

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 ANTONIO J. MERINO
4 Deputy Attorney General
5 3520 Wilshire Boulevard
6 Los Angeles, California 90010
7 Telephone: (213) 736-2009
8 Attorneys for Complainant

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

14 In the Matter of the Accusation) NO. D-3613
15 Against:)
16) ACCUSATION
17 V. GEORGES HUFNAGEL, M.D.)
18 8625 West Third Street)
19 Los Angeles, California 90048)
20)
21 Physician's and Surgeon's)
22 Certificate No. G 035472,)
23)
24 Respondent.)
25)
26)
27)

Complainant alleges as follows:

1. Complainant, Kenneth J. Wagstaff, is the Executive Director of the Board of Medical Quality Assurance of the State of California (hereinafter "the Board") and makes and files this accusation in his official capacity.

2. On or about September 6, 1977, the Board issued physician's and surgeon's certificate number G 035472 to respondent V. Georges Hufnagel, M.D. (hereinafter "respondent"). Respondent's certificate is currently in good standing.

1 3. Pursuant to the provisions of sections 2227, 2228,
2 2229, and 2234 of the Business and Professions Code (all
3 sectional references are to the Business and Professions Code
4 unless otherwise noted), the Division of Medical Quality
5 (hereinafter the "Division") of the Board may discipline any
6 holder of a certificate who is guilty of unprofessional conduct.

7 4. Section 2234 provides that the Division shall take
8 action against any licensee who is charged with unprofessional
9 conduct, which includes the following:

10 "(a) Violating or attempting to violate, directly
11 or indirectly, or assisting in or abetting the violation
12 of, or conspiring to violate, any provision of (the
13 Medical Practice Act).

14 "(b) Gross negligence.

15 "(c) Repealed negligent acts.

16 "(d) Incompetence.

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

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

26 /

27 /

2.

1 6. Section 2261 provides that altering or modifying
2 the medical record of any person, with fraudulent intent or
3 creating any false medical record, with fraudulent intent,
4 constitutes unprofessional conduct. Said section further
5 provides that in addition to any other disciplinary action, the
6 Division may impose a civil penalty of five hundred dollars
7 for a violation of this section.

8 7. Section 725 provides, in pertinent part, that
9 repeated acts of clearly excessive prescribing or administering
10 of drugs or treatment, repeated acts of clearly excessive use
11 of diagnostic procedures, or repeated acts of clearly excessive
12 use of diagnostic or treatment facilities as determined by the
13 standard of the community of licensees is unprofessional conduct
14 for a physician and surgeon.

15 8. Respondent is subject to disciplinary action
16 pursuant to section 2234(b) and (d) in that she has committed
17 acts of gross negligence and incompetence in discharging her
18 duties as a physician and surgeon as follows:

19 A. On or about March 8, 1985, Marsha C., a thirty-
20 four year old female patient, underwent a section curettage
21 for an incomplete abortion. The attending physician
22 suspected a septate or bicornuate tissue. On or about
23 March 12, 1985, the patient experienced passage of fetal
24 parts. The patient was instructed to await spontaneous
25 passage of remainder of tissue and to call the physician
26 if bleeding became heavy or if she developed a temperature.

1 B. On or about March 15, 1985, the patient, who was
2 afebrile, consulted with respondent who diagnosed post-
3 operative complications with a possible perforation.
4 Respondent admitted the patient to Beverly Hills Medical
5 Center in Los Angeles for a repeat D & C under laparoscopic
6 observation and surgical repair of necrotic cervical
7 laceration.

8 C. On or about March 15, 1985 respondent performed
9 surgery and reported evidence of a previous uterine
10 perforation with slow oozing of blood and 30-40 cc's of
11 blood in the peritoneal cavity. Respondent also noted
12 omental bleeders. Respondent stated in the operation
13 record that fetal tissue was present in the abdomen.

14 D. Respondent's attempt to suture the laceration and
15 perforation on this asymptomatic post-abortal patient
16 seven days after the previous procedure constitutes gross
17 negligence and incompetence.

18 E. Respondent performed a suction curettage on
19 this patient which she failed to report in the records.
20 Respondent billed for a biopsy of ovary which was not
21 performed. Said conduct constitutes gross negligence.

22 F. Respondent's observations of findings regarding
23 condition of laceration and perforation and of bleeding
24 as reported in the records are not corroborated on the
25 videotape of the operation. Said conduct constitutes
26 gross negligence.

27 G. Respondent recorded in the operation record that,

1 after opening the abdomen, she passed a cannula through
2 the cervix, then through the uterine perforation, and that
3 repair followed. In fact, respondent did not pass the can-
4 nula until after she completed the repair. Said misstate-
5 ments on the operation record constitute gross negligence.

6 H. Respondent recorded in the operation record
7 that fetal tissue was present in the abdomen. In fact
8 there was no fetal tissue. Said conduct constitutes
9 incompetence.

10 I. Respondent performed a uterine suspension on
11 this patient in the face of uterine inflammation. Said
12 conduct constitutes gross negligence and incompetence.

