

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

In the Matter of the Second Amended)
Accusation Against:)
)
)
BRUCE M. FROME, M.D.)
)
Physician's and Surgeon's)
Certificate No. G 8667,)
)
Respondent.)
_____)

File No. 17-1995-48447

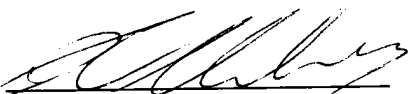
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 24, 2001.

IT IS SO ORDERED July 25, 2001.

MEDICAL BOARD OF CALIFORNIA

By: 
Hazem H. Chehabi, M.D., Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSEPH P. FURMAN, State Bar No. 130654
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
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6 Attorneys for Complainant

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

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12 In the Matter of the Second Amended
Accusation Against:

Medical Board Case No. 17-95-48447
OAH Case No. L-2000110150

13

14 **BRUCE M. FROME, M.D.**
Post Office Box 15157
Beverly Hills, CA 90209

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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16 Physician and Surgeon's Certificate No. G 8667,
Respondent.

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

PARTIES

1. Ron Joseph ("complainant") is the Executive Director of the Medical
Board of California ("Board"). He brought this action solely in his official capacity and is
represented in this matter by Bill Lockyer, Attorney General of the State of California, by Joseph
P. Furman, Deputy Attorney General.

2. Bruce M. Frome, M.D. ("respondent") is represented in this matter by
Frank Albino, Esq., of Parker, Milliken, Clark, O'Hara & Samuelian, a Professional Corporation,
333 South Hope Street, 27th Floor, Los Angeles, CA 90071-1488.

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in the
3 Second Amended Accusation, if proven at a hearing, constitute cause for imposing discipline on
4 his Physician and Surgeon's Certificate.

5 9. Respondent admits that complainant can present a prima facie case of the
6 charges and allegations in Second Amended Accusation No. 17-95-48447. For the purpose of
7 resolving this matter without the expense and uncertainty of further proceedings, respondent
8 declines to require complainant to put on its case, and respondent hereby waives his right to
9 present a defense to the charges in Second Amended Accusation No. 17-95-48447.

10 10. Respondent agrees that his Physician and Surgeon's Certificate is thus
11 subject to discipline, and respondent agrees to be bound by the Division's imposition of
12 discipline as set forth in the Order below.

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14 CONTINGENCY

15 11. This Stipulated Settlement and Disciplinary Order ("stipulation") shall be
16 subject to the approval of the Division. Respondent understands and agrees that Board staff and
17 counsel for complainant may communicate directly with the Division regarding this stipulation,
18 without notice to or participation by respondent or his counsel. If the Division fails to adopt this
19 stipulation as its Order, this Stipulated Settlement and Disciplinary Order (except for this
20 paragraph) shall be of no force or effect, it shall be inadmissible in any legal action between the
21 parties, and the Division shall not be disqualified from further action by having considered this
22 matter.

23 12. The parties agree that facsimile copies of this Stipulated Settlement and
24 Disciplinary Order, including facsimile signatures, shall have the same force and effect as the
25 original Stipulated Settlement and Disciplinary Order and original signatures.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Division shall, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate No. G 8667
3 issued to respondent is revoked. However, the revocation is stayed and respondent is placed on
4 probation for six (6) years on the following terms and conditions.

5 1. Within fifteen (15) days of the effective date of this decision, respondent
6 shall provide the Division, or its designee, proof of service that respondent has served a true copy
7 of this stipulation and decision on the Chief of Staff or the Chief Executive Officer at every
8 hospital where privileges or membership are extended to respondent or at any other facility
9 where respondent engages in the practice of medicine and on the Chief Executive Officer at
10 every insurance carrier where malpractice insurance coverage is extended to respondent.

11 2. MONITORING Within thirty (30) days of the effective date of this
12 decision, respondent shall submit to the Division or its designee for its prior approval a plan of
13 practice in which respondent's practice shall be monitored by another physician in respondent's
14 field of practice, who shall provide periodic reports to the Division or its designee. In addition to
15 monitoring all aspects of respondent's practice of medicine, the monitor shall oversee
16 compliance with the practice restrictions set forth below under the condition entitled, "Prohibited
17 Practice."

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

21 3. PROHIBITED PRACTICE During probation, respondent's practice shall
22 be restricted to prohibit him from administering nerve blocks or spinal implantation of dorsal
23 column stimulators, pain-control medication catheters, or any other form of invasive or
24 implanted pain control devices. In addition, during probation, respondent's practice shall be
25 restricted to prohibit the use on patients of any experimental or investigational therapies, with the
26 limited exception of allowing the application of **topical therapies** that are administered pursuant
27 to, and in compliance with, institutional review board or United States Food and Drug
28 Administration guidelines and that are administered in conjunction with drug or pharmaceutical

1 company or university protocols and procedures. At the earliest opportunity, respondent shall
2 inform applicable patients, if any, that respondent is prohibited from performing any treatment or
3 procedure involving the administration of nerve blocks or spinal implantation of dorsal column
4 stimulators, pain-control medication catheters, or any other form of invasive or implanted pain
5 control devices or any other prohibited experimental or investigational therapies.

