

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


In the Matter of the Accusation)
Against:)
)
)
)
JESSE JOPLIN, M.D.) No. 07-93-25720
Certificate No. G-41971)
)
)
)
Respondent)

DECISION

The attached Stipulation Settlement and Disciplinary Order is hereby adopted by the
Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on January 29, 1997

IT IS OR ORDERED December 30, 1996

By: 
IRA LUBELL, M.D.
Chair
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 LAWRENCE A. MERCER,
Deputy Attorney General
3 California Department of Justice
50 Fremont Street, Suite 300
4 San Francisco, California 94105
Telephone: (415) 356-6259
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Attorneys for Complainant
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7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 07-93-25720
12 Against:)
13 **JESSE JOPLIN, M.D.**)
14 20361 Kilbride Court) **STIPULATED SETTLEMENT**
Saratoga, CA 95070) **AND**
15 Physician and Surgeon License) **DISCIPLINARY ORDER**
No. G-41971)
16 Respondent.)
17

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

21 1. An Accusation in the above-entitled case was filed
22 with the Division of Medical Quality of the Medical Board of
23 California, Department of Consumer Affairs (the "Division") on
24 April 17, 1995, and is currently pending against Jesse Joplin,
25 M.D. (hereinafter "respondent").

26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 April 17, 1995, and respondent filed his Notice of Defense
2 contesting the Accusation on or about 4/27/95. A copy of
3 Accusation No. **07-93-25720** is attached as Exhibit "A" and hereby
4 incorporated by reference as if fully set forth.

5 3. The complainant, Dixon Arnett, was the Executive
6 Director of the Medical Board of California. The complainant has
7 now been succeeded by Ron Joseph. Said action is brought solely
8 in their respective official capacities and not otherwise. The
9 complainant was represented by the Attorney General of
10 California, Daniel E. Lungren, by and through Deputy Attorney
11 General Lawrence A. Mercer. The respondent was represented by
12 the Law Offices of Marvin Firestone, M.D., J.D., Marvin Firestone
13 and Robert Schur.

14 4. Respondent was issued physician's and surgeon's
15 certificate no. G-41971 by the Board on June 11, 1980, and said
16 certificate is current and valid. Respondent's certificate has
17 not been previously disciplined.

18 5. The respondent and his attorney have fully
19 discussed the charges contained in the Accusation and the
20 respondent has been fully advised regarding his legal rights and
21 the effects of this stipulation.

22 6. At all times relevant herein, respondent has been
23 licensed by the Medical Board of California under physician's and
24 surgeon's certificate No. G-41971. Respondent stipulates that
25 the Board has jurisdiction in this disciplinary action.

26 7. Respondent understands the nature of the charges
27 alleged in the Accusation and that, if proven at hearing, the

1 charges and allegations would constitute cause for imposing
2 discipline upon him. Respondent is fully aware of his right to a
3 hearing on the charges contained in the Accusation, his right to
4 confront and cross-examine witnesses against him, his right to
5 the use of subpoenas to compel the attendance of witnesses and
6 the production of documents in both defense and mitigation of the
7 charges, his right to reconsideration, appeal and any and all
8 other rights accorded by the California Administrative Procedure
9 Act and other applicable laws. Respondent knowingly, voluntarily
10 and irrevocably waives and gives up each of these rights.

11 8. Respondent admits that his care and treatment of
12 patients Y.G. and M.M. as alleged in the Accusation constitutes
13 grounds for discipline pursuant to Business and Professions Code
14 section 2234(c). Respondent agrees to be bound by the Division's
15 Disciplinary Order as set forth below.

16 9. The admissions made by respondent herein are for
17 the purpose of this proceeding and any other proceedings in which
18 the Division of Medical Quality, Medical Board of California, or
19 other professional licensing agency is involved, and shall not be
20 admissible in any other criminal or civil proceedings.

