

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

In the Matter of the Accusation)
Against:)
)
BURNELL GORDON FORGEY, M.D.)
Certificate #A-10602)
)
)
Respondent.)
_____)

No: 04-97-74655

DECISION AND ORDER

The attached Stipulation for Surrender of License and Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective on February 9, 1998.

DATED February 2, 1998.

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**



**Ira Lubell, M.D., President
Division of Medical Quality**

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SHERRY L. LEDAKIS,
Deputy Attorney General
3 State Bar No. 131767
Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92186-5266
Telephone: (619) 645-2078

6 Attorneys for Complainant
7

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

12 In the Matter of the Accusation) NO. 04-97-74655
Against:)
13)
BURNELL GORDON FORGEY, M.D.) **STIPULATION FOR**
14 333 E. 17th St., #17) **SURRENDER OF LICENSE**
Costa Mesa, CA 92627)
15)
Physician's and Surgeon's)
16 Certificate No. A10602)
17)
Respondent.)
18)

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

22 1. Complainant, Ron Joseph, is the Executive Director
23 of the Medical Board of California, Department of Consumer
24 Affairs ("Board") and is represented by Daniel E. Lungren,
25 Attorney General of the State of California by Sherry L. Ledakis,
26 Deputy Attorney General.

27 ///

1 2. Burnell Gordon Forgey, M.D., has been advised of
2 his right to be represented by counsel at his own expense, and
3 has chosen to proceed without counsel.

4 3. Respondent has received and read the Accusation
5 which is presently on file and pending in Case No. 04-97-74655
6 before the Division of Medical Quality of the Board ("Division"),
7 a copy of which is attached as Exhibit A and incorporated herein
8 by reference.

9 4. Respondent understands the nature of the charges
10 alleged in the Accusation and that, if proven at hearing, such
11 charges and allegations would constitute cause for imposing
12 discipline upon respondent's license issued by the Board.

13 5. Respondent is aware of each of his rights,
14 including the right to be represented by counsel, the right to a
15 hearing on the charges and allegations, the right to confront and
16 cross-examine witnesses who would testify against respondent, the
17 right to testify and present evidence on his own behalf, as well
18 as to the issuance of subpoenas to compel the attendance of
19 witnesses and the production of documents, the right to contest
20 the charges and allegations, and other rights which are accorded
21 respondent pursuant to the California Administrative Procedure
22 Act (Gov. Code, § 11500 et seq.) and other applicable laws,
23 including the right to seek reconsideration, review by the
24 superior court, and appellate review.

25 6. For the purpose of resolving Accusation No. 04-97-
26 74655, respondent freely and knowingly admits the allegations
27 contained in Accusation No. 04-97-74655 and waives each and every

1 one of the rights set forth in paragraph 5, including his right
2 to be represented by counsel, the right to a hearing on the
3 charges and allegations, the right to confront and cross-examine
4 witnesses who would testify against respondent, the right to
5 testify and present evidence on his own behalf, as well as to the
6 issuance of subpoenas to compel the attendance of witnesses and
7 the production of documents, the right to contest the charges and
8 allegations, and other rights which are accorded respondent
9 pursuant to the California Administrative Procedure Act (Gov.
10 Code, § 11500 et seq.) and other applicable laws, including the
11 right to seek reconsideration, review by the superior court, and
12 appellate review.

13 7. For the purpose of resolving Accusation No. 04-97-
14 74655, respondent admits that he is guilty of the allegations
15 contained in Accusation. Respondent hereby gives up his right to
16 contest the charges and allegations in the Accusation and agrees
17 to surrender of his Physician's and Surgeon's Certificate.

18 8. Respondent understands that by signing this
19 Stipulation he is enabling the Division to issue its order
20 accepting the surrender of his license without further process.
21 He understands and agrees that Board staff and counsel for
22 complainant may communicate directly with the Division regarding
23 this Stipulation, without notice to or participation by
24 respondent. The Division will not be disqualified from further
25 action in this matter by virtue of its consideration of this
26 Stipulation. In the event that this Stipulation is rejected for
27 any reason by the Division, it will be of no force or effect for

1 either party except for this paragraph.