6 4. CONTROLLED DRUGS - MAINTAIN RECORD Respondent shall
7 maintain a record of all controlled substances and all other drugs or medicinal compounds
8 prescribed, dispensed, or administered by respondent during probation, showing all the
9 following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of
10 controlled substances, drugs, or medicinal compounds involved, and 4) the indications and
11 diagnoses for which the controlled substance, drug, or medicinal compound was furnished.

12 Respondent shall keep these records in a separate file or ledger, in chronological
13 order, and shall make them available for inspection and copying by the practice monitor and by
14 the Division or its designee, upon request.

15 5. PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION "PACE"
16 PROGRAM Within ninety (90) days of the effective date of this decision, respondent, at his
17 expense, shall enroll in the Physician Assessment and Clinical Education Program ("PACE
18 Program") at the University of California, San Diego School of Medicine and shall undergo
19 assessment, clinical training, and examination. First, respondent shall undergo the
20 comprehensive assessment program including the measurement of medical skills and knowledge,
21 the appraisal of physical health, and psychological testing. After assessment, the PACE Program
22 Evaluation Committee will review all results and make a recommendation to the Division or its
23 designee, respondent, and other authorized personnel as to what clinical training is required,
24 including scope and length, treatment of any medical or psychological condition, and any other
25 factors affecting respondent's practice of medicine. Respondent shall undertake whatever clinical
26 training and treatment of any medical or psychological condition as may be recommended by the
27 PACE Program.

28 At the completion of the PACE Program, respondent shall submit to an

1 examination on its contents and substance. The examination shall be designed and administered
2 by the PACE faculty. Respondent shall not be deemed to have successfully completed the PACE
3 Program unless he passes the examination. Respondent agrees that the determination of the
4 PACE Program faculty as to whether or not he has passed the examination and/or successfully
5 completed the PACE Program shall be binding and not subject to legal challenge in any forum.

6 Respondent shall complete the PACE Program within six (6) months of his initial
7 enrollment unless the Division or its designee agrees in writing to a later time for completion.

8 If respondent successfully completes the PACE Program, including the
9 examination referenced above, he agrees to cause the PACE Program representatives to forward
10 a Certification of Successful Completion of the program to the Division or its designee.

11 If respondent fails to successfully complete the PACE Program within the time
12 limits outlined above, he shall be suspended from the practice of medicine unless and until he
13 successfully completes the PACE Program. Failure to participate in, and successfully complete,
14 all phases of the PACE Program, as outlined above, prior to the final six (6) months of
15 respondent's scheduled probationary term, shall constitute a violation of probation.

16 6. PRESCRIBING PRACTICES COURSE Within ninety (90) days of the
17 effective date of this decision, respondent shall, at his own expense, enroll in a course in the
18 subject of Prescribing Practices, approved in advance by the Division or its designee, and shall
19 successfully complete the course during the first year of probation. Respondent's enrollment in,
20 and successful completion of, a Prescribing Practices course offered by the PACE Program at the
21 University of California, San Diego School of Medicine, will satisfy this condition.

22 7. MEDICAL RECORD KEEPING COURSE Within ninety (90) days of
23 the effective date of this decision, respondent shall, at his own expense, enroll in a course in the
24 subject of Medical Record Keeping, approved in advance by the Division or its designee, and
25 shall successfully complete the course during the first year of probation. Respondent's
26 enrollment in, and successful completion of, a Medical Record Keeping course offered by the
27 PACE Program at the University of California, San Diego School of Medicine, will satisfy this
28 condition.

1 8. EDUCATION COURSES Within ninety (90) days of the effective date
2 of this decision, and on an annual basis thereafter, respondent shall submit to the Division or its
3 designee for its prior approval an educational program or course in the field of Pain Management
4 to be approved by the Division or its designee. The courses shall be aimed at correcting any
5 areas of deficient practice or knowledge and shall not be less than sixteen (16) hours per year, for
6 each year of probation. This program shall be in addition to the Continuing Medical Education
7 (CME) requirements for re-licensure. Following the completion of each course, the Division or
8 its designee may administer an examination to test respondent's knowledge of the course.
9 Respondent shall provide proof of attendance for the continuing medical education required by
10 this condition, which, as noted, is in addition to the customary CME requirements for
11 re-licensure.

12 9. OBEY ALL LAWS Respondent shall obey all federal, state, and local
13 laws, and all rules governing the practice of medicine in California, and he shall remain in full
14 compliance with any court ordered criminal probation, payments, and other orders.

15 10. QUARTERLY REPORTS Respondent shall submit quarterly
16 declarations under penalty of perjury on forms provided by the Division, stating whether there
17 has been compliance with all the conditions of probation.

18 11. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
19 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
20 at all times, keep the Division informed of his business and residence addresses which shall both
21 serve as addresses of record. Changes of such addresses shall be immediately communicated in
22 writing to the Division. Under no circumstances shall a post office box serve as an address of
23 record, except as allowed by Business and Professions Code section 2021(b).

24 Respondent shall, at all times, maintain a current and renewed physician's and
25 surgeon's license.

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

1 12. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
2 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
3 Division, its designee or its designated physician(s), upon request at various intervals and with
4 reasonable notice.

