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6 Attorneys for State Complainant
7

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

11 In the Matter of the Accusation) Case No. 03-90-1728
Against:)
12)
13 PAUL LYNN, M.D.) **STIPULATION AND WAIVER**
345 West Portal Avenue)
San Francisco, CA 94127)
14)
License No. C-32097)
15)
Authorized to Supervise)
16 Physician Assistants)
License No. SA-14130)
17)
Respondent.)
18)

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the
21 parties to the above entitled matter as follows:
22 1. At the time of executing and filing the accusation
23 in the above matter, complainant, Dixon Arnett was the Executive
24 Director of the Medical Board of California, State of California
25 (hereinafter "Board"), and performed said acts solely in his
26 official capacity as such.
27 / / /

1 2. Complainant is represented herein by
2 Daniel E. Lungren, Attorney General of the State of California.

3 3. Paul Lynn, M.D. (hereafter "Respondent"), has
4 retained Sharon Barclay Kime, Esq. of Nossaman, Guthner, Knox &
5 Elliott, LLP, as his attorney. Both respondent and his attorney
6 have read this stipulation and have discussed the contents:
7 respondent fully understands the provisions contained in this
8 stipulation and their effect.

9 4. Respondent has received and read the accusation
10 which is presently on file and pending in case number 03-90-1728
11 before the Division of Medical Quality of the Medical Board of
12 California (hereafter "Division"). A true and accurate copy of
13 said accusation number 03-90-1728 is attached hereto as
14 Exhibit A.

15 5. Respondent understands the nature of the charges
16 alleged in the above mentioned accusation and that certain of the
17 said charges and allegations, if true, would constitute cause for
18 imposing discipline upon the respondent's physician and surgeon's
19 certificate, heretofore issued by the Board.

20 6. Respondent is aware of and has had explained to
21 him by his own counsel each of his rights, including the right to
22 a hearing on the charges and allegations; the right to confront
23 and cross-examine witnesses who would testify against him; the
24 right to present evidence in his favor or to call witnesses in
25 his behalf, or to so testify himself; the right to contest the
26 charges and allegations and any other rights which may be
27 accorded to him pursuant to the California Administrative

1 Procedure Act, Government Code section 11500 *et seq.*; the right
2 to reconsideration, to appeal to superior court by way of writ of
3 mandate; and to any other or further appeal. Respondent
4 understands that in signing this stipulation, he voluntarily
5 waives his right to hearing, to reconsideration, to appeal, and
6 to any and all rights which may be accorded to him by the
7 California Administrative Procedure Act and the Code of Civil
8 Procedure, except those rights to petition for reinstatement of
9 full active status as set forth in Business and Professions Code
10 section 2307.

11 7. All stipulations or conclusions of law set forth
12 in this document are made exclusively for this proceeding and any
13 future proceeding between the Board and the respondent and shall
14 not be deemed to be admissions for any purpose in any other
15 administrative, civil, or criminal action, forum or proceeding.

16 8. Respondent stipulates and agrees that the
17 accusation was filed in good faith.

18 9. Respondent admits that he did not obtain formal
19 written informed consent from patient K.T. before respondent's
20 physician assistant performed an analysis on the patient with the
21 Interro Hololinguistic Processor, an investigational medical
22 device. By way of mitigation, respondent contends that the
23 Interro was used only as an adjunct to other diagnostic
24 techniques only, and not as the primary basis of diagnosis;
25 further, the FDA had authorized an investigational exemption for

26 / / /

27 / / /

1 this device from FDA approval because the device was deemed not
2 to present a significant risk to the patient.

3 10. Respondent contends that he has taken
4 extraordinary care to inform his patients as to the credentials
5 of his physician assistant and is unaware of any patient
6 confusion on the issue since he began employing physician
7 assistants in 1989. Nonetheless, to assure the Board that no
8 patient will be misled in the future, respondent freely and
9 willingly agrees not to allow any physician assistant supervised
10 by him to display diplomas or certificates identifying themselves
11 as "doctors" in any healing art, unless the physician assistant
12 possesses a valid California license which authorizes the holder
13 to identify himself as a type of doctor (for example, D.C.,
14 O.M.D., or any other title authorized by a California licensing
15 law which involves the word "doctor").

16 11. Based upon all of the foregoing stipulations and
17 recitals, it is stipulated and agreed that:

18 (1) Respondent agrees to pay to the Board the sum
19 of \$5,000, representing the reasonable cost of investigation and
20 enforcement in this matter as set forth in Business and
21 Professions Code section 125.3.

