

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

In the Matter of the Accusation)
Against:)
)
Murray Susser, M.D.)
Certificate # G 22316)
)
)
)
Petitioner.)
_____)

File No: 07-92-16339

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 May 12, 1997.

It is so ordered April 11, 1997.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Anabel Anderson Imbert, M.D.
Chair
Panel B

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 KAREN B. CHAPPELLE,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street
4 Los Angeles, California 90013
Telephone: (213) 897-8944
5
Attorneys for Complainant
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7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 07-92-16339
Against:)
12) OAH No. L-9601259
13 **MURRAY SUSSER, M.D.**)
13 13435 Bayliss Rd.) **STIPULATED SETTLEMENT**
Los Angeles, California 90049) **AND**
14) **DISCIPLINARY ORDER**
Physician's and Surgeons No. G22316,)
15)
Respondent.)
16 _____)
17)

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

- 21 1. An Accusation in case number 07-92-16339 was filed
22 with the Division of Medical Quality, of the Medical Board of
23 California Department of Consumer Affairs (the "Division") on
24 February 15, 1995, and is currently pending against Murray
25 Susser, M.D. (the "respondent").
- 26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 February 15, 1995, and respondent filed his Notice of Defense
2 contesting the Accusation on or about March 8, 1995. A copy of
3 Accusation No. 07-92-16339 is attached as Exhibit "A" and hereby
4 incorporated by reference as if fully set forth.

5 3. The Complainant, Ron Joseph, is the Executive
6 Director of the Medical Board of California and brought this
7 action solely in his official capacity. The Complainant is
8 represented by the Attorney General of California, Daniel E.
9 Lungren, by and through Deputy Attorney General Karen B.
10 Chappelle.

11 4. The respondent is represented in this matter by
12 Sharon Barclay Kime, Esq., whose address is 50 California Street,
13 34th Floor, San Francisco, California 94111-4712.

14 5. The respondent and his attorney have fully
15 discussed the charges contained in Accusation Number 07-92-16339,
16 and the respondent has been fully advised regarding his legal
17 rights and the effects of this stipulation.

18 6. At all times relevant herein, respondent has been
19 licensed by the Medical Board of California under Physicians and
20 Surgeons Certificate No. G22316.

21 7. Respondent understands the nature of the charges
22 alleged in the Accusation and that, if proven at hearing, the
23 charges and allegations would constitute cause for imposing
24 discipline upon his Physician's and Surgeons. Respondent is
25 fully aware of his right to a hearing on the charges contained in
26 the Accusation, his right to confront and cross-examine witnesses
27 against him, his right to the use of subpoenas to compel the

1 attendance of witnesses and the production of documents in both
2 defense and mitigation of the charges, his right to
3 reconsideration, appeal and any and all other rights accorded by
4 the California Administrative Procedure Act and other applicable
5 laws. Respondent knowingly, voluntarily and irrevocably waives
6 and give up each of these rights.

7 8. It is understood and agreed that this settlement
8 involves a compromise of disputed allegations. Respondent has
9 voluntarily entered into this agreement to avoid the costs and
10 hardships of further litigation. Respondent therefore admits his
11 license is subject to discipline for unprofessional conduct
12 pursuant to Business and Professions Code section 2234.
13 Respondent agrees to be bound by the Division's Disciplinary
14 Order as set forth below.

15 9. The admissions made by Respondent herein are only
16 for the purposes of this proceeding, or any other proceedings
17 before the Division of Medical Quality, Medical Board of
18 California and shall not be admissible in any other criminal or
19 civil proceedings.

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

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1 **DISCIPLINARY ORDER**

2 **IT IS HEREBY ORDERED** that Physicians and Surgeons
3 Certificate Number G22316 issued to Murray Susser, M.D. is
4 revoked. However, the revocation is stayed and respondent is
5 placed on probation for 3 years on the following terms and
6 conditions. Within 15 days after the effective date of this
7 decision the respondent shall provide the Division, or its
8 designee, proof of service that respondent has served a true copy
9 of this decision on the Chief of Staff or the Chief Executive
10 Officer at every hospital where privileges or membership are
11 extended to respondent or where respondent is employed to
12 practice medicine and on the Chief Executive Officer at every
13 insurance carrier where malpractice insurance coverage is
14 extended to respondent.

