

8 E. During the time S.G. was undergoing post-operative
9 hormone replacement, respondent refused to take calls from her.

10 **PATIENT D. M-G.**

11 F. On June 19, 1997, respondent saw D.M-G., a fifty-two year
12 ~~old woman~~ whose last period was in 1991. The patient complained of vaginal
13 bleeding for two weeks, pain in her lower abdomen for one month, and sever
14 pelvic pain for three weeks. Respondent also documented the patient had urinary
15 incontinence and deep dysparuenia as complaints.

16 G. On October 18, 1997, D.M-G. underwent a laparoscopic
17 assisted vaginal hysterectomy, bilateral salpingo-oophorectomy, umbilical hernia
18 repair, enterocele repair, rectocele repair, lysis of adhesions, and Burch procedure.

19 H. During a post-operative visit on November 5, 1997, the
20 patient complained of numerous things including back pain, for which respondent
21 planned to order as MRI at 6-8 weeks to evaluate for disc disease.

22 I. On November 11, 1997, respondent saw the patient for low
23 back pain and dysuria, which was attributable to disc disease. A cath. urine
24 specimen tested positive for blood and negative for leucocytes.

25 J. On November 20, 1997, D.M-G. had numerous complaints
26 including pain in the lower right back. A urine test again showed blood, and this
27 time trace leucocytes. Respondent diagnosed her as having a urinary tract
28 infection.

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K. On January 8, 1998, respondent treated the patient with Cipro for a positive urine sample. Again there was blood in the urine, as there was on February 5, 1998.

L. On February 5, 1998, the patient presented with complaints of lower abdominal pain, dysuria and burning inside her vagina. Respondent concluded she had poor perineal tone and referred the patient for perineal exercises.

M. On March 16, 1998, D.M-G. complains of bladder pressure. Respondent concludes she had cystitis and monilia vaginitis. A urine culture was negative but it did have 250 ery\µL and +1 leucocytes. The urine was negative for leucocytes on April 7, 1998, but did show 250ery\µL.

N. On April 14, 1998, the patient underwent urethral dilation, and blood was again noted in the urine.

O. On May 6, 1998, the patient had complaints of pressure and the feeling of something falling out. A urology consult was advised and the plan was for lysis of adhesions and vaginal vault suspension.

P. On May 28, 1998, Dr. B. found D.M-G. had a complete right distal ureter obstruction extending for 1-2 cm located 2-3 cm from the bladder and a stone on the left side of the bladder. He performed a cystoscopy, right retrograde pyelogram, antegrade nephrostograms, transurethral resection of bladder tumor and bladder stone removal. The initial report was early low-grade papillary transitional cell cancer but this was later changed to benign.

Q. On August 8, 1998, Dr. B. removed the patient's right kidney.

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1 document an examination of the vaginal labia relating to the patient's chief
2 complaint, although the plan documented indicated "she will prob. have LAVH
3 [laparoscopic hysterectomy]-BSO, ?Burch?" which are surgical procedures.

4 Z. On a follow-up visit an office ultrasound was performed.
5 The records contain two unlabeled printouts. There is also documented
6 "?fibroids, left ovary tender mass 5x5 cm right is abnormal? fibroid 6x6 cm,
7 although there are no printouts documenting these findings."

8 **PATIENT M.P.**

9 AA. On August 7, 1995, 43 year-old M.P. saw respondent for a
10 chief complaint of irregular bleeding, which had been going on for weeks. The
11 patient said she was feeling crampy. An office sonogram was performed and the
12 record contains four unlabeled images. Respondent diagnosed adenomyosis. The
13 plan was for the patient to undergo an endometrial biopsy and endocervical
14 curettage, along with a laparoscopic hysterectomy (LAVH) and bilateral salpingo-
15 oophorectomy.

16 BB. On August 10, 1995, respondent treated the patient with
17 150 mg of Depoprovera. Plan was for a LAVH.

18 CC. On September 25, 1995, respondent noted the patient had
19 mild stress urinary incontinence, spotting and bleeding which did not stop with
20 the Depoprovera treatment. An office sonogram was performed and the report
21 from the test stated "adenomyosis and a 2 mm endometrial stripe." The
22 impressions was adenomyosis, failed medical management, and the plan was for a
23 LAVH-BSO, with a possible Burch procedure.

24 DD. On October 6, 1995, the patient underwent a LAVH-BSO
25 with lysis of dense pelvic adhesions and a laparoscopic Burch. Although an
26 appendectomy was missing from a listing of the procedures performed, the
27 operative report described an appendectomy having been performed as well.

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1 EE. On June 27, 1996, the patient's chief complaint was
2 "leaking urine." On July 8, 1996, the patient complained of pain in both hips and
3 was referred to a physical therapist. On July 31, 1996, it was noted that the
4 patient was wearing a pad with exercise, although respondent wrote "wears no
5 pads and no urine leakage." On August 6, 1996, M.P.'s chief complaint was again
6 urine leakage.

7 FF. On September 18, 1996, the patient complained of "milky
8 discharge, no odor. Itch on and off." Respondent noted "no urine loss" and
9 "bladder well supported."