13 G. Respondent is subject to disciplinary action
14 pursuant to section 2234(e) in that she has committed acts
15 involving dishonesty or corruption which are substantially
16 related to the qualifications, functions, or duties of a
17 physician and surgeon. The circumstances are as follows:

18 Approximately in March 1985, respondent caused
19 billings to be submitted for her treatment of Marsha C.,
20 hereinabove set forth at paragraph 8, for a total of
21 \$12,600. Said billings constitute acts of dishonesty or
22 corruption in that she billed separately for procedures
23 and treatment which should have been included under the
24 principal procedure, in that she billed for procedures
25 and treatment which she did not perform, enterotomy/large
26 bowel, suture of intestine, and trachelorrhaphy, in that
27 she billed more than once for the same procedure, and in

1 that she billed for second and third multiple procedures,
2 the laparoscopy and uterine suspension, at the full rate
3 rather than at a percentage.

4 10. Respondent is subject to disciplinary action
5 pursuant to section 2234(a) in conjunction with section 2261
6 in that she knowingly made and signed documents related to
7 the practice of medicine which falsely represented the
8 existence or nonexistence of a state of facts as set forth
9 in paragraphs 8 E, F, G, and H and 9.

10 11. Respondent is subject to disciplinary action
11 pursuant to section 2234(a) in conjunction with section 2262
12 in that she created false medical records with fraudulent
13 intent as set forth in paragraphs 8 E, F, G, and H and 9.

14 12. Respondent is subject to disciplinary action
15 pursuant to section 2234(b) and (c) in that she has committed
16 acts of gross negligence and incompetence in discharging
17 her duties as a physician and surgeon as follows:

18 A. On or about March 18, 1985, Jolina C., a 32 year-
19 old female, was admitted to Beverly Hills Medical Center
20 in Los Angeles, California, for evaluation of abdominal
21 pain with vomiting by another physician.

22 B. On or about March 21, 1985, respondent performed
23 a laparoscopy and liver biopsy. Said procedure revealed
24 relatively limited intrapelvic adhesions and bilateral
25 hydrosalpinx. The liver biopsy disclosed normal results.
26 The D & C and hysteroscopy scheduled for the same time
27 were crossed out on the records.

1 C. On or about March 22, 1985, respondent performed
2 a hysteroscopy, dilation of cervix, curettage of uterus,
3 video, cervical laser, and urethral dilatation. The stated
4 bases for these procedures were cervical dysplasia, pelvic
5 pain and pelvic mass on ultrasound.

6 D. The performance of the second surgery by respondent
7 on March 22, 1985, constitutes gross negligence and incompetence
8 in that there was no indication for said procedures.

9 E. Respondent failed to obtain a consent for laser
10 of cervix which constitutes gross negligence.

11 F. Respondent did not perform the D & C and hysteroscopy
12 on March 21, 1985, and failed to indicate in the operation
13 record why these procedures were not performed on that date
14 and subjected the patient to surgery on the following day.
15 Said conduct constitutes gross negligence.

16 G. Respondent reported and billed for the two surgical
17 procedures as occurring on March 22, 1985, rather than on
18 March 21 and 22, 1985. Respondent reported that the liver
19 biopsy was performed on March 22, 1985, rather than on
20 March 21, 1985. Said erroneous entries constitute gross
21 negligence.

22 13. Respondent is subject to disciplinary action
23 pursuant to section 2134(e) in that she has committed acts
24 involving dishonesty or corruption which are substantially
25 related to the qualifications, functions, or duties of a
26 physician and surgeon. The circumstances are as follows:

27 Approximately in April 1985, respondent caused three
28 billings to be submitted for her treatment of Jolina C.,

1 hereinabove set forth, at paragraph 12, in the amount of
2 \$15,145. Said billings constitute acts of dishonesty or
3 corruption in that she submitted two separate billings for each
4 surgery, billed twice for the same procedure, billed for
5 procedures not performed, bowel exploration, salpingostomy,
6 and cauterization of cervix, billed for procedures which
7 should have been included in the surgical fee, such as
8 extended hospital visits and initial comp. hospital examina-
9 tion, billed for incidental procedures, such as exam under
10 anesthesia, fulguration, etc., and billed for a procedure
11 performed by another physician, that is, the liver biopsy.

12 14. Respondent is subject to disciplinary action
13 pursuant to section 2234(a) in conjunction with section 2261
14 in that she knowingly made and signed documents related to the
15 practice of medicine which falsely represented the existence
16 or non-existence of a state of facts as set forth in
17 paragraphs 12G and 13.

18 15. Respondent is subject to disciplinary action
19 pursuant to section 2234(a) in conjunction with section 2262
20 in that she created false medical records with fraudulent
21 intent as set forth in paragraphs 12G and 13.

22 16. Respondent is subject to disciplinary action
23 pursuant to section 2234(b) and (d) in that she has committed
24 acts of gross negligence and incompetence in discharging her
25 duties as a physician and surgeon as follows:

26 A. On or about January 7, 1985, Rama H., a forty-
27 four year old female patient, consulted with respondent

1 at her office in Los Angeles for a second opinion. The
2 patient had been previously advised to undergo a total
3 hysterectomy by another physician who had followed her
4 since 1982 and documented a leiomyomata uteri.

5 B. Respondent recommended a myomectomy instead of
6 a hysterectomy. The patient cancelled the hysterectomy
7 with her previous physician. On or about January 22, 1985,
8 respondent admitted the patient into the Beverly Hills
9 Medical Center for myomectomy and incidental appendectomy
10 with a preoperative diagnosis of menometrorrhagia and pelvic
11 pain.

12 C. Respondent referred the patient for a consultation
13 on January 23, 1985, with R. Austin, M.D., who described
14 symptoms of severe heavy bleeding, anemia, dysmenorrhea,
15 pelvic pain, and inability to have coitus due to pain.

