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

In the Matter of the Accusation Against: Frank Shallenberger, M.D. Certificate # G-27254 Respondent.	No. 12-91-8391

DECISION

The attached Stipulation is hereby adopted by the Division of Medical Quality of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on April 7, 1995.

IT IS SO ORDERED March 8, 1995.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Karen McElliott

KAREN MCELLIOTT, Chair
Panel B

DANIEL E. LUNGREN, Attorney General
of the State of California
RUSSELL W. LEE
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Attorneys for Complainant

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

In the Matter of the Accusation Against: FRANK A. SHALLENBERGER, M.D. 1524 Highway 395 P.O. Box 69 Gardnerville, Nevada 89423 Physician's and Surgeon's License No. G27254 Respondent.	Case No. 12-91-8391 **SURRENDER OF PHYSICIAN'S AND SURGEON'S CERTIFICATE AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above entitled matter as follows:

1. At the time of executing and filing the Accusation in the above matter, complainant, Dixon Arnett, was, and is, the Executive Director of the Medical Board of California (hereinafter the "Board") and performed said acts solely in his official capacity as such.

2. Dixon Arnett is represented herein ny Daniel E. Lungren, Attorney General of the State of California, by Russell

W. Lee, Deputy Attorney General.

3. Frank A. Shallenberger, M.D. (hereinafter "respondent"), has elected to represent himself in this matter, and has received and read Accusation No. 12-91-8391 which is presently on file and pending before the Division of Medical Quality of the Medical Board of California, State of California (hereinafter "the Division").

4. Respondent understands the nature of the charges alleged in the above-mentioned Accusation, a copy of which is attached hereto as "Exhibit A".

5. Respondent's license history and status as set forth in paragraph 2 of the Accusation is true and correct.

6. Respondent has carefully read and fully understands the charges and allegations contained in the Accusation and is fully aware of his rights in this matter.

7. Respondent hereby freely and voluntarily waives his right to a hearing on the charges and allegations contained in Accusation No. 12-91-8391, and further, respondent agrees to waive his right to reconsideration, judicial review and any and all other rights which may be accorded him by the Administrative Procedure Act and other laws of the State of California.

8. Any and all admissions of fact and conclusions of law contained in this stipulation are made exclusively for the purposes of settlement and compromise of this proceeding and any future proceedings between the Division and respondent and shall not be deemed to be admissions for any purpose in any other administrative, civil, or criminal action, forum or proceeding.

9. Except as otherwise provided for herein, respondent neither admits nor denies the allegations in Accusation No. 12-91-8391, but for the purposes of settlement and compromise of this proceeding, and to avoid the costs of further litigation, respondent stipulates and agrees that the Division has jurisdiction to enter into the terms and conditions of this stipulation pursuant to section 2234 of the Business and Professions Code.

10. Respondent wishes to retire from medical practice in California, and to engage in other pursuits. Respondent therefore desires and agrees to surrender his Physician's and Surgeon's Certificate to the Board, thereby relinquishing his right to practice medicine in the State of California.

11. Respondent specifically waives the renewal provisions of Article 19 (Renewal of Licenses) of Chapter 5 (Medical Practice Act) of Division 2 (Healing Arts) as set forth in Business and Professions Code sections 2420 et. seq., and agrees that he will not apply to the Division to have his certificate renewed, restored, reissued or reinstated. Respondent further agrees that he will not apply for a new certificate for at least three (3) years after the effective date of this decision and that any such application shall be deemed a petition for reinstatement of the certificate and treated according to the provisions of Business and Professions Code section 2307 or any similar section that is in effect at the time of such an application.

12. Respondent expressly agrees that should he in the

future petition for reinstatement of his certificate, all of the charges and allegations set forth in Accusation No. 12-91-8391, paragraphs 1 (one) through 36 (thirty-six), shall be deemed admitted as being true and correct for the purposes of said petition for reinstatement.

13. In consideration for the above, the Division agrees to accept the surrender of respondent's Physician's and Surgeon's Certificate No. G27254 upon the terms and conditions specified above.

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14. IT IS FURTHER STIPULATED AND AGREED that the terms outlined herein are null and void and in no way binding upon the parties hereto unless and until this Surrender of Physician's and Surgeon's Certificate is adopted by the Division of Medical Quality, Medical Board of California, as its decision in this matter.

DATED: 12-27-94

DANIEL E. LUNGREN
Attorney General of the
State of California

RUSSELL W. LEE
Deputy Attorney General

Attorneys for Complainant

I HEREBY CERTIFY that I have read this Surrender of Physician's and Surgeon's Certificate in its entirety, that I fully understand the same, and that I voluntarily agree to them.

IN WITNESS THEREOF, I affix my signature this 22 day of December 1994 at Gardnerville, Nevada, ~~California.~~

Frank A. Shallenberger, M.D.
Respondent

DANIEL E. LUNGREN, Attorney General
of the State of California
RUSSELL W. LEE
Deputy Attorney General
Department of Justice
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San Francisco, California 94102-1985
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Attorneys for Complainant

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

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

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

PARTIES

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

LICENSE STATUS

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

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

STATUTES

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

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

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

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

"(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

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

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

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

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

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

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

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DRUGS

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

CHARGES AND ALLEGATIONS

5. RE Patient Nancy P.[1]:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Respondent failed to recognize the patient's

setbacks and worsening condition;

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

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

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

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

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

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

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

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

detrimental.

FIRST CAUSES FOR DISCIPLINARY ACTION

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

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

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

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

11. RE Patient Pauline U.:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) Respondent failed to document the dose and route

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

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

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

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

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

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

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

SECOND CAUSES FOR DISCIPLINARY ACTION

13. Respondent is subject to disciplinary action

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

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

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

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

17. <u>RE Patient Melanie Z.</u>:

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

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

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

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

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

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

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

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

day.

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

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

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

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

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

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

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

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

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

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

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

THIRD CAUSES FOR DISCIPLINARY ACTION

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

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

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

22. Respondent is further subject to disciplinary

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

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

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

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

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26. RE Patient Willard B.:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FOURTH CAUSES FOR DISCIPLINARY ACTION

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

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

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

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

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

ADDITIONAL CAUSES FOR DISCIPLINARY ACTION

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

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

34. Respondent's conduct as set forth set forth

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

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

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

INVESTIGATION AND ENFORCEMENT COSTS

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

of investigation and enforcement of the case.

PRAYER:

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

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

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

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

DATED: May 9, 1994

Dixon Arnett
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

MBC File No. 12 92 17943
12 91 8391
12 91 12030