5 13. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
6 STATE NON-PRACTICE In the event respondent should leave California to reside or to
7 practice outside the State or for any reason should respondent stop practicing medicine in
8 California, respondent shall notify the Division or its designee in writing within ten (10) days of
9 the dates of departure and return or the dates of non-practice within California. Non-practice is
10 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
11 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
12 spent in an intensive training program approved by the Division or its designee shall be
13 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
14 shall not be considered as a period of non-practice. Periods of temporary or permanent residence
15 or practice outside California or of non-practice within California, as defined in this condition,
16 will not apply to the reduction of the probationary order.

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

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

25 16. COST RECOVERY Respondent is hereby ordered to reimburse the
26 Division the amount of \$14,000.00 (fourteen thousand dollars) for its investigative and
27 prosecution costs. Unless respondent chooses to pay the entire cost recovery amount of
28 \$14,000.00 (fourteen thousand dollars) within ninety (90) days of the effective date of this

1 decision, respondent shall pay the Division four installment payments, each in the amount of
2 \$3,500.00 (three thousand, five hundred dollars). The first installment payment to the Division
3 of \$3,500.00 (three thousand, five hundred dollars) will be due ninety (90) days after the
4 effective date of this decision, and each subsequent installment payment of \$3,500.00 (three
5 thousand, five hundred dollars) will be due within ninety (90) days of receipt of the preceding
6 payment. The entire cost recovery amount of \$14,000.00 (fourteen thousand dollars) shall be
7 paid in full within one year of the effective date of this decision. Failure to reimburse the
8 Division's cost of investigation and prosecution in the amount and manner set forth here shall
9 constitute a violation of probation. The filing of bankruptcy by respondent shall not relieve him
10 of his responsibility to reimburse the Division for its investigative and prosecution costs.

11 17. PROBATION COSTS Respondent shall pay the costs associated with
12 probation monitoring each and every year of probation, as designated by the Division, which
13 costs are currently set at \$2,488.00 (two thousand, four hundred and eighty-eight dollars) per
14 year, but which may be adjusted on an annual basis. Such costs shall be payable to the Division
15 and delivered to the designated probation surveillance monitor no later than January 31 of each
16 calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of
17 probation.

18 18. LICENSE SURRENDER Following the effective date of this decision, if
19 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
20 the terms and conditions of probation, respondent may voluntarily tender his certificate to the
21 Board. The Division reserves the right to evaluate the respondent's request and to exercise its
22 discretion whether to grant the request, or to take any other action deemed appropriate and
23 reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent
24 will not longer be subject to the terms and conditions of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and I have fully discussed the terms and conditions and other matters contained therein with my attorney Frank Albino, Esq. I understand the effect this Stipulated Settlement and Disciplinary Order will have on my Physician and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order freely, voluntarily, knowingly, and intelligently, and I agree to be bound by the Division's Disciplinary Order. I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 3/31/01



BRUCE M. FROME, M.D.
Respondent

ENDORSEMENT

I have carefully read and fully discussed with my client, respondent Bruce M. Frome, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve of its form and content.

DATED: 4/4/01



FRANK ALBINO, ESQ.
Parker, Milliken, Clark, O'Hara & Samuelian,
A Professional Corporation
Attorney for Respondent

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

DATED: April 16, 2001.

BILL LOCKYER, Attorney General
of the State of California

JOSEPH W. FURMAN
Deputy Attorney General
Attorneys for Complainant

DOJ Docket Number: 03573160-LA96AD1538
JPF:jpf
Frome, MD stipulated settlement

Exhibit A:

Second Amended Accusation No. 17-95-48447

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 1, 2000
BY Carla B. [Signature] ANALYST

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSEPH P. FURMAN (State Bar No. 130654)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013
Telephone: (213) 897-2531
5
6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:) Case No. 17-95-48447
12)
12 **BRUCE M. FROME, M.D.**) **SECOND AMENDED**
P.O. Box 15157) **ACCUSATION**
13 Beverly Hills, California 90209)
14 Physician and Surgeon's Certificate No. G 8667,)
15 Respondent.)
16)
17)

18 Complainant, Ron Joseph, alleges:

19 **PARTIES**

- 20 1. Complainant, Ron Joseph, is the Executive Director of the Medical Board
21 of California ("Board") and brings this Second Amended Accusation solely in his official
22 capacity.
- 23 2. On or about July 8, 1963, Physician and Surgeon's Certificate No. G 8667
24 was issued by the Board to Bruce M. Frome, M.D. ("respondent"), and at all times relevant to the
25 charges brought herein, this license has been in full force and effect. Unless renewed, it will
26 expire on August 31, 2002.
- 27 3. An Accusation in Case No. 17-95-48447 ("original Accusation") was

1 brought by Complainant in his official capacity as the Executive Director of the Board and,
2 together with all statutorily required documents, was duly served on respondent on or about
3 December 12, 1996. On or about September 7, 1999, an Amended Accusation, together with all
4 statutorily required documents, was duly served on respondent. The Amended Accusation
5 retained all the causes for license discipline alleged in the original Accusation filed in this matter,
6 but also set forth additional causes for license discipline. The Amended Accusation therefore
7 superseded and replaced the original Accusation on file in this matter. The Amended Accusation
8 currently remains pending against respondent. Likewise, this Second Amended Accusation
9 retains all the causes for license discipline alleged in both the original Accusation and the
10 Amended Accusation filed in this matter, but also sets forth additional causes for license
11 discipline. Accordingly, just as the Amended Accusation superseded and replaced the original
12 Accusation on file in this matter, this Second Amended Accusation supersedes and replaces the
13 Amended Accusation on file in this matter.

