

THE STATE MEDICAL BOARD OF OHIO

**PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY**

I, PATRICK J. MULLANNEY, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein, after being fully advised by legal counsel.

I, PATRICK J. MULLANNEY, M.D., do hereby voluntarily, knowingly, intelligently, and permanently surrender my certificate to practice medicine and surgery, No 35-026765, to the State Medical Board of Ohio, thereby permanently relinquishing all rights to practice medicine and surgery in Ohio. This surrender shall be effective as of midnight, April 1, 1999.

I understand that as a result of the surrender herein that I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice medicine and surgery No. 35-026765 or issuance of any other certificate pursuant to Chapters 4730. or 4731., Ohio Revised Code, on or after the date of signing of this Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

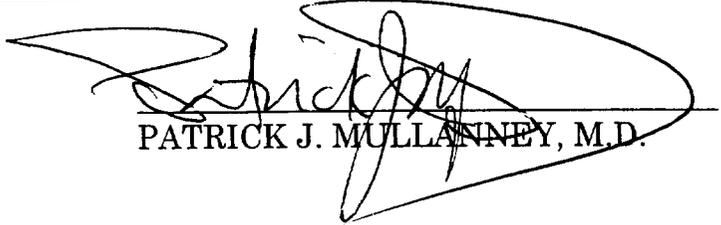
I stipulate and agree that I am taking the action described herein in lieu of further formal disciplinary proceedings in accordance with R.C. Chapter 119 and R.C. 4731.22 for the matters described in the Notice of Opportunity for Hearing dated December 9, 1998. I further stipulate and admit the allegations in said Notice, which is attached hereto as Exhibit A and incorporated herein by this reference.

I, PATRICK J. MULLANNEY, M.D., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

Patrick J. Mullanney, M.D.
Surrender of Certificate
Page 2

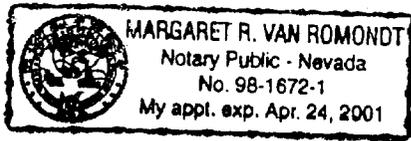
Signed this 16TH day of MAR, 1999

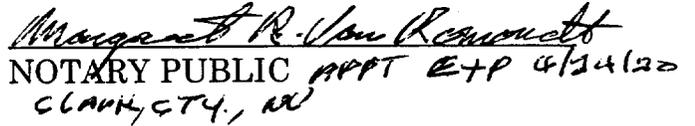

PATRICK J. MULLANNEY, M.D.

Witness

Witness

Sworn to and subscribed in my presence, this 15 day of MARCH, 1999.

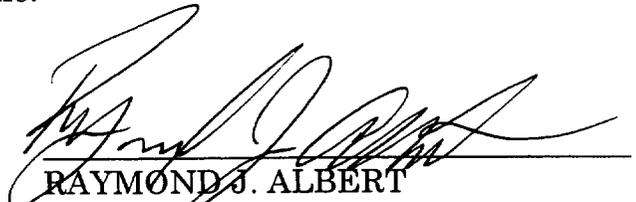



NOTARY PUBLIC APPT EXP 4/24/20
CLARK CTY., NV

(This form must be either witnessed OR notarized.)

Accepted by the State Medical Board of Ohio:


ANAND G. GARG, M.D.
Secretary
4/7/99
DATE


RAYMOND J. ALBERT
Supervising Member
5/3/99
DATE



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

December 9, 1998

Patrick J. Mullanney, M.D.
111D Nordyke Avenue
Henderson, NV 89015

Dear Doctor Mullanney:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) Between March 1, 1998 and March 26, 1998, you signed the application for renewal of your Ohio Certificate to practice medicine and surgery certifying that the information provided on the application was true and correct in every respect. You answered "No" to the question "at any time since signing your last application for renewal of certificate have you . . . 5) [h]ad any disciplinary action taken or initiated against you by any state licensing board other than the State Medical Board of Ohio?"

In fact, on or about May 8, 1997, the Division of Medical Quality, Medical Board of California (hereinafter the California Board) filed an Accusation, alleging unprofessional conduct based upon your gross negligence, incompetence, repeated negligent acts, excessive use of drugs, procedures or facilities, dishonest practices and false insurance claims. Thereafter, on or about September 19, 1997, the California Board adopted the Decision and Stipulation for Surrender of License, wherein the California Board accepted the voluntary surrender of your license. A copy of the California Board Decision, with attached Stipulation for Surrender of License, is attached hereto and fully incorporated herein.

- (2) Effective June 18, 1998, the Office of the Inspector General, U.S. Department of Health and Human Services excluded you from participation in the Medicare,

Mailed 12/10/98

Medicaid, and all Federal health programs as defined in Section 1128B(f) of the Social Security Act. This action was taken under Title 42 U.S.C. Section 1320a-7(b) (Section 1128(b)(4) of the Social Security Act), because your license to practice medicine in the State of California was surrendered while a formal disciplinary proceeding was pending before the State licensing authority for reasons bearing on your professional competence, professional performance or financial integrity. This program exclusion remains in effect until your license has been returned by the State of California, at which time you will be eligible to apply for reinstatement to the Federal health care programs. A copy of the exclusion notification is attached hereto and fully incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board," as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, the U.S. Department of Health and Human Services exclusion, as alleged in paragraph (2) above constitutes "[t]ermination or suspension from medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that would also constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section," as that clause is used in Section 4731.22(B)(25), Ohio Revised Code, to wit: Sections 4731.22(B)(6) and (B)(8).