15 1. **COMMUNITY SERVICES - FREE SERVICES**

16 Within 60 days from the effective date of this decision,
17 respondent shall submit to the Division or its designee for its
18 prior approval a community service program in which respondent
19 shall provide free medical services on a regular basis to a
20 community or charitable facility or agency for at least 25 hours
21 a year for the last two years of probation. Community service may
22 not to be performed prior to successful completion of Special
23 Purpose Examination.

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2. **SPEX EXAM**

Respondent shall take and pass a Spex exam to be administered by the Federation of State Medical Boards, or its designee. This examination shall be taken within 90 days after the effective date of this decision. If respondent fails the first examination, respondent shall be allowed to take an pass a second examination. The waiting period between the first and second examinations shall be at least three months. If respondent fails to pass the first and second examinations, respondent may take a third and final examination after waiting a period of one year. Failure to pass the Spex exam within 18 months after the effective date of this decision shall constitute a violation of probation. The respondent shall pay the costs of all examinations.

3. **MONITORING**

Within 30 days of the effective date of this decision, respondent shall submit to the Division or its designee for its approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide periodic reports to the Division or its designee for a period of one year.

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

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4. OBEY ALL LAWS

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

5. QUARTERLY REPORTS

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

6. PROBATION SURVEILLANCE PROGRAM COMPLIANCE

Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his or her addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record.

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

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7. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED PHYSICIAN(S)

Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.

8. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-PRACTICE

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Division or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Division or its designee shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.

9. COMPLETION OF PROBATION

Upon successful completion of probation, respondent's certificate shall be fully restored.

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10. VIOLATION OF PROBATION

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

11. COST RECOVERY

The respondent is hereby ordered to reimburse the Division the total amount of \$15,000 payable as follows: \$5,000 within 90 days from the effective date of this decision for its investigative and prosecution costs, and \$5,000 on the first and second anniversary dates of the effective date of the decision. Failure to reimburse the Division's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse the Division for its investigative and prosecution costs.

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12. LICENSE SURRENDER

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to terms and conditions of probation.

13. PROBATION COSTS

Respondent shall pay the costs associated with probation monitoring each and every year of probation, which are currently set at \$2, 304, but may be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor at the beginning of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

CONTINGENCY

This stipulation shall be subject to the approval of

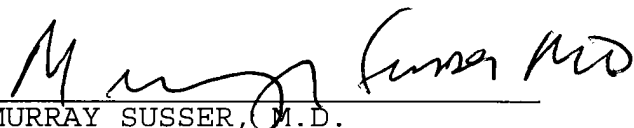
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1 the Division. Respondent understands and agrees that Board staff
2 and counsel for complainant may communicate directly with the
3 Division regarding this stipulation and settlement, without
4 notice to or participation by respondent or his counsel.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

10 **ACCEPTANCE**

11 I have read the above Stipulated Settlement and
12 Disciplinary Order. I have fully discussed the terms and
13 conditions and other matters contained therein with my attorney,
14 Sharon Barclay Kime. I understand the effect this Stipulated
15 Settlement and Disciplinary Order will have on my Physician's and
16 Surgeons, and agree to be bound thereby. I enter this
17 stipulation freely, knowingly, intelligently and voluntarily.

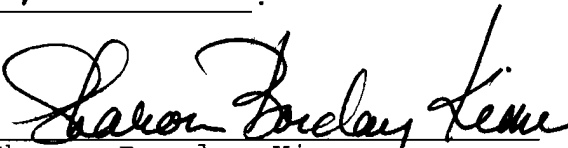
18 DATED: 2-18-97.

19 
20 MURRAY SUSSER, M.D.
21 Respondent

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1 I have read the above Stipulated Settlement and
2 Disciplinary Order and approve of it as to form and content. I
3 have fully discussed the terms and conditions and other matters
4 therein with respondent Murray Susser, M.D..

5 DATED: 2.3.97.


6 
7 Sharon Barclay Kime
8 Attorney for Respondent

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10 **ENDORSEMENT**

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

15 DATED: 2-18-97.

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

18 
19 KAREN B. CHAPPELLE
20 Deputy Attorney General

21 Attorneys for Complainant
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1 DANIEL E. LUNGREN, Attorney General
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation) Case No. 07-92-16339
Against:)
12)
13 **MURRAY SUSSER, M.D.**) **FIRST AMENDED**
13435 Bayliss Rd.) **AND SUPPLEMENTAL**
14 Los Angeles, California 90049) **ACCUSATION**
15)
Physician's and Surgeon's)
15 Certificate No. G22316; and)
16)
Physician Assistant Supervisor)
16 Certificate No. SA12749)
17)
18 Respondent.)

