STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Howard Levine
Docket No.: 98-10-A-1028 MD
Document: Statement of Charges

Regarding your request for information about the above-named practitioner, certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

> The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records – Health Care Information Access and Disclosure)

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

> Adjudicative Clerk Office
> P.O. Box 47879
> Olympia, WA 98504-7879
> Phone: (360) 236-4677
> Fax: (360) 586-2171

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

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of HOWARD J. LEVINE, M.D. License No. 19774 Respondent.	**Docket No. 98-10-A-1028MD** STATEMENT OF CHARGES

The Program Manager on designation by the Commission, makes the allegations below. Any patients referred to in this Statement of Charges are identified in an attached Confidential Schedule.

Section 1: ALLEGED FACTS

1.1 Howard J. Levine, M.D., was issued a license to practice as a physician and surgeon by the State of Washington in March 1982.

1.2 On or about April 10, 1995, the Respondent performed a therapeutic abortion on Patient A. During the course of the abortion, Patient A had a severe onset of pain. The Respondent continued suction curettage until the abortion was finished without responding to the patient's complaints of pain.

1.3 Following the abortion procedure Patient A continued to experience extreme abdominal pain and notified the Respondent. Respondent failed to appropriately follow-up on the Patient's complaints of post surgical pain.

1.4 After twenty-four hours, Patient A's condition had not improved. Patient A's temperature became elevated and she was not lucid. Patient A was taken to the Emergency Room. She presented with acute abdominal pain, high fevers, and a pelvic mass noted on ultrasound. Patient A was admitted for anti-biotic therapy, but did not improve. An exploratory laparotomy was performed. Upon exploration of the abdominal cavity, it was noted that Patient A had a perforation of the uterus in the posterior aspect of the uterus. There was obvious injury to the small intestine with necrosis of a portion. Patient A's uterus,

fallopian tubes and ovaries were necrotic, and there was a marked amount of pus within the peritoneal cavity. Her appendix was densely adhered to this area. A total abdominal hysterectomy, bilateral salpingo-oophorectomy, appendectomy, and small bowel resection were performed on Patient A.

1.5 On or about August 15, 1991, the Respondent performed a therapeutic abortion on Patient B. Two to three minutes into the procedure, Patient B felt a sharp pain in the top of her abdomen. The pain continued, unabated after the procedure. When notified of Patient B's post operative complications, Respondent failed to properly follow-up with the patient.

1.6 Still complaining of post operative pain, Patient B told the Respondent that she was planning to leave for Wyoming. Respondent told Patient B that it was okay for her to travel to Wyoming. Several days later, in Wyoming, Patient B was hospitalized for abdominal pain. During emergency exploratory surgery doctors discovered that Patient B had a perforated uterus and small bowel necrosis with mesenteric laceration from the abortion.

1.7 On or about May 6, 1996, the Respondent performed an elective abortion on Patient C. The Respondent was very rough with Patient C positioning her for the abortion. During and after the procedure the Respondent was verbally abusive and made degrading comments to the Patient and her companion.

1.8 During the procedure, Patient C experienced severe pain. Although Patient C begged the Respondent to stop and take the speculum out, the Respondent failed to properly respond to the Patient's complaints of pain.

1.9 Within a few days of the procedure, Patient C experienced post operative complications including fever, dizziness and a vaginal discharge with an offensive odor. Patient C elected to go to the University of Washington Hospital instead of returning to the Respondent's clinic. There, Patient C was diagnosed with a slightly elevated white blood count and provided with antibiotics and pain medication.

1.10 On or about March 1, 1996, the Respondent performed a therapeutic abortion on Patient D. During the procedure, respondent was physically rough with the patient and engaged in abusive discussions regarding birth control.

1.11 On or about October 4, 1996, Respondent performed an abortion on Patient E. Respondent failed to complete the abortion and left retained products of conception in the patient's uterus. This resulted in pain and fever and required a follow-up procedure by another provider. During the incomplete procedure, Respondent was verbally abusive.

1.12 During the procedure on or about October 4, 1996, Patient E experienced unnecessary intense pain.

1.13 On or about January 10, 1997, the Respondent performed a termination of pregnancy on Patient F. Prophylactic antibiotics were not administered to Patient F after the termination procedure and before she left the Respondent's clinic. Respondent's staff hustled Patient F out of the clinic because it was closing. When Patient F called the Respondent's answering service to secure the prescription for prophylactic antibiotics which had not been provided as described in Respondent's instruction sheet, Respondent responded angrily in a phone call in which he accused Patient F of unnecessarily calling him.