16 D. On or about January 23, 1985, respondent performed
17 an exploratory laparotomy, myomectomy, lysis of adhesions,
18 right ovarian cystectomy, multiple uterine biopsies, and uter
19 reconstruction. The surgery disclosed a large (7 x 6 x 5 cm)
20 leiomyomata uteri, adenomyosis and endometriosis of the right
21 ovary. The patient was discharged on January 27, 1985.

22 F. Postoperatively, the patient experienced persistent
23 menometrorrhagia, unresponsive to several hormonal regimes.
24 On or about July 15, 1985, another physician performed a
25 hysterectomy for adenomyosis and leiomyomata with persistent
26 menometrorrhagia. The uterus which was removed was 285 gm.,
27 and 12.4 x 6.5 x 6.2 cm. with extensive adenomyosis.

1 F. Respondent's conduct constitutes gross negligence
2 and incompetence in that she refused to perform a hysterectomy
3 on this patient as indicated by the patient's condition
4 and history and instead performed a myomectomy which was not
5 indicated and was not the correct procedure.

6 G. Respondent's conduct further constitutes gross
7 negligence in that the findings of the surgery performed
8 in January 1985 disclosed the need for a hysterectomy
9 which respondent failed to perform or recommend.

10 17. Respondent is subject to disciplinary action
11 pursuant to section 2234(e) in that she has committed acts
12 involving dishonesty or corruption which are substantially
13 related to the qualifications, functions, or duties of a
14 physician and surgeon. The circumstances are as follows:

15 Approximately in May 1985, respondent caused billings to
16 be submitted for her treatment of Rama H. in the amount of
17 \$10,550. Respondent's billings for her treatment of Rama H.,
18 hereinabove set forth at paragraph 16, constitute acts of
19 dishonesty or corruption in that she billed separately for
20 procedures and treatment which should have been included under
21 the principal procedure, in that she indicated she performed
22 and billed for treatment and procedures, such as, endometrial
23 biopsy, vaginal application of medication, and extended
24 hospital visits, which were not done, and that she billed
25 twice for the same procedure, that is, hysterectomy, repair.

26 18. Respondent is subject to disciplinary action
27 pursuant to section 2234(a) in conjunction with section 2261
28 in that she knowingly made and signed documents related to

1 the practice of medicine which falsely represented the
2 existence of a state of facts as set forth hereinabove at
3 paragraph 17.

4 19. Respondent is subject to disciplinary action
5 pursuant to section 2234(a) in conjunction with section 2262
6 in that she created false medical records with fraudulent
7 intent as set forth in paragraph 17.

8 20. Respondent is subject to disciplinary action
9 pursuant to section 2234(b) and (d) in that she has committed
10 acts of gross negligence and incompetence in discharging her
11 duties as a physician and surgeon as follows:

12 A. On or about March 25, 1985, Jan L., a 33 year old
13 female, consulted with respondent at her office in Los Angeles
14 for a regular check-up. The patient did not complain of any
15 symptoms.

16 B. Respondent examined the patient and reported
17 her findings to be anterior tumors of the uterus.
18 Respondent scheduled a D & C, laparoscopy, and laser
19 and uterine reconstruction. The patient failed to keep
20 her preoperative appointment and sought a second opinion.

21 C. On or about June 27, 1985, respondent wrote to the
22 patient advising her to schedule her planned surgery in order
23 to avoid a hysterectomy. In fact, the patient did not require
24 surgery.

25 D. Respondent's conduct constitutes gross negligence and
26 incompetence in that she recommended surgery when none was
27 required and in that she informed the patient the surgery was
28 required to avoid a hysterectomy.

1 21. Respondent is subject to disciplinary action
2 pursuant to section 2234(b) and (d) in that she has committed
3 acts of gross negligence and incompetence in discharging her
4 duties as a physician as follows:

5 A. Approximately in October 1985, Christine S.,
6 a 38 year old female patient, consulted with respondent
7 at her office in Los Angeles with complaints of menses
8 every 17 days, with increased bleeding and pain and
9 tenderness of breasts. Respondent examined the patient
10 and felt a pelvic mass. Approximately in December 1985,
11 respondent performed a CT scan of the pelvis which
12 showed an approximately 8 cm. mass. The patient was
13 placed on Anaprox with partial relief and birth control
14 pills for five weeks during which time she had no menses.

15 B. On or about February 12, 1986, respondent
16 admitted the patient to the Beverly Hills Medical Center
17 in Los Angeles with an admitting diagnosis of pelvic
18 pain and pelvic mass. Respondent ordered the following
19 laboratory tests: testosterone - free and total;
20 androsterone, LH, sex binding hormone, progesterone,
21 DHEA, FSH, Estrogen, Prolactin, DHEAS, CMV Titer,
22 Chlamydia Titer, GC by CF, EBV Titer, Mycoplasma Titer,
23 Thyroid Panel/TSH.

24 C. On or about February 13, 1986, respondent
25 performed a diagnostic laparoscopy followed by a
26 laparotomy. At the laparoscopy, respondent noted
27

1 posterior uterine irregularity, normal tubes and a
2 few bilateral adhesions. At the laparotomy a large
3 uterine biopsy was performed with findings of
4 adenomyosis. Respondent repaired the uterus and did
5 a uterine suspension and described that the tissue
6 was wedged out. Respondent also reported that she
7 performed lysis of adhesions. Postoperatively respondent
8 placed the patient on Danazol for six months to one
9 year. The patient was discharged on February 17, 1986.