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend,

Patrick J. Mullanney, M.D.

Page 3

refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # Z 233 895 024
RETURN RECEIPT REQUESTED

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

In the Matter of the Accusation)
Against:)
)
)
PATRICK J. MULLANNEY, M.D.) No. 10-92-22598
Certificate No. C-26586)
)
)
Respondent.)
_____)

DECISION

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

This Decision shall become effective on November 1, 1997.

IT IS OR ORDERED September 19, 1997

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that
this document is true
and correct copy of the
original on file in _____
office.

By: Anabel Anderson Imbert
ANABEL ANDERSON IMBERT, M.D.
President
Division of Medical Quality

Nancy C. Garcia 9-3-98
SIGNED DATE 9-3-98
Assistant Custodian of Record
TITLE

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RICHARD D. GARSKE
State Bar No. 50569
3 Deputy Attorney General
Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92186-5266
Telephone: (619) 645-2075
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) Case No. 10-92-22598
12 Against:)

13 PATRICK J. MULLANNEY, M.D.)
14 3405 Kenyon Street, Suite 305)
15 San Diego, California 92110)
16 Physician's and Surgeon's)
Certificate No. C26586)
17 Respondent.)

STIPULATION FOR
SURRENDER OF LICENSE

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

23 1. Ron Joseph, complainant, is the Executive Director
24 of the Medical Board of California, Department of Consumer
25 Affairs ("Board"), and is represented by Daniel E. Lungren,
26 Attorney General of the State of California, by Richard D.
27 Garske, Deputy Attorney General.

28 / / /

1 2. Patrick J. Mullanney, M.D. ("respondent") is
2 representing himself in this matter.

3 3. On or about October 5, 1964, Physician and
4 Surgeon's Certificate No. C26586 was issued by the Board to
5 Patrick J. Mullanney, M.D.

6 4. On or about May 8, 1997, complainant, Ron Joseph,
7 Executive Director of the Medical Board of California, filed
8 Accusation No. 10-92-22598 against respondent. A true and
9 accurate copy of Accusation No. 10-92-22598 is attached hereto as
10 Exhibit A and incorporated by reference as if fully set forth
11 herein. On or about May 12, 1997, respondent was served with
12 Accusation No. 10-92-22598, together with all other statutorily
13 required documents. On or about May 28, 1997, respondent filed a
14 Notice of Defense contesting the charges and allegations in the
15 Accusation.

16 5. Respondent is fully aware of the charges and
17 allegations contained in Accusation No. 10-92-22598. Respondent
18 fully understands that the charges and allegations contained in
19 Accusation No. 10-92-22598 would, if proven, constitute cause for
20 imposing discipline upon his Physician's and Surgeon's
21 Certificate No. C26586.

22 6. Respondent is fully aware of each of his rights,
23 including the right to a hearing on the charges and allegations
24 contained in Accusation No. 10-92-22598, the right to confront
25 and cross-examine witnesses who would testify against him, the
26 right to present evidence in his favor, and call witnesses on his
27 behalf, the right to testify, the right to contest the charges
28 and allegations, and all other rights which are accorded to

1 respondent pursuant to the California Administrative Procedure
2 Act (Gov. Code, § 11500 et seq.), including the right to seek
3 reconsideration, review by the superior court, and appellate
4 review.

5 7. Respondent understands that by signing this
6 stipulation rather than contesting the charges and allegations
7 contained in Accusation No. 10-92-22598, he is enabling the
8 Division of Medical Quality of the Medical Board of California to
9 issue its order accepting the surrender of his Physician's and
10 Surgeon's Certificate No. C26586 without further process, notice,
11 or opportunity to be heard.

12 8. In order to avoid the expense and uncertainty of a
13 hearing, respondent freely and voluntarily waives each and every
14 one of the rights set forth herein, and any and all other rights
15 which may be accorded him pursuant to the California
16 Administrative Procedure Act, California Code of Civil Procedure,
17 and all other applicable provisions of law, concerning Accusation
18 No. 10-92-22598.

19 9. Upon acceptance of the stipulation by the Division,
20 respondent agrees to surrender and cause to be delivered to the
21 Division both his wallet certificate and his Physician's and
22 Surgeon's Certificate No. C26586. Respondent further understands
23 that when the Division accepts the surrender of his Physician's
24 and Surgeon's Certificate No. C26586, he will no longer be
25 permitted to practice as a physician and surgeon within the State
26 of California.

27 10. Respondent hereby voluntarily surrenders his
28 Physician's and Surgeon's Certificate No. C26586 to the Division

1 for its formal acceptance, thereby relinquishing his right to
2 practice medicine in the State of California.

3 11. Respondent specifically waives the renewal
4 provisions of the Business and Professions Code and agrees that
5 he will not apply to the Board to have his certificate renewed,
6 restored, reissued or reinstated. Respondent further agrees that
7 he will not apply for a new certificate for at least three (3)
8 years after the effective date of this surrender.

