

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

In the Matter of the Accusation )  
and Petition to Revoke Probation )  
and First Supplemental Accusation )  
and Petition to Revoke against: )

No. D-4687

RONALD A. BORTMAN, M.D. )

Certificate No. C 28370 )

Respondent. )

DECISION

The foregoing Stipulation and Order, in case number D-4687, is hereby adopted by the Division of Medical Quality of the Medical Board of California as its decision in the above-entitled matter.

This Decision shall become effective on January 10, 1993.

IT IS SO ORDERED December 10, 1992.

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA

By:

*Theresa L. Claassen*

THERESA L. CLAASSEN  
Secretary

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 SUSAN K. MEADOWS  
Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
4 Telephone: (415) 703-2509

5 Attorneys for Complainant

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BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

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9

10 In the Matter of the Accusation ) No. D-4687  
and Petition to Revoke Probation )  
11 and First Supplemental Accusation ) STIPULATION  
and Petition to Revoke against: )

12 )  
RONALD A. BORTMAN, M.D. )  
13 2232 Carleton Street )  
Berkeley, CA 94704 )  
14 Physician's and Surgeon's )  
Certificate No. C28370, )

15 )  
Respondent. )

16

17

18 IT IS HEREBY STIPULATED by and between Ronald A.  
19 Bortman, M.D., the respondent in this matter, with the advice of  
20 his attorney, Kenneth Freeman, attorney at law, and Kenneth J.  
21 Wagstaff, as Executive Officer of the Medical Board of  
22 California, Department of Consumer Affairs, by and through his  
23 attorney, Susan K. Meadows, Deputy Attorney General, that the  
24 following matters are true:

- 25 1. Amended Accusation and Petition to Revoke Probation  
26 (hereinafter "Amended Accusation" ) No. D-4687 and First  
27 Supplemental Accusation and Petition to Revoke Probation

1 (hereinafter "First Supplemental Accusation) No. D-4687 are  
2 presently pending against Ronald A. Bortman, M.D., (hereinafter  
3 referred to as the "respondent"), physician's and surgeon's  
4 certificate number C-28370, before the Medical Board of  
5 California (hereinafter referred to as the "Board").

6           2. The complainant in said Amended Accusation and  
7 First Supplemental Accusation, Kenneth J. Wagstaff, is the  
8 Executive Director of the Board and brought said Amended  
9 Accusation and First Supplemental Accusation in his official  
10 capacity only.

11           3. Respondent has fully discussed with his attorney,  
12 Kenneth Freeman, the charges contained in the above-mentioned  
13 Amended Accusation and First Supplemental Accusation, and in that  
14 regard, respondent has been fully advised regarding his rights in  
15 this matter.

16           4. Respondent hereby freely and voluntarily waives his  
17 right to a hearing on the charges and allegations contained in  
18 the above-mentioned Amended Accusation and First Supplemental  
19 Accusation in order to enter into this Stipulation and that he  
20 further agrees to waive his right to reconsideration, judicial  
21 review, and any and all rights which may be accorded him by the  
22 Administrative Procedure Act and other laws of the State of  
23 California, except his right to petition for termination or  
24 modification of probation pursuant to Business and Professions  
25 Code section 2307.

26           5. All admissions of fact and conclusions of law  
27 contained in this Stipulation are made exclusively for this

1 proceeding and any future proceedings between the Board and the  
2 respondent and shall not be deemed to be admissions for any  
3 purpose in any other action, forum or proceeding.

4           6. Respondent's license history and status as set  
5 forth at paragraph 2 of the Amended Accusation are true and  
6 correct and that the respondent's address of record is as set  
7 forth in the caption of this Stipulation. (Copies of Amended  
8 Accusation Number D-4687 and the First Supplemental Accusation  
9 Number D-4687 are attached hereto as Exhibits A and B,  
10 respectively).

11           7. For purposes of the settlement of the action  
12 pending against respondent in case No. D-4687 and to avoid a  
13 lengthy administrative hearing, respondent admits that there  
14 exist factual and legal bases for the imposition of discipline  
15 against his physician's and surgeon's certificate number C28370  
16 pursuant to some of the allegations of the Amended Accusation  
17 Number D-4687 and the First Supplemental Accusation Number D-  
18 4687.

19           8. With respect to the Amended Accusation, respondent,  
20 for the purpose of this stipulation, admits to the following  
21 only.

22                   (a) Concerning the care and treatment provided to  
23 patient S.H. identified in the First Cause for Disciplinary  
24 Action in the Amended Accusation, No. D-4687, respondent admits  
25 that soon after the termination of therapy with S.H., he entered  
26 into a social relationship with her, and, subsequently, they  
27 dated for nearly two years, fell in love, and married.

1 Respondent admits that initiating a social relationship with S.H.  
2 was an error in judgment, and that it constitutes unprofessional  
3 conduct and cause for disciplinary action pursuant to Business  
4 and Professions Code<sup>1/</sup> section 2234(b).