10 GG. On October 14, 1996, the patient is taking 1.25 mg of
11 **Premarin per day.** She complained of a heavy feeling in her pelvis, "like
12 **something is falling out.**"

13 HH. On May 21, 1999, M.P. sees Dr. S. complaining of pelvic
14 pain.

15 II. On July 13, 1999, the patient underwent laparoscopy, lysis
16 of adhesions and anterior colporrhaphy. Among the findings made by Dr. S. was
17 the viewing of a staple line "across the distal one-third of the appendix". Small
18 bowel adhesions were noted to the anterior abdominal wall.

19 **PATIENT B.P.**

20 JJ. In May 1994 patient B.P. saw respondent who documented
21 in the patient's history that she had complaints of severe dysmenorrhea and
22 P.M.S. The plan was for a diagnostic laparoscopy. In January 1996 respondent
23 again recommended the patient have a laparoscopy. In May 1998 respondent
24 treated the patient with oral contraceptives and again felt she probably needed a
25 laparoscopy.

26 KK. Respondent performed the laparoscopy on B.P on June 5,
27 1998.

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1 LL. On February 3, 1999, at the age of 27 the patient returned
2 complaining of lower abdominal pain and deep dyspareunia. Respondent
3 diagnosed the patient as having pelvic endometriosis.

4 MM. Respondent next saw the patient on March 1, 1999, at
5 which time she complained of dysmenorrhea. The patient was to consider
6 Lupron, but she was treated with Motrin, Vicodin, Depoprovera and Toradol.
7 Eight days later the plan was for surgery.

8 NN. On March 12, 1999, B. P. underwent a laparoscopy, tubal
9 dye study, laser of endometriosis, lysis of adhesions, and presacral neurectomy

10 OO. In November 1999 the patient was diagnosed as having a
11 **urinary tract infection.**

12 PP. On December 7, 1999, the patient was assessed as having a
13 **urinary tract infection with hematuria.** On January 4, 2000, the patient
14 complained of bladder pain and that the medications she was taking were making
15 her nauseous. On March 21, 2000, the patient presented for a re-check and a
16 possible urinary tract infection.

17 **PATIENT D.S.**

18 QQ. Respondent saw D.S. on August 28, 1995, for lower
19 abdominal pain. An office sonogram was performed which reported findings of
20 "adenomyosis, fibroids. A drawing of a 4x5 cm area on the right side of the
21 uterus labeled fibroid appears in the record although it is not documented in the
22 printout images. A LAVH-BSO was performed on September 8, 1995. The
23 pathology report showed a 1.8 cm endometrial polyp and multiple myomas. D.S.
24 was given Depoprovera post-operatively.

25 RR. On March 10, 1997, D.S. presented back to respondent with
26 a chief complaint of possible bladder infection. A diagram in the chart shows a
27 "2+" tenderness in the left upper quadrant and left mid-abdomen.

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1 SS. On October 27, 1997, D.S. saw respondent for a surgical
2 consult. Respondent noted the patient had pain post LAVH and liposuction, and
3 that she has adhesive bowel disease. The plan was for a diagnostic laparoscopy.

4 TT. Respondent performed a history and physical on D.S. on
5 October 31, 1997. The chief complaint was noted as chronic pelvic pain. No
6 bowel prep was performed pre-operatively. That same date a diagnostic
7 laparoscopy and lysis of dense pelvic adhesions was performed.

8 UU. Post operatively D.S. had difficulty. She had pain,
9 abdominal distention, and, on the third day post-operatively, her bowel sounds
10 were absent on three occasions, and she awakened with nausea and great pain. On
11 ~~the fourth post-operative day tests revealed there was free intraperitoneal air in the~~
12 ~~patient. Respondent planned a CT scan for the following day, November 5, 1997.~~

13 VV. On November 5, 1997, D.S. was operated on and a single
14 perforation of the small bowel was found. Post-operatively the patient required
15 intubation and was transferred to Intensive Care for treatment of sepsis. On
16 November 14, 1997, D.S. was taken back to the operating room for an exploratory
17 laparotomy and drainage of multiple abscesses.

18 **PATIENT J. L. M.**

19 WW. On April 12, 1999, respondent saw patient J.L.M. who
20 was complaining of excessive bleeding during her menstrual cycles, pain, and
21 pain during intercourse. An office sonogram was done which found possible
22 endometrial polyp and adenomyosis. No CBC was ordered that day.

23 XX. Five days after her initial office visit, on April 17, 1999,
24 respondent performed a LAVH-BSO and appendectomy on J.L.M. During the
25 surgery, respondent placed staples over the pedicle to control bleeding which was
26 seen in the area of the left infundibulopelvic ligament. Thereafter, post-
27 operatively, the patient complained of pain and left sided pain.

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1 YY. Between April 19 and October 4, 1999, respondent
2 prescribed 368 Vicodin tablets for J.L.M. In September respondent also
3 prescribed her Phentermine.

4 ZZ. On December 7, 1999, Dr. S. performs a laparoscopy on
5 J.L.M. to evaluate her complaint of pelvic pain since the LAVH. Along the left
6 pelvic brim, Dr. S. found a "fairly large staple affixing the sigmoid to the pelvic
7 side wall."