9 12. Respondent further agrees that any application for
10 a new certificate shall be deemed a Petition for Reinstatement of
11 the Certificate and treated according to the provisions of
12 Business and Professions Code section 2307, or any similar
13 section that is in effect at the time of such an application, and
14 all of the charges and allegations contained in Accusation No.
15 10-92-22598 will be deemed to be true, correct, and admitted by
16 respondent when the Division determines whether to grant or deny
17 the Petition for Reinstatement.

18 13. The parties agree that the effective date of this
19 surrender will be November 1, 1997.

20 14. This stipulation for surrender of respondent's
21 Physician's and Surgeon's Certificate No. C26586 is intended by
22 the parties to be an integrated writing, memorializing the
23 complete agreements of the parties herein.

24 15. In the event this Stipulation is rejected for any
25 reason by the Medical Board of California, it will be of no force
26 or effect for either party.

27 ///

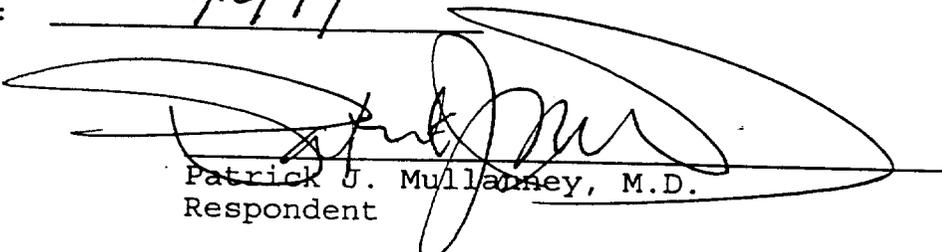
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1 ACKNOWLEDGMENT

2 I, Patrick J. Mullanney, M.D., have read the
3 Stipulation in Case No. 10-92-22598 and enter the Stipulation for
4 surrender of my Physician's and Surgeon's Certificate No. C26586
5 freely, voluntarily, intelligently, and with full knowledge of
6 its force and effect, and do hereby surrender my Physician and
7 Surgeon's Certificate No. C26586 to the Division of Medical
8 Quality of the Medical Board of California for its formal
9 acceptance. By so surrendering my license, I recognize that upon
10 formal acceptance of the surrender by the Division, I will lose
11 all rights and privileges to practice as a physician and surgeon
12 in the State of California.

13 I have read the above document and I fully understand,
14 accept, and consent to all of the provisions of the above
15 stipulation and order.

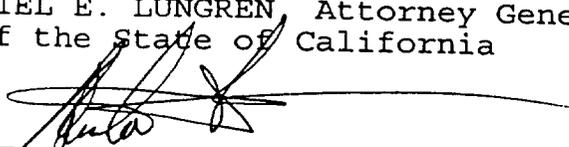
16 DATED: 7/16/97

17 
18 Patrick J. Mullanney, M.D.
19 Respondent
20

21 CONCURRED AS TO FORM
22 AND CONTENT:

23 DATED: 8/28/97

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

26 
27 RICHARD D. GARSKE
28 Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RICHARD D. GARSKE
State Bar No. 50569
3 Deputy Attorney General
Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92186-5266
Telephone: (619) 645-2075

6 Attorneys for Complainant
7

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *May 8* 19 *97*
BY *Pamela E. Mather* ANALYST

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)
12 Against:)

NO. 10-92-22598

13 PATRICK J. MULLANNEY, M.D.)
14 3405 Kenyon Street, Suite 305)
San Diego, California 92110)

15 Physician's and Surgeon's)
16 Certificate No. C26586)

17 Respondent.)

ACCUSATION

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that
this document is true
and correct copy of the
original on file in _____
office.

Nancy C. Garcia 9-3-98
SIGNED DATE

Assistant Custodian of Record
TITLE

20 Complainant Ron Joseph, as causes for disciplinary
21 action, hereby alleges:

22 **PARTIES**

23 1. Complainant is the Executive Director of the
24 Medical Board of California ("Board") and hereby makes and files
25 this Accusation solely in his official capacity as such.

26 **LICENSE STATUS**

27 2. On or about October 5, 1964, Physician's and
28 Surgeon's Certificate No. C26586 was issued by the Board to

1 Patrick J. Mullanney, M.D. ("respondent"), and at all times
2 relevant herein, said physician's and surgeon's certificate was,
3 and currently is, in full force and effect. Unless renewed,
4 respondent's certificate will expire on March 31, 1999.

5 Respondent is not a supervisor of a physician
6 assistant.

7 JURISDICTION

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

11 A. Section 2227 provides that the Board may
12 revoke, suspend for a period not to exceed one year, or
13 place on probation and order the payment of probation
14 monitoring cost, the license of any licensee who has been
15 found guilty under the Medical Practice Act.

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

18 "(b) Gross negligence.

19 "(c) Repeated negligent acts.

20 "(d) Incompetence.

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

25 C. Section 725 provides that unprofessional
26 conduct includes repeated acts of clearly excessive
27 prescribing or administering of drugs or treatment, repeated
28 acts of clearly excessive use of diagnostic procedures or

1 diagnostic or treatment facilities as determined by the
2 standard of the community of licensees.

3 D. Section 810 provides, in essence, that
4 unprofessional conduct includes knowingly presenting or
5 causing to be presented any false or fraudulent claim, or
6 document in support of any such claim, for the payment of a
7 loss under a contract of insurance.