10 D. Approximately one month later, the Danazol
11 was discontinued because the patient experienced side
12 effects. Approximately in March 1986, the patient
13 developed right lower quadrant pain radiating down
14 her leg.

15 E. On or about June 27, 1986, respondent again
16 admitted the patient to the Beverly Hills Medical Center
17 for evaluation of chronic right-sided external pain
18 confined to abdominal wall only.

19 F. On or about June 27, 1986, respondent performed a
20 diagnostic laparoscopy and incisional repair with suture,
21 and granuloma removal. Respondent noted on the operation
22 record that omental fat was found and partially excised
23 from the posterior uterine surface. Respondent also
24 performed an exploration of the incision site and found
25 a granuloma which was excised. Respondent also performed
26 excision of adhesions.

1 G. On or about June 28, 1986, respondent discharged
2 the patient. Respondent noted no physiological reasons for
3 the patient's major complaints of pain. After her discharge,
4 the patient continued to experience pain.

5 H. Respondent's conduct during the surgical
6 procedure of February 13, 1986, constitutes gross
7 negligence in that progressing to a laparotomy was
8 unwarranted in that the laparoscopic findings of slight
9 irregularities were minimal. The surgical technique
10 employed for the attempted myomectomy likewise
11 constitutes gross negligence in that a very large
12 deep incision was made.

13 I. Respondent during the surgical procedure of
14 February 13, 1986, continued the surgical exploration
15 of the uterus after realizing that the true diagnosis
16 was adenomyosis leiomyomas, and proceeded to excise
17 additional myometrical tissue in an attempt to remove as
18 much of the adenomyosis as possible. To attempt to treat
19 adenomyosis by surgical excision constitutes gross negli-
20 gence.

21 J. The manner in which respondent performed the
22 uterine suspension constitutes negligence in that it
23 could lead to chronic pelvic pain by causing some degree
24 of round ligament ischemia.

25 K. Respondent's conduct during the second surgical
26 procedure on June 27, 1986, constitutes incompetence in
27 that she reported that she excised ugly fatty adhesions

1 from the posterior fundus for cosmetic purposes which is
2 not an appropriate basis and which would further increase
3 the patient's risk of more adhesions.

4 22. Respondent is subject to disciplinary action
5 pursuant to section 2234(b) and (d) in that she has committed
6 acts of gross negligence and incompetence in discharging
7 her duties as a physician and surgeon as follows:

8 A. On or about June 13, 1984, respondent examined
9 Joan T., a forty-two year old female patient, on a
10 consultation referred from another physician. The patient
11 had a history of off and on low grade fevers followed
12 by a sudden onset of severe lower left quadrant pain
13 and fever of 101°. The patient had been treated with
14 antibiotics and improved but after she was sent home
15 and off antibiotics she experienced moderate discomfort
16 and low grade fevers. The patient gave a history of a
17 prior laparascopy and cystectomy in 1980. Respondent
18 noted the patient had anxiety over her failure to
19 achieve pregnancy.

20 B. On or about June 13, 1984, the patient was admitted
21 to Century City Hospital in Los Angeles. On or about June 14,
22 1984, respondent performed a dilation and curettage,
23 hysteroscopy, and diagnostic laparoscopy. The preoperative
24 diagnosis was acute and chronic pelvic pain, acute
25 salpingitis, failed to defervesce completely on I.V. and
26 p.o. antibiotics, and history of infertility, inability
27 for patient to conceive pregnancy.

1 C. The laparoscopy revealed severe adhesions and
2 blockage of both fallopian tubes. Respondent stated
3 on the operation record that fibroids of undetermined
4 size were present on the anterior and posterior fundus.
5 Respondent also noted during the course of the hysteroscopy
6 that fibroid tumors impinged on the flow of the dye.

7 D. Respondent made a postoperative diagnosis of
8 severe pelvic adhesions, bilateral tubal blockage,
9 multiple myomas, adhesions to the intestines on the
10 left side, tying up the large bowel, adhesions on right
11 side into the cul-de-sac area, and enlargement of the
12 right ovary with multiple follicular cysts. Respondent
13 recommended further surgery for the release of the
14 adhesions and myomectomy to relieve pain and to
15 increase probability of fertility. The patient was
16 discharged on June 17, 1984.

17 E. On or about July 4, 1984, respondent again admitted
18 the patient to Century City Hospital with a history of
19 severe chronic pelvic pain and diagnosis of severe adhesions,
20 endometriosis and uterine fibroid. On or about July 5, 1984,
21 respondent performed an exploratory laparotomy, lysis of
22 adhesions, left and right ovarian cystectomy, ovarian
23 ligament suspension, uterine suspension, lysis of adhesions,
24 electrofulguration of endometriosis, myomectomy, and
25 irrigation.
26
27

1 F. Respondent described the procedure in the operation
2 record of July 5, 1984, including that the ovaries
3 were fixated to their ligaments with prolene and that
4 the uterine areas felt firm where respondent suspected
5 fibroids. Respondent then made incisions on the uterus
6 and removed a small, hard, firm myomata on one side but
7 failed to find any fibroid on the other. She sent the
8 tissue to the pathologist for a biopsy because she
9 suspected adenomyosis. Respondent discharged the patient
10 on July 11, 1984.

11 G. Respondent's conduct in her treatment of this
12 patient constitutes gross negligence in that she failed
13 to perform a hysterosalpingography to demonstrate
14 whether fibroids actually obstructed the tubes.