8 **PATIENT A.Y.**

9 AAA. Respondent first saw patient A.Y. on November 21, 1996,
10 when she was 22 years old. The patient was complaining of painful menstrual
11 period. Respondent advised the patient to have a diagnostic laparoscopy and
12 prescribed Demulen in addition to the Motrin the patient was already taking.

13 BBB. During this visit with the patient, respondent attempted to
14 scare the patient into having surgery immediately, scheduling her for the
15 following week. He advised the patient she would be unable to have children
16 with her endometriosis, and suggested she have a child out of wedlock since
17 pregnancy helps endometriosis.

18 CCC. A.Y. sought a second opinion from a Dr. A.D.V. on
19 December 2, 1996. Dr. D.V.'s plan was for a diagnostic laparoscopy or oral
20 contraceptives.

21 DDD. On October 19, 1998, A.Y. saw a Dr. B. telling him she had
22 been crampy since age 16. Although Dr. B. discussed a possible diagnostic
23 laparoscopy, it was not felt to be needed at that time. Dr. B. saw her again on
24 October 14, 1999, and described the patient as a well woman.

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PATIENT B.R.

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2 EEE. Patient B.R. saw respondent on January 7, 1998, for a six
3 week post partum visit and a Pap smear. The pap was unsatisfactory with
4 inflammation and poor fixation. A repeat Pap on April 4, 1998, was reported as
5 class II.

6 FFF. On May 6, 1998, respondent performed a colposcopic
7 directed biopsy as well as an ECC. The biopsies suggested HPV and a condition
8 bordering on mild dysplasia. The ECC was negative. Respondent performed
9 cryosurgery on the cervix on May 26, 1998.

10 GGG. B.R. had a Pap smear on August 28, 1998, which was
11 **found to be class II** and she was treated with Cleocin cream. A follow-up Pap
12 **smear on November 4, 1998, was noted to be a class II with benign cellular**
13 **changes.** Respondent noted in the records that the patient needed a "colpo."

14 HHH. Respondent's colposcopy note of November 17, 1998,
15 makes no mention of whether the lesions were seen on examination. The tissue
16 examined showed atypical squamous metaplasia and mild dysplasia.

17 III. On November 23, 1998, respondent recorded the plan for
18 B.R. as being either "cone/LAVH [hysterectomy]".

19 JJJ. At the time respondent recommended B.R. **undergo a**
20 **hysterectomy, he told her the condition would turn into cancer and that it may be**
21 **too late if she did not have the surgery.** Respondent further recommended that he
22 remove the patient's appendix and ovaries.

23 KKK. On January 7, 1999, B.R. sought a second opinion from Dr.
24 Janis Fee, M.D. While seeing Dr. Fee the Pap smear results were as follows: (1)
25 January 7, 1999, negative; (2) March 9, 1999, atypical metaplasia, ASCUS; (3)
26 August 5, 1999, reactive cellular changes associated with inflammation; (4) May
27 5, 2000, negative.

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1 **PATIENT J.W.**

2 LLL. Thirty-one year old J.W., she first saw respondent in
3 October/November 2001 because she had stopped having periods, and would
4 experience abdominal cramps during intercourse with her husband. On exam
5 respondent told J.W. she had a tumor on her uterus and cystic fibrosis on both her
6 ovaries. She was told she needed a hysterectomy. He advised her to have
7 immediate surgery, because to wait could be life threatening. At no time did
8 respondent discuss alternatives to surgery.

9 MMM. On November 30, 2001, respondent performed a
10 laparoscopic hysterectomy on J.W. at Western Medical Center. ⁴ After the surgery
11 J.W. experienced severe pain for which respondent gave her Cortisone injections.
12 hereafter, J.W. developed red pimple like blotches over her body which
13 respondent diagnosed as chicken pox despite the fact J.W. had already the chicken
14 pox. J.W. went to a dermatologist who told her she had an allergic reaction to the
15 steroids she had received.

16 **PATIENT M.A.**

17 NNN. Forty-six year old M.A. first saw respondent in November
18 2000, for a well woman check, and informed respondent that she occasionally had
19 painful periods. On this first visit respondent told M.A. she needed a
20 hysterectomy because of endometriosis. M.A.'s husband told respondent there
21 were too many risks and they decided not to have the surgery. On that first visit,
22 respondent gave the patient samples of the hormone Femehrt, and told her to take
23 them.

24 OOO. During the next year M.A. would take the hormone, and
25 receive more from respondent's office when she ran out.

26 _____
27 4. Petitioner is advised and believes that respondent has had his privileges suspended from
28 Western Medical Center. The Medical Board has yet to be formally advised of this at the time
of this Petition's preparation.

1 PPP. The next examination by respondent was done on or about
2 November 28, 2001. She told respondent she had severe headaches. Respondent
3 performed a sonogram and informed M.A. and her husband that she had three
4 tumors, one the size of a golf ball and two smaller ones. Respondent advised
5 M.A. to have an immediate hysterectomy because the tumors could be cancerous.
6 She was told to call her husband and have him come into the office.

7 QQQ. The next day, November 29, 2001, she returned with her
8 husband who asked respondent if the hysterectomy was absolutely necessary.
9 Respondent told them about a patient he had just performed the surgery on who he
10 was not sure was going to survive because she had waited so long and her cancer
11 had spread. On December 7, 2001, respondent performed a laparoscopic
12 hysterectomy on M.A. at Western Medical Center.