8 COSTS

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

15 MEDI-CAL

16 5. Section 16.01 of the 1996/1997 Budget Act of the
17 State of California provides, in pertinent part, that: (a) no
18 funds appropriated by this act may be expended to pay any Medi-
19 Cal claim for any service performed by a physician while that
20 physician's license is under suspension or revocation due to a
21 disciplinary action of the Medical Board of California; and, (b)
22 no funds appropriated by this act may be expended to pay any
23 Medi-Cal claim for any surgical service or other invasive
24 procedure performed on any Medi-Cal beneficiary by a physician if
25 that physician has been placed on probation due to a disciplinary
26 action of the Medical Board of California related to the
27 performance of that specific service or procedure on any patient,
28 except in any case where the board makes a determination during

1 its disciplinary process that there exist compelling circum-
2 stances that warrant continued Medi-Cal reimbursement during the
3 probationary period.

4
5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 6. Respondent has subjected his license to
8 disciplinary action under California Business and Professions
9 Code sections 2227 and 2234 on the grounds of unprofessional
10 conduct, as defined by section 2234(b) of the Code, in that he is
11 guilty of gross negligence in the practice of his profession as
12 more particularly alleged hereinafter:

13 **PATIENT R.M.**

14 A. On or about June 19, 1990, female patient R.M.
15 was treated by the respondent with noted symptoms of an
16 aortic murmur and questionable regular rhythm. Respondent's
17 stated impression was that the patient had organic heart
18 disease, cardiac arrhythmia and peripheral edema.
19 Respondent ordered a chest X-Ray, EKG, and Holter monitor
20 for the patient. The results were all within normal limits,
21 except for a leftward axis of minus 10 degrees. There was
22 no documentation in the records of a history of cardiac
23 complaints, however respondent made a premature diagnosis of
24 organic heart disease and cardiac arrhythmia.

25 B. Over the next 14 months the patient made
26 approximately 30 office visits as scheduled by the
27 respondent. During those visits the respondent ordered 22
28 urine analyses, 20 blood studies, 4 biopsies, 3 excisions

1 and electrocautery procedures. The urinalysis tests were
2 consistently contaminated and were consistently negative for
3 glucose or protein. However the respondent treated the
4 patient for urinary tract infection with antibiotics.
5 During this time 18 blood glucose levels were obtained
6 without stating whether they were obtained fasting or non-
7 fasting. At least three chlamydial studies were obtained
8 along with a GC culture on this elderly, non-sexually active
9 female. Nine hematocrits were obtained, which were all
10 normal. The blood type and RH factor tests were also
11 normal. During this time the patient underwent multiple
12 biopsies of both her breasts revealing only benign fat cells
13 and soft tissue fragments. The patient had two mammograms
14 and two pap smears in this time frame with one pap smear
15 being reported as abnormal. The patient was subsequently
16 seen by a gynecologist with a normal repeat pap smear
17 result. While respondent's patient, R.M. received multiple
18 injections of Vitamin B12 and DepoMedrol without documented
19 clinical indications in the records.

20 C. Respondent demonstrated gross negligence in
21 his care and treatment of patient R.M. Said gross
22 negligence includes, but is not limited to:

23 1) Respondent was grossly negligent in
24 ordering an excessive amount of laboratory testing and
25 treatment, and in billing for medical conditions that
26 were not clinically indicated or substantiated.

27 2) The number of glucose studies ordered by
28 the respondent in the short period of time was

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excessive for a patient who was not diagnosed with
Diabetes Mellitus.

3) Respondent ordered an excessive number
of urinalyses and cultures.

4) Respondent provided excessive
antibiotic treatment in view of repeated
normal test results.

5) Respondent ordered Chlamydia or GC
cultures in an elderly, asymptomatic non-sexually
active female without medical indication.

6) Respondent ordered unnecessary recurrent
blood counts in an asymptomatic patient without anemia.

7) Respondent ordered multiple, unwarranted
biopsies of both breasts where skin tissue tests
revealed totally benign tissues.

8) Respondent ordered unnecessary blood
type and RH factors where no transfusion was pending.

9) Respondent administered repeated Vitamin
B12 injections without medical indication.

10) Respondent repeatedly administered and
ordered use of DepoMedrol which was not clinically
justified and which was hazardous to the patient.

11) Respondent provided a diagnosis of
organic heart disease which was unsubstantiated by
tests or medical records.

/ / / /
/ / / /
/ / / /

1 PATIENT D.M.

2 D. On or about July 31, 1992, female patient D.M.
3 first became respondent's patient. She continued as
4 respondent's patient until June 15, 1993. Initially the
5 respondent diagnosed the patient with hormone deficiency
6 despite normal estrogen and progesterone serum levels.
7 Respondent treated the patient with a series of Vitamin B12,
8 Lasix, DepoMedrol, ACTH, and Cephalosporin antibiotic
9 injections.

10 E. On or about January, 1993, respondent treated
11 the patient for sinus infection with multiple Aminoglycoside
12 antibiotics. Later the respondent treated the patient with
13 Aminoglycosides and Lasix for urinary tract infection
14 despite a urinalysis suggestive of contamination and without
15 a urine culture. On or about June 15, 1993, during one of
16 respondent's treatments with Aminoglycoside antibiotic and
17 Lasix injections, the patient was pregnant. These recurrent
18 treatments with antibiotics resulted in numerous yeast
19 infections.

