

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RUSSELL W. LEE
Deputy Attorney General
3 Department of Justice
455 Golden Gate Avenue, Suite 6200
4 San Francisco, California 94102-1985
Telephone: (415) 703-1796
5 Attorneys for Complainant
6

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 12-91-8391
Against:)
12)
FRANK A. SHALLENBERGER, M.D.) ACCUSATION
13 1524 Highway 395)
P.O. Box 69)
14 Gardnerville, Nevada 89423)
15 Physician's and Surgeon's)
License No. G27254)
16 Respondent.)
17

18 Complainant Dixon Arnett, as causes for disciplinary
19 action, alleges:

20 PARTIES

21 1. Complainant is the Executive Director of the
22 Medical Board of California ("Board") and makes and files this
23 accusation solely in his official capacity.

24 LICENSE STATUS

25 2. On or about July 15, 1974, Physician's and
26 Surgeon's License No. G27254 was issued by the Board to Frank A.
27 Shallenberger, M.D. ("respondent"), and at all times relevant

1 herein, said Physician's and Surgeon's License was in full force
2 and effect. Respondent was also issued a physician's assistant
3 license number SA 14653 which has been in delinquent status since
4 May 31, 1986.

5 STATUTES

6 3. This accusation is made in reference to the
7 following statutes of the California Business and Professions
8 Code ("Code"):

9 A. Section 2220 provides, in pertinent part, that the
10 Division of Medical Quality may take action against all
11 persons guilty of violating the provisions of Chapter 5 of
12 Division 2 of that Code.

13 B. Section 2227 provides that the Board may revoke,
14 suspend for a period not to exceed one year, or place on
15 probation, the license of any licensee who has been found
16 guilty under the Medical Practice Act.

17 C. Section 2234 provides that unprofessional conduct
18 includes, but is not limited to, the following:

19 "(b) Gross negligence.

20 (c) Repeated negligent acts.

21 (d) Incompetence.

22 (e) The commission of any act involving dishonesty or
23 corruption which is substantially related to the
24 qualifications, functions, or duties of a physician
25 and surgeon."

26 //

27 //

1 D. Section 725 provides that repeated acts of clearly
2 excessive prescribing or administering of drugs or
3 treatment, repeated acts of clearly excessive use of
4 diagnostic procedures, or repeated acts of clearly excessive
5 use of diagnostic or treatment facilities as determined by
6 the standard of the community of licensees is unprofessional
7 conduct.

8 E. Section 810 provides it shall constitute
9 unprofessional conduct and grounds for disciplinary action,
10 including suspension or revocation of a license or
11 certificate, for a health care professional to do any of the
12 following in connection with his professional activities:

13 (1) Knowingly present or cause to be presented
14 any false or fraudulent claim for the payment of a
15 loss under a contract of insurance.

16 (2) Knowingly prepare, make, or subscribe any
17 writing, with intent to present or use the same,
18 or to allow it to be presented or used in support
19 of any such claim.

20 F. Section 2261 provides that knowingly making or
21 signing any certificate or other document directly or
22 indirectly related to the practice of medicine which falsely
23 represents the existence or nonexistence of a state of
24 facts, constitutes unprofessional conduct.

25 //

26 //

27 //

1 DRUGS

2 4. Heparin, Ventolin Inhaler, Thyroid, and Injectable
3 forms of Aminophylline, Magnesium, B12/Folic Acid, Thymus
4 Extract, EDTA, Vitamin B Complex, Magnesium Chloride,
5 Hydroxocobalamin, Pyridoxine Hydrochloride, and Dextranthenol, are
6 dangerous drugs as defined in section 4211 of the code.

7 CHARGES AND ALLEGATIONS

8 5. RE Patient Nancy P.^{1/}:

9 A. Nancy P., then 41 years of age, first saw
10 respondent, who then practiced as a physician and surgeon,
11 in or about Pleasant Hill, California, on September 16,
12 1988. She reported a family history of asthma and that she
13 reacted with bronchoconstriction to sulfites.