21 10. Based on the foregoing admissions and stipulated
22 matters, the parties agree that the Division shall, without
23 further notice or formal proceeding, issue and enter the
24 following order:

25 **DISCIPLINARY ORDER**

26 **IT IS HEREBY ORDERED** that physician's and surgeon's
27 certificate number G-41971 issued to Jesse Joplin, M.D., is

1 revoked. However, the revocation is stayed and respondent is
2 placed on probation for five (5) years on the following terms and
3 conditions. Within 15 days after the effective date of this
4 decision the respondent shall provide the Division, or its
5 designee, proof of service that respondent has served a true copy
6 of this decision on the Chief of Staff or the Chief Executive
7 Officer at every hospital where privileges or membership are
8 extended to respondent or where respondent is employed to
9 practice medicine and on the Chief Executive Officer at every
10 insurance carrier where malpractice insurance coverage is
11 extended to respondent.

12 1. ORAL CLINICAL EXAMINATION Respondent shall take and
13 pass an oral clinical exam in the subjects of Obstetrics and
14 Gynecology, with an emphasis on diagnosis and treatment of
15 disease in pregnancy and assessment of gestational age.
16 Respondent shall take and pass said examination within 90 days of
17 the effective date of this decision. If respondent fails the
18 first examination, respondent shall be allowed to take and pass a
19 second examination, which may consist of a written as well as an
20 oral examination. The waiting period between the first and
21 second examinations shall be at least three (3) months. If
22 respondent fails to pass the first and second examinations,
23 respondent may take a third and final examination after waiting a
24 period of one year. Failure to pass the oral clinical
25 examination within eighteen (18) months after the effective date
26 of this decision shall constitute a violation of probation. The
27 respondent shall pay the costs of these examinations within

1 ninety (90) days of the administration of each exam.

2 If respondent fails to pass the first examination,
3 respondent shall be suspended from the practice of medicine until
4 a repeat examination has been successfully passed, as evidenced
5 by written notice to respondent from the Division or its
6 designee.

7 2. **MONITORING** Within thirty (30) days of the
8 effective date of this decision, respondent shall submit to the
9 Division or its designee for its prior approval a plan of
10 practice in which respondent's practice shall be monitored by
11 another physician in respondent's field of practice, who shall
12 provide quarterly reports to the Division or its designee. The
13 monitor shall be responsible for reviewing Dr. Joplin's cases for
14 at least three years, continuing thereafter if recommended by the
15 practice monitor and at the discretion of the Division. Any
16 charges imposed by the monitor shall be paid by respondent.

17 If the monitor resigns or is no longer available,
18 respondent shall, within fifteen (15) days, move to have a new
19 monitor appointed, through nomination by respondent and approval
20 by the Division or its designee.

21 3. **EDUCATION COURSE** Within ninety (90) days of the
22 effective date of this decision, and on an annual basis
23 thereafter, respondent shall submit to the Division or its
24 designee for its prior approval an educational program or course
25 which shall not be less than 40 hours per year, for each year of
26 probation. This program shall be in addition to the Continuing
27 Medical Education requirements for re-licensure. Following the

1 completion of each course, the Division or its designee may
2 administer an examination to test respondent's knowledge of the
3 course. Respondent shall provide proof of attendance for 65
4 hours of continuing medical education of which 40 hours were in
5 satisfaction of this condition and were approved in advance by
6 the Division or its designee.

7 4. PSYCHIATRIC EXAMINATION Within 30 days of the
8 effective date of this decision, and on a periodic basis
9 thereafter as may be required by the Division or its designee,
10 respondent shall undergo a psychiatric evaluation (and
11 psychological testing, if deemed necessary) by a Division-
12 appointed psychiatrist, who shall furnish an evaluation report to
13 the Division or its designee. Respondent shall pay the cost of
14 the psychiatric evaluation.