2 9. Upon acceptance of this Stipulation by the
3 Division, respondent agrees to cause to be delivered to the
4 Division both his license and wallet certificate before the
5 effective date of the Decision. Respondent further understands
6 that, on or after the effective date of this Decision, he will no
7 longer be permitted to practice as a physician and surgeon in
8 California.

9 10. Respondent understands and agrees that if he ever
10 files an application for relicensure or reinstatement in the
11 State of California, the Division shall treat it as a petition
12 for reinstatement and respondent must comply with all laws,
13 regulations and procedures for reinstatement of a revoked license
14 in effect at the time the petition is filed.

15 11. Respondent understands and agrees that if he ever
16 files an application for relicensure or reinstatement, he will
17 reimburse the Division the amount of \$19,806.88, as the costs of
18 investigation and prosecution of this matter. Unless otherwise
19 agreed by the Division, such reimbursement shall be paid in full
20 prior to the processing of the application for relicensure or
21 reinstatement.

22 12. All admissions and recitals contained in this
23 stipulation are made solely for the purpose of settlement in this
24 proceeding and for any other proceedings in which the Division or
25 other professional licensing agency is involved, and shall not be
26 admissible in any other criminal or civil proceedings.

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ACCEPTANCE

I, Burnell Gordon Forgey, M.D., having carefully read the above stipulation, enter into it freely and voluntarily, and, with full knowledge of its force and effect, do hereby tender for surrender my Physician's and Surgeon's Certificate No. A10602 to the Division. By signing this Stipulation to surrender my license, I recognize that upon its formal acceptance by the Division, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Division both my licenses and wallet certificate before the effective date of the Decision.

DATED: Jan 9 1998

Burnell G. Forgey
Burnell Gordon Forgey, M.D.
Respondent

DATED: Jan. 14, 1998

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

Sherry L. Ledakis
SHERRY L. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SHERRY L. LEDAKIS,
Deputy Attorney General, State Bar No. 131767
3 Department of Justice
110 West A Street, Suite 1100
4 Post Office Box 85266
San Diego, California 92186-5266
5 Telephone: (619) 645-2078
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8 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
9 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 04-97-74655
Against:)
12)
13 BURNELL GORDON FORGEY, M.D.) **ACCUSATION**
14 1401 Avocado Avenue, Suite 207)
Newport Beach, CA 92660)
15 Physician's and Surgeon's)
Certificate No. A 10602,)
16 Respondent.)

17
18 Complainant Ron Joseph as cause for disciplinary action
19 alleges as follows:

20 **PARTIES**

21 1. Complainant, Ron Joseph, is the Executive Director
22 of the Medical Board of California (hereinafter the "Board") and
23 brings this accusation solely in his official capacity.
24 2. On or about September 18, 1944, Physician's and
25 Surgeon's Certificate No. A 10602 was issued by the Board to
26 Burnell Gordon Forgey, M.D. (hereinafter "respondent"). At all
27 times relevant to the charges brought herein, this license has

1 been in full force and effect, either in an active status or in a
2 retired status. Said certificate has been in a retired status
3 since August 5, 1992, with a new license number of AFE 10602.
4 The expiration date of the license is December 31, 1997.

5 **JURISDICTION**

6 3. This accusation is brought before the Division of
7 Medical Quality of the Board (hereinafter the "Division"), under
8 the authority of the following sections of the California
9 Business and Professions Code and the Health and Safety Code:

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

16 B. Section 2234 of the Business and Professions
17 Code provides that unprofessional conduct includes, but is
18 not limited to, the following:

19 "(b) Gross negligence.

20 "(c) Repeated negligent acts.

21 ". . .

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

26 ". . . ."

27 / / /

1 C. Section 2238 of the Business and Professions
2 Code provides, as relevant hereto, that a violation of any
3 of the statutes or regulations of this state regulating
4 dangerous drugs or controlled substances constitutes
5 unprofessional conduct.