5 In mitigation of the above, at the time that he entered  
6 into a social relationship with S.H., respondent was under great  
7 personal stress and was vulnerable, which affected his judgment  
8 at that time. Respondent did not enter into that relationship to  
9 exploit S.H., believing that he loved her and marrying her  
10 because of those feelings.

11 (b) With respect to the allegations contained in the  
12 Second Cause of Action of the Amended Accusation, respondent  
13 admits that after he terminated therapy with S.H. and after she  
14 injured her back, he provided her with samples of Xanax; and  
15 after they were married, and after she had injured her back, with  
16 prescriptions for Tylenol/Codeine #3 written in the name of her  
17 father, mother, and sister; and admits that he failed to maintain  
18 records as required by sections 4051 and 4232. Respondent admits  
19 that this conduct constitutes a violation of statutes or  
20 regulations regulating dangerous drugs or controlled substances,  
21 in violation of section 2238, and therefore, constitutes  
22 unprofessional conduct and cause for disciplinary action pursuant  
23 to section 2234; and cause for discipline under section 2234(b).

24 In mitigation of the above, the drugs respondent  
25 prescribed/supplied to S.H. were provided after she had injured  
26

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

1 her back, and were provided to S.H. only for severe back pain  
2 caused by the injury she had suffered. This condition was being  
3 treated by another physician, but S.H. told respondent that she  
4 was not being given medication as part of that treatment, and  
5 respondent was responding to what in good faith he believed were  
6 the needs of his wife.

7 (c) With respect to the allegations contained in the  
8 Third Cause of Action of the Amended Accusation, respondent  
9 admits that neither M.H., H.H., nor L.G. were his patients when  
10 he wrote the Tylenol/Codeine #3 prescriptions in their names and  
11 admits that he did not keep any medical charts or other records  
12 for these individuals.

13 Respondent admits that this conduct constitutes a  
14 violation of statutes or regulations regulating dangerous drugs  
15 or controlled substances, in violation of section 2238, and  
16 therefore constitutes unprofessional conduct and cause for  
17 disciplinary action pursuant to sections 2234 and 2234(e).

18 (d) Respondent further admits that as a result of the  
19 above admissions, his conduct constitutes a violation of  
20 condition 3 of his probation in Case No. D-3219.

21 9. With respect to the First Supplemental Accusation  
22 filed against respondent, respondent, for the purpose of this  
23 stipulation admits to the following only.

24 (a) Concerning the allegations contained in the First  
25 Supplemental Accusation, respondent admits that on or about June  
26 24, 1989 he discharged patient C.H. from Herrick Hospital and at  
27 the time of discharge prescribed one hundred fifteen 50 mg.

1 tablets of Norpramine (desipramine hydrochloride), which she  
2 ingested to commit suicide. At the time of discharge it was  
3 respondent's opinion that C.H. was not a suicide risk.

4           Respondent admits that he should not have prescribed  
5 that much medication to C.H., and he admits that this conduct  
6 constitutes unprofessional conduct under section 2234(b) and  
7 section 725. Respondent admits that this conduct constitutes a  
8 violation of condition 3 of his probation in case no. D-3219.

9           10. BASED UPON THE FOREGOING RECITALS, IT IS FURTHER  
10 STIPULATED AND AGREED that the Medical Board of California, upon  
11 its adoption of the Stipulation herein set forth, may, without  
12 further notice, prepare a decision and enter the following order:

13           Physician and Surgeon Certificate No. C-28370,  
14 heretofore issued to RONALD A. BORTMAN, respondent,  
15 by the Medical Board of California, is hereby revoked;  
16 PROVIDED HOWEVER, that execution of this order of revocation  
17 is stayed, and respondent is placed on probation for a  
18 period of ten (10) years, upon the following terms and  
19 conditions:

20           **(A) ACTUAL SUSPENSION**

21           As part of probation, respondent is suspended from the  
22 practice of medicine for a period of one year beginning on the  
23 effective date of this decision.

24           **(B) PSYCHIATRIC EVALUATION**

25           Within 30 days of the effective date of this decision,  
26 and on a periodic basis thereafter as may be required by the  
27 Division or its designee, respondent shall undergo a psychiatric

1 evaluation (and psychological testing, if deemed necessary), by a  
2 Division-appointed psychiatrist who shall furnish a psychiatric  
3 report to the Division or its designee, with a copy to  
4 respondent.

5           The purpose of this evaluation is to determine if  
6 respondent is mentally fit to practice safely, and to determine  
7 if respondent is in need of psychiatric treatment.

8           If, after the psychiatric evaluation, respondent is  
9 required by the Division or its designee to undergo psychiatric  
10 treatment, respondent shall within 30 days of the requirement  
11 notice submit to the Division for its prior approval the name and  
12 qualifications of a psychiatrist of respondent's choice. Upon  
13 approval of the treating psychiatrist, respondent shall undergo  
14 and continue psychiatric treatment until further notice from the  
15 Division. Respondent shall have the treating psychiatrist submit  
16 quarterly status reports to the Division. With the exception of  
17 the psychiatric evaluation, the cost of any treatment or therapy  
18 shall be paid by respondent.

