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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 17 19 99
BY Wicky Dams ASSOCIATE

6 Attorneys for Complainant
7

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. 10-1996-61463
12)
13 **ROBERT JOHN SANTELLA, M.D.**)
4531 College Avenue) **ACCUSATION**
San Diego, CA 92115)
14)
Physician's and Surgeon's)
15 Certificate No. G 23945)
16 Respondent.)

17
18 Complainant, Ron Joseph, as causes for disciplinary
19 action, hereby alleges:

20 **PARTIES**

21 1. Complainant, Ron Joseph, is the Executive Director
22 of the Medical Board of California (hereinafter the "Board") and
23 brings this Accusation solely in his official capacity.

24 2. On or about January 11, 1973, Physician's and
25 Surgeon's Certificate No. G 23945 was issued by the Board to
26 Robert John Santella, M.D. ("respondent"), and at all times
27 relevant herein, said Physician's and Surgeon's Certificate was

1 in full force and effect. Unless renewed, it will expire on
2 December 31, 1999. In or about 1984, following the filing of an
3 Accusation against respondent, the Board issued a disciplinary
4 decision. The Decision placed respondent on probation for five
5 years with terms and conditions including a 60 day suspension.

6 **JURISDICTION**

7 3. This Accusation is brought before the Division of
8 Medical Quality of the Board (hereinafter the "Division"), under
9 the authority of the following sections of the California
10 Business and Professions Code (hereinafter "Code"):

11 A. Code section 2227 provides, in pertinent
12 part, that the Division may revoke, suspend for a period not
13 to exceed one year, or place on probation and order the
14 payment of probation monitoring cost, the license of any
15 licensee who has been found guilty under the Medical
16 Practice Act.

17 B. Code section 2234 provides, in pertinent
18 part, that the Division shall take action against any
19 licensee who is charged with unprofessional conduct.
20 Unprofessional conduct includes, but is not limited to,
21 the following:

- 22 ". . . ."
23 "(b) Gross negligence.
24 "(c) Repeated negligent acts.
25 "(d) Incompetence.
26 ". . . ."
27 ///

1 C. Code section 2266 provides, in pertinent
2 part, that the failure of a physician and surgeon to
3 maintain adequate and accurate records relating to the
4 provision of services to their patients constitutes
5 unprofessional conduct.

6 D. Code section 125.3 provides, in part, that
7 the Board may request the administrative law judge to direct
8 any licentiate found to have committed a violation or
9 violations of the licensing act, to pay the Board a sum not
10 to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 4. Section 14124.12 of the Welfare and Institutions
13 Code provides, in pertinent part, that: "Upon receipt of written
14 notice from the Medical Board of California, the Osteopathic
15 Medical Board of California, or the Board of Dental Examiners of
16 California, that a licensee's license has been placed on
17 probation as a result of a disciplinary action, the department
18 [of Health Services] may not reimburse any Medi-Cal claim for the
19 type of surgical service or invasive procedure that gave rise to
20 the probation including any dental surgery or invasive procedure,
21 that was performed by the licensee on or after the effective date
22 of probation and until the termination of all probationary terms
23 and conditions or until the probationary period has ended,
24 whichever occurs first. This section shall apply except in any
25 case in which the relevant licensing board determines that
26 compelling circumstances warrant the continued reimbursement
27 during the probationary period of any Medi-Cal claim, including

1 any claim for dental services, as so described. In such a case,
2 the department shall continue to reimburse the licensee for all
3 procedures, except for those invasive or surgical procedures for
4 which the licensee was placed on probation."

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Incompetence)

7 5. Respondent Robert John Santella, M.D., is subject
8 to disciplinary action on account of the following:

9 PATIENT ELLA M.

10 A. Patient Ella M. (hereinafter "Ella"), a then
11 46 year old Gravida 1, Para 1 female, first presented to on
12 November 4, 1994. She had dysfunctional bleeding and a left
13 adnexal mass that respondent continued to observe until he
14 performed surgery on March 30, 1995.

15 B. On March 30, 1995, without first invest-
16 igating the possibility of an intrauterine malignancy,
17 respondent performed a vaginal hysterectomy without
18 laparoscopic assistance.

19 C. During the surgery, he discovered that the
20 adnexal lesion was markedly adherent to the pelvic area and
21 the omentum. Accordingly, the lesion was extremely
22 difficult to remove.

23 D. Portions of respondent's chart notes for Ella
24 have diagrams drawn over them, making the notes difficult to
25 read and making it difficult to discern the goals of the
26 diagnostic evaluation or treatment plan.

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1 PATIENT JACKIE W.

2 E. Patient Jackie W. (hereinafter "Jackie"), a
3 then 30 year old Gravida 5, Para 3 female with a history of
4 long standing pelvic inflammatory disease and multiple
5 surgeries, first presented to respondent on January 6, 1994
6 with complaints of irregular bleeding and pelvic pain. On
7 January 12, 1994, respondent performed a diagnostic
8 laparoscopy and the endocervical portion of a D&C, during
9 which he noted and drained multi-cystic ovaries. The D&C
10 was reported as revealing severe dysplasia even though a pap
11 smear two days earlier was negative. Further, respondent
12 failed to perform a cone biopsy or loop excision to
13 determine the appropriate method of treatment. And, in
14 fact, final pathology did not confirm the presence of
15 endocervical dysplasia.