15 Respondent shall not be required to undergo psychiatric
16 evaluation if, within 30 days of the effective date of this
17 decision, he provides the Division with records and/or reports
18 from a licensed psychiatrist or psychologist certifying that
19 respondent is capable of practicing medicine safely.

20 If respondent is required by the Division or its
21 designee to undergo psychiatric treatment, respondent shall
22 within 30 days of the requirement notice submit to the Division
23 for its prior approval the name and qualifications of a
24 psychiatrist of respondent's choice. Respondent shall undergo
25 and continue psychiatric treatment until further notice from the
26 Division or its designee. Respondent shall have the treating
27 psychiatrist submit quarterly status reports to the Division or

1 its designee indicating whether the respondent is capable of
2 practicing medicine safely.

3 5. MEDICAL EVALUATION Within 30 days of the effective
4 date of this decision, and on a periodic basis thereafter as may
5 be required by the Division or its designee, respondent shall
6 undergo a medical evaluation by a Division-appointed physician
7 who shall furnish a medical report to the Division or its
8 designee.

9 Respondent shall not be required to undergo medical
10 evaluation if, within 30 days of the effective date of this
11 decision, respondent provides the Division with records and/or
12 reports from a licensed physician indicating that respondent is
13 capable of practicing medicine safely.

14 If respondent is required by the Division or its
15 designee to undergo medical treatment, respondent shall, within
16 30 days of the requirement notice, submit to the Division or its
17 designee for its prior approval the name and qualifications of a
18 physician of respondent's choice. Upon approval of the treating
19 physician, respondent shall undergo and continue medical
20 treatment until further notice from the Division or its designee.
21 Respondent shall have the treating physician submit quarterly
22 reports to the Division or its designee indicating whether the
23 respondent is capable of practicing medicine safely. The
24 respondent shall pay the cost of the medical evaluation.

25 6. MEDICAL PAYMENTS Compelling circumstances exist
26 that warrant continued Medi-Cal reimbursement during the
27 probationary period.

1 **IT IS FURTHER ORDERED** that respondent comply with all
2 of the standard terms of probation, as follows:

3 1. **OBEY ALL LAWS** Respondent shall obey all federal,
4 state and local laws, all rules governing the practice of
5 medicine in California, and remain in full compliance with any
6 court ordered criminal probation, payments and other orders.

7 2. **QUARTERLY REPORTS** Respondent shall submit
8 quarterly declarations under penalty of perjury on forms provided
9 by the Division, stating whether there has been compliance with
10 all the conditions of probation.

11 3. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE** Respondent
12 shall comply with the Division's probation surveillance program.
13 Respondent shall, at all times, keep the Division informed of his
14 addresses of business and residence which shall both serve as
15 addresses of record. Changes of such addresses shall be
16 immediately communicated in writing to the Division. Under no
17 circumstances shall a post office box serve as an address of
18 record.

19 Respondent shall also immediately inform the Division,
20 in writing, of any travel to any areas outside the jurisdiction
21 of California which lasts, or is contemplated to last, more than
22 thirty (30) days.

23 4. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
24 **DESIGNATED PHYSICIAN(S)** Respondent shall appear in person for
25 interviews with the Division, its designee or its designated
26 physician(s) upon request at various intervals and with
27 reasonable notice.

1 5. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
2 PRACTICE In the event respondent should leave California to
3 reside or to practice outside the State or for any reason should
4 respondent stop practicing medicine in California, respondent
5 shall notify the Division or its designee in writing within ten
6 (10) days of the dates of departure and return or the dates of
7 non-practice within California. Non-practice is defined as any
8 period of time exceeding thirty days in which respondent is not
9 engaging in any activities defined in Sections 2051 and 2052 of
10 the Business and Professions Code. All time spent in an
11 intensive training program approved by the Division or its
12 designee shall be considered as time spent in the practice of
13 medicine. Periods of temporary or permanent residence or
14 practice outside California or of non-practice within California,
15 as defined in this condition, will not apply to the reduction of
16 the probationary period.