1.14 On or about February 20, 1997, the Respondent performed a termination of pregnancy on Patient G. The room where the procedure was performed was dirty. The Respondent used unlicensed personnel to inject Patient G with the anesthetic. The Respondent proceeded to remove the laminaria from Patient G without washing his hands or putting gloves on. The Respondent inflicted unnecessary pain on Patient G. When questioned about his conduct by Patient G's sister, who had accompanied her, the Respondent became very angry, terminated the procedure and told Patient G and her sister to get off his property. The Respondent called Patient G and her sister "pathetic". Patient G was bleeding as she was trying to dress. The Respondent told Patient G and her sister that they would have to pay much more money than he normally charged, for him to continue the termination.

1.15 The Respondent interfered with Patient G's ability to obtain care from other providers by threatening to call other providers with negative information about the Patient's character.

1.16 The post-procedure management of Patient A and Patient B by the Respondent was diagnostically and therapeutically below the standard of care for therapeutic abortions in the State of Washington.

1.17 On or about July 17, 1998, the Respondent performed a termination of pregnancy ("TOP") on Patient H. The Respondent caused significant unnecessary pain and caused unnecessary emotional distress to Patient H in performing the TOP. The Respondent and the Respondent's staff failed to attend to Patient H after performing the TOP.

1.18 On or about April 21, 1998 and April 22, 1998, the Respondent performed a TOP on Patient I. The Respondent caused significant unnecessary pain to Patient I and verbally abused Patient I in performing the TOP. The Respondent and the Respondent's staff failed to attend to Patient I after performing the TOP.

1.19 Respondent failed to maintain clinically sanitary conditions in his office and surgical suite where terminations of pregnancy were performed on any or all Patients A-I.

1.20 Respondent failed to use properly licensed medical personnel in performing medical procedures on any or all Patients A-I.

1.21 Respondent failed to meet the standard of care in providing medical care to and performing TOPs on any or all Patients A-I, including, but not limited to, providing sub-standard post-surgical care and being abusive to patients.

Section 2: ALLEGED VIOLATIONS

2.1 The violations alleged in paragraphs 1.2, 1.3, 1.17 and 1.18 constitute grounds for disciplinary action pursuant to RCW 18.130. 180(4), (7), and (24) and the imposition of sanctions under 18.130.160.

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2.2 The violations alleged in paragraphs 1.4, 1.5, 1.12, 1.16, 1.19 and 1.21 constitute grounds for disciplinary action pursuant to RCW 18.130.180(4) and (7) and the imposition of sanctions under 18.130.160.

2.3 The violations alleged in paragraph 1.6 constitute grounds for disciplinary action pursuant to RCW 18.130.180(4) and the imposition of sanctions under 18.130.160.

2.4 The violations alleged in paragraphs 1.7 and 1.10 constitute grounds for disciplinary action pursuant to RCW 18.130.180(4) and (7) and the imposition of sanctions under 18.130.160.

2.5 The violations alleged in paragraphs 1.8, 1.11, 1.13 and 1.14 constitute grounds for disciplinary action pursuant to RCW 18.130.180(1), (4), (7) and (24) and the imposition of sanctions under 18.130.160.

2.6 The violations alleged in paragraph 1.15 constitute grounds for disciplinary action pursuant to RCW 18.130.180(1) and the imposition of sanctions under 18.130.160.

2.7 The violations alleged in paragraph 1.20 constitute grounds for disciplinary action pursuant to RCW 18.130.180(4), (7) and (10) and the imposition of sanctions under 18.130.160.

The full texts of the alleged violations are as follows:

> **RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:
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> (1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not;
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> . . .
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> (4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;
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> . . .
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> (7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;
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> . . .
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> (10) Aiding or abetting an unlicensed person to practice when a license is required;
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> . . .
>
> (24) Abuse of a client or patient

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Section 3: NOTICE TO RESPONDENT

The charges in this document affect the public health, safety and welfare. The Program Manager of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline pursuant to RCW 18.130.180 and the imposition of sanctions under 18.130.160.

DATED this 29th day of April, 1999.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Maryella E. Jansen
Program Manager

Ed Newcomer, Jr. WSBA #21612
Assistant Attorney General Prosecutor

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Program No. 98-05-0035MD

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