20 F. Respondent demonstrated gross negligence in
21 his care and treatment of patient D.M. Said gross
22 negligence includes, but is not limited to:

- 23 1) Respondent initially diagnosed patient
24 D.M. with hormonal deficiency without clinical
25 justification.

26 / / / /

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1 2) Respondent gave the patient a combi-
2 nation of Vitamin B12, Lasix, DepoMedrol, ACTH and
3 antibiotics which were unjustified and hazardous to the
4 patient.

5 3) Respondent made multiple diagnoses and
6 ordered multiple treatments for urinary tract
7 infections without substantiation by urine culture.

8 4) Respondent provided unwarranted
9 treatment for sinusitis with inappropriate antibiotics
10 given to the patient.

11 5) Respondent treated the patient with
12 Aminoglycoside antibiotics and Lasix injection during
13 her pregnancy without medical indication. This
14 treatment during pregnancy was contraindicated.

15 PATIENT T.F.

16 G. On or about April 30, 1992, female patient
17 T.F. first became respondent's patient. Her initial
18 diagnosed symptoms were for chronic allergy, sinus symptoms
19 and laryngitis. This patient continued as respondent's
20 patient through November, 1992. The patient received
21 frequent injections of Vitamin B12, DepoMedrol and ACTH.

22 H. During the time T.F. was respondent's patient
23 she was diagnosed with hypothyroidism, although her thyroid
24 labs were normal on two occasions. She was diagnosed by
25 respondent with acute active mononucleosis, with numerous
26 positive Epstein-Barr IgG and mono studies, which were
27 indicative of past inactive infection. Respondent diagnosed
28 and actively treated the patient for progesterone

1 deficiency, allergies, vaginitis, and anemia, which were not
2 clinically indicated. Multiple urinalyses were obtained by
3 respondent from the patient without urine cultures.

4 I. Respondent demonstrated gross negligence in
5 his care and treatment of patient T.F. Said gross
6 negligence includes, but is not limited to:

7 1) Respondent diagnosed patient T.F. with
8 chronic allergies and sinus symptoms without clinical
9 justification.

10 2) Respondent treated the patient with
11 recurrent injections of Vitamin B12, DepoMedrol and
12 ACTH which were not clinically indicated and which were
13 hazardous to the patient's health.

14 3) Respondent diagnosed the patient as
15 having hypothyroidism, active mononucleosis, hormone
16 deficiency, vaginitis, and anemia without justification
17 or indication from the tests or medical records.

18 4) Respondent obtained multiple urinalyses
19 to detect urinary tract infection without obtaining
20 urine cultures.

21 PATIENT S.M.

22 J. On or about September, 1987, female patient
23 S.M. was first seen by the respondent. She continued to be
24 seen by respondent as a patient through March, 1993. The
25 patient initially presented complaints of obesity and
26 requested medication for weight loss. During this time the
27 respondent contemplated the diagnosis of Diabetes, anemia
28 and peripheral edema. Respondent treated the obesity with

1 diuretics and appetite suppressants. The respondent later
2 diagnosed the patient with hormonal imbalance, anxiety and
3 depression, abnormal pap smear, urinary tract infections,
4 and a possible breast mass. During this time the respondent
5 treated the patient frequently with diuretics, antibiotics,
6 vaginal cleansing agents, hormonal therapy, Vitamin B12 and
7 Lasix injections.

8 K. Respondent demonstrated gross negligence in
9 his care and treatment of patient S.M. Said gross
10 negligence includes, but is not limited to:

11 1) Respondent diagnosed the patient as
12 having hormonal imbalance, anxiety and depression,
13 abnormal pap smears, urinary tract infections, breast
14 mass and edema without clinical justification or
15 indication.

16 2) Respondent frequently treated the
17 patient with diuretics, antibiotics, vaginal cleansing
18 agents, hormonal therapy, Vitamin B12 and Lasix
19 injections which were not medically indicated and which
20 were hazardous to the health of the patient.

21 PATIENT T.G.

22 L. On or about August 17, 1993, male patient T.G.
23 first presented to respondent's office complaining of a cyst
24 on his right posterior neck. After an examination, the
25 respondent recommended surgical removal of the cyst in his
26 office. Respondent then performed a blunt dissection of the
27 cyst, located in the right posterior triangle of the neck.
28 The patient subsequently developed nerve damage of the right

1 spinal accessory nerve and muscle atrophy of the right
2 trapezius muscle.

3 M. While T.G. was a patient of the respondent in
4 1989, the respondent diagnosed the patient with anemia
5 without substantiating clinical documentation or indication.

6 N. Respondent demonstrated gross negligence in
7 his care and treatment of patient T.G. Said gross
8 negligence includes, but is not limited to:

9 1) After diagnosing the patient with a cyst
10 of the right posterior triangle respondent performed
11 surgery in the area which resulted in damage to the
12 right spinal accessory nerve and atrophy of the right
13 trapezius muscle.

14 2) Respondent performed the above-described
15 surgery on patient T.G. when respondent did not have
16 the training, qualifications or expertise to provide
17 that surgery.