13 RRR. When she returned for her post-operative visit on December
14 13, 2001, respondent told M.A. the pathology showed the tumors were pre-
15 cancerous. M.A. complained to respondent of pain on her right side. Respondent
16 said this was normal.

17 SSS. On December 26, 2001, M.A. started bleeding heavily. She
18 went to see respondent who said it was normal bleeding from the stitches. On
19 January 5, 2002, M.A. was in such pain she could not get up. She was crying and
20 needed help in walking. She saw respondent who injected something into her
21 belly button. When she returned to respondent on January 10, 2002, he told her
22 she needed surgery the next day to clean up scar tissue.

23 TTT. On January 11, 2002, M.A. underwent a second
24 laparoscopic procedure at Western Medical. On January 17, 2002, M.A. saw
25 respondent for a follow-up appointment. Although she had some pain, Rutland
26 told her everything was fine. When she returned again in February 2002, M.A.

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1 told respondent she was now experiencing a loss of urine when she coughed or
2 laughed. Respondent examined M.A. and gave her antibiotics for an infection.
3 Two weeks later he checked her again and changed her antibiotics.

4 **PATIENT B.J.G.**

5 UUU. Forty year old B.J.G. first saw respondent in March 2001,
6 for a well woman exam. She told respondent she had painful periods and that
7 every three months she would vomit during her period. Respondent discussed her
8 having a hysterectomy during this first visit. He also performed a Q-tip test and
9 told B.J.G. her bladder needed to be lifted, although the patient did not think her
10 urine leakage was a problem. When B.J. G. asked respondent if taking birth
11 control medication would help he said that if she was done having children she
12 should have the hysterectomy.

13 VVV. B.J.G. Told respondent she had a history of abnormal pap
14 smears, but there was never any pathology showing a problem. When she was
15 twenty-right years old B.J.G. was told she had a mild case of endometriosis not
16 requiring any further treatment.

17 WWW. B.J.G. had another appointment with respondent in March
18 2001, at which time she brought her husband. At this meeting respondent told the
19 patient she had an abnormal pap smear, one level higher than any of the other
20 abnormal pap smears she had in the past. He told her it was a sign of pre-
21 cancerous cells that had the likelihood of becoming cancerous. Respondent also
22 told the patient she had HPV and that he felt something on her uterus during his
23 exam. He told her she had severe endometriosis. Respondent told the patient that
24 while he was operating he would remove her appendix and lift her bladder at no
25 extra charge. When B.J.G. told respondent she wanted some time to think about
26 the surgery, respondent replied , "what's there to think about. All the time you
27 wait, cancer could spread." Respondent's front nurse then was brought into the
28

1 room and explained to B.J.G. that respondent had saved her life by performing
2 that same surgery. She said her sex life had improved dramatically.

3 XXX. A few days after seeing respondent, B.J.G. went to Western
4 Medical Center in terrible pain. She was told a cyst most likely burst and they
5 gave her medication. Given what respondent had told her B.J.G. then consented
6 to the surgery. Respondent performed the hysterectomy, appendectomy, and
7 bladder surgery on or about march 30/31, 2001. When she saw respondent post
8 surgically for the first time, he told she was "infested" with endometriosis, and on
9 a scale of one to ten she had been a ten plus. Respondent told B.J.G.'s husband
10 they found no cancer and were lucky to have caught the problem when they did.

11 YYY. After the surgery B.J.G. had fever, vomiting and was placed
12 on antibiotics for six weeks. B.J.G. told respondent she had been crying and
13 feeling depressed, unable to get out of bed. In return, respondent gave the patient
14 a lunch bag full of Zoloft samples and told her to try them. When B.J.G.
15 continued to feel bad after the surgery she went to another physician for an
16 opinion.

17 ZZZ. Dr. T. examined the records from Western Medical and told
18 her the hospital pathology report showed little endometriosis and no evidence of
19 HPV.

20 PATIENT V.G.

21 AAAA. Patient V.G. had treated with respondent since 1987,
22 having first met him in law school during the early 1980'2. In 1993 respondent
23 had performed a complete hysterectomy on her in 1993. Over the course of the
24 years she had complained to respondent about urine leakage when she coughed or
25 sneezed. Respondent had told her she needed a bladder lift, and, on or about June
26 16, 2000, respondent performed a bladder suspension surgery on her at Western
27 Medical Center. The operative report from the procedure described
28 "dense adhesions of the small bowel to the anterior wall . . ." The patient's

1 appendix was removed although the path report on the appendix indicated it was
2 normal.

3 BBBB. On the first post operative day the patient's hbg fell from
4 11.7 to 8.7. On the second post operative day the patient had an ileus⁵. On the
5 third post operative day her hbg was 7.4 and the patient was complaining of chest
6 pain and shortness of breath. She was also complaining of abdominal pain. On
7 the fourth post operative day her pulse was 115-120 and her hbg was 7.1. She
8 was felt to be anemic and was given three units of blood. On the fifth post
9 operative day she had still not had a bowel movement, and her abdomen was
10 distended and tender. She was assessed as having peritonitis and ileus. An
11 abdominal x-ray was taken and showed "persistent pnemoperitonium". That
12 afternoon a surgery consult was requested.