15 H. Respondent's conduct during the second surgery
16 in July 1984 constitutes gross negligence in that there
17 was no basis for performing the myomectomy and it was
18 improper to cut into the uterus because it felt firm.

19 I. Respondent's conduct during the second surgery
20 in July 1984 constitutes gross negligence in that she
21 fixated the ovaries to their ligament with prolene which
22 alone could cause chronic pain.

23 J. Respondent's conduct during the second surgery
24 in July 1984 constitutes gross negligence in that she
25 failed to check for tubal potency.
26
27

1 K. Respondent's conduct in her treatment of this
2 patient constitutes incompetence in that she failed to
3 have a semen analysis of the patient's partner and
4 failed to obtain GC culture and chlamydia culture of the
5 cervix.

6 23. Respondent is subject to disciplinary action
7 pursuant to section 2234(e) in that she has committed acts
8 involving dishonesty or corruption which are substantially
9 related to the qualifications, functions, or duties of a
10 physician and surgeon. The circumstances are as follows:

11 Approximately in April 1985, respondent submitted
12 billing for her June 1985 treatment of Joan T., as set
13 forth at paragraph 22, in the amount of \$3825. Said
14 billing constitutes acts of dishonesty or corruption in
15 that she billed separately for procedures and treatment
16 which should have been included under the principal
17 procedure.

18 24. Respondent is subject to disciplinary action
19 pursuant to section 2234(b) and (d) in that she has committed
20 acts of gross negligence and incompetence in discharging
21 her duties as a physician and surgeon as follows:

22 A. On or about April 2, 1985, respondent admitted
23 Marsha W., a 36 year old female patient, Gravida 3, para
24 0, with two miscarriages and one abortion, to the Beverly
25 Hills Medical Center in Los Angeles. The patient had
26 previously on February 12, 1985, undergone a diagnostic
27 laparoscopy by another physician, who had noted
28 adhesions involving the right ovary, left tubo-ovarian

1 adhesions and adhesion around the left utero-sacral
2 ligament. This physician noted that the bladder area
3 and cul-de-sac were otherwise free of pathology,
4 including endometriosis. The physician found one 3 cm.
5 anterior fibroid which did not involve the uterine
6 cavity and recommended a laparotomy with lysis of
7 adhesions and myomectomy.

8 P. On or about April 3, 1985, respondent listed
9 that she performed, among other procedures, an exploratory
10 laparotomy, cyst aspiration bilaterally on ovaries,
11 left ovarian cystectomy, right and left ovarian trans-
12 fixation, multiple myomectomy, complex, hysteroplasty,
13 salpingolysis, bilateral salpingoplasty, uterine suspension,
14 round ligament transfixion, round ligament hypoplexy,
15 tubolysis, adnexal adhesion, ovarian lysis, and abdominal
16 pelvic adhesion lysis.

17 C. In the operation record, respondent described
18 the uterus as pulled into the cul-de-sac, dense adhesions
19 between the uterus and bladder, much cul-de-sac endometriosis,
20 and bilateral salpingoplasties. Respondent transfixed
21 the ovaries with Tevdek, a permanent suture, to the
22 posterior aspect of the uterus with 2-0 Tevdek and stated
23 she performed myomectomies on the anterior fibroid and
24 on three additional fibroids described as minute. The
25 pathology report describes only two fibroids, one 3 cm.
26 and the other 1 cm.

1 D. Respondent made a diagnosis of fibroid tumors
2 and possible adenomyosis with significant endometriosis.
3 Respondent discharged the patient on or about April 6,
4 1985. Thereafter the patient consulted with another
5 physician and approximately in January 1986 the patient
6 underwent a laparoscopy.

7 E. Respondent's conduct in performing the
8 myomectomies on April 3, 1985, constitutes negligence
9 in that the fibroids were small in size, of multiple
10 nature, and in an unimportant location.

11 F. Respondent's conduct using a permanent suture
12 such as Tevdek to sew the ovaries to the back of the
13 uterus constitutes gross negligence. Respondent's
14 conduct in using Tevdek to transfix the round ligaments
15 constitutes incompetence.

16 25. Respondent is subject to disciplinary action
17 pursuant to section 2134(e) in that she has committed acts
18 involving dishonesty or corruption which are substantially
19 related to the qualifications, functions or duties of a
20 physician and surgeon. The circumstances are as follows:

21 Approximately in April 1985, respondent caused
22 billings to be submitted for her treatment of Marsha W.,
23 hereinabove set forth at paragraph 24, in which she
24 billed \$21,175.00 for the surgery. Said billing
25 constitutes acts of dishonesty or corruption in that
26 she billed for procedures not performed, such as,
27

1 ventral hernia repair and laparoscopy, in that she doubly
2 charged for a bilateral salpingoplasty when none was done,
3 billed for procedures which should have been included in the
4 surgical fee, and billed for independent multiple procedures
5 at the full rate rather than on a percentage basis.

6 26. Respondent is subject to disciplinary action
7 pursuant to section 2234(a) in conjunction with section 2261
8 in that she knowingly made and signed documents related to
9 the practice of medicine which falsely represented the
10 existence or nonexistence of a state of facts as set forth
11 at paragraph 25.

12 27. Respondent is subject to disciplinary action
13 pursuant to section 2234(a) in conjunction with section 2262
14 in that she created false medical records with fraudulent
15 intent as set forth in paragraph 25.