17 6. COMPLETION OF PROBATION Upon successful completion
18 of probation, respondent's certificate shall be fully restored.

19 7. VIOLATION OF PROBATION If respondent violates
20 probation in any respect, the Division, after giving respondent
21 notice and the opportunity to be heard, may revoke probation and
22 carry out the disciplinary order that was stayed. If an
23 accusation or petition to revoke probation is filed against
24 respondent during probation, the Division shall have continuing
25 jurisdiction until the matter is final, and the period of
26 probation shall be extended until the matter is final.

27 8. COST RECOVERY The respondent is hereby ordered to

1 reimburse the Division the amount of \$ 2,500.00, for its
2 investigative and prosecution costs, the initial payment in the
3 sum of \$1,000.00 and the balance in four annual installments, the
4 first payment being made within 90 days of the effective date of
5 this decision. Failure to reimburse the Division's cost of
6 investigation and prosecution shall constitute a violation of the
7 probation order, unless the Division agrees in writing to payment
8 by an installment plan because of financial hardship. The filing
9 of bankruptcy by the respondent shall not relieve the respondent
10 of his responsibility to reimburse the Division for its
11 investigative and prosecution costs.

12 9. **PROBATION COSTS** Respondent shall pay the costs
13 associated with probation monitoring each and every year of
14 probation, which costs are agreed to be set at \$1,500.00 for the
15 first year of probation, and thereafter at \$1,000.00 per year.
16 Such costs shall be payable to the Division of Medical Quality
17 and delivered to the designated probation surveillance monitor at
18 the beginning of each calendar year. Failure to pay costs within
19 30 days of the due date shall constitute a violation of
20 probation.

21 10. **LICENSE SURRENDER** Following the effective date of
22 this decision, if respondent ceases practicing due to retirement,
23 health reasons or is otherwise unable to satisfy the terms and
24 conditions of probation, respondent may voluntarily tender his
25 certificate to the Board. The Division reserves the right to
26 evaluate the respondent's request and to exercise its discretion
27 whether to grant the request, or to take any other action deemed

1 appropriate and reasonable under the circumstances. Upon formal
2 acceptance of the tendered license, respondent will no longer be
3 subject to the terms and conditions of probation.

4 **CONTINGENCY**

5 This stipulation shall be subject to the approval of
6 the Division. Respondent understands and agrees that Board staff
7 and counsel for complainant may communicate directly with the
8 Division regarding this stipulation and settlement, without
9 notice to or participation by respondent or his counsel. If the
10 Division fails to adopt this stipulation as its Order, the
11 stipulation shall be of no force or effect, it shall be
12 inadmissible in any legal action between the parties, and the
13 Division shall not be disqualified from further action in this
14 matter by virtue of its consideration of this stipulation.

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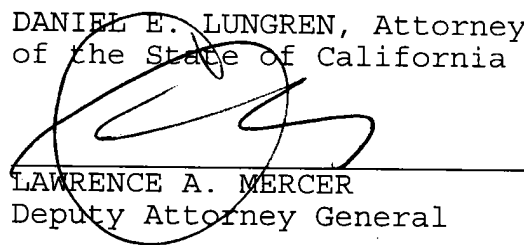
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for the consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

DATED: 12/5/96.

DANIEL E. LUNGREN, Attorney General
of the State of California



LAWRENCE A. MERCER
Deputy Attorney General


Attorneys for Complainant

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I have read the above Stipulated Settlement and
Disciplinary Order and approve of it as to form and content. I
have fully discussed the terms and conditions and other matters
therein with respondent Jesse Joplin.

DATED: 11/21/96.

LAW OFFICES OF MARVIN FIRESTONE



ROBERT SCHUR, J.D.

