

1 EVELLE J. YOUNGER, Attorney General  
ROBERT MCKIM BELL,  
2 Deputy Attorney General  
3580 Wilshire Boulevard, Suite 800  
3 Los Angeles, California 90010  
4 Telephone: (213) 736-2045

5 Attorneys for Complainant  
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7

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

13 In the Matter of the Accusation )  
Against: )  
14 MORTON BARKE, M.D. ) NO. D-2075  
15 Physician's & Surgeon's ) STIPULATED  
Certificate No. A-20549, ) SETTLEMENT  
16 and ) OF THE CASE  
17 )  
18 WEST COAST MEDICAL GROUP, INC. )  
Certificate of Registration as )  
a Medical Corporation No. Z-1806, )  
19 Respondents. )  
20 )

21 IS IS HEREBY STIPULATED AND AGREED by and between the  
22 parties to the above entitled proceeding that, for the purposes  
23 of this proceeding only, the following matters are true:

24 1. An accusation is presently pending against Morton  
25 Barke, M.D., and West Coast Medical Group, Inc. (hereinafter  
26 sometimes referred to as the "respondents"), said accusation  
27 having been filed with the Division of Medical Quality of the

1.

*11-16-77 Barke, T. ...*

1 Board of Medical Quality Assurance of the State of California  
2 (hereinafter referred to as the "board") on or about  
3 September 23, 1977.

4           2. The complainant in said accusation, Robert G.  
5 Rowland, is the executive director of the board and brought  
6 said accusation in his official capacity.

7           3. At all times herein mentioned, respondent Morton  
8 Barke, M.D., has been licensed as a physician in this state by  
9 the board, holding physician's and surgeon's certificate number  
10 A-20549.

11           4. At all times herein mentioned, respondent West  
12 Coast Medical Group, Inc. (hereinafter, "WCMG"), has been  
13 registered as a professional medical corporation in this state  
14 by the board, holding Certificate of Registration as a Medical  
15 Corporation number Z-1806. Morton Barke, M.D., the individual  
16 licensee referred to hereinabove in paragraph 3, is the  
17 president and treasurer of respondent WCMG.

18           5. Both Morton Barke, M.D., and WCMG are providers  
19 of Medi-Cal services within the meaning of sections 51051 and  
20 51454 of title 22 of the California Administrative Code, and  
21 both are certified to receive payment therefor from the State  
22 of California.

23           6. Respondents have retained Ronald Hartman,  
24 Esquire, as their legal counsel in connection with this case.

25           7. Respondents and their counsel have fully  
26 discussed the charges of unprofessional conduct contained

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1 in said accusation number D-2075 and respondents have been  
2 fully advised regarding their rights in this matter.

3 8. Respondents are fully aware of their right to a  
4 hearing on the charges of unprofessional conduct contained in  
5 the accusation, their right to confront and cross-examine  
6 witnesses against them, their right to reconsideration, to  
7 appeal and to any and all other rights which may be available  
8 to them pursuant to the California Administrative Procedure  
9 Act. Respondents hereby freely and voluntarily waive their  
10 rights to a hearing, to confrontation of witnesses, to  
11 reconsideration, to appeal and to any and all other rights  
12 which may be available to them under the California  
13 Administrative Procedure Act regarding said accusation.

14 9. Pursuant to sections 2360 and 2361 of the Business  
15 and Professions Code (all sectional references are to the  
16 Business and Professions Code unless otherwise indicated), the  
17 Division of Medical Quality of the Board of Medical Quality  
18 Assurance may take disciplinary action against the holder of a  
19 physician's and surgeon's certificate who is guilty of  
20 unprofessional conduct.

21 10. Section 2507 of the code provides, inter alia,  
22 that a medical corporation shall not do or fail to do any act  
23 the doing of which or the failure to do which would constitute  
24 unprofessional conduct under any statute, rule or regulation.  
25 In the conduct of its practice, it shall observe and be bound  
26 by such statutes, rules and regulations to the same extent as a  
27 person holding a certificate as a physician and surgeon.