16 28. Respondent is subject to disciplinary action
17 pursuant to section 2234(e) in that she has committed acts
18 involving dishonesty or corruption which are substantially
19 related to the qualifications, functions, or duties of a
20 physician and surgeon as follows:

21 A. On or about March 26, 1985, Karen G., a 33
22 year old female patient, consulted with respondent at
23 her office in Los Angeles with a complaint of severe pelvic
24 pain. A sonogram had been previously done by another
25 physician. Respondent performed a pelvic ultrasound
26 in her office and indicated a possible right ovarian
27 dermoid measuring 4.1 cm.

1 B. On or about March 27, 1985, respondent
2 admitted the patient to the Beverly Hills Medical
3 Center in Los Angeles. On that date, the patient was
4 examined by a consulting physician who noted a pulse
5 of 44. On or about March 28, 1985, respondent
6 scheduled a diagnostic laparoscopy. Preoperatively
7 the patient's pulse was recorded at 60. During the
8 infusion of carbon dioxide during the laparoscopy,
9 respondent noted severe bradycardia. The respondent
10 responded with an immediate open laparoscopy and noted
11 non-clotting omental blood, followed by an immediate
12 laparotomy to rule out major vessel or bowel injury.
13 The laparotomy revealed no evidence of bowel or vessel
14 injury. Respondent performed an excision of a small
15 1.5 cm. right ovarian dermoid, lysis of small adhesions
16 on the ovaries and several fibrous adhesions on the
17 back of the uterus, a uterine suspension and wedge
18 resection of the opposite ovary and incidental
19 appendectomy. The patient was discharged on April 3,
20 1985, with a principal diagnosis of benign neoplasm
21 ovary.

22 C. Respondent's failure to recognize this patient's
23 preoperative bradycardia as reflected in the pulse rates
24 of 44 and 60 constitutes negligence and resulted in an
25 overreaction and immediate laparotomy which was not
26 justified by the transient mild bradycardia of 56.
27

1 D. Approximately in April 1985, respondent caused to
2 be submitted billings for her treatment of this patient in
3 the amount of \$10,025. Respondent's billings for her treat-
4 ment of this patient constitute acts of dishonesty or cor-
5 ruption in that she billed for procedures not performed,
6 such as, vaginal application of medicine and enterotomy,
7 billed for procedures which should have been included in the
8 surgical fee, billed for independent multiple procedures at
9 a full rate rather than on a percentage basis, that is,
10 billed separately at a full rate for the uterine suspension
11 which at the most should have been billed at 50% of the
12 usual surgical fee, and billed for procedures performed
13 by another physician, that is, bowel exploration.

14 29. Respondent is subject to disciplinary action
15 pursuant to section 2234(a) in conjunction with section 2261
16 in that she knowingly made and signed documents related to
17 the practice of medicine which falsely represented the
18 existence or nonexistence of a state of facts as set forth
19 at paragraph 28.

20 30. Respondent is subject to disciplinary action
21 pursuant to section 2234(a) in conjunction with section 2262
22 in that she created false medical records with fraudulent
23 intent as set forth in paragraph 28.

24 31. Respondent is subject to disciplinary action
25 pursuant to section 2234(e) in that she has committed acts
26 involving dishonesty or corruption which are substantially
27 related to the qualifications, functions, or duties of a
28 physician and surgeon as follows:

1 A. On or about March 27, 1985, Deborah S., a
2 42 year old female patient, consulted with respondent
3 at her office in Los Angeles. Thereafter a biopsy of
4 the vulval area disclosed Bowen's disease, focal vulvar
5 carcinoma in situ, extending to the margins. Respondent
6 also noted hemorrhoids.

7 B. On or about April 17, 1985, respondent admitted
8 the patient to the Beverly Hills Medical Center with an
9 admitting diagnosis of internal hemorrhoids and Bowen's
10 disease for excision. On or about April 18, 1985, respondent
11 noted in the operation record that she performed the
12 following surgical procedures: wide excision of invasive
13 tumors, dying of tumors, D & C, cervical biopsy,
14 hysteroscopy, excision of perineum, hemorrhoidectomy,
15 plastic repair, perineoplasty, hymenoplasty, and labioplasty.
16 Pathology confirmed vulvar carcinoma in situ. Respondent
17 discharged the patient on April 26, 1985.

18 C. Respondent's conduct in her treatment of this
19 patient constitutes negligence in that the D & C,
20 cervical biopsy hysteroscopy, perineoplasty and
21 hymenoplasty were not indicated.

22 D. Approximately in April and May 1985, respondent
23 caused billings to be submitted for her treatment of Deborah
24 S. for \$10,595. Said billings constitute acts of dishonesty
25 or corruption in that she billed separately for procedures
26 and treatment which should have been included under the
27 principal procedure and in that she indicated she performed
28 and billed for treatment and procedures which were not

1 performed, such as, anal sphincteroplasty, perineoplasty,
2 hymenectomy, plastic revision of hymen, plastic repair of
3 introitus, biopsy with sutures, and posterior colporrhaphy
4 in that she billed for treatment and procedures performed by
5 another physician, the hemorrhoidectomy and in that she billed
6 in full for procedures which should have been billed at a
7 lesser rate as secondary to the principal procedure.

8 32. Respondent is subject to disciplinary action
9 pursuant to section 2234(a) in conjunction with section 2261
10 in that she knowingly made and signed documents related to
11 the practice of medicine which falsely represented the
12 existence or nonexistence of a state of facts as set forth
13 at paragraph 31.