6 D. Section 2242 of the Business and Professions
7 Code provides, as relevant hereto, that prescribing,
8 dispensing, or furnishing dangerous drugs as defined in
9 Section 4211 of the Business and Professions Code without a
10 good faith prior examination and medical indication
11 therefor, constitutes unprofessional conduct.

12 E. Section 11153 of the Health and Safety Code
13 provides, as relevant hereto, that a prescription for a
14 controlled substance shall only be issued for a legitimate
15 medical purpose by an individual practitioner acting in the
16 usual course of his or her professional practice. The
17 responsibility for the proper prescribing and dispensing of
18 controlled substances is upon the prescribing practitioner,
19 but a corresponding responsibility rests with the pharmacist
20 who fills the prescription. Except as authorized by this
21 division, the following is not a legal prescription: an
22 order purporting to be a prescription which is issued not in
23 the usual course of professional treatment or in
24 legitimate and authorized research.

25 F. Section 11173 of the Health and Safety
26 Code provides, in relevant part, that (a) No person
27 shall obtain or attempt to obtain controlled

1 substances, or procure or attempt to procure the
2 administration of or a prescription for controlled
3 substances, (1) by fraud, deceit, misrepresentation, or
4 subterfuge; or (2) by the concealment of a material
5 fact; and (b) no person shall make a false statement in
6 any prescription, order, report, or record, required by
7 this division.

8 G. Section 11157 of the Health and Safety
9 Code provides that no person shall issue a prescription
10 that is false or fictitious in any respect.

11 H. Section 11170 of the Health and Safety
12 Code provides that no person shall prescribe,
13 administer, or furnish a controlled substance for
14 himself.

15 I. Business and Professions Code section
16 125.3 provides that except as otherwise provided by
17 law, in any order issued in resolution of a
18 disciplinary proceeding before any board within the
19 department, the board may request the administrative
20 law judge to direct a licentiate found to have
21 committed a violation or violations of the licensing
22 act to pay a sum not to exceed the reasonable costs of
23 the investigation and enforcement of the case.

24 4. Section 16.01 of the 1996/1997 Budget Act of the
25 State of California provides, in pertinent part, that: (a) no
26 funds appropriated by this act may be expended to pay any Medi-
27 Cal claim for any service performed by a physician while that

1 physician's license is under suspension or revocation due to a
2 disciplinary action of the Medical Board of California; and, (b)
3 no funds appropriated by this act may be expended to pay any
4 Medi-Cal claim for any surgical service or other invasive
5 procedure performed on any Medi-Cal beneficiary by a physician if
6 that physician has been placed on probation due to a disciplinary
7 action of the Medical Board of California related to the
8 performance of that specific service or procedure on any patient,
9 except in any case where the board makes a determination during
10 its disciplinary process that there exist compelling
11 circumstances that warrant continued Medi-Cal reimbursement
12 during the probationary period.

13 5. Controlled substances, within the meaning of the
14 Uniform Controlled Substances Act, Health & Safety Code §§ 11000
15 et seq., include:

16 A. "Valium," is a brand name for Diazepam, a
17 Schedule IV controlled substance under Health and Safety
18 Code section 11057(d)(8).

19 B. "Didrex," is a brand name for Benzphetamine
20 hydrochloride, a Schedule III controlled substance under
21 Health and Safety Code section 11056(b)(2).

22 C. "Diethylpropion," is a Schedule IV controlled
23 substance under Health and Safety Code section 11057(f)(1).

24 D. "Vicodin," is a brand name for
25 Hydrocodone, a Schedule II controlled substance under
26 Health and Safety Code section 11055(b)(1)(J).

27 / / /

1 E. "Fastin," is a brand name for Phentermine, a
2 Schedule IV controlled substance under Health and Safety
3 Code section 11057(f)(2).

4 F. "Pondimin," is a brand name for Fenfluramine,
5 a Schedule IV controlled substance under Health and Safety
6 Code section 11057(e)((1).

7 G. "Redux," is a brand name for Dexfenfluramine,
8 a Schedule IV controlled substance under Health and Safety
9 Code section 11057(e).