14
15 **JURISDICTION**

16 4. This Second Amended Accusation is brought before the Board's Division
17 of Medical Quality ("Division"), under the authority of the following sections of the California
18 Business and Professions Code ("Code"):

19 A. Section 2220 provides, in pertinent part, that the Division may take
20 action against all persons guilty of violating the Medical Practice Act.

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

25 C. Section 2234 provides, in pertinent part, that the Division shall
26 take action against any licensee who is charged with unprofessional conduct, including
27 "gross negligence," "repeated negligent acts," and "incompetence."

1 D. Section 125.3, subdivision (a), provides, in pertinent part, that "the
2 board may request the administrative law judge to direct a licentiate found to have
3 committed a violation or violations of the licensing act to pay a sum not to exceed the
4 reasonable costs of the investigation and enforcement of the case."

5 E. Section 14124.12 of the Welfare and Institutions Code provides, in
6 pertinent part:

7 (a) Upon receipt of written notice from the Medical Board of California . . .
8 that a licensee's license has been placed on probation as a result of a disciplinary action,
9 the department may not reimburse any Medi-Cal claim for the type of surgical service or
10 invasive procedure that gave rise to the probation . . . that was performed by the licensee
11 on or after the effective date of probation and until the termination of all probationary
12 terms and conditions or until the probationary period has ended, whichever occurs first.
13 This section shall apply except in any case in which [the Board] determines that
14 compelling circumstances warrant the continued reimbursement during the probationary
15 period of any Medi-Cal claim In such a case, the department shall continue to
16 reimburse the licensee for all procedures, except for those invasive or surgical procedures
17 for which the licensee was placed on probation.

18
19 **FIRST CAUSE FOR DISCIPLINE**

20 (Gross Negligence)

21 5. Respondent is subject to disciplinary action under Code section 2234,
22 subdivision (b), in that he committed gross negligence in his care and treatment of patient D.C.^{1/}
23 The circumstances are as follows:

24 A. On or about July 8, 1994, patient D.C., accompanied by her
25

26 1. To protect patient privacy, the patients will be referenced herein only by their initials. The
27 full names of the patients will be disclosed to respondent upon his timely written request for
discovery pursuant to Government Code section 11507.6.

1 husband, went to see respondent for the first time. D.C. appeared nervous and depressed.
2 She complained of sores on her scalp, headaches, and fatigue. She and her husband
3 informed respondent that she felt "sick all the time," had lost weight, and had been to a
4 number of other physicians who were unable to diagnose or treat her condition.

5 B. During the July 8, 1994 office visit, respondent diagnosed D.C. as
6 having hyperthyroidism. He based his diagnosis of hyperthyroidism on D.C.'s reported
7 20 pound weight loss, her nervousness, weakness, excessive sweating, and what he
8 perceived as a "questionable enlargement of the thyroid gland on the right." He requested
9 no laboratory tests because he believed that D.C. had undergone extensive testing ordered
10 by her previous physicians, which he assumed resulted in normal thyroid studies. He
11 believed that D.C. did not want to undergo any further testing. Respondent then directed
12 D.C. to take a "short-term course" of oral Iodine and Lysine Homeopathy "on a
13 therapeutic trial basis" and to return in a week.

14 C. D.C. did not return to respondent's office until she showed up
15 without a scheduled appointment late in the day on August 16, 1994. When respondent
16 entered the examination room, D.C. was curled up in the fetal position. Her husband was
17 with her. D.C. was hyperventilating, and her pulse seemed irregular and rapid. D.C.
18 indicated that she was depressed, unable to work, and experiencing marital difficulties.
19 Based in part on the irregularity of D.C.'s pulse and the fact that she appeared short of
20 breath and acutely ill, respondent diagnosed "subacute bacterial endocarditis and atrial
21 fibrillation." Respondent also hooked up the patient to a computer in his office, and the
22 "computer results were in accordance with [his] personal diagnosis" of "subacute
23 bacterial endocarditis and atrial fibrillation."

24 D. Because it was after normal office hours and his staff had left or
25 was just about to leave when respondent diagnosed "subacute bacterial endocarditis and
26 atrial fibrillation" on August 16, 1994, respondent advised D.C. and her husband that the
27 most prudent course of action would be to take D.C. to an emergency room to be fully

1 examined. After D.C. or her husband indicated that D.C. was known to emergency room
2 staff at Little Company of Mary Hospital, respondent telephoned a physician there to
3 convey his impressions of D.C.'s condition, including his opinion that she was
4 experiencing a cardiac arrhythmia, had a rapid, irregular pulse, and appeared to be weak
5 and in some degree of distress. D.C.'s husband then drove her to the emergency room at
6 Little Company of Mary Hospital.

7 E. After an examination by a cardiologist at the emergency room at
8 Little Company of Mary Hospital and after further cardiological testing the following
9 day, no cardiac abnormalities were found. Subsequent endocrinological testing revealed
10 no thyroid abnormalities. D.C. was then referred for psychiatric and psychological
11 evaluation, which resulted in diagnoses of, and treatment for, anxiety and depression.