1 Said section 2507 of the code further provides that the Board  
2 of Medical Quality Assurance shall have the same powers of  
3 suspension, revocation and discipline against a medical  
4 corporation as are authorized by section 2360 of the code, or  
5 by any other similar statute against individual licensees.

6 11. Section 2383 of the code provides as follows:

7 "The conviction of either (1) a felony or (2) any  
8 offense, misdemeanor or felony, involving moral turpitude  
9 constitutes unprofessional conduct within the meaning of  
10 this chapter. The record of conviction shall be  
11 conclusive evidence only of the fact that the conviction  
12 occurred. The Division of Medical Quality may inquire  
13 into the circumstances surrounding the commission of the  
14 crime in order to fix the degree of discipline or to  
15 determine if such conviction is of an offense involving  
16 moral turpitude. A plea or verdict of guilty or a  
17 conviction following a plea of nolo contendere made to a  
18 charge of a felony or of any offense involving moral  
19 turpitude is deemed to be a conviction within the meaning  
20 of this section. The Division of Medical Quality may  
21 order the license suspended or revoked, or may decline to  
22 issue a license, when the time for appeal has elapsed, or  
23 the judgment of conviction has been affirmed on appeal or  
24 when an order granting probation is made suspending the  
25 imposition of sentence, irrespective of a subsequent order  
26 under the provisions of section 1203.4 of the Penal Code  
27 allowing such person to withdraw his plea of guilty

1 and to enter a plea of not guilty, or setting aside the  
2 verdict of guilty, or dismissing the accusation,  
3 information or indictment."

4 12. Dr. Morton Barke's certificate is subject to  
5 disciplinary action for unprofessional conduct, as is the  
6 certificate issued to WCMG, pursuant to section 2383 of the  
7 code in that Dr. Barke has been convicted of a criminal offense  
8 involving moral turpitude. The circumstances of this offense  
9 are as follows:

10 A. On or about January 19, 1976, in proceedings  
11 before the Superior Court of the State of California for  
12 the County of Los Angeles entitled, "People of the State  
13 of California v. Morton Barke, M.D., et al.," case number  
14 A 308288, respondent Morton Barke, M.D., entered a plea of  
15 nolo contendere to a charge of having violated section 496  
16 of the California Penal Code (receiving stolen property of  
17 a value less than \$200), and was thereupon convicted.

18 13. Section 490 provides that a board within the  
19 Department of Consumer Affairs may suspend or revoke a license  
20 on the ground that the licensee has been convicted of a crime,

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1 if the crime is substantially related to the qualifications,  
2 functions, or duties of the business or profession for which  
3 the license was issued.

4           14. Respondents Barke and WCMG are subject to  
5 disciplinary action pursuant to section 490 in that Dr. Barke  
6 has been convicted of a crime which is substantially related to  
7 the qualifications, functions, or duties of the profession of  
8 medicine. The circumstances of this violation are as follows:

9           A. On or about January 19, 1976, in proceedings  
10 before the Superior Court of the State of California for  
11 the County of Los Angeles entitled, "People of the State  
12 of California v. Morton Barke, M.D., et al.," case number  
13 A 308288, respondent Morton Barke, M.D., entered a plea of  
14 nolo contendere to a charge of having violated section 496  
15 of the California Penal Code (receiving stolen property of  
16 a value less than \$200), and was thereupon convicted.

17           B. The crime for which Dr. Barke has been  
18 convicted is substantially related to the qualifications,  
19 functions, or duties of the profession of medicine.

20           15. Section 2361, subdivision (f), of the code  
21 defines as unprofessional conduct the commission of any act  
22 involving moral turpitude, dishonesty, or corruption, whether  
23 the act is committed in the course of the individual's  
24 activities as a certificate holder, or otherwise, or whether  
25 the act is a felony or misdemeanor.

26           16. Respondents' certificates are subject to  
27 disciplinary action for unprofessional conduct pursuant to



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A. Unpaid Community Medical Service

Within thirty (30) days of the effective date of this order, respondent Morton Barke, M.D., shall commence and, within twenty-four (24) months thereafter, shall complete a program of three hundred and eighty-four (384) hours of unpaid community medical service satisfactory to the Division of Medical Quality. The obligation to provide such unpaid community medical service shall be discharged by respondent Morton Barke, M.D., at the rate of sixteen (16) hours per calendar month for twenty-four (24) consecutive calendar months until completed. Such unpaid community medical service shall be performed in such a manner and in such a professional setting as may be directed by the Division of Medical Quality. During the period of such service, it shall be the obligation of respondent Morton Barke, M.D., to provide an accounting and verification of such service in such a manner as may be directed by the division's medical consultant.