14 B. Nancy P. saw respondent again on August 15, 1990,
15 for breathing problems. The diagnosis was asthma. The
16 treatment prescribed by respondent included an ozone
17 generator, bowel detoxification, weekly vitamin B and
18 magnesium, and a Ventolin Inhaler. There is no
19 documentation of an examination of the lungs, consideration
20 of a chest X-ray, or spirometry. In a letter to the Medical
21 Board date April 12, 1991, concerning this treatment,
22 respondent stated that he "instituted treatment designed to
23 help her liver with xenobiotic detoxification."

24 C. The next chart note is dated August 20, 1990 and
25 states only "B6 1cc mag 2cc."

26
27 1. Full names of patients will be provided upon a proper
request for discovery.

1 D. On September 12, 1990, respondent notes that the
2 patient was "still having severe bronchoconstriction around
3 2 to 4 AM." Again, no physical examination is documented.
4 The patient received 4cc's of aminophylline and 4 cc's of
5 normal saline by fast push. The billing document indicates
6 that there was an "IV by MD." In addition, she received
7 additional injections of magnesium, B-6 and glycerine.
8 Respondent suggested the patient may need "yeast protocol."
9 He also recommended that she might benefit from being in
10 Mendocino and away from her job as a beauty operator.

11 E. Nancy P. received IV therapy on September 17, 1990
12 that was identical to the treatment of September 12, 1990.

13 F. Nancy P. was next seen on September 20, 1990. The
14 chart notes state "doing better when gets IV's." Identical
15 IV preparations were administered. There is no
16 documentation of any physical examination.

17 G. On September 21, 1990, Nancy P. again received
18 aminophylline 4 cc's with sodium chloride by "IV fast push."
19 Additional IV treatments were given on September 24, 1990,
20 September 25, 1990, September 26, 1990, September 27, 1990,
21 September 28, 1990 and October 1, 1990, all of the same
22 preparations.

23 H. On September 28, 1990 she was referred to an
24 acupuncturist. On that occasion her lungs "were checked at
25 the front desk using the stethoscope."

26 I. On or about October 1, 1990, respondent left his
27 practice in the hands of Peter H.C. Mutke, M.D.

1 J. On October 3, 1990, the patient called respondent
2 at home fearful that she "had contracted pneumonia." He
3 prescribed erythromycin over the phone, according to the
4 patient, and she was also told, according to the patient,
5 that she should begin hydrogen peroxide therapy
6 intravenously.

7 K. Apparently Nancy P. went to see Dr. Mutke after
8 speaking to respondent. There is a chart note dated October
9 3, 1990, signed by Dr. Mutke indicating he was aware of the
10 patient's diagnosis of bronchial asthma. There is no
11 notation of a physical examination.

12 L. Nancy P. states that the evening of October 17,
13 1990 was particularly difficult for her and that she was
14 unable to sleep because of difficulty breathing. She went
15 to see Dr. Mutke on October 18, 1990, and was administered
16 the same medications that she had received on October 5,
17 1990, including intravenous hydrogen peroxide.

18 M. Upon completion of the intravenous therapy, Dr.
19 Mutke told her to "do whatever you think is right" in
20 response to her complaint that she wasn't any better. She
21 then contacted an acupuncturist who eventually, after
22 acupuncture and tea, advised her to go to an emergency room.

23 N. Nancy P. reported to San Ramon Medical Center
24 Emergency Room where she was seen by Bruce Wapen, M.D. His
25 notes indicate that she had marked expiratory wheezing and
26 an oxygen saturation of 89 per cent. She was subsequently
27 admitted to the hospital for eight days and received

1 intravenous steroids, standard bronchodilator therapy
2 including ipratobium, metaproterenol, and systemic steroids.

3 6. Respondent committed the following acts or
4 omissions in his treatment of Nancy P.:

5 (A) Respondent treated Nancy P. without having or
6 employing the requisite knowledge of asthma pathophysiology,
7 recognition, management, treatment and care;

8 (B) Respondent improperly or excessively used "perfect
9 7" (intestinal cleanser), superoxide dismutase, and/or
10 vitamin therapy;

11 (C) Respondent use of Ventolin inhaler for the
12 patient's asthmatic condition was incomplete therapy;

13 (D) Respondent failed to perform an adequate physical
14 examination(s) and/or include physical examination findings
15 in the office notes;

16 (E) Respondent failed to perform and/or document the
17 results of any lung examination performed;