12 F. Respondent is guilty of conduct constituting gross negligence in
13 his care of D.C. in that:

14 (1) Respondent misdiagnosed the patient as having
15 hyperthyroidism.

16 (2) Respondent failed to obtain or to use appropriate laboratory
17 tests and laboratory data prior to diagnosing, and commencing drug treatment for,
18 hyperthyroidism.

19 (3) Respondent failed to evaluate fully and follow up
20 adequately on his finding of a possible thyroid gland enlargement or nodule.

21 (4) Respondent misdiagnosed the patient as having subacute
22 bacterial endocarditis and atrial fibrillation.

23 (5) Respondent failed to obtain or to use appropriate tests and
24 data prior to diagnosing subacute bacterial endocarditis and atrial fibrillation.

25 (6) Respondent "hooked-up" the patient to an unproved and
26 unapproved medical diagnostic "computer" device to assist him in making his
27 diagnoses.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 6. Respondent is subject to disciplinary action under Code section 2234,
4 subdivision (b), in that he committed gross negligence in his care and treatment of patient G.C-
5 H. The circumstances are as follows:

6 A. On or about September 22, 1993, patient G.C-H., then a 42 year
7 old female, first saw respondent for treatment of her chronic pain. Respondent's pain
8 management practice at the time included implantation of spinal cord devices for treating
9 chronic pain. G.C-H. sought respondent's treatment for pain related to her diagnosis of
10 Eosinophilia-Myalgia syndrome. Respondent diagnosed her condition as widespread and
11 general polyneuropathy with a sympathetically maintained pain syndrome. G.C-H.
12 received treatments consisting primarily of nerve blocks, including unilateral and bilateral
13 stellate ganglion blocks, caudal nerve blocks, bilateral lumbar sympathetic blocks, and
14 bilateral suprascapular nerve blocks.

15 B. Between approximately September 22, 1993, and October 12,
16 1993, respondent performed a total of approximately sixteen nerve blocks on G.H-C.,
17 either individually or in combination with other blocks.

18 C. On or about October 15, 1993, G.H-C. underwent a lumbar
19 epidural catheter (DuPen catheter) implantation procedure for medication infusion. G.H-
20 C. appeared to experience improvement following both the nerve blocks and epidural
21 medication infusion.

22 D. On or about November 8, 1993, G.H-C. was diagnosed as having a
23 "tunnel" infection of the catheter. The catheter was removed on November 21, 1993.

24 E. On or about December 22, 1993, respondent performed a trial
25 dorsal column stimulation on G.H-C., with reportedly good results.

26 F. On December 30, 1993, respondent performed a permanent spinal
27 cord stimulator electrode and generator implantation procedure on G.H-C. Shortly

1 following the procedure, G.H-C. developed paralysis, sensory deficit, and became febrile.
2 A CT demonstrated an epidural abscess that required cervical and thoracic decompression
3 laminectomies for evacuation and drainage on January 4, 1994.

4 G. Respondent is guilty of conduct constituting gross negligence in
5 his care of G.H-C. in that:

6 (1) Respondent failed to maintain complete and adequate
7 documentation of care, particularly with respect to the patient's evaluation and
8 diagnosis, the objective findings following nerve blocks, the treatment of the
9 infection, and the details of patient's trial spinal cord stimulation.

10 (2) Respondent failed to maintain complete and adequate
11 documentation to support the use of multiple nerve blocks, epidural medications,
12 and dorsal column stimulation.

13 (3) In light of respondent's finding of "whole body
14 polyneuropathy, fibromyalgia and sympathetically mediated pain" and the fact
15 that a single-lead dorsal column stimulator at C7 to T2 level would be unlikely to
16 provide relief to more than a single limb, let alone the entire body, respondent
17 unreasonably subjected the patient to a procedure to implant a dorsal column
18 stimulator because such an implanted stimulator had very little chance of
19 improving the patient's overall long-term prospects.

20 (4) Respondent failed to recognize or properly and fully
21 eradicate an infection prior to proceeding with an implantation procedure into the
22 infected site.

23
24 **THIRD CAUSE FOR DISCIPLINE**

25 (Gross Negligence)

26 7. Respondent is subject to disciplinary action under Code section 2234,
27 subdivision (b), in that he committed gross negligence in his care and treatment of patient D.A.