B. Interviews With Medical Consultant

Within ninety (90) days following the effective date of this order, a medical consultant for the Division of Medical Quality will send respondents written notice of the time, date and place for an initial interview to discuss the terms and conditions of probation. Respondent Morton Barke, M.D., shall report in person to the medical consultant as requested, and, during probation, shall appear in person for subsequent interviews held at least



1 once a calendar year, as directed by the medical  
2 consultant or by the Division of Medical Quality.

3 C. Obey All Laws

4 Respondents shall obey all laws of the United  
5 States, the State of California and its political  
6 subdivisions, including all laws and regulations related  
7 to the practice of medicine.

8 D. Probation To Be Served in California

9 Respondents' practice of medicine while in a  
10 probationary status shall be in the State of California.  
11 Time spent in the practice of medicine or while residing  
12 in any other jurisdiction shall not be effective in  
13 reducing the time of probationary practice hereby imposed.

14 In the event respondents and each of them comply  
15 with the aforesaid terms and conditions of probation for  
16 the full period thereof, the order staying suspension  
17 shall become permanent and their certificates to practice  
18 medicine shall be fully restored.

19 However, in the event that respondents do not  
20 comply with the terms and conditions of probation for the  
21 full period thereof, the board, after notice to them and  
22 after providing them with an opportunity to be heard, may  
23 set aside the stay and reimpose the order of suspension or  
24 make such other order modifying or changing the stay order  
25 as it shall deem proper.

26 This stipulated settlement of the case shall be  
27 subject to the approval of the Division of Medical Quality. If

1 the Division of Medical Quality fails to approve this  
2 settlement, it shall be of no force or effect for either  
3 party.

4 The admissions contained herein are made solely  
5 for the purpose of this proceeding and for no other purpose  
6 or proceeding and shall not be admissible or utilized in any  
7 other judicial, quasi-judicial, administrative or related  
8 proceeding in any manner or form, except in the enforcement,  
9 if necessary, of the within disciplinary order.

10 I HAVE READ THE ABOVE DOCUMENT AND HAVE FULLY  
11 DISCUSSED IT WITH MY LEGAL COUNSEL. I AGREE TO THE ABOVE  
12 STIPULATED SETTLEMENT OF THE CASE.

13 Dated: 8-31-78 . *Morton Barke*  
14 MORTON BARKE, M.D.  
Respondent

15 Dated: 8-31-78 . WEST COAST MEDICAL GROUP, INC.  
16  
17 By *Morton Barke*  
18 MORTON BARKE, M.D.  
President

19 Dated: Sept. 4 1978 . *Ronald Hartman*  
20 RONALD HARTMAN, ESQ.  
Attorney for Respondents

21  
22 EVELLE J. YOUNGER, Attorney General  
ROBERT MCKIM BELL,  
Deputy Attorney General

23 Dated: August 29, 1978 . *Robert McKim Bell*  
24 ROBERT MCKIM BELL  
25 Deputy Attorney General  
Attorney for Complainant

26 Dated: 9/6/78 . *Robert G. Rowland*  
27 ROBERT G. ROWLAND  
Executive Director  
Board of Medical Quality Assurance

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The above stipulated settlement of the case is accepted by the Division of Medical Quality of the Board of Medical Quality Assurance and shall constitute its decision in this matter. The decision is to take effect on October 16, 1978.