13 CCCC. On the sixth post-operative day, June 22, 2000, V.G.
14 complained of severe pain in her back. Her oxygen saturation was 78% and her
15 respirations were shallow and labored. She was taken to the operating room that
16 day where a 2mm laceration of the small bowel was found.

17 DDDD. On he fourth post operative day after the second surgery
18 V.G. developed a fever and an elevated white count. Three days later, on June 29,
19 2000, a CT scan reveals a 7cm abscess anterior to the rectum and a 3cm right
20 upper quadrant abscess. A colpotomy drainage was performed on June 30, 2000,
21 and V.G. was finally discharged home on July 4, 2000, eighteen days after her
22 admission.

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28 5. An ileus is an obstruction of the bowel

1 EEEE. In 1998 during the time V.G. was scheduled for her yearly
2 examination, she and respondent engaged in sexual intercourse in respondent's
3 office following his examining her vaginally. Although this was the only act of
4 intercourse to have occurred during the time respondent treated V.G., he always
5 hugged and kissed her during office visits, and talked to her about his problems.

6 22. Respondent's care and treatment of S.G. constituted gross negligence,
7 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

8 A. The sonograms taken on November 27, 1996, did not
9 demonstrate myomas or adenomyosis.

10 B. Respondent attempted to scare the patient into having
11 surgery by telling her she would "burst and bleed to death" if she did not have the
12 surgery.

13 C. Respondent falsely recorded that the patient refused her
14 own blood following the surgery.

15 D. Respondent failed to offer the patient blood following
16 surgery despite the fact she had donated her own blood pre-operatively.

17 23. Respondent's care and treatment of D.M-G. constituted gross negligence,
18 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

19 A. Respondent failed to advise the patient on conservative
20 treatment options for her condition.

21 B. Respondent failed to perform an adequate urologic workup,
22 and failed to adequately document the extent of the patient's pelvic relaxation.

23 C. Respondent failed to check for ureteral patency at the
24 completion of the case.

25 D. Respondent failed to perform the cystocele repair as
26 planned.

27 E. Respondent failed to recognize the signs and symptoms of
28 urologic injury post-operatively.

1 24. Respondent's care and treatment of L.M. constituted gross negligence,
2 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

3 A. Respondent improperly diagnosed adenomyosis from the
4 sonogram images.

5 B. Respondent attempted to scare L.M. into having surgery by
6 telling her the problem with her cervix could turn into cancer in 5 weeks.

7 C. In January 2000, respondent told L.M. she needed
8 immediate surgery to remove a right ovarian tumor. Although a cancer specialist
9 Dr. M. did not see any tumor and offered to do an ultrasound within the week,
10 respondent scared L.M. into having the surgery immediately.

11 D. Respondent falsified L.M.'s patient questionnaire by
12 ~~circled items~~ she left blank. She did not have complaints of painful intercourse
13 or urinary incontinence.

14 E. Respondent told L.M. he was an oncologist which is not
15 true.

16 25. Respondent's care and treatment of J.S.M. constituted gross negligence,
17 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

18 A. Respondent failed to address the patient's complaint of a
19 lump on her right vaginal labia.

20 B. Respondent failed to adequately document the patient's
21 history of incontinence.

22 C. Respondent focused on the patient's adnexal masses despite
23 the fact there is no sonographic documentation of such masses.

24 D. Respondent recommended the patient undergo major
25 surgery based on limited and inaccurate information.

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1 26. Respondent's care and treatment of M.P. constituted gross negligence,
2 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

3 A. The September 25, 1995, sonogram did not support a
4 diagnosis of adenomyosis.

5 B. Respondent failed to recommend a dilation and curettage
6 before recommending major surgery.

7 C. Respondent recommended two doses of Depoprovera
8 despite the fact one dose lasts for three months.

9 D. Respondent performed a Burch procedure without
10 urodynamic testing and in the face of minimal, if any, symptoms.

11 E. Respondent failed to perform a complete appendectomy.

12 **27. Respondent's care and treatment of B.P. constituted gross negligence,**
13 **incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.**

14 A. Respondent advised the patient to have surgery a mere five
15 days after being treated with medications meant for long term treatment.

16 B. The patient's symptoms and findings did not support
17 respondent's performing of a presacral neurectomy.

18 C. Respondent inadequately treated the patient's post-
19 operative urinary tract infections, and failed to refer her to a urologist.

20 **28. Respondent's care and treatment of D.S. constituted gross negligence,**
21 **incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.**

22 A. Respondent was not able to diagnose adenomyosis on the
23 sonogram of this patient.

24 B. Respondent diagnosed a large myoma from a sonogram on
25 which none appears.

26 C. Respondent failed to order a bowel prep pre-operatively.

27 D. Respondent failed to obtain an intra operative general
28 surgery consultation at the time of the laparoscopy.

1 E. Respondent failed to diagnose and treat the patient's bowel
2 perforation in a timely fashion.

3 29. Respondent's care and treatment of J.L.M. constituted gross negligence,
4 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

5 A. Respondent failed to perform a pre-operative endometrial
6 sampling.

7 B. Respondent failed to advise the patient about having a
8 hysteroscopy and dilation and curettage prior to her having surgery.