1 The circumstances are as follows:

2 A. Prior to her seeing respondent for the first time in April 1993 for
3 treatment of pain, patient D.A., then a 32 year old female, had the following medical
4 history: D.A.'s primary pain related medical condition apparently originated in August
5 1986, when, while running, her right heel and foot landed into a sprinkler recess. D.A.
6 was initially evaluated at an emergency room and was informed that she sustained a
7 fracture of the calcaneus. She was treated with casting and told to receive follow-up with
8 an orthopedic surgeon in six weeks. Six weeks after the injury, D.A. received follow-up
9 with an orthopedic surgeon. She was then informed that she did not suffer a fracture but
10 was suffering from plantar fasciitis. D.A. was treated with conservative measures for four
11 to five months. However, she did not improve. She was then referred to Philip Kwong,
12 M.D., an orthopedic surgeon. D.A. underwent her first surgery which was a partial
13 plantar fascial release in June 1987. Her pain did not improve. She was subsequently
14 referred to Glen Almquist, M.D. She underwent additional surgery by Dr. Almquist in
15 1988. Despite rehabilitation, her pain did not improve. She then required crutches for
16 ambulation. D.A. underwent repeat surgery for release of an apparently entrapped nerve
17 in March 1989. There was also exploration for removal of retained sutures. However,
18 D.A.'s condition did not improve. D.A. subsequently received additional surgery from
19 Irwin Bliss, M.D., including removal of neuroma and tarsal tunnel releases. In all, D.A.
20 underwent seven surgeries. Despite the surgeries, D.A. continued to complain of severe
21 pain, swelling, and sensitivity of the right foot. D.A. also received an evaluation by a
22 physician at the UCLA Medical Center for neck and shoulder pain. That physician found
23 that D.A. was suffering from cervical disc disease at C2-3, but recommended
24 conservative treatment. D.A. was then referred to Louis Kwong, M.D. Dr. Kwong
25 recommended additional conservative treatments including physical therapy.

26 B. In addition to the above medical history, D.A. was also under the
27 care of internist Ronald Sue, M.D., between April 1991 and September 1993. Dr. Sue's

1 records indicate that D.A. had additional medical problems including gastric reflux with
2 subsequent reflux esophagitis, a history of chronic bronchitis, and a history of vocal cord
3 abnormalities. D.A. also had a history of high medication requirements, including oral
4 Vicodin, episodes of mixing medications including Vicodin, benzodiazepines, and
5 alcohol. D.A. also underwent a hospitalized detoxification in 1989.

6 C. On or about April 12, 1993, patient D.A. first saw respondent for
7 treatment of pain primarily involving the right foot, but also involving the right knee, the
8 right hip, the left foot, as well as bilateral neck and shoulder pain. Respondent's pain
9 management practice at the time included implantation of spinal cord devices for treating
10 chronic pain. Respondent's initial evaluation relied on D.A.'s previous medical records,
11 including an initial orthopedic evaluation from Louis Kwong, M.D., dated April 7, 1993,
12 MRI reports of the cervical spine, right knee, and lumbar spine, as well as information
13 reported by D.A. Respondent's initial evaluation was reflex sympathetic dystrophy
14 involving all limbs and stage 4 fibromyalgia.

15 D. During respondent's care of D.A, she was administered a variety of
16 treatment modalities including physical therapy, intravenous medications, oral
17 medication including narcotics and non-narcotic analgesic adjunctive medication,
18 physical manipulation of the involved extremities, transcutaneous electrical stimulation,
19 and extensive invasive treatments including nerve injections. Respondent saw D.A.
20 sometimes daily and most often on an every other day basis. During these treatment
21 sessions, D.A. received numerous nerve blockade type of treatments, including caudal
22 epidurals, lumbar sympathetic ganglion blocks, cervical epidurals, stellate ganglion
23 blocks, and facet injections. At times, D.A. would receive multiple injections during the
24 same visit, including bilateral sympathetic ganglion blocks, lumber sympathetic blocks,
25 and lumbar epidural blocks. D.A. received at least one or a combination of injections at
26 intervals ranging from daily to three times a week. D.A. reported short term relief after
27 each treatment.

1 E. On or about May 24, 1993, respondent placed an epidural catheter
2 for the purpose of intermittent lumbar sympathetic block. The patient received at least
3 three epidural blocks. The catheter was removed on May 28, 1993.

4 F. On or about August 4, 1993, respondent placed an in-dwelling
5 DuPen catheter in D.A. While the DuPen catheter was in, D.A. was given injections of
6 epidural narcotic and anesthetic medications. Respondent also prescribed these same
7 medications for home injection. D.A. was neither given instruction on sterile technique,
8 nor was she supervised by professional health care personnel during these home
9 injections.

10 G. On or about August 31, 1993, the catheter appeared curled
11 following an epidurogram. Respondent decided to remove the catheter on September 2,
12 1993. During the course of attempting to remove the catheter, the catheter apparently
13 became fixed. The catheter was cut and sutured in place to prevent further migration. A
14 second thoracic DuPen catheter was placed. D.A. continued to receive treatment through
15 this second catheter until the second catheter was removed at D.A.'s request on or about
16 September 24, 1993 because she reported no pain relief. D.A. then discontinued her
17 treatment with respondent. She reported experiencing severe exacerbation of her back
18 pain as a result of the retained epidural DuPen catheter.