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ACCEPTANCE

I have read the above Stipulated Settlement and
Disciplinary Order. I have fully discussed the terms and
conditions and other matters contained therein with my attorney.
I understand the effect this Stipulated Settlement and
Disciplinary Order will have on my medical practice, and agree to
be bound thereby. I enter this stipulation freely, knowingly,
intelligently and voluntarily.

DATED: Nov 16, 96.

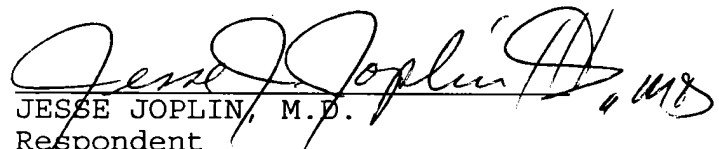

JESSE JOPLIN, M.D.
Respondent

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 LAWRENCE A. MERCER
Deputy Attorney General
3 455 Golden Gate Avenue, Room 6200
San Francisco, California 94102-3658
4 Telephone: (415) 703-2990

5 Attorneys for Complainant

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7 BEFORE THE
DIVISION OF MEDICAL QUALITY
8 MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA
9

10

11 In the Matter of the Accusation
Against:

No. 07-93-25720

12

ACCUSATION

13 JESSE JOPLIN, M.D.
20361 Kilbride Court
14 Saratoga, CA 95070
Physician's & Surgeon's License
15 No. G-041971

16

Respondent.

17

18 DIXON ARNETT, complainant herein, charges and alleges as follows:

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PARTIES

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1. He is the Executive Director of the Medical Board of California,
21 State of California (hereinafter "the Board") and makes these charges and allegations
22 solely in his official capacity.

23

LICENSE STATUS

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2. At all times material herein, respondent JESSE JOPLIN, M.D.
25 (hereinafter "respondent") has held physician's and surgeon's certificate No. G-041971,
26 which was issued to him by the Board on or about June 11, 1980. Said certificate is in
27

1 good standing at the present time. No prior disciplinary action has been taken against
2 said certificate. Respondent is not a supervisor of a physician assistant.

3 STATUTES

4 3. Section 2001 of the Business and Professions Code^{1/}(hereinafter
5 referred to as the "code") provides for the existence of the Board.

6 4. Section 2003 provides for the existence of the Division of Medical
7 Quality (hereinafter referred to as the "Division") within the Board.

8 5. Section 2004 provides, inter alia, that the Division is responsible
9 for the administration and hearing of disciplinary actions involving enforcement of the
10 Medical Practice Act (§ 2000, et seq.) and the carrying out of disciplinary action
11 appropriate to findings made by a medical quality review committee, the division, or an
12 administrative law judge with respect to the quality of medical practice carried out by
13 physician & surgeon certificate holders.

14 6. Sections 2220, 2227 and 2234 together provide that the Division
15 shall take disciplinary action against the holder of a physician's and surgeon's certificate
16 who is guilty of unprofessional conduct.

17 7. Section 2234 provides, in part, as follows:

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

22 "(a) Violating or attempting to violate, directly, or assisting
23 in or abetting the violation of, or conspiring to violate, any
24 provision of this chapter.

25 "(b) Gross negligence.

26 "(c) Repeated negligent acts.

27 "(d) Incompetence."

1. All statutory references are to the Business and Professions Code unless otherwise indicated.

1 8. Section 2253 provides that the procuring or aiding or abetting or
2 attempting or agreeing or offering to procure an illegal abortion constitutes
3 unprofessional conduct unless such act is done in compliance with the provisions of the
4 Therapeutic Abortion Act, Chapter 11, commencing with section 25950 of Division 20
5 of the Health and Safety Code.

6 9. Health and Safety Code section 25953 proscribes all abortions after
7 the 20th week of pregnancy.