22 (2) Respondent voluntarily agrees to submit
23 himself to a professional competency examination; specifically,
24 he agrees to take the SPEX examination at his own expense within
25 90 days of acceptance of this Stipulation by the Chief of the
26 Enforcement Program of the Division of Medical Quality of the
27 Medical Board. If respondent fails the first examination,

1 respondent may take a second examination at his own expense
2 consistent with the rules and procedures of the Federation of
3 State Medical Boards of the United States, Inc. If respondent
4 fails to pass the first and second examinations, respondent may
5 take a third and final examination after waiting the 90-day
6 period as required by the rules of the Federation of State
7 Medical Boards.

8 (3) At such time as respondent has achieved a
9 scaled score of 75 or better on the SPEX examination and has made
10 the payment called for above, the Division agrees that the
11 accusation herein shall be dismissed or withdrawn and a letter of
12 reprimand issued pursuant to Section 2233 shall be substituted;
13 said letter shall be in the form of Exhibit B appended hereto.
14 For his part, respondent agrees that he will not contest or seek
15 any further review of the said letter.

16 (4) In the event that respondent shall fail to achieve
17 a score of 75 or better on the said examination, respondent
18 agrees that the Division may proceed as though he had failed an
19 examination administered pursuant to section 2293, except that
20 section 2293(c) shall not apply.

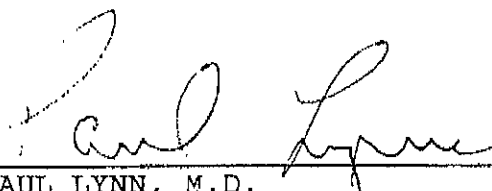
21 DATED: Nov. 5, 1996

22
23 DANIEL E. LUNGREN, Attorney General
of the State of California

24 VIVIEN H. HERSH, Supervising
25 Deputy Attorney General

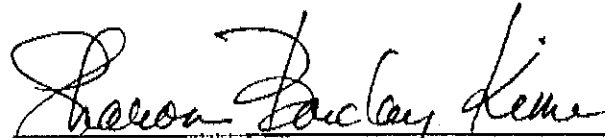
26
27 
RONALD V. THUNEN, JR.
Deputy Attorney General

1 I hereby certify that I have read the stipulation and
2 waiver in its entirety, that I fully understand the terms
3 thereof, that I fully understand the legal significance and
4 consequences thereof, that I voluntarily agree to the terms of
5 this stipulation and waiver, and in agreement thereto, I affix my
6 signature to this 5 day of November, 1996, at
7 San Francisco, California.

8
9
10 
11 PAUL LYNN, M.D.

12 I am the attorney for the respondent herein, I have
13 read and discussed the foregoing stipulation with my client, and
14 I believe that he understands the significance and consequences
15 thereof; further, I approve of the form of this stipulation.


16 DATED: 11.4.96

17
18 
19 SHARON BARCLAY KIME, ESQ.
Nossaman, Guthner, Knox & Elliott

20
21 ACCEPTANCE OF STIPULATION AND WAIVER

22 The Stipulation and Waiver executed November 18,
23 1996, in Case No. 13-90-600, is hereby accepted.

24 DATED:

25
26 
27 JOHN LANCARA, Chief of Enforcement
Medical Board of California

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

11 In the Matter of the) No. 03-90-1728
12 Accusation Against,)
13 Paul Lynn, M.D.) ACCUSATION
345 West Portal Avenue)
14 San Francisco, CA 94127)
15 License No. C-32097)
Authorized to Supervise)
16 Physician Assistants)
No. SA-14130)
17 Respondent.)
18)
19)

20 DIXON ARNETT, complainant herein, charges and alleges
21 as follows:

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

25 2. At all times material herein, respondent Paul
26 Lynn, M.D. (hereafter "respondent") has held Physician and
27 Surgeons Certificate No. C-32097, which was issued to him by the

1 Board on or about March 18, 1970. Said certificate is paid and
2 current. Respondent is also authorized to supervise a
3 physician's assistant. His authorization to supervise a
4 physician assistant is numbered SA 14130 and is also paid and
5 current.

6 STATUTES

7 3. Section 2220 of the Business and Professions
8 Code^{1/} provides that the Division of Medical Quality of the Board
9 (hereafter "the Division") may take action against all persons
10 guilty of violating the provisions of the Medical Practice Act
11 (Business and Professions Code § 2000 et seq.).

12 4. Section 725 provides that repeated acts of clearly
13 excessive prescribing or administering of drugs or treatment,
14 repeated acts of clearly excessive use of diagnostic procedures,
15 or repeated acts of clearly excessive use of diagnostic or
16 treatment facilities as determined by the standard of the
17 community of licensees is unprofessional conduct.