19 The Complainant alleges:

20 **PARTIES**

21 1. Complainant, Ron Joseph, is the Executive Director
22 of the Medical Board of California (hereinafter the "Board") and
23 brings this First Amended and Supplemental Accusation solely in
24 his official capacity.

25 2. On or about May 2, 1972, Physician's and Surgeon's
26 Certificate No. G22316 was issued by the Board to Murray Susser,
27 M.D. (hereinafter "respondent"), and at all times relevant to the

1 charges brought herein, this license has been in full force and
2 effect. Unless renewed, it will expire on September 30, 1996.

3 3. Physician Assistant Supervisor Certificate No.
4 SA12749 was issued by the Board to respondent on September 18,
5 1981. Said certificate expired on May 31, 1992.

6 4. On February 15, 1995, an Accusation was filed
7 against respondent in Case No. 07-92-16339. The Accusation is
8 superseded by this First Amended and Supplemental Accusation.

9 JURISDICTION

10 5. This First Amended and Supplemental Accusation is
11 brought before the Division of Medical Quality of the Medical
12 Board of California, Department of Consumer Affairs (hereinafter
13 the "Division"), under the authority of the following sections of
14 the California Business and Professions Code (hereinafter
15 "Code"):

16 A. Sections 2003 and 2004 which provide, in pertinent
17 part, that the Division is responsible for the enforcement of the
18 disciplinary provisions of the Medical Practice Act, for the
19 administration and hearing of disciplinary actions, for carrying
20 out disciplinary actions appropriate to findings made by a
21 medical quality review committee, and for revoking or otherwise
22 limiting certificates after the conclusion of disciplinary
23 actions.

24 B. Section 2220 which provides:

25 "Except as otherwise provided by law, the Division of
26 Medical Quality may take action against all persons guilty
27 of violating this chapter. The division shall enforce and

1 administer this article as to physician and surgeon
2 certificate holders, and the division shall have all the
3 powers granted in this chapter for these purposes including,
4 but not limited to:

5 "(a) Investigating complaints from the public, from
6 other licensees, from health care facilities, or from a
7 division of the board that a physician and surgeon may be
8 guilty of unprofessional conduct.

9 "(b) Investigating the circumstances of practice of any
10 physician and surgeon where there have been any judgments,
11 settlements, or arbitration awards requiring the physician
12 and surgeon or his or her professional liability insurer to
13 pay an amount in damages in excess of a cumulative total of
14 thirty thousand dollars (\$30,000) with respect to any claim
15 that injury or damage was proximately caused by the
16 physician's and surgeon's error, negligence, or omission.

17 "(c) Investigating the nature and causes of injuries
18 from cases which shall be reported of a high number of
19 judgments, settlements, or arbitration awards against a
20 physician and surgeon."

21 C. Section 2227 which provides:

22 "(a) A licensee whose matter has been heard by an
23 administrative law judge of the Medical Quality Hearing
24 Panel as designated in section 11371 of the Government Code,
25 or whose default has been entered, and who is found guilty
26 may, in accordance with the provisions of this chapter:

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"(1) Have his or her license revoked upon order of the division.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

"(3) Be placed on probation upon order of the division.

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as the division or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board."

D. Section 2234 which provides:

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

". . .

"(b) Gross negligence.

"(c) Repeated negligent acts.

"(d) Incompetence.

". . . ."

1 E. Section 725 which provides:

2 "Repeated acts of clearly excessive prescribing or
3 administering of drugs or treatment, repeated acts of
4 clearly excessive use of diagnostic procedures, or repeated
5 acts of clearly excessive use of diagnostic or treatment
6 facilities as determined by the standard of the community of
7 licensees is unprofessional conduct for a physician and
8 surgeon, dentist, podiatrist, psychologist, physical
9 therapist, chiropractor, or optometrist."

10 F. Section 125.3 provides, in part, that the Board
11 may request the administrative law judge to direct any licentiate
12 found to have committed a violation or violations of the
13 licensing act, to pay the Board a sum not to exceed the
14 reasonable costs of the investigation and enforcement of the
15 case.