10 H. "Restoril" is a brand name for Temazepam, a
11 Schedule IV controlled substance under Health and Safety
12 Code section 11057(d)(24)

13 I. "Tylenol with Codeine," (Tylenol #4), is a
14 Schedule III controlled substance.

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence)

17 6. Respondent Burnell Gordon Forgey, M.D., is subject
18 to disciplinary action on account of the following:

19 A. At all times relevant hereto, respondent
20 practiced the medical specialty of psychiatry. From on or
21 about February 1979 to the present, respondent has been
22 aware, and as events occurred he became aware, of all or
23 part of the criminal history of James Crummel, an aggressive
24 pedophile and registered sex offender. At all times
25 relevant hereto, respondent has been aware of Crummel's
26 numerous arrests for sexual assaults on children.

27 / / /

1 B. From about 1990 through and including about
2 1994, respondent made weekly to monthly visits to youth
3 group homes in Orange County and rendered professional
4 services. These facilities included, but were not limited
5 to, two locations of New Alternatives, Inc., one in Costa
6 Mesa and the other in Orange, California. While at each
7 facility, respondent provided psychiatric services. The
8 population of residents included abused and vulnerable
9 youngsters, aged 13 to 17, some of whom had been victims of
10 molestation.

11 C. From about 1990 through and including about
12 1994, on many occasions that respondent visited New
13 Alternatives, respondent was accompanied by Crummel, whom
14 respondent described to the homes' staff as his "assistant."
15 Respondent did not inform the group homes staff that Crummel
16 was a registered sex offender and pedophile. Respondent did
17 not establish any restrictions upon Crummel's movements
18 while Crummel was at the group homes. Crummel in fact had
19 unrestricted access to the children, their medical records,
20 their files, and the entirety of the facilities during these
21 visits. During these visits, which would typically last a
22 total of about three to four hours at each location,
23 respondent did not supervise, monitor, or control Crummel.
24 On at least two occasions during this period, Crummel
25 entered the private rooms of boys and talked with them.

26 D. On one occasion, Crummel gave a client
27 at a group home a telescope and camera. Crummel

1 presented another client with a fish tank. On more
2 than one occasion, Crummel took male clients in his car
3 to 7-Eleven or to high school. Crummel and respondent
4 invited group home residents to a Christmas party on
5 respondent's yacht.

6 E. In 1990, on one occasion when respondent
7 treated a female patient in the privacy of his office at
8 1401 Avocado, Suite 207, Newport Beach, he assigned Crummel
9 to keep watch over the woman's four-year-old daughter.

10 F. Crummel performed his duties for respondent
11 without regular compensation and accepted the money
12 respondent gave him.

13 G. At some point between the years of 1975 and
14 1980, during one six-month period Crummel was the patient of
15 respondent. Other than during this time, no physician-
16 patient relationship existed between them.

17 H. At no time did respondent make or have a
18 medical record of having treated himself or of treating
19 Crummel.

20 I. At no time did respondent conduct a medical
21 or psychiatric examination of Crummel.

22 J. Notwithstanding the matters alleged in
23 paragraphs G., H. and I. above, on or about the
24 following dates respondent prescribed the following
25 medications for Crummel pursuant to respondent's
26 authority to do so as a physician:

27 / / /

1 (a) Between April 27, 1993, and May 1, 1997,
2 pursuant to prescriptions made by respondent for
3 Crummel, the Newport Center Pharmacy #2, located at
4 1401 Avocado, Newport Beach, CA, dispensed to an
5 employee of respondent the following dangerous drugs
6 and/or controlled substances:

7 (1) May 9, 1997, RX# 439064, Ampicillin,
8 500mg (28);

9 (2) February 17, 1997, RX# 437139, Diazepam
10 50mg, (15), C-III;

11 (3) November 25, 1996, RX# 435022,
12 Hydrocodone 7.5 (50), C-II;

13 (4) November 25, 1996, RX# 435021,
14 Diphenhydramine 50mg (50);

15 (5) January 13, 1994, RX# 409002(+1),
16 Tylenol w/Codeine 60mg (10), C-III;

17 (6) October 28, 1993, RX# 407144, Pepcid
18 20mg (10);