9 C. Respondent failed to recognize and evaluate the cause of
10 the patient's post-operative pain, and failed to recognize the injury to the genito-
11 femoral nerve in a timely fashion.

12 D. Respondent inappropriately diagnosed adenomyosis on the
13 basis of the patient's sonogram.

14 E. Respondent excessively prescribed the patient Vicodin
15 between April 19 and October 4, 1999.

16 30. Respondent's care and treatment of A.Y. constituted gross negligence,
17 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

18 A. Respondent attempted to scare the patient into having
19 surgery by telling her she would be unable to have children because of her
20 endometriosis and advising her to have children out of wedlock.

21 31. Respondent's care and treatment of B.R. constituted gross negligence,
22 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

23 A. Respondent recommended a hysterectomy for B.R., when,
24 in fact, mild dysplasia spontaneously remits a many cases and she needed, at
25 most, a cone biopsy.

26 B. Respondent tried to coerce the patient into agreeing to the
27 hysterectomy surgery by scaring her.

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1 C. Respondent's approach to the evaluation of abnormal Pap
2 smears reflects a lack of knowledge regarding current management for abnormal
3 results.

4 32. Respondent's care and treatment of J.W. constituted gross negligence,
5 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

6 A. Respondent performed major surgery on J.W. in the
7 absence of a supportable diagnosis.

8 B. Respondent's history and work-up of the patient's chronic
9 pelvic pain and dyspareunia were inadequate.

10 C. Respondent diagnosed the patient as having chicken pox
11 despite the fact she had them earlier in life.

12 D. Respondent scared the patient into having the major
13 surgery by lying about the true nature of her condition.

14 33. Respondent's care and treatment of M.A. constituted gross negligence,
15 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

16 A. Respondent took M.A. to surgery nine days after
17 discovering an ovarian cyst, and in the absence of any evidence of suspicions for
18 cancer.

19 B. Respondent performed a hysterectomy for dysmenorrhea of
20 unknown duration and cause.

21 C. Respondent performed a hysterectomy for heavy menses in
22 the absence of careful evaluation as to its degree and duration.

23 D. Respondent scared the patient into having the major
24 surgery by lying about the true nature of her condition.

25 34. Respondent's care and treatment of B.J.G. constituted gross negligence,
26 incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.

27 A. Respondent took the patient to surgery seven days after first
28 seeing respondent in the absence of any evidence of any adenomyosis.

1 B. Respondent failed to treat the patient's complaints with a
2 diagnostic laparoscopy.

3 C. Respondent lied to the patient about the extent of he
4 endometriosis, as the path report showed a minimal to mild case, not an
5 infestation as described by post operatively by respondent.

6 D. Respondent scared the patient into having the major
7 surgery by lying about the true nature of her condition.

8 E. Respondent's work-up of the patient's urinary complaint
9 was inadequate.

10 35. Respondent's care and treatment of V.G. constituted gross negligence,
11 ~~incompetence and/or repeated negligent acts as more particularly set forth in this paragraph.~~

12 A. Respondent failed to take V.G. back into surgery given her
13 constellation of post operative signs and symptoms involving an acute abdomen.

14 B. Respondent engaged in sexual relations with a patient.

15 C. Respondent's work-up of the patient's urine loss was
16 inadequate.

17 D. Respondent failed to get an intra-operative surgical consult
18 despite the presence of small dense adhesions of the small bowel.

19 EIGHTH CAUSE FOR DISCIPLINE

20 (Dishonest Acts)

21 36. Respondent is subject to disciplinary action under section 2234(e) of the
22 Code in that he committed dishonest acts substantially related to the qualifications, functions, or
23 duties of a physician in his care and treatment of patient S.G., D.M-G., L.M., A.Y., B.R., J.W.,
24 M.A. and B.J.G. The circumstances are as follows:

25 A. Respondent's records for S.G. falsely indicate the patient
26 refused a transfusion for the December 1996, surgery during which she lost a lot

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1 of blood. Prior to her December 1996, patient S.G. went to the Red Cross to give
2 blood in case she needed it during her surgery. In truth, respondent never
3 discussed the subject of a transfusion with S.G.

4 B. Respondent attempted to scare S.G. into agreeing to
5 undergo surgery by telling her she would "burst and bleed to death" if she did not
6 have the surgery respondent recommended.

7 C. Respondent refused to take telephone calls from S.G.
8 during the time the patient was receiving hormone replacement.

9 D. Respondent told D.M-G. she had a tumor on each of her
10 ovaries that could become cancerous, despite the fact there is no evidence that
11 such tumors existed.

12 E. Respondent told D.M-G. the only way her insurance
13 company would pay for bladder surgery was if she had a hysterectomy, which she
14 agreed to have in October 1997.

15 F. Respondent attempted to scare L.M. into having surgery by
16 telling her that the problem with her cervix could turn into cancer in 5 weeks.
17 When she told respondent she wanted a second opinion he expressed the hope she
18 had enough time. The problem with L.M.'s cervix is often left untreated by Ob-
19 Gyns without dire consequences.

20 G. In January 2000, respondent told L.M. she needed
21 immediate surgery to remove a right ovarian tumor. Although a cancer specialist,
22 Dr. M., did not see any tumor and offered to do an ultrasound within the week,
23 respondent scared L.M. into having the surgery immediately.