16 F. On February 9, 1994, Jackie was admitted to
17 the hospital for a total vaginal hysterectomy for severe
18 endocervical dysplasia and chronic pelvic pain. A right
19 ovarian cystectomy was performed during the surgery.

20 G. Respondent went on to perform a right
21 laparoscopic oophorectomy in August 1994, followed by a left
22 salpingo-oophorectomy and appendectomy in June 1995.

23 H. Portions of respondent's chart notes for
24 Jackie have diagrams drawn over them, making the notes
25 difficult to read and making it difficult to discern the
26 goals of the diagnostic evaluation or treatment plan.

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1 PATIENT THREE

2 I. Patient Three, a then 60 year old female,
3 first presented to respondent on July 31, 1995, for a
4 preoperative evaluation of a suspected ovarian malignancy.

5 J. On August 7, 1995, respondent performed a
6 total abdominal hysterectomy and bilateral salpingo-
7 oophorectomy with pelvic washings. An ovarian tumor showing
8 no surface irregularities was removed without rupture.
9 Intraoperative frozen section diagnosis was reported as
10 mucinous ovarian neoplasm with some features suggesting
11 possible borderline tumor. Respondent did not perform a
12 lymph node biopsy or omentectomy.

13 K. Portions of respondent's chart notes for
14 Patient Three have diagrams drawn over them, making the
15 notes difficult to read and making it difficult to discern
16 the goals of the diagnostic evaluation or treatment plan.

17 6. Respondent Robert John Santella, M.D., is subject
18 to disciplinary action in that he was incompetent, in violation
19 of Code section 2234 (d), in connection with his care and
20 treatment of Ella, Jackie and Patient Three, in that:

21 A. Complainant realleges paragraph 5 above and
22 incorporates it by reference herein.

23 B. Respondent performed a vaginal rather than
24 abdominal hysterectomy on Ella.

25 C. Respondent failed to perform a cone biopsy or
26 loop excision to evaluate Jackie's reported endocervical
27 dysplasia prior to her hysterectomy.

1 D. Respondent failed to refer Jackie for
2 psychiatric evaluation in the midst of her multiple
3 gynecological surgeries.

4 E. Respondent frequently drew anatomic diagrams
5 over his clinical notes regarding Ella, Jackie and Patient
6 Three, making those notes difficult to read and making it
7 difficult to discern the goals of his diagnostic evaluation
8 and his treatment plan.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Repeated Negligent Acts)

11 7. Respondent Robert John Santella, M.D., is further
12 subject to disciplinary action in that he committed repeated
13 negligent acts, in violation of Code section 2234 (c), in
14 connection with his care and treatment of Ella, Jackie and
15 Patient Three, in that:

16 A. Complainant realleges paragraphs 5 and 6
17 above and incorporates them herein by reference.

18 B. Respondent failed to rule out endometrial
19 malignancy with a screening endometrial biopsy prior to
20 performing a vaginal hysterectomy for abnormal bleeding on
21 Ella.

22 C. Respondent performed a vaginal rather than
23 abdominal hysterectomy on Ella.

24 D. Respondent failed to perform a cone biopsy or
25 loop excision to evaluate Jackie's reported endocervical
26 dysplasia prior to her hysterectomy.

27 ///

1 E. Respondent failed to refer Jackie for
2 psychiatric evaluation in the midst of her multiple
3 gynecological surgeries.

4 F. Respondent failed to obtain a confirmatory
5 omental biopsy or perform a partial omentectomy in
6 connection with his evaluation of Patient Three.

7 G. Respondent frequently drew anatomic diagrams
8 over his clinical notes regarding Ella, Jackie and Patient
9 Three, making those notes difficult to read and making it
10 difficult to discern the goals of his diagnostic evaluation
11 and his treatment plan.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Failure to Maintain Adequate and Accurate Records)

14 8. Respondent Robert John Santella, M.D., is further
15 subject to disciplinary action for unprofessional conduct in that
16 he failed to maintain adequate and accurate records, in violation
17 of Code section 2266, as more specifically set forth in
18 paragraphs 5, 6 and 7 above, which are incorporated herein by
19 reference.

20 **PRAYER**

21 WHEREFORE, complainant requests that the Division hold
22 a hearing on the matters alleged herein, and that following said
23 hearing, the Division issue a decision:

24 1. Revoking or suspending Physician's and Surgeon's
25 Certificate No. G 23945, heretofore issued to respondent Robert
26 John Santella, M.D.;

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1 2. Directing respondent Robert John Santella, M.D.,
2 to pay to the Board a reasonable sum for its investigative and
3 enforcement costs of this action, and directing respondent, if
4 placed on probation, to pay the costs of probation monitoring;
5 and,

6 3. Taking such other and further action as the
7 Division deems appropriate to protect the public health, safety
8 and welfare.

9 DATED: March 17, 1999

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*Ron Joseph by
Raymond Feld*

Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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