19 H. Respondent is guilty of conduct constituting gross negligence in
20 his care of D.A. in that:

21 (1) Following respondent's placement of an in-dwelling DuPen
22 catheter on August 4, 1993, respondent's administration of medical treatment
23 represented an extreme departure from the standard of care. Specifically, the
24 number of multiple nerve injections was excessive. Sympathetic blockade of one
25 extremity should be performed on a weekly basis and at most twice weekly in the
26 case of early reflex sympathetic dystrophy or rapidly progressive reflex
27 sympathetic dystrophy. Furthermore, multiple nerve injections including bilateral

1 sympathetic ganglion blocks combined with epidural steroid injections and
2 lumbar sympathetic ganglion blocks performed in combination with lumbar
3 epidural blocks represents an extreme departure from the standard of care in light
4 of the potential complications of bilateral stellate ganglion blocks. Performing
5 bilateral stellate ganglion injections is extremely risky because of the severe
6 potential complications, which include bilateral laryngeal nerve paralysis or
7 paralysis of swallowing mechanisms causing possible aspiration pneumonia. In
8 the case of D.A., this complication was exacerbated by a co-existing condition of
9 reflux esophagitis. Respondent's notes indicate that D.A. could have been
10 experiencing aspiration pneumonitis, yet he persisted in performing bilateral
11 stellate ganglion blocks with the possibility of temporary laryngeal nerve
12 paralysis. In addition, bilateral sympathetic ganglion blocks could result in
13 bilateral phrenic and vagal nerve paralysis, causing partial heart block with severe
14 hypotension and even bilateral diaphragmatic paralysis causing difficulty
15 breathing. Respondent failed to perform the bilateral stellate ganglion blocks on a
16 staggered basis with the treatment separated by one to two hours to ensure that the
17 first treatment did not cause either phrenic nerve or laryngeal nerve paralysis.
18 Given D.A.'s history of gastroesophageal reflux, the performance of repeated
19 bilateral sympathetic ganglion blocks represents an extreme departure from the
20 standard of care.

21 (2) Following respondent's placement of an in dwelling DuPen
22 catheter on August 4, 1993, respondent failed to instruct D.A. in the proper care
23 and management of the externalized DuPen epidural catheter. Respondent also
24 failed to instruct regarding the proper sterile technique to be followed during the
25 injection of this catheter. Respondent further failed to ensure that D.A. was
26 supervised by trained health care personnel during the self-administration of
27 medications which are potent and can cause hypotension resulting in death.

1 Furthermore, non-sterile use of these medications could cause epidural abscess
2 and paralysis. The prescription of narcotic, analgesic, and potent anesthetic
3 medications for self-administration of intermittent boluses into the epidural space
4 without proper medical supervision or prior training represents an extreme
5 departure from the standard of medical practice.

6 (3) Respondent failed to maintain complete and adequate
7 documentation of care, particularly with respect to his communication with other
8 treating physicians. Specifically, during the course of his treatment of D.A.,
9 respondent failed to document any communications with Dr. Sue or Drs. Kwong,
10 despite the fact that respondent's treatment was multi-disciplinary and included
11 treatment for other conditions such as esophagitis and chronic bronchitis.

12 Respondent did not document any attempt to obtain any diagnostic information or
13 other treatment information from Dr. Sue. Respondent also did not document
14 conveying other pertinent laboratory information, including abnormal liver
15 functions tests, to Dr. Sue.

16 (4) Respondent failed to obtain written consent from D.A. to
17 perform the treatments.

18
19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Repeated Negligent Acts)

21 8. Respondent is subject to disciplinary action under Code section 2234,
22 subdivision (c), in that he committed repeated negligent acts in his care and treatment of patients
23 D.C., G.C-H, and D.A.. The circumstances are as follows:

24 A. The facts and allegations set forth above under paragraphs 5, 6, and
25 7, and all subparagraphs thereunder, are incorporated here by reference.

26 B. Respondent committed repeated negligent acts in his care and
27 treatment of patients D.C., G.C-H., and D.A. in that respondent committed the acts and

1 omissions enumerated below:

2 Specifically, in connection with his care and treatment of patient D.C.:

3 (1) Respondent misdiagnosed the patient as having
4 hyperthyroidism.

5 (2) Respondent failed to obtain or to use appropriate laboratory
6 tests and laboratory data prior to diagnosing, and commencing drug treatment for,
7 hyperthyroidism.

8 (3) Respondent failed to evaluate fully and follow up
9 adequately on his finding of a possible thyroid gland enlargement or nodule.

10 (4) Respondent misdiagnosed the patient as having subacute
11 bacterial endocarditis and atrial fibrillation.

12 (5) Respondent failed to obtain or to use appropriate tests and
13 data prior to diagnosing subacute bacterial endocarditis and atrial fibrillation.

14 (6) Respondent "hooked-up" the patient to an unproved and
15 unapproved medical diagnostic "computer" device to assist him in making his
16 diagnoses.

17 Specifically, in connection with his care and treatment of patient G.C-H.:

18 (7) Respondent failed to maintain complete and adequate
19 documentation of care, particularly with respect to the patient's evaluation and
20 diagnosis, the objective findings following nerve blocks, the treatment of the
21 infection, and the details of patient's trial spinal cord stimulation.

22 (8) Respondent failed to maintain complete and adequate
23 documentation to support the use of multiple nerve blocks, epidural medications,
24 and dorsal column stimulation.

25 (9) In light of respondent's finding of "whole body
26 polyneuropathy, fibromyalgia and sympathetically mediated pain" and the fact
27 that a single-lead dorsal column stimulator at C7 to T2 level would be unlikely to

1 provide relief to more than a single limb, let alone the entire body, respondent
2 unreasonably subjected the patient to a procedure to implant a dorsal column
3 stimulator because such an implanted stimulator had very little chance of
4 improving the patient's overall long-term prospects.