16 FIRST CAUSE OF ACTION

17 (Gross Negligence - M.S.)

18 6. Respondent is subject to disciplinary action under
19 section 2234, subdivision (b) of the Code in that respondent was
20 grossly negligent in the care, treatment and management of
21 patient M.S.^{1/}, as follows:

22 A. FACTS - PATIENT M.S.

23 (1) On or about January 25, 1988, M.S., a patient,
24 presented with reported intestinal bleeding.

25
26 1. All patient references in this pleading are by
27 initials only. The true names of the patients shall be revealed
to respondent upon his request for discovery pursuant to
Government Code section 11507.6.

1 (2) Respondent diagnosed "chronic candida infection."

2 (3) Respondent treated M.S. with vitamin drips,
3 hydrogen peroxide, garlic, paradidion [a homeopathic
4 treatment for parasites] and chloroquine.

5 (4) From January 26, 1988 to October 31, 1989,
6 respondent treated patient M.S. for conditions related to
7 her initial complaint of intestinal bleeding using the same
8 anti-parasitic remedies which had been initially applied to
9 M.S. by him.

10 B. ACTS OF GROSS NEGLIGENCE - PATIENT M.S.

11 (1) Respondent did not perform a vaginal examination
12 of patient M.S.

13 (2) Respondent did not perform a rectal examination.

14 (3) Respondent did not perform a blood stool
15 examination of patient M.S.

16 (4) Respondent did not perform an anoscope examination
17 of patient M.S.

18 (5) Respondent did not perform an sigmoidoscopy
19 examination of patient M.S.

20 (6) Respondent did not perform a colonoscopy
21 examination of patient M.S.

22 (7) On or about October 31, 1989, respondent released
23 M.S. from his care without referring her to another
24 physician, even though her symptoms, including rectal
25 bleeding, continued.

26 (8) On or about November 24, 1989, surgery was
27 performed on M.S. (i.e., low anterior resection and

1 contained a tannic acid which is carcinogenic. Another
2 supplement contained adrenaline which caused the patient's blood
3 pressure to rise.

4 (6) A purged stool specimen was obtained from the
5 patient. The laboratory report indicated the presence of Giardia
6 Lamblia (cysts), an intestinal parasitic infection.

7 (7) The laboratory report also indicated the finding
8 of "occult blood 4+" in Patient R.W.'s stool specimen.

9 (8) Respondent did not do any follow-up of the
10 positive occult blood report.

11 (9) On April 7, 1988, patient R.W. had a follow-up
12 visit with respondent. The patient told respondent he had rectal
13 bleeding. Respondent conducted a digital rectal examination with
14 negative results. Respondent told the patient the bleeding could
15 have been from the rectal purge.

16 (10) Respondent discussed a sigmoidoscopy with Patient
17 R.W., said the test was not standard procedure at that stage, and
18 they should wait to see if further bleeding occurred.

19 (11) There are no notations regarding any discussions
20 of a sigmoidoscopy in respondent's records.

21 (12) Patient R.W. had two additional visits with
22 respondent and then discontinued seeing him.

23 (13) In 1989, Patient R.W. was subsequently diagnosed
24 and treated for colon cancer by another physician.

25 (14) In January 1993, Patient R.W. had additional
26 surgery because the cancer spread to his liver.

27 ///

1 (15) Patient R.W. is unable to return to work and is
2 unable to continue his life as he knew it prior to the cancer
3 diagnosis.

4 B. ACTS OF GROSS NEGLIGENCE - PATIENT R.W.

5 (1) Respondent fell below the standard of community
6 practice in his failure to properly recognize and investigate
7 signs of colon cancer. Specifically, respondent failed to do the
8 following acts which singularly and collectively represent an
9 extreme departure from the standard of care:

10 (a) He failed to recognize the significance of and to
11 further investigate the finding of a strongly positive stool
12 occult blood test done in March 1988;

13 (b) He failed to recognize the significance of and to
14 further investigate the patient's complaint of rectal
15 bleeding in April 1988;

16 (c) He failed to perform further tests on the patient
17 including a repeat stool occult blood test, barium enema
18 x-ray, and sigmoidoscopy or colonoscopy;

19 (d) He failed to document in his records any
20 discussions with the patient regarding a sigmoidoscopy;

21 (e) He failed to properly treat the patient, using
22 only vitamin therapy and homeopathic remedies;

23 (f) He failed to properly recognize and diagnose colon
24 cancer;

25 (g) His failure to diagnose colon cancer contributed
26 to the cancer being undiagnosed and untreated for over a
27 year;

1 (h) His failure to diagnose colon cancer contributed
2 to the cancer spreading to the patient's liver and altered
3 the prognosis of the disease; and

4 (i) His failure to diagnose colon cancer contributed
5 to the patient's inability to work and to continue life as
6 he knew it prior to the cancer diagnosis.