24 H. Respondent told patient M.P. she could bleed out if she did
25 not have the recommended surgery right away.

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1 I. Respondent attempted to scare A.Y. into having the surgery
2 recommended by respondent by telling her she would be unable to have children
3 with endometriosis, going so far as to recommend she have children out of
4 wedlock.

5 J. Respondent attempted to scare B.R. into having the surgery
6 recommended by respondent by telling her the condition would turn into cancer
7 and that if she did not have the surgery right away it may be too late.

8 K. Respondent scared J.W. into having the major surgery by
9 lying about the true nature of her condition.

10 L. Respondent scared M.A. into having the major surgery by
11 lying about the true nature of her condition.

12 M. Respondent lied to the patient about the extent of her
13 endometriosis, as the path report showed a minimal to mild case, not an
14 infestation as described by post operatively by respondent.

15 N. Respondent scared the patient into having the major
16 surgery by lying about the true nature of her condition.

17 NINTH CAUSE FOR DISCIPLINE

18 (Failure to Maintain Adequate Records)

19 37. Respondent is subject to disciplinary action under section 2256 of the
20 Code in that he failed to maintain adequate records during his care and treatment of the following
21 patients: D.M-G., L.M., J.S.M., M.P., J.L.M., B.R., J.W., M.A., B.J.G., and V.G. The
22 circumstances are as follows:

23 A. Paragraph 19 (A) through (EEEE) is hereby incorporated
24 by reference as if fully set forth.

25 B. It is impossible to determine the degree to which D.M-G.
26 had pelvic relaxation from the paucity of respondent's clinic note.

27 C. From the December 15, 1998, sonogram performed on
28 L.M. there are six unlabeled images.

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D. From the sonogram of April 7, 1999, performed on L.M. there are four unlabeled images, and the assessment and plan are illegible.

E. From the January 6, 2000, sonogram performed on L.M. there are six unlabeled images.

F. Following J.S.M.'s visit on August 29, 1996, an office sonogram was performed. There are two unlabeled printouts, and no printouts which document the findings of "left ovary tender mass 5x5 cm, right is abnormal."

G. From the August 7, 1995, sonogram performed on patient M.P. there are four unlabeled images.

H. There is no documentation of the physical exam respondent performed on J.L.M. on April 12, 1999, nor are the results of the CBC drawn April 12, 1999, contained in the record.

I. Respondent's colposcopic examination note of B.R. failed to mention whether, and to what extent, lesions could be seen. The documentation fails to allow for appropriate decision making as result of the colposcopy.

J. Respondent's history and work-up of J.W.'s chronic pelvic pain and dyspareunia were inadequate.

K. Respondent's work-up of B.J.G.'s urinary complaint was inadequate.

L. Respondent's work-up of the V.G.'s urine loss was inadequate.

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1 TENTH CAUSE FOR DISCIPLINE

2 (General Unprofessional Conduct)

3 38. Respondent is subject to disciplinary action under section 2234 of the
4 Code in that he committed general unprofessional conduct during his care and treatment of the
5 following patients: S.G., D.M-G., L.M., M.P., A.Y., B.R., J.W., M.A., and B.J.G., The
6 circumstances are as follows:

7 A. Paragraph 19 (A) through (EEEE) is incorporated by
8 reference herein as if fully set forth.

9 B. Respondent attempted to scare S.G. into agreeing to
10 undergo surgery by telling her she would "burst and bleed to death" if she did not
11 have the surgery respondent recommended.

12 C. Respondent refused to take telephone calls from S.G.
13 during the time the patient was receiving hormone replacement.

14 D. Respondent told D.M-G. she had a tumor on each of her
15 ovaries that could become cancerous despite the fact there is no evidence that such
16 tumors existed.

17 E. Respondent told D.M-G. the only way her insurance
18 company would pay for bladder surgery was if she had a hysterectomy, which
19 agreed to have in October 1997.

20 F. Respondent told L.M. that the problem with her cervix
21 could turn into cancer in 5 weeks. When she told respondent she wanted a second
22 opinion he expressed the hope she had enough time. The problem with L.M.'s
23 cervix is often left untreated by Ob-Gyns without dire consequences.

24 G. In January 2000, respondent told L.M. she needed
25 immediate surgery to remove a right ovarian tumor. Although a cancer specialist,
26 Dr. M., did not see any tumor and offered to due an ultrasound within the week,
27 respondent scared L.M. into having the surgery immediately.

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1 H. Respondent told patient M.P. she could bleed out if she did
2 not have the recommended surgery right away.

3 I. Respondent attempted to scare A.Y. into having the surgery
4 recommended by respondent by telling her she would be unable to have children
5 with endometriosis, going so far as to recommend she have children out of
6 wedlock.

7 J. Respondent attempted to scare B.R. into having the surgery
8 recommended by respondent by telling her the condition would turn into cancer
9 and that if she did not have the surgery right away it may be too late.

10 K. Respondent scared J.W. into having the major surgery by
11 lying about the true nature of her condition.

12 L. Respondent scared M.A. into having the major surgery by
13 lying about the true nature of her condition.

14 M. Respondent lied to B.J.G. about the extent of her
15 endometriosis, as the path report showed a minimal to mild case, not an
16 infestation as described by post operatively by respondent.