18 (F) Respondent incorrectly suggested that "spirometry"
19 would indicate whether or not chemicals at the patient's
20 work were clearly causing her asthmatic condition;

21 (G) Respondent suggested that the patient use
22 "ionizers" to "help clear the air" at the patient's work
23 environment;

24 (H) Respondent improperly employed the use of bowel
25 detoxification, and relied on B6, and ozone generators for
26 treatment of the patient's asthmatic condition;

27 (I) Respondent failed to recognize the patient's

1 setbacks and worsening condition;

2 (J) Respondent improperly prescribed and/or
3 administered IV hydrogen peroxide in the office;

4 (K) Respondent administered IV magnesium infusion in
5 his office without proper or any cardiac monitoring;

6 (L) Respondent improperly and/or without proper
7 medical indication used aminophylline IV (100 mg) via IV
8 push;

9 (M) Respondent's use of bowel detoxification, and
10 reliance on B6, and ozone generators, did not provide the
11 patient with appropriate treatment for her asthmatic
12 condition;

13 (N) Respondent prescribed and/or administered
14 pyridoxine, glycyron, vitamin A, zinc, probioplex, hepasil
15 capsules, "BHI" homeopathic asthma tablets, and viburnum
16 lantana tablets improperly and/or without medical
17 indication;

18 (O) Respondent continued to use "imagery" and
19 "visualization" as primary treatment modalities despite
20 Nancy P.'s persistent symptoms;

21 (P) Respondent abandoned Nancy P. and/or transferred
22 her care to another practitioner without adequate notice and
23 consent; and/or

24 (Q) Respondent's treatment of Nancy P. was not
25 consistent with the standard of care, was not clinically
26 indicated by either the history, symptoms, physical
27 findings, or laboratory tests, and was potentially

1 detrimental.

2 FIRST CAUSES FOR DISCIPLINARY ACTION

3 7. Respondent is subject to disciplinary action
4 pursuant to section 2234(b) of the Business and Professions Code
5 because he was grossly negligent in the practice of his
6 profession as more particularly described in paragraphs 5 and 6
7 above.

8 8. Respondent is further subject to disciplinary
9 action pursuant to section 2234(c) of the Business and
10 Professions Code because he committed repeated negligent acts in
11 the practice of his profession as more particularly described in
12 paragraphs 5 and 6.

13 9. Respondent is further subject to disciplinary
14 action pursuant to section 2234(d) of the Business and
15 Professions Code because he displayed incompetence in the
16 practice of his profession as more particularly described in
17 paragraphs 5 and 6 above.

18 10. Respondent is further subject to disciplinary
19 action pursuant to Business and Professions Code section 725
20 because he committed repeated acts of clearly excessive
21 prescribing and treatments in the practice of his profession, as
22 more particularly described in paragraphs 5 and 6 above.

23 11. RE Patient Pauline U.:

24 A. On or about October 5, 1989, patient Pauline U.,
25 approximately 75 years of age, first saw respondent, who
26 then practiced as a physician and surgeon, in or about
27 Pleasant Hill, California. At that time, she complained of

1 being "stressed out" because her husband had been
2 experiencing cerebral vascular accidents (strokes) and was
3 in a nursing home.

4 B. Pauline U. had problems sleeping and had gone to
5 Kaiser where she was treated with Diltiazem, 60 mg., t.i.d.,
6 and Isosorbide, 20 mg. t.i.d. for angina. She was also
7 taking Tagamet and had an elevated cholesterol level. She
8 complained of leg cramps and that she was sleepy during the
9 day.

10 C. The physical examination was not remarkable and
11 respondent's noted plan was to have the patient abstain from
12 coffee, take Vitamin E twice a day, and have an intravenous
13 injection (IV) every week of apparently vitamins although
14 the exact contents of the IV are not stated in the chart
15 note. With every second IV, the patient was to stop taking
16 the Isosorbide. He also prescribed numerous vitamins,
17 magnesium, calcium, and two years of Heparin after the IV's.
18 Respondent also administered 2 cc.'s of folic acid
19 intramuscularly (IM).