Dated: This 14th day of September, 1978.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

By   
MICHAEL J. CARELLA  
Secretary-Treasurer

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1 EVELLE J. YOUNGER, Attorney General  
ROBERT MCKIM BELL,  
2 Deputy Attorney General  
800 Tishman Building  
3 3580 Wilshire Boulevard  
Los Angeles, California 90010  
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8 BEFORE THE DIVISION OF MEDICAL QUALITY  
9 BOARD OF MEDICAL QUALITY ASSURANCE  
10 DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA  
12

13 In the Matter of the Accusation  
14 Against:

MORTON BARKE, M.D.  
15 Physician's & Surgeon's  
16 Certificate No. A-20549,

17 and

18 WEST COAST MEDICAL GROUP, INC.  
19 Certificate of Registration as  
a Medical Corporation No. Z-1806,

20 Respondents.

NO. D-2075

ACCUSATION

21 Complainant alleges that:

22 I

23 Robert Rowland, complainant, is the executive director  
24 of the Board of Medical Quality Assurance of the State of  
25 California, and brings this accusation in his official capacity.

26 II

27 A. At all times herein mentioned, respondent Morton  
28 Barke, M.D., has been licensed as a physician in California by the

1 California Board of Medical Quality Assurance, holding Physician's  
2 and Surgeon's Certificate number A-20549.

3 B. At all times herein mentioned, respondent West Coast  
4 Medical Group, Inc. (hereinafter "WCMG"), has been registered as  
5 a professional medical corporation in this state by the California  
6 Board of Medical Quality Assurance, holding Certificate of  
7 Registration as a Medical Corporation number Z-1806. Morton  
8 Barke, M.D., the individual licensee referred to hereinabove in  
9 paragraph II A, is the president and treasurer of respondent WCMG.

10 C. Both Morton Barke, M.D., and WCMG are providers of  
11 Medi-Cal services within the meaning of sections 51051 and 51454  
12 of title 22 of the California Administrative Code, and both are  
13 certified to receive payment therefor from the State of California.

### 14 III

15 A. Pursuant to sections 2360 and 2361 of the Business  
16 and Professions Code (all sectional references are to the Business  
17 and Professions Code unless otherwise indicated), the Division of  
18 Medical Quality of the Board of Medical Quality Assurance may take  
19 disciplinary action against the holder of a physician's and  
20 surgeon's certificate who is guilty of unprofessional conduct.

21 B. Section 2507 of the Code provides, inter alia, that  
22 a medical corporation shall not do or fail to do any act the doing  
23 of which or the failure to do which would constitute unprofessional  
24 conduct under any statute, rule or regulation. In the conduct of  
25 its practice, it shall observe and be bound by such statutes, rules  
26 and regulations to the same extent as a person holding a certifi-  
27 cate as a physician and surgeon. Said section 2507 of the Code

1 further provides that the Board of Medical Quality Assurance shall  
2 have the same powers of suspension, revocation and discipline  
3 against a medical corporation as are authorized by section 2360 of  
4 the Code, or by any other similar statute against individual  
5 licensees.

6 IV

7 A. Section 2383 of the Code provides as follows:

8 "The conviction of either (1) a felony or  
9 (2) any offense, misdemeanor or felony, involving  
10 moral turpitude constitutes unprofessional conduct  
11 within the meaning of this chapter. The record of  
12 conviction shall be conclusive evidence only of  
13 the fact that the conviction occurred. The Division  
14 of Medical Quality may inquire into the circumstances  
15 surrounding the commission of the crime in order to  
16 fix the degree of discipline or to determine if such  
17 conviction is of an offense involving moral turpitude.  
18 A plea or verdict of guilty or a conviction following  
19 a plea of nolo contendere made to a charge of a felony  
20 or of any offense involving moral turpitude is deemed  
21 to be a conviction within the meaning of this section.  
22 The Division of Medical Quality may order the  
23 license suspended or revoked, or may decline to issue  
24 a license, when the time for appeal has elapsed, or  
25 the judgment of conviction has been affirmed on appeal  
26 or when an order granting probation is made suspending  
27 the imposition of sentence, irrespective of a subsequent  
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1 order under the provisions of section 1203.4 of the  
2 Penal Code allowing such person to withdraw his plea  
3 of guilty and to enter a plea of not guilty, or  
4 setting aside the verdict of guilty, or dismissing  
5 the accusation, information or indictment."