19 (7) October 28, 1993, RX# 407143, Compazine
20 10mg (10);

21 (8) September 24, 1993, RX# 406353, Vicodin
22 ES (20), C-II;

23 (9) July 20, 1993, RX# 404920, Vicodin ES
24 (20), C-II;

25 (10) April 27, 1993, RX# 403160, Vicodin ES
26 (20), C-II;

27 / / /

1 (b) On or about May 19, 1997, pursuant to a
2 prescription made by respondent for Crummel, the
3 Newport Lido Pharmacy, located at 351 Hospital Road,
4 #107, Newport Beach, CA, dispensed to an employee of
5 respondent RX# 285685, Phentermine 30mg (30), C-IV;

6 K. On or about the following dates
7 respondent prescribed the following controlled
8 substances for himself:

9 (a) Between April 12, 1993, and May 29, 1997,
10 pursuant to prescriptions made by respondent for
11 himself and telephoned from his office, the Newport
12 Center Pharmacy dispensed to an employee of respondent
13 the following controlled substances:

14 (1) May 29, 1997, RX# 439497, Diazepam 10mg
15 (40), C-III;

16 (2) February 28, 1997, RX# 437431,
17 Phentermine (45), C-IV;

18 (3) May 28, 1997, RX# 435633(+3),
19 Hydrocodone 7.5 (50), C-II;

20 (4) December 23, 1996, RX# 435634,
21 Phentermine 30mg (35), C-IV;

22 (5) December 23, 1996, RX# 435633,
23 Hydrocodone 7.5 (35), C-II;

24 (6) October 24, 1996, RX# 434275(+1),
25 Phentermine (30), C-IV;

26 (7) October 24, 1996, RX# 434276,
27 Hydrocodone 7.5 (50), C-II;

- 1 (8) September 26, 1995, RX# 424757,
2 Hydrocodone (30), C-II;
- 3 (9) June 14, 1994, RX# 412336, Hydrocodone
4 7.5 (20), C-II;
- 5 (10) September 23, 1993, RX# 406312,
6 Diethylpropion 75mg (50), C-IV;
- 7 (11) December 20, 1993, RX# 408324(+3),
8 Vicodin ES (40), C-II;
- 9 (12) October 1, 1993, RX# 406527, Didrex
10 50mg (100), C-III;
- 11 (13) July 1, 1993, RX# 404578(+2), Fastin
12 30mg (15), C-IV;
- 13 (14) July 1, 1993, RX# 404566(+7), Vicodin
14 ES (20), C-II;
- 15 (15) June 7, 1993, RX# 404079(+1), Diazepam
16 5mg (20), C-IV;
- 17 (16) May 24, 1993, RX# 403825(+3), Diazepam
18 10mg (25), C-IV;
- 19 (17) April 13, 1993, RX# 402805, Didrex 50mg
20 (100), C-III;
- 21 (18) April 12, 1993, RX# 402751, Restoril
22 15mg (10), C-IV;
- 23 (b) Between August 1, 1994, and July 22, 1996,
24 pursuant to prescriptions made by respondent for
25 himself and telephoned from his office, the Newport
26 Lido Pharmacy dispensed to an employee of respondent
27 the following controlled substances:

- 1 (1) July 22, 1996, RX# 274441(+3),
2 Hydrocodone 7.5 (30), C-II.;
- 3 (2) May 29, 1996, RX#
4 273036(+2), Redux 15mg (60), C-IV;
- 5 (3) February 26, 1996, RX# 270704(+5),
6 Hydrocodone 7.5 (30), C-II;
- 7 (4) February 26, 1996, RX# 270702(+2),
8 Pondimin 20mg (60), C-IV;
- 9 (5) February 26, 1996, RX# 270701(+4),
10 Phentermine 30mg (30), C-IV, marked "refused to
11 fill 10-18-96;"
- 12 (6) January 29, 1996, RX# 270028, Vicodin
13 Tuss Syrup (120ml), C-II;
- 14 (7) January 29, 1996, RX# 270023(+1),
15 Hydrocodone 7.5 (30), C-II;
- 16 (8) December 26, 1995, RX# 269185,
17 Hydrocodone 7.5 (30), C-II;
- 18 (9) December 11, 1995, RX# 268762,
19 Hydrocodone Tuss Syrup (120ml), C-II;
- 20 (10) July 31, 1995, RX# 265444(+6),
21 Hydrocodone 7.5 (25), C-II;
- 22 (11) May 10, 1995, RX# 263074, Diazepam 10mg
23 (30), C-IV, marked, "refused to fill 10-18-96;"
- 24 (12) March 2, 1995, RX# 260848, Diazepam
25 10mg (35), C-IV;
- 26 (13) November 7, 1994, RX# 258624(+3),
27 Hydrocodone 7.5 (30), C-II;