20 D. Pauline U. received IV injections on October 5,
21 1989, October 24, 1989, October 31, 1989, and November 14,
22 1989. On November 28, 1989, her blood pressure was 142/90.
23 She was complaining of constant chest pressure for the last
24 24 hours. Respondent documented that he felt it was
25 probably angina. An EKG was claimed to show a right bundle
26 branch block. Respondent administered IV injections and
27 Nitroglycerin and she was said to feel 100% better, however,

1 she was transferred to the Kaiser Martinez Emergency Room.
2 It was determined that Pauline U. did not have angina.

3 E. On or about December 28, 1989, Pauline U. described
4 stress in her life. Respondent gave her thyroid medication,
5 prescribed vitamins and recommended IV injections bi-weekly
6 consisting of vitamins and magnesium. She received similar
7 IV injection treatments on January 26, 1990, March 28, 1990,
8 April 4, April 10, April 16 and April 24, 1990.

9 12. Respondent committed the following acts or
10 omissions in his treatment of Pauline U.:

11 (A) Respondent improperly administered intravenous
12 magnesium and/or failed to indicate the reasons for said use
13 with this patient;

14 (B) Respondent failed to timely administer
15 nitroglycerin to abate the patient's myocardial ischemic
16 episode;

17 (C) Respondent failed to obtain and/or document the
18 obtaining of informed consent from patient Pauline U. for
19 the intravenous magnesium infusion;

20 (D) Respondent administered magnesium infusion in an
21 office setting rather than in a controlled hospital setting;

22 (E) Respondent failed to document why magnesium
23 infusion was administered in an office setting rather than
24 in a controlled hospital setting;

25 (F) Respondent failed to document the concentration of
26 intravenous magnesium in the patient's medical record;

27 (G) Respondent failed to document the dose and route

1 of administration of nitroglycerin in the patient's medical
2 record;

3 (H) Respondent improperly administered vitamin B12,
4 folic acid, and other vitamins to patient Pauline U. during
5 her acute chest pain episode;

6 (I) Respondent failed to perform and/or document
7 whether there was any careful chemical and clinical
8 monitoring of blood pressure, heart rate, ECG, and
9 neurologic signs during the infusion of intravenous
10 magnesium while the patient was having acute chest pain;

11 (J) Respondent failed to immediately or timely
12 transfer patient Pauline U. to the hospital for emergency
13 cardiac care for immediate evaluation, monitoring and
14 treatment;

15 (K) Respondent improperly performed or failed to
16 document in the patient's medical records why certain
17 unconventional therapies were administered to patient
18 Pauline U.;

19 (L) Respondent improperly prescribed thyroid
20 medications without proper medical indication; and/or

21 (M) Respondent's treatment of Pauline U. was not
22 consistent with the standard of care, was not clinically
23 indicated by either the history, symptoms, physical
24 findings, or laboratory tests, and was potentially
25 detrimental.

26 SECOND CAUSES FOR DISCIPLINARY ACTION

27 13. Respondent is subject to disciplinary action

1 pursuant to section 2234(b) of the Business and Professions Code
2 because he was grossly negligent in the practice of his
3 profession as more particularly described in paragraphs 11 and 12
4 above.

5 14. Respondent is further subject to disciplinary
6 action pursuant to section 2234(c) of the Business and
7 Professions Code because he committed repeated negligent acts in
8 the practice of his profession as more particularly described in
9 paragraphs 11 and 12 above.

10 15. Respondent is further subject to disciplinary
11 action pursuant to section 2234(d) of the Business and
12 Professions Code because he displayed incompetence in the
13 practice of his profession as more particularly described in
14 paragraphs 11 and 12 above.

15 16. Respondent is further subject to disciplinary
16 action pursuant to Business and Professions Code section 725
17 because he committed repeated acts of clearly excessive
18 prescribing and treatments in the practice of his profession, as
19 more particularly described in paragraphs 11 and 12 above.

20 17. RE Patient Melanie Z.:

21 A. On or about June 28, 1991, the Medical Director of
22 CIGNA Health Plan in Oakland filed a complaint with the
23 Medical Board concerning respondent's treatment of patient
24 Melanie Z.

25 B. Melanie Z. had a mammography examination in 1990
26 which revealed extensive micro calcification of the right
27 breast.

1 C. On November 1, 1990, a needle biopsy revealed
2 extensive ductal carcinoma in situ with both comedo and in
3 situ pattern noted as well as central necrosis with
4 calcification.