14 33. Respondent is subject to disciplinary action
15 pursuant to section 2234(a) in conjunction with section 2262
16 in that she created false medical records with fraudulent
17 intent as set forth in paragraph 31.

18 34. Respondent is subject to disciplinary action
19 pursuant to section 2234(e) in that she has committed acts
20 involving dishonesty or corruption which are substantially
21 related to the qualifications, functions, or duties of a
22 physician and surgeon as follows:

23 A. On or about October 9, 1985, Alicia G., a
24 25 year old female patient, consulted with respondent
25 for severe pelvic pain at her office in Los Angeles.
26 On that same date, respondent admitted the patient to
27 the Beverly Hills Medical Center in Los Angeles with

1 an admitting diagnosis of acute salpingitis for
2 intravenous antibiotic therapy.

3 B. The patient exhibited pelvic tenderness but
4 was afebrile, with a normal complete blood count and
5 sed rate. A pelvic ultrasound disclosed changes
6 suggestive of inflammation. Respondent considered
7 pelvic inflammatory disease and toxic shock syndrome.
8 The patient sought other medical opinions and discharged
9 herself on October 11, 1985.

10 C. Respondent's failure to consider any other
11 differential diagnoses such as Mittleschertz, occult
12 pregnancy, or ectopic pregnancy, in the absence of
13 objective findings for pelvic inflammatory disease or
14 toxic shock syndrome, and failure to order a serum
15 pregnancy test constitute negligence.

16 D. Approximately in October 1985, respondent
17 caused billings to be submitted for her treatment of
18 Alicia G. Said billings constitute acts of dishonesty
19 or corruption in that she indicated she performed and
20 billed for services which she did not perform, such as,
21 complex initial consultation, extended hospital visit and
22 comprehensive consultation.

23 35. Respondent is subject to disciplinary action pur-
24 suant to section 2234(a) in conjunction with section 2261 in that
25 she knowingly made and signed documents related to the practice
26 of medicine which falsely represented the existence or
27 nonexistence of a state of facts as set forth as paragraph 34.

1 36. Respondent is subject to disciplinary action
2 pursuant to section 2234(a) in conjunction with section 2262
3 in that she created false medical records with fraudulent
4 intent as set forth in paragraph 34.

5 37. Respondent is subject to disciplinary action
6 pursuant to section 2234(e) in that she has committed acts
7 involving dishonesty or corruption which are substantially
8 related to the qualifications, functions, or duties of a
9 physician and surgeon as follows:

10 A. On or about February 20, 1985, Florence C.,
11 a 51 year old female patient, consulted with respondent
12 at her office in Los Angeles for a routine gynecological
13 examination. Respondent informed the patient that she
14 should have a D & C along with surgical removal of light
15 tissue on the lip of the vagina and a biopsy of tissue
16 near the cervix.

17 B. On or about March 4, 1985, respondent admitted
18 the patient to the Beverly Hills Medical Center in
19 Los Angeles with an admitting diagnosis of dysfunctional
20 uterine bleeding and vaginal lesion. Respondent operated
21 on that date. The pathology report revealed no evidence
22 of malignancy. Respondent discharged the patient on
23 that same date.

24 C. Approximately in April 1985, respondent caused
25 billings to be submitted for her treatment of Florence C.
26 for \$2450. Said billings constitute acts of dishonesty
27

1 or corruption in that she billed for plastic repair of
2 labia which was not done, in that she billed separately
3 for procedures which should have been included under
4 the principal procedure, and in that she billed in full
5 for procedures which should have been billed at a lesser
6 rate as secondary to the principal procedure.

7 38. Respondent is subject to disciplinary action
8 pursuant to section 2234(a) in conjunction with section 2261
9 in that she knowingly made and signed documents related to
10 the practice of medicine which falsely represented the
11 existence or nonexistence of a state of facts as set forth
12 at paragraph 37.

13 39. Respondent is subject to disciplinary action
14 pursuant to section 2234(a) in conjunction with section 2262
15 in that she created false medical records with fraudulent
16 intent as set forth in paragraph 37.

17 40. Respondent is subject to disciplinary action
18 pursuant to section 2234(e) in that she has committed acts
19 involving dishonesty or corruption which are substantially
20 related to the qualifications, functions, or duties of a
21 physician and surgeon as follows:

22 A. On or about July 14, 1985, respondent
23 admitted Isabell M., a 32 year old female patient,
24 into the Beverly Hills Medical Center in Los Angeles,
25 with an admitting diagnosis of pelvic mass.
26
27

1 B. On or about July 15, 1985, respondent performed
2 a surgery. In the operation record, respondent indicated
3 she performed, among other things, complete female
4 reconstructive surgery, an exploratory laparotomy,
5 appendectomy, exploration of the bowel, ovarian
6 cystectomy, abdominal pelvic lysis, adnexal adhesion
7 lysis and tubolysis, uterine suspension, fulgaration
8 of ovarian and peritoneal tissues, hysteroplasty,
9 complex myomectomy, salpingolysis, fimbrioplasty,
10 hydrotubulation and salpingoplasty bilaterally.
11 The patient was discharged on July 21, 1985.