18 5. Section 2234 provides that the division shall take
19 action against any licensee who is charged with unprofessional
20 conduct. Section 2234 further defines unprofessional conduct as
21 including, although not limited to the following:

- 22 (b) Gross negligence;
23 (c) Repeated negligent acts; and
24 (d) Incompetence.

25 6. Section 3527(d) provides that the division, in
26

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

1 recommended that the patient undergo EDTA chelation therapy, and
2 gave the patient some literature describing the alleged benefits
3 of this therapy. The prescription for a multi-vitamin and
4 mineral supplement was filled by respondent's office. These were
5 provided in a bottle labeled "multi-vitamin supplement" without
6 any further information or description. Dr. Lynn also prescribed
7 magnesium chloride, "subadrenal" and a rinse formula containing
8 lecithin and other vitamins and minerals. He also told the
9 patient to take the temperature of his armpit for five
10 consecutive mornings as a test of thyroid function.

11 9. Respondent next saw and treated K.T. on July 26,
12 1989. Respondent informed the patient that the hair analysis
13 showed chromium and magnesium deficiencies and prescribed
14 nutritional supplements for these deficiencies. Based upon the
15 armpit temperatures described above, respondent prescribed an
16 alleged thyroid medication, which was supplied by respondent's
17 office in a box marked "thyroid 1 grain tablets", with no other
18 informational labeling. The patient requested a "standard" test
19 of thyroid function, but respondent refused to order one, stating
20 that such tests were both an unnecessary expense and less
21 reliable than the armpit temperature method.

22 10. On August 23, 1989, respondent caused blood to be
23 drawn from patient K.T. On August 30, 1989, respondent informed
24 K.T. that the blood test revealed elevated liver enzymes,
25 elevated cholesterol, and elevated triglycerides. Respondent
26 then prescribed vitamin C for the patient.

27 11. On October 5, 1989, respondent doubled the

1 prescribed thyroid dose. He also prescribed and furnished bee
2 pollen, Smilax extract, and pantothenic acid. When the patient
3 reported to respondent's office on November 8, 1989, he was seen
4 by Daniel Dunphy, a physician's assistant employed by Dr. Lynn.
5 On this occasion, as well as on December 18, 1989 and January 31,
6 1990, Mr. Dunphy performed acupuncture on patient K.T.,
7 apparently for the purpose of improving K.T.'s allegedly
8 malfunctioning liver. Not only was Mr. Dunphy not then a
9 licensed acupuncturist in California, acupuncture was also
10 neither the respondent's specialty, or within the respondent's
11 usual and customary practice. This practice of acupuncture by
12 Mr. Dunphy was done in respondent's office, and with respondent's
13 knowledge and tacit consent. Mr. Dunphy prescribed and
14 respondent's office furnished acidophilus, pantothenic acid,
15 cinnamon peony, and Max EPA, a concentration of omega three fatty
16 acids. In addition, Dunphy ordered K.T.'s blood drawn to test
17 for the presence of antibodies to Candida Albicans.

18 12. On November 14, 1989, K.T. was diagnosed by
19 respondent as suffering from adrenal exhaustion. Respondent
20 prescribed and furnished sub-biostim.

21 13. On November 16, 1989, the patient was seen by
22 Daniel Dunphy, who used a device known as the "Interro
23 Hololinguistic Processor" to make a variety of diagnoses
24 concerning patient K.T. The Interro Hololinguistic Processor was
25 neither an approved device under the California Food, Drug and
26 Cosmetic law, nor a device which was exempt from the requirement
27 of State approval pursuant to the provisions of Health and Safety

1 Code section 26670. Because the use of the Interro
2 Hololinguistic Processor was not generally accepted as reliable
3 or proven by the medical community in 1989, the use of that
4 device as a diagnostic technique was a departure from the
5 standard of care in the practice of medicine in California.
6 After using the Interro, Mr. Dunphy informed patient K.T. that he
7 suffered from a variety of infections, including tuberculosis,
8 salmonella, giardia lambda, and candida albicans. Mr. Dunphy did
9 not rely upon, or perform, or order any form of testing generally
10 accepted within the medical community for the purpose of
11 confirming these diagnoses. Instead, acting on these diagnoses,
12 respondent prescribed free amino acids, Max EPA, multiple
13 vitamins and minerals, Paramycocidin, Nystatin, acidophilus,
14 Perfect 7 (a bowel cleanser), cranberry concentrate, Sub-biostim,
15 vitamin C, Minor Bupleurum Herb, vegetable glycerine, and
16 Osteonex. He also stated that K.T. should return to respondent's
17 office on November 21, 1989 for a five hour glucose tolerance
18 test. Respondent was responsible for the supervision of Mr.
19 Dunphy on this occasion, was aware of Mr. Dunphy's actions, and
20 explicitly or implicitly approved of them. After taking the five
21 hour glucose tolerance test on November 21 as scheduled, K.T.
22 returned to respondent's office on December 4, 1989 when he was
23 again seen by Mr. Dunphy, acting under respondent's supervision.
24 On this occasion, Mr. Dunphy prescribed and furnished "sleep
25 tincture", an herbal formula for insomnia. He ordered the
26 continuance of the free amino acids, the Nystatin and the Perfect
27 7. He prescribed a detailed restrictive diet, and he ordered

1 that K.T. undergo a blood test for hepatitis.