18 3) Respondent diagnosed the patient as
19 having anemia when the diagnosis was not supported by
20 clinical evidence or indication.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Incompetence)

23 7. Respondent has further subjected his license to
24 disciplinary action under California Business and Professions
25 Code sections 2227 and 2234 on the grounds of unprofessional
26 conduct, as defined by section 2234(d) of the Code, in that he is
27 guilty of incompetence in the practice of his profession as more
28 particularly alleged hereinafter:

1 PATIENT T.G.

2 A. Paragraphs 6L - 6N, above, are incorporated by
3 reference and realleged as if fully set forth herein.

4 B. Respondent demonstrated incompetence in his
5 care and treatment of patient T.G. Said incompetence
6 includes, but is not limited to:

7 ///

8 1) After diagnosing the patient with a cyst
9 of the right posterior triangle respondent performed
10 surgery in the area which resulted in damage to the
11 right spinal accessory nerve and atrophy of the right
12 trapezius muscle.

13 2) Respondent performed the above-described
14 surgery on patient T.G. when respondent did not have
15 the training, qualifications or expertise to provide
16 that surgery.

17 3) Respondent diagnosed the patient as
18 having anemia when the diagnosis was not supported by
19 clinical evidence or indication.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Repeated Negligent Acts)**

22 8. Respondent has further subjected his license to
23 disciplinary action under California Business and Professions
24 Code sections 2227 and 2234 on the grounds of unprofessional
25 conduct, as defined by section 2234(c) of the Code, in that he is
26 guilty of repeated negligent acts in the practice of his
27 profession as more particularly alleged hereinafter:

28 / / / /

1 PATIENT R.M.

2 A. Paragraphs 6A - 6C, above, are incorporated by
3 reference and realleged as if fully set forth herein.

4 B. Respondent demonstrated repeated negligent
5 acts in his care and treatment of patient R.M. Said
6 repeated negligent acts include, but are not limited to:

7 1) Respondent ordered an excessive amount
8 of laboratory testing, treatment and billing for
9 medical conditions that were not clinically indicated
10 or substantiated.

11 2) The number of glucose studies ordered by
12 the respondent in the short period of time was
13 excessive for a patient who was not diagnosed with
14 Diabetes Mellitus.

15 3) Respondent ordered an excessive number
16 of urinalyses and cultures.

17 4) Respondent provided excessive antibiotic
18 treatment in view of repeated normal test results.

19 5) Respondent ordered Chlamydia or GC
20 cultures in an elderly, asymptomatic non-sexually
21 active female without medical indication.

22 6) Respondent ordered unnecessary recurrent
23 blood counts in an asymptomatic patient without anemia.

24 7) Respondent ordered multiple, unwarranted
25 biopsies of both breasts where skin tissue tests
26 revealed totally benign tissues.

27 8) Respondent ordered unnecessary blood
28 type and RH factors where no transfusion was pending.

1 9) Respondent administered repeated Vitamin
2 B12 injections without medical indication.

3 10) Respondent ordered recurrent use of
4 DepoMedrol which was not clinically justified and which
5 was hazardous to the patient.

6 11) Respondent provided a diagnosis of
7 organic heart disease which was unsubstantiated by
8 tests or medical records.

9
10 PATIENT D.M.

11 C. Paragraphs 6D - 6F, above, are incorporated by
12 reference and realleged as if fully set forth herein.

13 D. Respondent demonstrated repeated negligent
14 acts in his care and treatment of patient D.M. Said
15 repeated negligent acts include, but are not limited to:

16 1) Respondent initially diagnosed patient
17 D.M. with hormonal deficiency without clinical
18 justification.

19 2) Respondent gave the patient a
20 combination of Vitamin B12, Lasix, DepoMedrol, ACTH and
21 antibiotics which were unjustified and hazardous to the
22 patient.

23 3) Respondent made multiple diagnoses and
24 ordered multiple treatments for urinary tract
25 infections without substantiation by urine culture.

26 4) Respondent provided unwarranted
27 treatment for sinusitis with inappropriate antibiotics
28 given to the patient.

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5) Respondent treated the patient with Aminoglycoside antibiotics and Lasix injection during her pregnancy without medical indication. This treatment during pregnancy was contraindicated.

PATIENT T.F.

E. Paragraphs 6G - 6I, above, are incorporated by reference and realleged as if fully set forth herein.

F. Respondent demonstrated repeated negligent acts in his care and treatment of patient T.F. Said repeated negligent acts include, but are not limited to:

1) Respondent diagnosed patient T.F. with chronic allergies and sinus symptoms without clinical justification.

2) Respondent treated the patient with recurrent injections of Vitamin B12, DepoMedrol and ACTH which were not clinically indicated and which were hazardous to the patients health.

3) Respondent diagnosed the patient as having hypothyroidism, active mononucleosis, hormone deficiency, vaginitis, and anemia without justification or indication from the tests or medical records.

4) Respondent obtained multiple urinalyses to detect urinary tract infection without obtaining urine cultures.

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1 PATIENT S.M.

2 G. Paragraphs 6J - 6K, above, are incorporated by
3 reference and realleged as if fully set forth herein.

4 H. Respondent demonstrated repeated negligent
5 acts in his care and treatment of patient S.M. Said
6 repeated negligent acts include, but are not limited to:

7 1) Respondent diagnosed the patient as
8 having hormonal imbalance, anxiety and depression,
9 abnormal pap smears, urinary tract infections, breast
10 mass and edema without clinical justification or
11 indication.