6 B. Dr. Morton Barke's certificate is subject to disci-  
7 plinary action for unprofessional conduct, as is the certificate  
8 issued to WCMG, pursuant to section 2383 of the Code in that  
9 Dr. Barke has been convicted of a criminal offense involving  
10 moral turpitude. The circumstances of this offense are as  
11 follows:

12 1. On or about June 10, 1974, in proceed-  
13 ings entitled "People of the State of California v.  
14 Morton Barke, M.D., et al.," case number A 308288,  
15 respondent Morton Barke, M.D., was indicted by the  
16 Grand Jury of the County of Los Angeles. Dr. Barke  
17 was charged in the indictment with having violated  
18 sections 182.1 and 182.4 of the Penal Code (conspiracy  
19 to commit grand theft and file false claims), section  
20 487.1 of the Penal Code (grand theft), and section  
21 14107 of the Welfare and Institutions Code (filing  
22 false claims).

23 2. On or about January 19, 1976, Dr. Barke  
24 appeared in the Superior Court, Department 25. At  
25 that time the information was amended to add a Count 21,  
26 a violation of section 496 of the Penal Code (receiving  
27 stolen property). Dr. Barke entered a plea of nolo  
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1           contendere to Count 21, and was thereupon convicted.

2                   V

3           A. Section 490 provides that a board within the  
4 Department of Consumer Affairs may suspend or revoke a license on  
5 the ground that the licensee has been convicted of a crime, if  
6 the crime is substantially related to the qualifications, func-  
7 tions, or duties of the business or profession for which the  
8 license was issued.

9           B. Respondents Barke and WCMG are subject to discipli-  
10 nary action pursuant to section 490 in that Dr. Barke has been  
11 convicted of a crime which is substantially related to the quali-  
12 fications, functions, or duties of the profession of medicine.  
13 The circumstances of this violation are as follows:

14                   1. Complainant hereby incorporates by  
15 reference the allegations contained hereinabove in  
16 paragraphs IV B (1) and (2) of this accusation as  
17 though fully set forth at this point.

18                   2. The crime for which Dr. Barke has been  
19 convicted is substantially related to the qualifica-  
20 tions, functions, or duties of the profession of  
21 medicine.

22                   VI

23           A. Section 2361(f) of the Code defines as unprofes-  
24 sional conduct the commission of any act involving moral turpitude,  
25 dishonesty, or corruption, whether the act is committed in the  
26 course of the individual's activities as a certificate holder, or  
27 otherwise, or whether the act is a felony or misdemeanor.



1 B. Respondents' certificates are subject to discipli-  
2 nary action for unprofessional conduct pursuant to section  
3 2361(f)<sup>1/</sup> in that Dr. Barke has committed acts involving moral  
4 turpitude, dishonesty, or corruption. The circumstances of this  
5 violation are as follows:

6 1. From February through April 1972, respon-  
7 dent Barke, acting through his professional corporation,  
8 West Coast Medical Group, Inc., knowingly and with  
9 intent to defraud and for the purpose of obtaining  
10 greater compensation than that to which he was legally  
11 entitled, presented to Medi-Cal false or fraudulent  
12 claims for the furnishing of anesthesia services re-  
13 portedly rendered by one Dr. W██████ A██████ on the  
14 below listed dates in connection with surgeries per-  
15 formed on the following named patients at Montclair  
16 Community Hospital.

	<u>Date of Surgery:</u>	<u>Patient Name:</u>
17	February 14, 1972	J. C. Murillo
18	" "	B. Clark
19	" "	S. K. Pelter
20	" "	P. Lawson
21	" "	C. Dykeman
22	" "	B. Coffin
23	" "	R. Rodriguez
24	" "	

25  
26 1. During the time of the commission of the acts in question,  
27 the prohibition contained in section 2361(f) was codified as  
28 section 2361(e). Subsequent recodification has not altered the  
29 language of the section, only its numbering.