2 13. K.T. again was seen by Mr. Dunphy in respondent's
3 office on December 18, 1989. On this occasion, Mr. Dunphy
4 continued the vitamin C, the multi-vitamin and mineral
5 supplement, the Paramycocidin, the acidophilus, and the sub-
6 biostim. In addition, he prescribed Tuberculinum, a homeopathic
7 remedy for tuberculin bacteria.

8 14. On January 8, 1990, K.T. was again seen by Mr.
9 Dunphy in respondent's office. On this occasion, Mr. Dunphy
10 stated that K.T. did not suffer from hepatitis; however, again
11 using the Interro Hololinguistic Processor, he diagnosed K.T. as
12 suffering from several allergies. Accordingly, he prescribed an
13 extremely restrictive diet. All of this was done under the
14 supervision of respondent, and with respondent's knowledge and
15 tacit approval.

16 15. On January 31, 1990, K.T. was again seen by Mr.
17 Dunphy in respondent's office. Again using the Interro
18 Hololinguistic Processor, Mr. Dunphy diagnosed K.T. as suffering
19 from Rinker's Mold, candida albicans, giardia lambda, and
20 tuberculinum. He prescribed and furnished mold mix, a
21 homeopathic remedy, and L-Glutamine.

22 16. None of the diagnoses noted above were confirmed
23 by any test or procedure generally accepted or recognized by the
24 medical profession in California. Moreover, the various
25 homeopathic remedies prescribed and furnished by respondent and
26 his physician's assistant are not generally recognized or
27 accepted by the medical community in California as having any

1 therapeutic value.

2 17. Specifically, the following diagnoses made either
3 by respondent or by Mr. Dunphy acting under respondent's
4 supervision, were made without an adequate medical basis:

5 (A) Diagnosis of "poor circulation" made by
6 respondent on June 13, 1989.

7 (B) Diagnosis of thyroid deficiency based on
8 armpit temperature, rendered on July 26, 1989.

9 (C) Diagnosis of chromium and magnesium
10 deficiency based upon hair analysis on July 26, 1989.

11 (D) Prescription of massive doses of vitamin C to
12 treat alleged hypercholesterolemia, and elevated triglycerides
13 and liver enzymes.

14 (E) Continued diagnosis of hypothyroidism without
15 adequate medical basis and doubling of thyroid dosage on October
16 5, 1989.

17 (F) Diagnosis of candidiasis on November 8, 1989.

18 (G) Diagnosis of adrenal insufficiency on
19 November 14, 1989.

20 (H) Ordering of five hour glucose tolerance test,
21 November 21, 1989. The glucose tolerance test is no longer
22 recognized or accepted by the medical community in California.

23 (I) All usages of the Interro Hololinguistic
24 Processor. This device is of no known usefulness and does not
25 have reproducible results documented in standard medical
26 literature. Accordingly, all diagnoses and courses of treatment
27 based solely upon the use of this device fall below the standard

1 of care in California.

2 18. Respondent violated 16 CCR § 1399.545 in
3 permitting Mr. Dunphy to perform acupuncture on patient K.T., in
4 that acupuncture was neither respondent's specialty or within
5 respondent's usual and customary practice; thus it is a cause for
6 disciplinary action pursuant to section 3527(d).

7 19. Both collectively and individually, the above-
8 noted departures from the standard of care in California
9 constitute cause for disciplinary action against respondent
10 pursuant to Business and Professions Code section 2234(b), (c)
11 and (d). In addition, large quantities of homeopathic remedies
12 prescribed and furnished by respondent collectively constitute a
13 violation of Business and Professions Code section 725, and thus
14 a cause for disciplinary action.

15 WHEREFORE, complainant prays that the Board hold a
16 hearing on the charges and allegations set forth herein, and
17 thereafter issue an order suspending or revoking respondent's
18 physician and surgeon's license number C32097, and take such
19 other action as it may deem proper.

20 DATED: JUNE 21, 1994

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Accusation Against
Paul Lynn, M.D.



DIXON ARNETT
Executive Director
Medical Board of California
State of California

Complainant