5 (10) Respondent failed to recognize or properly and fully
6 eradicate an infection prior to proceeding with an implantation procedure into the
7 infected site.

8 Specifically, in connection with his care and treatment of patient D.A.:

9 (11) Following respondent's placement of an in-dwelling DuPen
10 catheter on August 4, 1993, respondent's administration of medical treatment
11 represented an extreme departure from the standard of care. Specifically, the
12 number of multiple nerve injections was excessive. Sympathetic blockade of one
13 extremity should be performed on a weekly basis and at most twice weekly in the
14 case of early reflex sympathetic dystrophy or rapidly progressive reflex
15 sympathetic dystrophy. Furthermore, multiple nerve injections including bilateral
16 sympathetic ganglion blocks combined with epidural steroid injections and
17 lumbar sympathetic ganglion blocks performed in combination with lumbar
18 epidural blocks represents an extreme departure from the standard of care in light
19 of the potential complications of bilateral stellate ganglion blocks. Performing
20 bilateral stellate ganglion injections is extremely risky because of the severe
21 potential complications, which include bilateral laryngeal nerve paralysis or
22 paralysis of swallowing mechanisms causing possible aspiration pneumonia. In
23 the case of D.A., this complication was exacerbated by a co-existing condition of
24 reflux esophagitis. Respondent's notes indicate that D.A. could have been
25 experiencing aspiration pneumonitis, yet he persisted in performing bilateral
26 stellate ganglion blocks with the possibility of temporary laryngeal nerve
27 paralysis. In addition, bilateral sympathetic ganglion blocks could result in

1 bilateral phrenic and vagal nerve paralysis, causing partial heart block with severe
2 hypotension and even bilateral diaphragmatic paralysis causing difficulty
3 breathing. Respondent failed to perform the bilateral stellate ganglion blocks on a
4 staggered basis with the treatment separated by one to two hours to ensure that the
5 first treatment did not cause either phrenic nerve or laryngeal nerve paralysis.
6 Given D.A.'s history of gastroesophageal reflux, the performance of repeated
7 bilateral sympathetic ganglion blocks represents an extreme departure from the
8 standard of care.

9 (12) Following respondent's placement of an in dwelling DuPen
10 catheter on August 4, 1993, respondent failed to instruct D.A. in the proper care
11 and management of the externalized DuPen epidural catheter. Respondent also
12 failed to instruct regarding the proper sterile technique to be followed during the
13 injection of this catheter. Respondent further failed to ensure that D.A. was
14 supervised by trained health care personnel during the self-administration of
15 medications which are potent and can cause hypotension resulting in death.
16 Furthermore, non-sterile use of these medications could cause epidural abscess
17 and paralysis. The prescription of narcotic, analgesic, and potent anesthetic
18 medications for self-administration of intermittent boluses into the epidural space
19 without proper medical supervision or prior training represents an extreme
20 departure from the standard of medical practice.

21 (13) Respondent failed to maintain complete and adequate
22 documentation of care, particularly with respect to his communication with other
23 treating physicians. Specifically, during the course of his treatment of D.A.,
24 respondent failed to document any communications with Dr. Sue or Drs. Kwong,
25 despite the fact that respondent's treatment was multi-disciplinary and included
26 treatment for other conditions such as esophagitis and chronic bronchitis.
27 Respondent did not document any attempt to obtain any diagnostic information or

1 other treatment information from Dr. Sue. Respondent also did not document
2 conveying other pertinent laboratory information, including abnormal liver
3 functions tests, to Dr. Sue.

4 (14) Respondent failed to obtain written consent from D.A. to
5 perform the treatments.

6
7 **FIFTH CAUSE FOR DISCIPLINE**

8 (Incompetence)

9 9. Respondent is subject to disciplinary action under Code section 2234,
10 subdivision (d), in that he performed incompetently in his care and treatment of patients D.C.,
11 G.C-H., and D.A. The circumstances are as follows:

12 A. The facts and allegations set forth above under paragraphs 5, 6, 7,
13 and 8, and all subparagraphs thereunder, are incorporated here by reference.

14 B. Respondent is guilty of incompetence in his care and treatment of
15 patients D.C., G.C-H., and D.A. in that respondent committed the acts and omissions
16 enumerated above under paragraph 8, subparagraph B, which acts and omissions are
17 incorporated here by reference.

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1 **PRAYER**

2 **WHEREFORE**, complainant requests that a hearing be held on the matters
3 herein alleged and that, following the hearing, the Division issue a decision:

4 1. Revoking or suspending Physician and Surgeon's Certificate Number G
5 8667, heretofore issued to respondent Bruce M. Frome, M.D.;

6 2. Revoking, suspending, or denying approval of respondent's authority to
7 supervise physician's assistants, pursuant to Business and Professions Code section 3527;

8 3. Ordering respondent to pay the Division the actual and reasonable costs of
9 the investigation and enforcement of this case, and, if placed on probation, the costs of probation
10 monitoring; and

11 4. Taking such other and further action as the Division deems necessary and
12 proper.

13
14 DATED: August 1, 2000.

15
16
17 

18 _____
19 Ron Joseph
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

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26 JPF:jpf
27 a:\FromeSecondAmended.accusation