8 10. Section 125.3 provides that a licentiate found to have committed a
9 violation or violations of a licensing act may be required to pay a sum not to exceed
10 the reasonable costs of investigation and enforcement of the case. The costs shall
11 include the amount of investigative and enforcement costs up to the date of the
12 hearing including, but not limited to, charges imposed by the Attorney General.

13

14 **FIRST CAUSE FOR DISCIPLINARY ACTION**

15 11. Patient Y.G.^{2/}

16 A. At all times mentioned hereinafter, respondent practiced as a
17 physician in California with a specialization in obstetrics and gynecology.

18 B. Patient Y.G. was a 26-year-old female, gravida 2 para-gravida 2,
19 Y.G. had been under respondent's care since October 21, 1983, for routine
20 gynecological care as well as obstetric care for both of her pregnancies.

21 C. In and after August 1989, Y.G. was under respondent's care for
22 her second pregnancy. Y.G. began said prenatal care with respondent at the Kaiser
23 Permanente facility in Santa Theresa when she was seven weeks pregnant.

24 D. Y.G.'s estimated date of confinement (due date) was April 8, 1990.

25

26

27 2. Names of patients have been withheld to protect privacy, but will be supplied pursuant to
discovery request.

1 E. Y.G. had a normal prenatal course until on or about March 28,
2 1990. At that time, Y.G. presented for examination by respondent with blood pressure
3 of 132/86 and 2+ proteinuria. Respondent noted positive fetal movement and findings
4 on cervical examination were reported by him to be 1 centimeter dilated and 25%
5 effaced. Y.G. was told by respondent to return for examination in one week.

6 F. On April 5, 1990, Y.G. presented for examination by respondent.
7 Her blood pressure was 146/88 and test results again demonstrated 2+ proteinuria.
8 Respondent noted positive fetal movement and findings on cervical examination were
9 reported by him to be 2-3 centimeters dilated and 50% effaced.

10 G. Despite elevated blood pressure, proteinuria and other findings on
11 examination, respondent did not consider and/or did not chart the possibility of
12 preeclampsia, did not consider and/or did not chart the potential for early induction of
13 labor in Y.G. and did not conduct appropriate patient surveillance.

14 H. Respondent requested that Y.G. return in one week.

15 I. Four days later, on April 9, 1990, Y.G. presented to the
16 Emergency Room at South Valley Hospital with complaints of severe acute low back
17 pain. Physical examination at that time revealed blood pressure of 240/120 and Y.G.
18 was diagnosed with toxemia. Emergent medical measures were taken. After delivering
19 a viable male infant, Y.G. died on April 10, 1990.

20 12. Respondent has subjected his license to disciplinary action under
21 California Business and Professions Code sections 2220, 2227, and 2234 on the grounds
22 of unprofessional conduct, as defined by section 2234 (b) and/or (d), in that he is guilty
23 of gross negligence and/or incompetence in the practice of his profession as set forth in
24 paragraph 11 above.

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1 SECOND CAUSE FOR DISCIPLINARY ACTION

2 **13. Patient M.M.**

3 **A.** At all times mentioned hereinafter, respondent practiced as a
4 physician in California with a specialization in obstetrics and gynecology.

5 **B.** On July 17, 1993, patient M.M. presented to respondent for
6 examination at the Planned Parenthood Clinic in Seaside, California. M.M. was a 15-
7 year-old Spanish-speaking female, gravida 2, para gravida 1. At that time, M.M.'s chart
8 indicates a history of last menstrual period on or about February 15, 1993, while using
9 oral contraceptives, and that she continued to use oral contraceptives until May 1993.
10 Respondent recorded in the chart that the patient was 9 and 1/2 weeks pregnant.
11 Respondent performed a pelvic examination at that time and recorded that the uterus
12 was soft and felt approximately 11-12 weeks size. The patient was noted to be tense
13 during the examination.