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Date of Surgery

Patient Name:

February 14, 1972

A. S. [REDACTED]

" "

R. M. [REDACTED]

" "

G. S. [REDACTED]

" "

S. E. C. [REDACTED]

February 18, 1972

J. K. A. [REDACTED]

" "

L. M. [REDACTED]

" "

Z. M. [REDACTED]

" "

P. D. [REDACTED]

" "

V. S. [REDACTED]

" "

U. M. [REDACTED]

" "

E. M. [REDACTED]

" "

R. F. [REDACTED]

" "

L. L. [REDACTED]

" "

M. M. [REDACTED]

" "

S. W. [REDACTED]

" "

L. L. [REDACTED]

February 25, 1972

A. M. [REDACTED]

" "

A. J. B. [REDACTED]

" "

J. L. [REDACTED]

" "

M. O. [REDACTED]

" "

O. C. [REDACTED]

" "

M. B. [REDACTED]

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L. R. [REDACTED]

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B. W. [REDACTED]

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N. O. [REDACTED]

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B. B. [REDACTED]

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L. V. [REDACTED]

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Date of Surgery:

Patient Name:

February 25, 1972

A. T. [REDACTED]

" "

M. S. [REDACTED]

" "

D. Y. A. [REDACTED]

February 28, 1972

H. M. [REDACTED]

" "

M. A. [REDACTED]

" "

F. A. [REDACTED]

" "

F. C. [REDACTED]

" "

K. B. [REDACTED]

" "

J. F. [REDACTED]

" "

A. D. [REDACTED]

" "

T. A. E. [REDACTED]

" "

A. C. [REDACTED]

" "

B. F. [REDACTED]

" "

S. S. [REDACTED]

March 14, 1972

R. V. [REDACTED]

" "

G. G. G. [REDACTED]

" "

C. G. S. [REDACTED]

" "

M. J. G. [REDACTED]

" "

V. A. [REDACTED]

" "

C. D. F. [REDACTED]

" "

L. J. F. [REDACTED]

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P. M. S. [REDACTED]

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L. G. [REDACTED]

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G. C. G. [REDACTED]

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S. H. [REDACTED]

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M. L. [REDACTED]

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Date of Surgery:

Patient Name:

March 15, 1972

T. J. D [REDACTED]

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T. E. L [REDACTED]

" "

J. J. R [REDACTED]

" "

R. J. G [REDACTED]

" "

S. H [REDACTED]

" "

S. D. F [REDACTED]

" "

N. I. D [REDACTED]

" "

M. J. L [REDACTED]

" "

C. M. I [REDACTED]

" "

M. G [REDACTED]

2. From May through June 1972, respondent Barke, acting through his professional corporation, West Coast Medical Group, Inc., knowingly and with intent to defraud and for the purpose of obtaining greater compensation than that to which he was legally entitled, presented to Medi-Cal false or fraudulent claims for the furnishing of anesthesia services reportedly rendered by one Dr. M [REDACTED] H. L [REDACTED] on the below listed dates in connection with surgeries performed on the following named patients at Bella Vista Community Hospital.

Date of Surgery:

Patient Name:

May 19, 1972

M. P [REDACTED]

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A. R [REDACTED]

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M. D [REDACTED]

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B. A [REDACTED]

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Date of Surgery:

Patient Name:

May 19, 1972

V. [REDACTED]

" "

L. G. [REDACTED]

" "

D. R. [REDACTED]

" "

S. B. [REDACTED]

" "

R. S. [REDACTED]

May 22, 1972

L. C. [REDACTED]

" "

L. M. [REDACTED]

" "

G. D. [REDACTED]

" "

N. M. [REDACTED]

" "

M. J. [REDACTED]

" "

E. B. [REDACTED]

" "

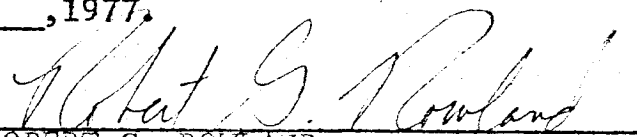
W. M. [REDACTED]

WHEREFORE, complainant prays that the Division of Medical Quality hold a hearing on the matters herein alleged and, following such a hearing, issue a decision:

1. Revoking or suspending the Physician's and Surgeon's Certificate issued to Morton Barke, M.D.; and

2. Revoking or suspending the Certificate of Registration as a Medical Corporation issued to West Coast Medical Group, Inc.

DATED: September 23, 1977.



ROBERT G. ROWLAND  
Executive Director  
Board of Medical Quality Assurance  
State of California

Complainant

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