1 (14) August 26, 1994, RX# 257320, Diazepam
2 10mg (40), C-IV;

3 (15) August 1, 1994, RX# 256889, Diazepam
4 10mg (30), C-IV;

5 (16) August 1, 1994, RX# 256888, Vicodin ES
6 (30), C-II;

7 (17) July 18, 1994, RX# 256642, Tenuate
8 Dospan 75mg (50), C-IV;

9 (c) On or about June 13, 1997, respondent
10 telephoned Newport Lido Pharmacy and prescribed
11 Phentermine (RX# 285685) for himself. When the
12 pharmacist on duty informed respondent he could not
13 prescribe a controlled substance for himself,
14 respondent told the pharmacist to put the prescription
15 under the name of Crummel.

16 7. Respondent Burnell Gordon Forgey, M.D., is subject
17 to disciplinary action for unprofessional conduct in that he was
18 grossly negligent in the practice of his profession, in violation
19 of Code section 2234(b), in that:

20 A. Complainant realleges Paragraph 6 above as if
21 it was fully set forth herein;

22 B. By employing Crummel, respondent allowed
23 Crummel to have access to youths' medical records;

24 C. Respondent permitted Crummel to have access
25 and/or to be alone with children, both in the facilities
26 they jointly visited and in respondent's office, and in so
27 doing placed these children at unreasonable risk of great

1 bodily harm or death at the hands of Crummel, an aggressive
2 pedophile;

3 D. Respondent failed to advise the youth home
4 staff personnel that Crummel was a registered sex offender;

5 E. Respondent invited staff and children from
6 the youth group homes for a party on respondent's boat, thus
7 unreasonably placing the children at risk of being
8 victimized by Crummel, an aggressive pedophile.

9 F. Respondent prescribed controlled
10 substances for himself; and

11 G. Respondent prescribed controlled
12 substances for Crummel without a good faith medical
13 indication for doing so.

14 SECOND CAUSE FOR DISCIPLINE

15 (Repeated Negligent Acts)

16 8. Respondent Burnell Gordon Forgey, M.D., is subject
17 to disciplinary action for unprofessional conduct in that he
18 committed repeated negligent acts in the practice of his
19 profession, in violation of Code section 2234(c), in that:

20 A. Complainant realleges Paragraph 6 above as if
21 it were fully set forth herein;

22 B. Respondent employed Crummel, an individual he
23 knew to be a registered sex offender, as his office manager,
24 both in his office and when he visited youth group homes,
25 under circumstances where respondent knew of Crummel's
26 present and continuing possession of pedophilic pornographic
27 materials;

1 C. In so employing Crummel, respondent allowed
2 Crummel to have access to the youths' medical records;

3 D. Respondent permitted Crummel to have access
4 and/or to be alone with children, both in the facilities
5 they jointly visited and in respondent's office, and in so
6 doing placed these children at unreasonable risk of great
7 bodily harm or death at the hands of Crummel, an aggressive
8 pedophile;

9 E. Respondent purposely failed to advise the
10 youth home staff personnel that Crummel was a registered sex
11 offender;

12 F. Respondent invited staff and children from
13 the youth group homes for a party on respondent's boat, thus
14 unreasonably placing the children at risk of being
15 victimized by Crummel, an aggressive pedophile.

16 G. Respondent controlled substances for
17 himself; and

18 H. Respondent prescribed controlled
19 substances for Crummel without a good faith medical
20 indication for doing so.