7 THIRD CAUSE OF ACTION

8 (Gross Negligence - A.L.)

9 8. Respondent Murray Susser, M.D. is subject to
10 disciplinary action under section 2234, subdivision (b), of the
11 Business and Professions Code in that he committed acts of gross
12 negligence in the care, treatment and management of patient
13 "A.L." Such acts of gross negligence contributed to the liver
14 and pancreatic damage of patient A.L. The circumstances are as
15 follows:

16 A. FACTS - PATIENT A.L.

17 (1) On November 26, 1991, Patient A.L. went to see
18 respondent for symptoms resulting from toxic exposure to
19 chemicals in 1987. She had been referred to respondent for
20 intra-venous vitamin C treatments by her regular physician.

21 (2) Respondent told Patient A.L. that she was toxic
22 and he would detox her with a series of vitamin C drips.

23 (3) On December 4, 1991, a complete chemical panel was
24 drawn.

25 (4) On January 28, 1992, Patient A.L. saw respondent
26 again. The therapy recommended was the intra-venous vitamin C

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1 drip, 1 or 2 times per week. The patient had one treatment on
2 that date.

3 (5) Patient A.L. purchased vitamins and supplements
4 manufactured and distributed by respondent per his instructions.

5 (6) On February 7, 1992, Patient A.L. called
6 respondent complaining of gastrointestinal symptoms. Respondent
7 recommended she try okra pepsin, then pancreatic enzymes. No
8 evaluation of the patient and no diagnosis was made to explain
9 this treatment.

10 (7) On February 14, 1992, Patient A.L. telephoned
11 respondent's office complaining of nausea. Laboratory studies
12 were ordered.

13 (8) On February 17, 1992, the results of the
14 laboratory studies were markedly abnormal and significantly
15 changed from the studies of December 4, 1991. The results
16 indicated that her liver function tests were abnormal and the
17 values for the hepatic enzymes were abnormal.

18 (9) On February 18, 1992, Patient A.L. telephoned
19 respondent's office and reported that she was nauseous and was
20 turning yellow. Respondent told her to force fluids and he
21 referred her to a gastroenterologist.

22 (10) On February 22, 1992 Patient A.L. experienced
23 persistent and worsening gastrointestinal symptoms and jaundice.
24 Paramedics were summoned to her home. Respondent advised her not
25 to go to the hospital, but to wait until Monday to see a
26 specialist. The paramedics insisted she go to the hospital and
27 took her to St. John's Hospital emergency room.

1 (11) Patient A.L.'s symptoms included abdominal pain,
2 nausea, vomiting, fever, overt jaundice, markedly abnormal liver
3 function tests and elevated serum amylase. She was diagnosed as
4 having acute pancreatitis with severe abdominal pain and severe
5 liver disease.

6 (12) On March 9, 1992, Patient A.L. had an abdominal
7 ultrasound done by another physician. The results revealed
8 multiple gallstones and mild dilatation of the common bile duct.

9 (13) On May 20, 1992, Patient A.L. saw another
10 physician for a gastrointestinal consultation. He advised her to
11 undergo a cholecystectomy.

12 B. ACTS OF GROSS NEGLIGENCE - PATIENT A.L.

13 (1) Respondent fell below the standard of community
14 practice in his use of unconventional treatment which caused
15 Patient A.L.'s medical problems to intensify. Specifically,
16 respondent did the following acts which singularly and
17 collectively represent an extreme departure from the standard of
18 care:

19 (a) He provided the patient with unorthodox treatment
20 by prescribing vitamins, pancreatic enzymes and okra pepsin
21 products which led to liver and pancreatic damage;

22 (b) He failed to examine the patient prior to changing
23 his treatment plan and based the treatment solely on the
24 patient's telephone call;

25 (c) He failed to diagnose the patient's liver
26 problems;

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1 (d) He inappropriately referred the patient to a
2 specialist based upon a telephone call, abnormal laboratory
3 results and without a proper evaluation;

4 (e) He ignored the patient's welfare when she became
5 ill, advising her not to go to the emergency room;

6 (f) His treatment and behavior placed the patient in a
7 life threatening situation.