12 C. Thereafter, respondent caused to be submitted
13 a billing for her services in which she indicated diagnoses
14 of pelvic pain, pelvic adhesions, uterine prolapse,
15 menometrorrhagia, myomata uterus, pelvic adhesions and
16 dysmenorrhea. Respondent billed a total of \$15,950
17 for her treatment of this patient during the
18 hospitalization, including \$5200 for pelvic reconstructive,
19 \$6000 for abdominal reconstructive, \$1200 for appendectomy
20 and \$2500 for myomectomy. Respondent also billed for an
21 extended hospital visit and for a comprehensive hospital
22 examination.

23 D. Said billings constitute acts of dishonesty
24 or corruption in that she billed more than once for
25 the same procedures, billed separately for procedures
26 and treatment which should have been included under
27

1 the principal procedure, and billed for procedures
2 performed by another.

3 41. Respondent is subject to disciplinary action
4 pursuant to section 2234(a) in conjunction with section 2261
5 in that she knowingly made and signed documents related to
6 the practice of medicine which falsely represented the
7 existence or nonexistence of a state of facts as set forth
8 at paragraph 40.

9 42. Respondent is subject to disciplinary action
10 pursuant to section 2234(a) in conjunction with section 2262
11 in that she created false medical records with fraudulent
12 intent as set forth in paragraph 40.

13 43. Respondent is subject to disciplinary action
14 pursuant to section 2234(e) in that she has committed acts
15 involving dishonesty or corruption which are substantially
16 related to the qualifications, functions, or duties of a
17 physician and surgeon as follows:

18 A. On or about April 9, 1986, Debra S. a 36 year
19 old female patient, consulted with respondent at her
20 office in Los Angeles with a complaint of bleeding from
21 her vagina for a period of 15 days.

22 B. On or about April 12, 1986, respondent admitted
23 the patient to the Beverly Hills Medical Center with an
24 admitting diagnosis of dysfunctional uterine bleeding for
25 a diagnostic laparoscopy to confirm abnormalities found
26 on the examination, to rule out signs of endometrial
27

1 carcinoma from the uterus, and for D & C, hysteroscopy,
2 and laparoscopy.

3 C. On or about April 12, 1986, respondent performed
4 a D & C, a hysteroscopy and a diagnostic laparoscopy.
5 Respondent noted in the operation record several
6 peritubal cysts on the fallopian tubes. Respondent
7 discharged the patient on that same date and recommend
8 major surgery to reconstruct the abnormalities she noted.

9 D. On or about April 14, 1986, the patient signed
10 a consent form for respondent to perform, among other
11 things, tuboplasty and lysis of adhesions. The patient
12 thereafter cancelled the surgery and went to another
13 physician.

14 E. Said consent form of April 14, 1986, constitutes
15 acts of dishonesty or corruption by respondent in that
16 this patient did not evidence tubal problems and the tiny
17 peritubal cysts were inconsequential and the patient did
18 not require tuboplasty or lysis of adhesions.

19 44. Respondent is subject to disciplinary action
20 pursuant to section 2234(a) in conjunction with section 2261
21 in that she knowingly made documents related to the practice
22 of medicine which falsely represented the existence of a state
23 of facts as set forth at paragraph 43.

24 45. Respondent is subject to disciplinary action
25 pursuant to section 2234(a) in conjunction with section 2262
26
27

1 in that she created false medical records with fraudulent
2 intent as set forth in paragraph 43.

3 46. Respondent is subject to disciplinary action
4 pursuant to section 2234(c) in that she has committed repeated
5 acts of negligence in discharging her duties as a physician
6 and surgeon as set forth herein at paragraphs 8, 12, 16, 20,
7 21, 22, 24, 28, 31 and 34.

8 47. Respondent is subject to disciplinary action
9 pursuant to section 2234 in conjunction with section 725 in
10 that she has committed repeated acts of clearly excessive
11 administering of treatment, repeated acts of clearly excessive
12 use of diagnostic procedures, and repeated acts of clearly
13 excessive use of diagnostic or treatment facilities as
14 determined by the standard of the community of licensees as
15 set forth herein at paragraphs 12D in that said surgery was
16 unnecessary, 20 in that the recommended surgery was unnecessary,
17 21A in that the CT scan was unnecessary, 21B in that the
18 laboratory tests were excessive and 34 in that the
19 hospitalization was excessive.

20 48. Section 810(a) provides that it shall constitute
21 unprofessional conduct and grounds for disciplinary action
22 for a health care professional to knowingly present or cause
23 to be presented any false or fraudulent claim for the payment
24 of a loss under a contract of insurance and to knowingly
25 prepare, make, or subscribe any writing with intent to
26 present or use it or allow it to be presented or used in
27 support of any such claim.


1 40. Respondent is subject to disciplinary action
2 pursuant to section 2234 and 810(a) in that she has knowingly
3 presented or caused to be presented false or fraudulent
4 claims for payment under contracts of insurance and knowingly
5 prepared, made, or subscribed writings with intent to present
6 them or use them or allowed them to be presented or used in
7 support of such claims as set forth herein in paragraphs 8, 9,
8 10, 13, 16, 17, 22, 23, 24, 25, 28, 29, 31, 34, 37, 40, and 43.

9 WHEREFORE, complainant prays that the Division hold a
10 hearing on the matters alleged herein and following said
11 hearing issue a decision.

12 1. Taking such action as provided in sections 2234 and
13 2235; and

14 2. Taking such other and further action as it deems
15 proper.

16 Dated: February 26, 1987

17
18
19 
20 KENNETH J. MACFARLANE
21 Executive Director
22 Board of Medical Quality Assurance
23 State of California

24 Complainant

25 npe
26 VGL-33
27