

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

In the Matter of the	)	
Accusation Against:	)	
	)	
JOSEPH MARMET, M.D.	)	No. D-3203
8115 Mulholland Terrace	)	
Los Angeles, California	)	L-32996
	)	
Physician's and Surgeon's	)	
Certificate No. A-23134	)	
	)	
Respondent.	)	
	)	

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DECISION

The Division of Medical Quality non-adopted a Proposed Decision made by an MQRC panel, and proceeded to decide the case upon the record, including the transcript. The parties were afforded the opportunity to present oral and written argument before the Division.

Having reviewed the entire matter, the Division now makes the following decision:

The attached Proposed Decision by the MQRC panel is adopted by Division, except that the proposed penalty order is increased by two more probationary conditions, as follows:

"H. As part of probation, respondent is suspended from the practice of medicine for 30 days beginning the effective date of this decision.

"I. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least 20 hours a month for the first two years of probation. (46 weeks constitute a year, to make allowance for vacation time.)"

The effective date of this decision is \_\_\_\_\_

May 18, 1987

So ordered April 16, 1987

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

By   
\_\_\_\_\_  
Secretary-Treasurer  
John W. Simmons

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

In the Matter of the Accusation )  
Against: )

No. D-3203

Joseph Marnet, M.D. )  
Certificate #A-23134 )

Respondent. )  
\_\_\_\_\_ )

ORDER DELAYING DECISION

Pursuant to section 11517 (d) of the Government Code, the Division of Medical Quality, finding that a further delay is required by special circumstances, hereby issues this Order Delaying the Decision for no more than 30 days from March 23, 1987 (when the 100-day period expires) to April 22, 1987.

The reasons for the delay are as follows: This case is on the agenda for discussion and decision at the next regularly scheduled meeting of the Division of Medical Quality, set for April 10, 1987, which is eighteen days after the expiration of the 100 day period on March 23, 1987. Therefore, the Division needs additional time to meet and complete its work in this case, including time after the meeting to draft and type the appropriate pleading, and to effect service on the parties.

DATED:

March 20, 1987

Stephen H. Wapford

KENNETH WAGSTAFF  
Executive Director

BOARD OF MEDICAL QUALITY ASSURANCE

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

In the Matter of the Accusation	)	
Against:	)	NO. D-3203
	)	L-32996
Joseph Marmet, M.D.	)	
Certificate # A-23134	)	NOTICE OF NON-ADOPTION
	)	OF PROPOSED DECISION
Respondent.	)	

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TO ALL PARTIES:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality did not adopt the proposed decision in this case. The Division will now decide the case itself upon the record, including the transcript.

You are now afforded the opportunity to present both oral and written argument to the Division. If you want to make oral argument, you must file with the Division within 20 days from the date of this notice your written request for oral argument. Otherwise, this option shall be deemed waived. If any written request is timely received, all parties will then be notified in writing of the date, time and place for hearing oral arguments from both sides.

As to written argument, you will be notified in writing of the deadline date to file your written argument with the Division. Your right to argue on any matter is not limited, but the Division would be interested in persuasive discussions on the following matters:

WHY THE PENALTY SHOULD NOT BE INCREASED.

For its own use, the Division has ordered the preparation of the hearing transcript and records. At your own expense, you may order a copy of the same by personally contacting the transcript clerk at the Office of Administrative Hearings at:

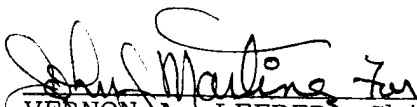
314 West First Street, Los Angeles, CA 90012

Please remember to include your proof of service that the opposing attorney was served with a copy of your written argument to the Division. The address for mailing or serving your request for oral argument and your written argument to the Division is as follows:

Division of Medical Quality  
1430 Howe Avenue  
Sacramento, CA 95825

DATED: September 23, 1986

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

  
VERNON A. LEEPER, Chief  
Enforcement Program

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

In the Matter of the	)	
Accusation Against:	)	
	)	No. D-3203
	)	
JOSEPH MARMET, M.D.	)	
8115 Mulholland Terrace	)	L-32996
Los Angeles, California	)	
	)	
Physician's and Surgeon's	)	
Certificate Number A-23134	)	
	)	
	)	
Respondent.	)	

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PROPOSED DECISION

This matter came on regularly for hearing before a panel of the District XII Medical Quality Review Committee at San Bernardino, California, on June 2, 1986, sitting with P. M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, who presided at the hearing but did not take part in the panel's deliberations. The panel consisted of the following members:

Jerilynn Kaibel, D.C., Chair  
Guy Hartman, M.D.  
Evelyn Mayberry, public member

Complainant was represented by Alan S. Meth, Deputy Attorney General. Respondent appeared personally, and was represented by Theodore S. Flier, Attorney at Law.