21 THIRD CAUSE FOR DISCIPLINE

22 (Self-prescribing)

23 9. Respondent Burnell Gordon Forgey, M.D., is subject
24 to disciplinary action for unprofessional conduct in that he
25 prescribed controlled substances for himself in violation of
26 Health and Safety Code section 11170 as alleged above in
27 paragraph 6.

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FOURTH CAUSE FOR DISCIPLINE

(Prescribing Without Medical Indication)

10. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he prescribed, dispensed, or furnished dangerous drugs as defined in Section 4211, to Crummel without a good faith prior examination and medical indication therefor, in violation of Code section 2242(a).

FIFTH CAUSE FOR DISCIPLINE

(Violation of Any Drug Statute or Regulation)

11. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he has violated statutes of this state regulating dangerous drugs and controlled substances, in violation of Code section 2238, as follows:

- A. Complainant realleges Paragraph 6 above as if fully set forth herein;
- B. Respondent prescribed controlled substances for himself in violation of Health and Safety Code section 11170;
- C. Respondent prescribed dangerous drugs for Crummel without a good faith physical examination and medical indication therefore, in violation of Business and Professions Code section 2242;
- D. Respondent issued prescription orders, both for controlled substances and for dangerous drugs, for himself and for Crummel, which were not issued in

1 the usual course of professional treatment or in
2 legitimate and authorized research in violation of
3 Health and Safety Code section 11153;

4 E. Respondent issued a false and fictitious
5 prescription in violation of Health and Safety Code section
6 11157;

7 F. Respondent attempted to obtain controlled
8 substances by fraud, deceit, misrepresentation, or
9 subterfuge by making a false statement to a pharmacist,
10 in violation of Health and Safety Code section 11173;
11 and

12 G. Respondent prescribed controlled
13 substances for himself in violation of Health and
14 Safety Code section 11170.

15 SIXTH CAUSE FOR DISCIPLINE

16 (Dishonesty and Corruption)

17 12. Respondent Burnell Gordon Forgey, M.D., is subject
18 to disciplinary action for unprofessional conduct in that he
19 committed acts of dishonesty and corruption in the practice of
20 his profession, in violation of Code section 2234(e), in that:

21 A. Complainant realleges Paragraph 6 above as if
22 it was fully set forth herein;

23 B. Respondent ordered controlled substances for
24 himself by using another person's name.

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SEVENTH CAUSE FOR DISCIPLINE

(Prescribing of Dangerous Drugs)

13. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he prescribed dangerous drugs for Crummel without a good faith prior examination and medical indication for doing so, in violation of Business and Professions Code section 2242, as alleged above in paragraph 6.

EIGHTH CAUSE FOR DISCIPLINE

(Prescribing of Controlled Substances)

14. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he prescribed dangerous drugs for himself and Crummel without a legitimate medical purpose and by acting outside the usual course of his professional practice, in violation of Health and Safety Code section 11153, as alleged above paragraph 6.

NINTH CAUSE FOR DISCIPLINE

(Unlawful Procurement of Controlled Substances)

15. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he attempted to obtain controlled substances by fraud and by making a false statement in a prescription order, in violation of Health and Safety Code section 11173, as alleged above in paragraph 6.

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TENTH CAUSE FOR DISCIPLINE

(Issuance of False Prescription)

16. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he attempted to obtain controlled substances by the issuance of a false prescription, in violation of Health and Safety Code section 11157, as alleged above in paragraph 6.

ELEVENTH CAUSE FOR DISCIPLINE

(Self-Prescribing under the Health and Safety Code)

17. Respondent Burnell Gordon Forgey, M.D., is subject to disciplinary action for unprofessional conduct in that he prescribed a controlled substance for himself, in violation of Health and Safety Code section 11170, as alleged above in paragraph 6.

PRAYER

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

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 10602, heretofore issued to respondent Burnell Gordon Forgey, M.D.;

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

3. If placed on probation, ordering respondent to pay the costs of probation monitoring;

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

DATED: September 29, 1997

Ron Joseph
by Sejane Felder DAG
Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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