8 FOURTH CAUSE OF ACTION

9 (Repeated Negligent Acts)

10 9. Respondent is subject to disciplinary action
11 pursuant to section 2234, subdivision (c), of the Business and
12 Professions Code in that he committed repeated negligent acts in
13 the care, treatment and management of patients M.S., R.W. and
14 A.L. The circumstances of this offense are more particularly
15 alleged in paragraphs 6, 7 and 8, above, and are incorporated
16 herein by reference as though set forth fully.

17 FIFTH CAUSE OF ACTION

18 (Incompetence)

19 10. Respondent is subject to disciplinary action
20 pursuant to section 2234, subdivision (d), of the Business and
21 Professions Code in that he was incompetent in his care,
22 treatment and management of patients M.S., R.W and A.L. The
23 circumstances of this offense are set forth fully in paragraphs
24 6, 7 and 8, inclusive, above, and are incorporated herein by
25 reference as though set forth fully.

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1 SIXTH CAUSE OF ACTION

2 (Excessive Use of Diagnostic Procedures)

3 11. Respondent is subject to disciplinary action
4 pursuant to section 725 of the Business and Professions Code in
5 that he committed repeated acts of excessive use of diagnostic
6 procedures and diagnostic facilities in the treatment of Patient
7 R.W. The circumstances are as follows:

8 A. FACTS - PATIENT R.W.

9 (1) On March 17, 1988, an extensive laboratory
10 analysis was performed on Patient R. W. Respondent's approach
11 was "one of everything, shotgun" type of diagnostic evaluation,
12 rather than a carefully planned, well thought out, cost effective
13 use of laboratory facilities.

14 (2) The tests respondent had Patient R.W. undergo
15 included an ECG, blood chemistries, Epstein-Barr virus, thyroid,
16 and stool tests with a laxative purge.

17 (3) Respondent had the patient undergo a
18 Glycohemoglobin A1C test for diabetes mellitus. A simpler, more
19 cost effective approach would have been to initially evaluate
20 blood and urine glucose, with further blood glucose studies if
21 needed.

22 (4) Respondent had the patient undergo the thymol
23 turbidity test, an old and rarely used liver function test, which
24 has been replaced by more specific markers of hepatic function.

25 (5) The need for urine creatinine determination is
26 questionable when routine kidney function tests such as blood
27 urea nitrogen (BUN) and serum creatinine determinations were

1 included on the chemistry panel done on Patient R.W. If the
2 blood urea nitrogen or creatinine values are abnormal, urine
3 creatinine determination is warranted. With Patient R.W., both
4 BUN and creatinine were within normal limits.

5 (6) Respondent also had the patient undergo the
6 candida antibody panel. Two of the three tests showed
7 undetectable levels, while the third was slightly positive.
8 There is no documented justification for these laboratory
9 studies.

10 B. ACTS OF EXCESSIVE DIAGNOSTIC PROCEDURES -
11 PATIENT R. W.

12 (1) He failed to properly use diagnostic procedures
13 and laboratory facilities, but rather had a "one of
14 everything" approach;

15 (2) He failed to use a simple, cost effective test to
16 detect diabetes;

17 (3) He failed to use more specific, up-to-date liver
18 function tests;

19 (4) He failed to show the need for urine creatinine
20 determination tests when routine kidney function tests were
21 normal;

22 (5) He failed to document justification for candida
23 antibody panel studies.

24 PRAYER

25 WHEREFORE, the complainant requests that a hearing be
26 held on the matters herein alleged, and that following the
27 hearing, the Division issue a decision:

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1. Revoking or suspending Physician's and Surgeon's Certificate Number G22316, heretofore issued to respondent Murray Susser, M.D.;


2. Revoking or suspending Physician Assistant Supervisor Certificate No. SA12749 heretofore issued to respondent Murray Susser, M.D.;

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case; and

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

DATED: January 18, 1996

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


KAREN B. CHAPPELLE
Deputy Attorney General

Attorneys for Complainant