5 D. On November 5, 1990, Melanie Z. underwent a right
6 modified radical mastectomy with immediate right breast
7 reconstruction by L. C., M.D.

8 E. On November 27, 1990, Melanie Z., then 35 years of
9 age, sought treatment from respondent, who then practiced as
10 a physician and surgeon, in or about Pleasant Hill,
11 California. His entire first chart entry is four lines
12 indicating that she had a right mastectomy, that she was
13 being evaluated for chemotherapy, she felt good, wound was
14 healing well and the plan was to "consult post information."

15 F. On December 27, 1990, Melanie Z. began treatments
16 with respondent that included daily (Monday through Friday)
17 thymus extract therapy.

18 G. On January 22, 1991, Melanie Z. began receiving
19 rectal insufflation therapy with a half liter of ozone
20 alternating with thymus extract therapy pursuant to an
21 unapproved research study being conducted by respondent.
22 Respondent referred to this study as being approved by the
23 Federal Drug Administration which was not true.

24 H. On or about February 25, 1991, Melanie Z. began
25 receiving B12 injections as well as folic acid injections
26 alternating with thymus extract and B12 injections.
27 Initially these were given every other day to every third

1 day.

2 I. On March 13, 1991, the patient began therapy with
3 manganese subcutaneously, initially given every four days,
4 then weekly. This again was all given concurrently or
5 alternating with thymus extract and B12/folic acid
6 injections. This type of treatment continued until
7 approximately May 15, 1991.

8 J. Respondent billed Melanie Z.'s insurance company
9 for "chemotherapy."

10 18. Respondent committed the following acts or
11 omissions in the treatment of Melanie Z.:

12 (A) Respondent prescribed a method of treatment for
13 Melanie Z. under the guise of an investigational research
14 study, without following appropriate scientific procedures
15 and protocols;

16 (B) Respondent failed to perform a thorough history
17 and/or physical examination in respondent's initial and
18 subsequent evaluations of Melanie Z;

19 (C) Respondent's characterization of his treatment of
20 Melanie Z. as being "FDA approved" was false;

21 (D) Respondent failed to obtain an investigational new
22 drug application for the use of ozone and hydrogen peroxide
23 treatment as per his clinical research study;

24 (E) Respondent performed unsanctioned medical research
25 without gaining FDA and or Institutional Review Board
26 approval, and/or without obtaining from Melanie Z. proper
27 and true and accurate informed consent;

1 (F) Respondent prescribed medications and/or
2 treatments to Melanie Z. that were not adequately tested for
3 either safety or efficacy;

4 (G) Respondent's treatment of Melanie Z. had no proven
5 value; and/or

6 (H) Respondent's treatment of Melanie Z. was not
7 consistent with the standard of care, was not clinically
8 indicated by either the history, symptoms, physical
9 findings, or laboratory tests, and was potentially
10 detrimental.

11 THIRD CAUSES FOR DISCIPLINARY ACTION

12 19. Respondent is subject to disciplinary action
13 pursuant to section 2234(b) of the Business and Professions Code
14 because he was grossly negligent in the practice of his
15 profession as more particularly described in paragraphs 17 and 18
16 above.

17 20. Respondent is further subject to disciplinary
18 action pursuant to section 2234(c) of the Business and
19 Professions Code because he committed repeated negligent acts in
20 the practice of his profession as more particularly described in
21 paragraphs 17 and 18 above.

22 21. Respondent is further subject to disciplinary
23 action pursuant to section 2234(d) of the Business and
24 Professions Code because he displayed incompetence in the
25 practice of his profession as more particularly described in
26 paragraphs 17 and 18 above.

27 22. Respondent is further subject to disciplinary

1 action pursuant to Business and Professions Code section 725
2 because he committed repeated acts of clearly excessive
3 prescribing and treatments in the practice of his profession, as
4 more particularly described in paragraphs 17 and 18 above.

5 23. Respondent is further subject to disciplinary
6 action pursuant to Business and Professions Code section 810 in
7 that he knowingly presented or caused to be presented a false or
8 fraudulent claim for the payment of a loss under a contract of
9 insurance, and or he knowingly prepared, made, or subscribed a
10 writing, with intent to present or use the same, or to allow it
11 to be presented or used in support of any such claim, as more
12 particularly described in paragraphs 17 and 18 above.