Evidence, both oral and documentary, was presented, and the matter was submitted for decision. The panel unanimsly makes its findings of fact, determinations of issues, and proposed decision as follows:

FINDINGS OF FACT

I

Complainant, Kenneth J. Wagstaff, is the Executive Director of the Board of Medical Quality Assurance of the State of California ("Board") and makes and files this accusation in his official capacity.

II

At all times herein mentioned respondent Joseph Marmet, M.D., held Physician's and Surgeon's Certificate Number A-23134 authorizing him to practice medicine in the State of California.

III

The parties have timely filed and served all pleadings, notices and other papers as required by law.

IV

A. On June 20, 1983, in the Superior Court of Riverside County, in Case No. CR 19431, respondent was convicted upon his plea of nolo contendere to one count of violating Welfare & Institutions Code Section 14107, submitting a fraudulent claim to Medi-Cal, a misdemeanor.

B. On October 14, 1983, further proceedings were suspended and respondent was placed on probation for three years on certain terms and conditions, one of which was to make restitution in the amount of \$540,000; this amount was later reduced to \$90,000 payable over a three year period.

V

The crime of which respondent was convicted is substantially related to the duties, qualifications and functions of a physician and surgeon.

VI

The following facts were established by clear and convincing evidence, and have been considered by the panel solely with respect to the degree of discipline to be imposed:

A. At all times pertinent herein, respondent was a participant in the California Medical Assistance Program ("Program") individually and as medical director of the Concern Health Foundation, also known as Concern Health Center and Concern Health Clinic.

B. On or about the dates set forth in Exhibit "A" respondent caused to be submitted to the Program claims for reimbursement for services which indicated various services designated by the following RVS values had been performed when in truth and in fact:

C. Respondent did not provide all the anesthesia services so indicated for all the named beneficiaries nor did anyone under respondent's direction or control perform such anesthesia services, as is more particularly set forth in Appendix A, incorporated herein by this reference.

D. Respondent did not provide all the laboratory analysis of the products of conception indicated for all the named beneficiaries nor did anyone under respondent's direction or control perform such laboratory analysis as is more particularly set forth in Appendix A, incorporated herein by this reference.

E. The total amount billed to the program for each therapeutic abortion performed by respondent or under respondent's direction or control on each beneficiary, as is more particularly set forth in Appendix A, incorporated herein by this reference, exceeded the total amount billed by respondent to his private patients for therapeutic abortions who were not part of the program, in that each patient who was not part of the program was billed between \$150 and \$190 for all the services connected with a therapeutic abortion.

#### VII

It has not been clearly established that respondent knowingly signed false documents, or was directly involved in dishonest or corrupt acts.

#### VIII

No evidence was presented on the issue of respondent's rehabilitation.

\* \* \* \* \*

#### DETERMINATION OF ISSUES

1. The facts set forth in Findings IV through VI have been established by clear and convincing evidence to the satisfaction of each member of the panel.

2. Cause exists pursuant to Sections 490, 2234, and 2236(a) of the Business and Professions Code to discipline respondent's physician's and surgeon's certificate by reason of the facts set forth in Findings IV and V.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate No. A-23134 issued to respondent Joseph Marmet, M.D. is revoked; however, revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

A. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

B. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

C. Respondent shall comply with the Division's probation surveillance program.

D. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

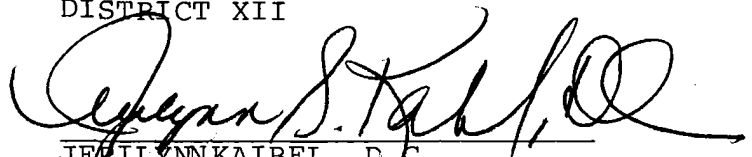
E. In the event respondent should leave California to reside or to practice outside the State, respondent must notify the Division in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