12 2) Respondent frequently treated the
13 patient with diuretics, antibiotics, vaginal cleansing
14 agents, hormonal therapy, Vitamin B12 and Lasix which
15 injections were not medically indicated and which were
16 hazardous to the health of the patient.

17 PATIENT T.G.

18 I. Paragraphs 6L - 6N, above, are incorporated by
19 reference and realleged as if fully set forth herein.

20 J. Respondent demonstrated repeated negligent
21 acts in his care and treatment of patient T.G. Said
22 repeated negligent acts include, but are not limited to:

23 1) After diagnosing the patient with a cyst
24 of the right posterior triangle respondent performed
25 surgery in the area which resulted in damage to the
26 right spinal accessory nerve and atrophy of the right
27 trapezius muscle.

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1 2) Respondent performed the above-described
2 surgery on patient T.G. when respondent did not have
3 the training, qualifications or expertise to provide
4 that surgery.

5 3) Respondent diagnosed the patient as
6 having anemia when the diagnosis was not supported by
7 clinical evidence or indication.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Excessive use of drugs, procedures or facilities)**

10 9. Respondent is further subject to disciplinary
11 action for unprofessional conduct, as defined by section 725 of
12 the Business and Professions Code, because the matters set forth
13 in paragraphs 6 - 8, above, also show that in the course of his
14 care, treatment, and case management of the patients named in
15 paragraphs 6 - 8, respondent committed repeated acts of clearly
16 excessive prescribing or administering of drugs or treatment, and
17 repeated acts of clearly excessive use of diagnostic procedures
18 or diagnostic or treatment facilities as determined by the
19 standard of the community of licensees.

20 **PATIENT R.M.**

21 A. Paragraphs 6A - 6C, above, are incorporated by
22 reference and realleged as if fully set forth herein.

23 B. Respondent demonstrated repeated acts of
24 clearly excessive administering or prescribing of drugs or
25 treatment and repeated acts of clearly excessive use of
26 diagnostic or treatment procedures or facilities, as
27 determined by the standard of the community of licensees, in

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1 his care and treatment of patient R.M. Said acts include,
2 but are not limited to:

3 1) The number of glucose studies ordered by
4 the respondent in the short period of time was
5 excessive for a patient who was not diagnosed with
6 Diabetes Mellitus.

7 2) Respondent ordered an excessive number
8 of urinalyses and cultures.

9 3) Respondent provided excessive antibiotic
10 treatment in view of repeated normal test results.

11 4) Respondent ordered Chlamydia or GC
12 cultures in an elderly, asymptomatic non-sexually
13 active female without medical indication.

14 5) Respondent ordered unnecessary recurrent
15 blood counts in an asymptomatic patient without anemia.

16 6) Respondent ordered multiple, unwarranted
17 biopsies of both breasts where skin tissue tests
18 revealed totally benign tissues.

19 7) Respondent ordered unnecessary blood
20 type and RH factors where no transfusion was pending.

21 8) Respondent administered repeated Vitamin
22 B12 injections without medical indication.

23 9) Respondent repeatedly administered and
24 ordered use of DepoMedrol which was not clinically
25 justified and which was hazardous to the patient.

26 10) Respondent provided a diagnosis of
27 organic heart disease which was unsubstantiated by
28 tests or medical records.

1 PATIENT D.M.

2 C. Paragraphs 6D - 6F, above, are incorporated by
3 reference and realleged as if fully set forth herein.

4 D. Respondent demonstrated repeated acts of
5 clearly excessive administering or prescribing of drugs or
6 treatment and repeated acts of clearly excessive use of
7 diagnostic or treatment procedures or facilities, as
8 determined by the standard of the community of licensees,
9 in his care and treatment of patient D.M. Said acts
10 include, but are not limited to:

11 1) Respondent initially diagnosed patient
12 D.M. with hormonal deficiency without clinical
13 justification.

14 2) Respondent gave the patient a menu of
15 Vitamin B12, Lasix, DepoMedrol, ACTH and antibiotics
16 which were unjustified and hazardous to the patient.

17 3) Respondent made multiple diagnoses and
18 ordered multiple treatments for urinary tract
19 infections without substantiation by urine culture.

20 4) Respondent provided unwarranted
21 treatment for sinusitis with inappropriate antibiotics
22 given to the patient.

23 5) Respondent treated the patient with
24 Aminoglycoside antibiotics and Lasix injection during
25 her pregnancy without medical attention. This
26 treatment during pregnancy was contraindicated.

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1 PATIENT T.F.

2 E. Paragraphs 6G - 6I, above, are incorporated by
3 reference and realleged as if fully set forth herein.

4 F. Respondent demonstrated repeated acts of
5 clearly excessive administering or prescribing of drugs or
6 treatment and repeated acts of clearly excessive use of
7 diagnostic or treatment procedures or facilities, as
8 determined by the standard of the community of licensees, in
9 his care and treatment of patient T.F. Said acts include,
10 but are not limited to:

11 1) Respondent diagnosed patient T.F. with
12 chronic allergies and sinus symptoms without clinical
13 justification.

14 2) Respondent treated the patient with
15 recurrent injections of Vitamin B12, DepoMedrol and
16 ACTH which were not clinically indicated and which were
17 hazardous to the patients health.

18 3) Respondent diagnosed the patient as
19 having hypothyroidism, active mononucleosis, hormone
20 deficiency, vaginitis, and anemia without justification
21 or indication from the tests or medical records.