13 24. Respondent is further subject to disciplinary
14 action pursuant to Business and Professions Code section 2261 in
15 that he knowingly made or signed a document(s) directly or
16 indirectly related to the practice of medicine which falsely
17 represents the existence or nonexistence of a state of facts, in
18 the practice of his profession as more particularly described in
19 paragraphs 17 and 18 above.

20 25. Respondent is further subject to disciplinary
21 action under Business and Professions Code section 2234 (e) in
22 that he has committed an act or acts involving dishonesty or
23 corruption which are substantially related to the qualifications,
24 functions, or duties of a physician and surgeon, as more
25 particularly described in paragraphs 17 and 18 above.

26 //

27 //

1 26. RE Patient Willard B.:

2 A. Willard B. was a seventy year old male with a
3 history of hypertension, memory loss, and paranoid behavior.
4 The memory loss and paranoia were slowly progressive over
5 the last five years of his life. (He died in December of
6 1991.) He was diagnosed with Alzheimer's dementia by his
7 Kaiser Permanente physicians.

8 B. The first entry in respondent's medical chart
9 concerning his patient Willard B. is dated September 6,
10 1991. This entry occurred after respondent relocated his
11 practice to Minden, Nevada. It consists of a handwritten
12 order for a series of twenty intravenous infusions to be
13 administered bi-weekly. The infusions were to consist of
14 EDTA, vitamin B complex, magnesium chloride, potassium
15 chloride, hydroxocobalamin, pyridoxine hydrochloride,
16 dexpanthenol, ascorbic acid, trace minerals, calcium, and
17 selenium. In addition to these twenty intravenous
18 infusions, a cocktail containing vitamin B complex,
19 magnesium chloride, hydroxocobalamin, pyridoxine
20 hydrochloride, dexpanthenol, and distilled water was to be
21 injected IV push over a seven to ten minute interval. Also
22 included in respondent's handwritten orders were laboratory
23 evaluation of hair, blood and urine, which were to be
24 collected at specified times before and during the
25 infusions. These handwritten orders were faxed to Willard
26 B.'s son, in Fremont, California, where a registered nurse
27 administered the treatments ordered by respondent. It was

1 not indicated in the chart who was to administer the
2 infusions.

3 C. Respondent's orders for intravenous infusions
4 predated his first and only face to face contact with
5 Willard B. by four days. An office visit dated September
6 10, 1991, in Nevada, included a physical examination of the
7 fundi, carotids, heart, abdomen, prostate, legs, pulses, and
8 blood pressure. No history was included in the note. There
9 was no formal mental status or neurological examination.
10 Respondent's impression was "small vessel sclerosis with
11 senile dementia and depression." His plan included the
12 previously mentioned infusions, oxygen with exercise, and
13 tyrosine. Mention was also made of hydergine.

14 D. Absent from the medical chart are the results of
15 the blood work, hair analysis, and urinalysis that he
16 ordered. There is no record of how many infusions Willard
17 B. actually received, who administered them, or where they
18 were to be administered. There are no follow-up plans.

19 27. Respondent committed the following acts or
20 omissions in the treatment of Willard B.:

21 (A) Respondent prescribed nonemergent, intravenous
22 therapy to a patient he had never seen;

23 (B) Respondent prescribed protracted intravenous
24 infusions of vitamins, minerals, and chelators to a patient
25 with Alzheimer's Dementia;

26 (C) Respondent did not attempt to contact Willard B.'s
27 Kaiser physicians, and/or other physicians, and/or obtain

1 his prior medical records, and/or to perform the appropriate
2 workup himself in order to verify a reversible cause of
3 dementia and/or to take or record a medical history, and/or
4 to perform or record a mental status or neurological
5 examination;

6 (D) Respondent prescribed medication and treatment to
7 a patient he had never seen or communicated with directly;

8 (E) Respondent failed to provide follow-up care;

9 (F) Respondent failed to arrange additional face to
10 face evaluations;

11 (G) Respondent failed to communicate with the
12 health care provider administering the infusions;

13 (H) Respondent failed to obtain laboratory monitoring
14 of Willard B.'s condition; and/or

15 (I) Respondent's treatment of Willard B. was not
16 consistent with the standard of care, was not clinically
17 indicated by either the history, symptoms, physical
18 findings, or laboratory tests, and was potentially
19 detrimental.