F. Respondent shall comply with all of the terms and conditions of the probationary order issued by the Superior Court.

G. Upon successful completion of probation, respondent's certificate will be fully restored.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

MEDICAL QUALITY REVIEW COMMITTEE  
DISTRICT XII

  
JERYL LYNN KAIBEL, D.C.,  
For the Panel

PMH:btm

June 26, 1986



APPENDIX A

Date of Service: March 10, 1979

(Anesthesia) (Lab Analysis)

BENEFICIARY	CLAIM #	CHECK #	PAID DATE	SERVICE CODE	SERVICE CODE	AMOUNT BILLED	TOTAL CHARGES	TOTAL AMOUNT PAID
Leona L.	9879107074039	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$385.35
Mary C.	9879107074048	000669125	5-14-79	59862-40	88302	\$25.00	\$588.00	\$389.80
Frandsen S.	9879107075011	000669125	5-14-79	59862-40	88302	\$25.00	\$541.50	\$308.80
Lisa L.	9879107074042	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$371.55
Tony M.	9879107075021	000669125	5-14-79	59862-40	88302	\$25.00	\$607.75	\$377.05
Karen F.	9879107074033	000669125	5-14-79	59862-40	88302	\$25.00	\$605.75	\$412.05
Gwendolyn G.	9879107074036	000669125	5-14-79	59862-40	88302	\$25.00	\$530.75	\$337.05
Terril R.	9879107075013	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$332.55
Vickie R.	9879107075018	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$332.55
Cynthia A.	9879107075031	000669125	5-14-79	59862-40	88302	\$25.00	\$644.75	\$421.35
Vickie S.	9879107075009	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$298.05
Yvonne B.	9879107075028	000669125	5-14-79	59862-40	88302	\$25.00	\$644.75	\$373.05
Cynthia W.	9879107075002	000671717	5-29-79	59862-40	88302	\$25.00	\$569.75	\$298.05
Sandra D.	9879107074045	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$371.55
Joyce C.	9879107075026	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$298.05
Mary F.	9879107071008	000676806	6-18-79	59862-40	88302	\$25.00	\$644.75	\$416.05
Katherine S.	9879107075007	000669125	5-14-79	59862-40	88302	\$25.00	\$644.75	\$373.05
Adrienne G.	9879107074037	000669125	5-14-79	59862-40	88302	\$25.00	\$569.75	\$371.55

Date of Service: April 21, 79

Mary B.	9879141002040	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$348.05
Kathleen G.	9879141012015	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$341.05
Lavina A.	9879141002037	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$341.05
Cynthia L.	9879141012019	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$348.05
Lucille B.	9879141002043	000676806	6-18-79	59862-40	88302	\$25.00	\$645.25	\$423.05
Dania P.	9879141012025	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$341.05
Debra W.	9879141012032	000674341	6-11-79	59862-40	88302	\$25.00	\$520.75	\$288.05
Darla C.	9879141012014	000676806	6-18-79	59862-40	88302	\$25.00	\$541.50	\$308.80
Terry S.	9879141012030	000674341	6-11-79	59862-40	88302	\$25.00	\$569.75	\$348.05
Gretchen L.	9879141012021	000676806	6-18-79	59862-40	88302	\$25.00	\$569.75	\$341.05
Karen R.	9879141012029	000676806	6-18-79	59862-40	88302	\$25.00	\$530.75	\$298.05
Roxanna W.	9879141012035	000674341	6-11-79	59862-40	88302	\$25.00	\$569.75	\$348.05
Peggy K.	9879141012017	000676806	6-18-79	59862-40	88302	\$25.00	\$645.25	\$422.55
Natalie W.	9879141012033	000674341	6-11-79	59862-40	88302	\$25.00	\$610.00	\$387.80
Julia A.	9879141003000	000676806	6-18-79	59862-40	88302	\$25.00	\$541.00	\$307.80
Sandra P.	9879141012027	000676806	6-18-79	59862-40	88302	\$25.00	\$575.25	\$341.05