14 **C.** On July 17, 1993, respondent undertook to perform an abortion by
15 dilatation and curettage. During the procedure, the cervix dilated to 27 millimeters and
16 initially a #10 suction cannula was used, but was replaced with a #12 cannula due to
17 reported difficulty in tissue removal. Tissue was examined by respondent and was
18 found to consist mainly of placenta and not of fetus. The procedure was interrupted
19 and respondent caused 10 units of pitocin to be administered intramuscularly as well as
20 5 mg. valium. The patient was examined by respondent approximately 15 minutes later
21 and examination at that time demonstrated M.M. to be of "20+" weeks of gestation.

22 **D.** Respondent ordered M.M. transferred to Natividad Medical
23 Center, where ultrasound demonstrated the fetus to be 27 weeks. Labor was induced
24 and the female stillborn was taken for evaluation by the County Coroner.

25 **E.** At all relevant times, respondent knew, or in the exercise of
26 reasonable care should have known, that M.M.'s fetus was 27 weeks old and viable.

27

1 F. Autopsy examination of M.M.'s stillborn child revealed an 875
2 gram female with no gross abnormalities. The placenta was noted to have an area of
3 laceration and hemorrhage at one margin consistent with attempt at suction aspiration.
4 The cause of death was concluded to be placental abruptio secondary to attempted
5 dilatation and curettage.

6 14. Respondent has subjected his license to disciplinary action under
7 California Business and Professions Code sections 2220, 2227, and 2234 on the grounds
8 of unprofessional conduct, as defined by section 2234 (b) and/or (d), in that he is guilty
9 of gross negligence and/or incompetence in the practice of his profession as set forth in
10 paragraph 13 above.

11 **THIRD CAUSE FOR DISCIPLINARY ACTION**

12 15. The allegations of the Second Cause for Disciplinary Action are
13 incorporated herein as though fully set forth.

14 16. In performing the acts set forth in the Second Cause for
15 Disciplinary Action, respondent terminated the patient's pregnancy at or about the 27th
16 week of gestation. At the time that the pregnancy was terminated, the fetus weighed
17 875 grams and was viable.

18 17. Respondent has subjected his license to disciplinary action pursuant
19 to California Business and Professions Code sections 2220, 2227, 2234, and 2253 on the
20 grounds of unprofessional conduct in that respondent violated section 2253 relating to
21 criminal abortions by performing or attempting to perform an abortion not in
22 compliance with the Therapeutic Abortions Act, Health and Safety Code section 25953.

23 **FOURTH CAUSE FOR DISCIPLINARY ACTION**

24 18. The allegations of the First and Second Causes for Disciplinary
25 Action are incorporated herein as though fully set forth.

26 19. Respondent has subjected his license to disciplinary action under
27 California Business and Professions Code sections 2220, 2227, and 2234 (c) on the

1 grounds of unprofessional conduct in that he is guilty of repeated negligent acts in the
2 practice of his profession, in that respondent's conduct as set forth above was part of a
3 series of negligent acts which occurred during respondent's care and treatment of his
4 patients.


5 COST RECOVERY

6 20. Business and Professions Code section 125.3 provides that a
7 licentiate found to have committed a violation or violations of a licensing act may be
8 required to pay a sum not to exceed the reasonable costs of investigation and
9 enforcement of the case. The costs shall include the amount of investigative and
10 enforcement costs up to the date of the hearing including, but not limited to, charges
11 imposed by the Attorney General.

12 WHEREFORE, complainant requests that a hearing be held and that
13 thereafter the Board issue an order:

- 14 1. Revoking or suspending respondent's physician and surgeon's
15 certificate number A-37042;
- 16 2. Prohibiting respondent from supervision of physician assistants;
- 17 3. Allowing recovery of costs of investigation and enforcement;
- 18 and
- 19 4. Taking such other and further action as is deemed just and proper.

20 DATED: April 17, 1995

21 
22 DIXON ARNETT
23 Executive Director
24 Medical Board of California
25 State of California

26 Complainant

27 03573160SF94AD1035