20 FOURTH CAUSES FOR DISCIPLINARY ACTION

21 28. Respondent is subject to disciplinary action
22 pursuant to section 2234(b) of the Business and Professions Code
23 because he was grossly negligent in the practice of his
24 profession as more particularly described in paragraphs 26 and 27
25 above.

26 29. Respondent is further subject to disciplinary
27 action pursuant to section 2234(c) of the Business and

1 Professions Code because he committed repeated negligent acts in
2 the practice of his profession as more particularly described in
3 paragraphs 26 and 27 above.

4 30. Respondent is further subject to disciplinary
5 action pursuant to section 2234(d) of the Business and
6 Professions Code because he displayed incompetence in the
7 practice of his profession as more particularly described in
8 paragraphs 26 and 27 above.

9 31. Respondent is further subject to disciplinary
10 action pursuant to Business and Professions Code section 725
11 because he committed repeated acts of clearly excessive
12 prescribing and treatments in the practice of his profession, as
13 more particularly described in paragraphs 26 and 27 above.

14 ADDITIONAL CAUSES FOR DISCIPLINARY ACTION

15 32. Respondent's conduct as set forth set forth
16 hereinabove in the First through Fourth Causes For Disciplinary
17 Action, collectively, or in any combination or permutation
18 thereof, constitutes general unprofessional conduct and is cause
19 for disciplinary action pursuant to section 2234 of the Business
20 and Professions Code.

21 33. Respondent's conduct as set forth set forth
22 hereinabove in the First through Fourth Causes For Disciplinary
23 Action, collectively, or in any combination or permutation
24 thereof, constitutes gross negligence and is cause for
25 disciplinary action pursuant to section 2234(b) of the Business
26 and Professions Code.

27 34. Respondent's conduct as set forth set forth

1 hereinabove in the First through Fourth Causes For Disciplinary
2 Action, collectively, or in any combination or permutation
3 thereof, constitutes repeated negligent acts and is cause for
4 disciplinary action pursuant to section 2234(c) of the Business
5 and Professions Code.

6 35. Respondent's conduct as set forth set forth
7 hereinabove in the First through Fourth Causes For Disciplinary
8 Action, collectively, or in any combination or permutation
9 thereof, constitutes incompetence and is cause for disciplinary
10 action pursuant to section 2234(d) of the Business and
11 Professions Code.

12 36. Respondent's conduct as set forth set forth
13 hereinabove in the First through Fourth Causes For Disciplinary
14 Action, collectively, or in any combination or permutation
15 thereof, constitutes repeated acts of clearly excessive
16 prescribing or administering of drugs or treatment, and/or
17 repeated acts of clearly excessive use of diagnostic or treatment
18 facilities, as determined by the standard of the community of
19 licensees and is cause for disciplinary action pursuant to
20 section 725 of the Business and Professions Code.

21 INVESTIGATION AND ENFORCEMENT COSTS

22 37. California Business and Professions Code section
23 125.3, subdivision (a), provides, in pertinent part, that in any
24 order issued in resolution of a disciplinary proceeding, the
25 board may request the administrative law judge to direct a
26 licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs

1 of investigation and enforcement of the case.

2 PRAYER:

3 WHEREFORE, complainant requests that the Board hold a
4 hearing on the matters alleged herein, and that following said
5 hearing, the Board issue a decision:

6 1. Revoking or suspending Physician's and Surgeon's License
7 Number G27254, heretofore issued to respondent Frank A.
8 Shallenberger, M.D.; and

9 2. Ordering respondent to pay a sum not to exceed the
10 reasonable costs of investigation and enforcement of the case;
11 and

12 3. Taking such other and further action as the Board deems
13 appropriate to protect the public health, safety and welfare.

14
15 DATED: May 9, 1994

16

17

18



19 Dixon Arnett
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California

21

22

Complainant

23

MBC File No. 12 92 17943

24

12 91 8391

12 91 12030

25

26

27