22 4) Respondent obtained multiple urinalyses
23 to detect urinary tract infection without obtaining
24 urine cultures.

25 PATIENT S.M.

26 G. Paragraphs 6J - 6K, above, are incorporated by
27 reference and realleged as if fully set forth herein.

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1 H. Respondent demonstrated repeated acts of
2 clearly excessive administering or prescribing of drugs or
3 treatment and repeated acts of clearly excessive use of
4 diagnostic or treatment procedures or facilities, as
5 determined by the standard of the community of licensees, in
6 his care and treatment of patient S.M. Said acts include,
7 but are not limited to:

8 1) Respondent diagnosed the patient as
9 having hormonal imbalance, anxiety and depression,
10 abnormal pap smears, urinary tract infections, breast
11 mass and edema without clinical justification or
12 indication.

13 2) Respondent frequently treated the
14 patient with diuretics, antibiotics, vaginal cleansing
15 agents, hormonal therapy, Vitamin B12 and Lasix
16 injections which were not medically indicated and which
17 were hazardous to the health of the patient.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 (Dishonest Acts)

20 10. Respondent has further subjected his license to
21 disciplinary action under California Business and Professions
22 Code sections 2227 and 2234 on the grounds of unprofessional
23 conduct, as defined by section 2234(e) of the Code, in that he
24 submitted false or fraudulent medical bills and claims to
25 patients and insurers for excessive and unnecessary treatment,
26 tests, and drugs to his patients as more particularly alleged
27 hereinafter:

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1 A. Paragraphs 6A - 6K and 9A - 9H, above, are
2 incorporated by reference and realleged as if fully set
3 forth herein.

4 B. Respondent aided and abetted the preparation
5 and submission of false or fraudulent medical bills and
6 claims to MediCare and insurers for excessive and
7 unnecessary treatment, tests and drugs to the patients
8 R.M., D.M., T.F., and S.M. as alleged in the preceding
9 paragraphs 6A - 6K and 9A - 9H. These false or fraudulent
10 medical bills and claims were for treatments, tests, and
11 drugs that were excessive and unnecessary during the time
12 that respondent treated these patients.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(False Insurance Claims)**

15 11. Respondent has further subjected his license to
16 disciplinary action under California Business and Professions
17 Code sections 2227 and 810 on the grounds of unprofessional
18 conduct, as defined by Section 810 of the Code, in that he
19 submitted false or fraudulent medical bills and claims to
20 patients and insurers for excessive and unnecessary treatment,
21 tests, and drugs to his patients as more particularly alleged
22 hereinafter:

23 A. Paragraphs 6A - 6K and 9A - 9H, above, are
24 incorporated by reference and realleged as if fully set
25 forth herein.

26 B. Respondent aided and abetted the preparation
27 and submission of false or fraudulent medical bills and
28 claims to MediCare and insurers for excessive and

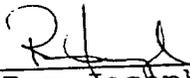
1 unnecessary treatment, tests and drugs to the patients
2 R.M., D.M., T.F., and S.M. as alleged in the preceding
3 paragraphs 6A - 6K and 9A - 9H. These false or fraudulent
4 medical bills and claims were for treatments, tests, and
5 drugs that were excessive and unnecessary during the time
6 that respondent treated these patients.

7
8 PRAYER

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

- 12 4. Revoking or suspending Physician's and Surgeon's
13 Certificate No. C26586 heretofore issued to
14 respondent Patrick J. Mullaney, M.D.;
- 15 2. Ordering respondent to pay the Division the actual
16 and reasonable costs of the investigation and
17 enforcement of this case and, if placed on
18 probation, to pay the costs of probation
19 monitoring; and
- 20 3. Taking such other and further action as the
21 Division deems necessary and proper.

22 DATED: May 8, 1997

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24 
25 Ron Joseph
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California

Complainant



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20201

MAY 29 1998

Patrick J. Mullaney, M.D.
3405 Kenyon Street, Suite 305
San Diego, CA 92110

Dear Dr. Mullaney:

RE: OI File No. L-97-40692-9

This is to notify you that you are being excluded from participation in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act (Act). This action is being taken under section 1128(b)(4) of the Social Security Act (42 U.S.C. 1320a-7(b)) because your license to practice medicine or provide health care in the State of California was revoked, suspended, or otherwise lost or was surrendered while a formal disciplinary proceeding was pending before the State licensing authority for reasons bearing on your professional competence, professional performance, or financial integrity.

This program exclusion is effective 20 days from the date of this letter and will remain in effect as long as your license is revoked, suspended, or otherwise lost. Once your license has been returned to active status by the licensing board or agency taking the disciplinary action in the State of California, you will be eligible to apply to the Office of Inspector General for reinstatement to the Federal health care programs.

A detailed explanation of the authority for this exclusion, its effect, and your appeal rights is enclosed and is incorporated as part of this notice by specific reference. You should read this document carefully, act upon it as necessary, and retain it for future reference.

Obtaining a license or obtaining a provider number from a Medicare contractor, a State agency, or a Federal health care program does not reinstate your eligibility to participate in those programs.

Sincerely yours,

William M. Liberaci
Reviewing Official
Health Care Program Exclusions
Office of Counsel to the Inspector General

Enclosure

cc:
Regional Inspector General
for Investigations, Los Angeles