17 N. Respondent scared B.J.G. into having the major surgery by
18 lying about the true nature of her condition.

19 ELEVENTH CAUSE FOR DISCIPLINE

20 (Excessive Prescribing)

21 39. Respondent is subject to disciplinary action under section 725 of the Code
22 in that he excessively prescribed medication to J.L.M. during his care and treatment of her. The
23 circumstances are as follows:

24 A. Paragraph 19 (WW) through (ZZ) is hereby incorporated by
25 reference as if fully set forth.

26 B. Between April 19 and October 4, 1999, respondent
27 prescribed J.L.M. 386 Vicodin tablets, in addition to prescribing her Phentermine
28 in September.

1 TWELFTH CAUSE FOR DISCIPLINE

2 (Sex With a Patient)

3 40. Respondent is subject to disciplinary action under section 726 of the Code
4 in that he had sexual relations with V.G. at a time when she was his patient. Paragraph 19
5 (AAAA) through (EEEE) is incorporated by reference as if fully set forth herein.

6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Division of Medical Quality issue a decision:

- 9 1. Revoking or suspending Physician's and Surgeon's Certificate
10 No. G 24947, issues to Andrew Rutland, M.D.;
- 11 2. Revoking, suspending, or denying approval of Andrew Rutland, M.D.'s
12 authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 13 3. Ordering respondent Andrew Rutland, M.D. to pay the Division of
14 Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if
15 placed on probation, the costs of probation monitoring;
- 16 4. Taking such other and further action as deemed necessary and proper.

17 DATED: June 28, 2002

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21 RON JOSEPH
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

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EXHIBIT B
INTERIM SUSPENSION ORDER

H

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the *Exparte* Petition for
Interim Order Against:

ANDREW RUTLAND, M.D.
7495 Hummingbird Circle
Anaheim Hills, CA 90807

Physician's and Surgeon's
Certificate No. G 24947

Physician Assistant Supervisor License
Number SA 18870,

Respondent.

OAH NO. L-2002070042

CASE Nos. 18-2002-13467(JW);
18-2002-134903(Med. Rec. #365409);
18-2002-134650(BJG);
18-2002-134651(VG);
18-2002-134646(MA)

EXPARTE INTERIM SUSPENSION ORDER

This *Exparte* matter was heard by Roy W. Hewitt, Administrative Law Judge ("ALJ"), Medical Quality Hearing Panel, Office of Administrative Hearings, at Los Angeles, California on July 3, 2002.

Deputy Attorney General Steven H. Zeigen represented petitioner.

Respondent, Andrew Rutland, M.D., personally appeared and was represented by Peter R. Osinoff, Esq.

Documentary evidence was received, the parties orally argued their respective positions, and the matter was submitted.

FACTUAL FINDINGS

Having read and considered the Petition for Interim Order, the supporting memorandum of points and authorities, declarations and exhibits, and having read and considered any opposition papers filed thereto, and having heard arguments by counsel for the parties, the ALJ makes the following Factual Findings and Legal Conclusions:

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1. The affidavits in support of the Petition for Interim Order show:

- 1) Respondent, Andrew Rutland, M.D., has engaged in, and continues to engage in, acts and omissions that violate the Medical Practice Act, and;
- 2) Permitting respondent to continue practicing medicine has, and will continue, to endanger the public health, safety and welfare, and;
- 3) It appears from the facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

2. Respondent, joined by his attorney, waived the time restraints, notice and service requirements of Government Code section 11529, subdivision (c), and stipulated to having the hearing on interim order on August 27, 2002 at 1:30 p.m. Respondent and his attorney further stipulated to receiving service of this order by regular mail. The waivers and stipulations were placed on the record.

ORDER

WHEREFORE, THE FOLLOWING ORDER, in conformity with California Government Code section 11529, subdivisions (a) and (b), is hereby made:

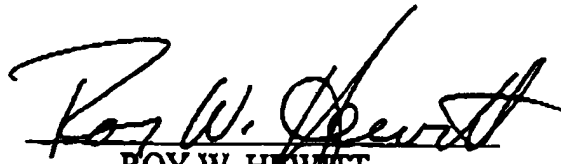
Respondent Andrew Rutland's Physician's and Surgeon's Certificate No. G 24947, issued to respondent on July 9, 1973, and respondent's Physician Assistant Supervisor Approval No. SA 18870, are immediately suspended. Consequently, effective immediately, respondent Andrew Rutland, M.D. shall not practice medicine, or supervise physician's assistants in the State of California.

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IT IS FURTHER ORDERED, in conformity with Government Code section 11529, subdivision (c), that:

A hearing on the Petition for Interim Order, pursuant to California Government Code section 11529, subdivision (d), shall be held at the Office of Administrative Hearings, 320 West Fourth Street, 6th Floor, Suite 630 (Hearing room to be assigned), Los Angeles, California 90013 (tel. 213-576-7200), on August 27, 2002, at 1:30 p.m., or as soon thereafter as the matter can be heard.

Dated: July 3, 2002.



ROY W. HEWITT

Administrative Law Judge
Office of Administrative Hearings