19           Respondent shall not engage in the practice of medicine  
20 until notified by the Division of the determination that  
21 respondent is mentally fit to practice safely, based on the  
22 evaluation required by this condition.

23           **(C) ORAL CLINICAL EXAMINATION**

24           Within 90 days of the effective date of this decision,  
25 respondent shall take and pass an oral clinical exam in the field  
26 of psychiatry, including those areas of psychiatry that pertain  
27 to the prescribing of psychopharmacological drugs and general



1 medicine relating to the practice of psychiatry. If respondent  
2 fails this examination, respondent must take and pass a re-  
3 examination consisting of a written as well as an oral  
4 examination. The waiting period between repeat examinations  
5 shall be at three month intervals until success is achieved. The  
6 Division shall pay the cost of the first examination and  
7 respondent shall pay the cost of any subsequent re-examinations.

8           Respondent shall not practice medicine until respondent  
9 has passed the required examination and has been so notified by  
10 the Division in writing. Failure to pass the required examination  
11 no later than 100 days prior to the termination date of probation  
12 shall constitute a violation of probation.

13           **(D) EDUCATION COURSES**

14           Within 90 days of the effective date of this decision,  
15 respondent shall submit to the Division for its prior approval an  
16 education program or a course in psychopharmacology and an  
17 education program or a course in the area of the treatment of  
18 drug and alcohol addictions. Respondent shall take and  
19 successfully complete the above courses within one year from the  
20 effective date of this decision.

21           In addition to the above education requirements, within  
22 90 days of the effective date of this decision, and on an annual  
23 basis thereafter, respondent shall submit to the Division for its  
24 prior approval an educational program(s) or course(s) which shall  
25 not be less than 20 hours per year, for each year of probation.

26 This program shall be in addition to the Continuing Medical  
27 Education requirements for re-licensure. Following the

1 completion of each course, the Division or its designee may  
2 administer an examination to test respondent's knowledge of the  
3 course. Respondent shall provide proof of attendance for 45  
4 hours of continuing medical education of which 20 hours were in  
5 satisfaction of this condition and were approved in advance by  
6 the Division.

7 **(E) ETHICS**

8 Within 60 days of the effective date of this decision,  
9 respondent shall submit to the Division for its prior approval a  
10 course in Ethics which respondent shall successfully complete  
11 during the first year of probation.

12 **(F) DRUGS AND ABSTAIN FROM USE**

13 Respondent shall abstain completely from the personal  
14 use or possession of controlled substances as defined in the  
15 California Uniform Controlled Substances Act, and dangerous drugs  
16 as defined by section 4211 of the Business and Professions Code,  
17 or any drugs requiring a prescription.

18 **(G) DRUGS-EXCEPTION FOR PERSONAL ILLNESS**

19 Paragraph 10 (F) above, forbidding respondent from  
20 personal use or possession controlled substances or dangerous  
21 drugs, does not apply to medications lawfully prescribed to  
22 respondent for a bona fide illness or condition by another  
23 practitioner.

24 **(H) BIOLOGICAL FLUID TESTING**

25 Respondent shall immediately, and upon any future  
26 request, submit to biological fluid testing, at respondent's  
27 cost, upon the request of the Division or its designee. If,

1 after a biological fluid test, it is determined that respondent  
2 is using the drugs identified in paragraph 10 (F) above and that  
3 paragraph 10 (G) is inapplicable, respondent will be deemed to be  
4 in violation of his probation.

5 **(I) LIMITATION ON PRACTICE**

6 Respondent's practice shall be restricted to the  
7 practice of psychiatry. However, should respondent decide to  
8 pursue another field of practice in medicine and take and  
9 complete an approved residency or training program in that field,  
10 respondent shall be required to take and pass an oral clinical  
11 examination in that field, to be administered by the Division or  
12 its designee. Respondent shall not practice in any other field  
13 of medicine except psychiatry until respondent has passed an oral  
14 clinical examination in any such other field and has been so  
15 notified by the Division in writing.

16 **(J) Monitoring**

17 Prior to resuming practice under this probation,  
18 respondent shall submit to the Division for its prior approval a  
19 plan of practice in which respondent's practice shall be  
20 monitored by another physician in respondent's field of practice,  
21 who shall provide **quarterly** reports to the Division.

22 The monitor must meet, in person, with respondent and  
23 review his practice a minimum of twice per month and the monitor  
24 must be made specifically aware of the allegations contained in  
25 Case No. D-4687 and also the terms and conditions of this  
26 Stipulation.

27 If the monitor resigns or is no longer available,

1 respondent shall, within 15 days, move to have a new monitor  
2 appointed, through nomination by respondent and approval by the  
3 Division.

4           The monitor and all costs associated with the monitor's  
5 duties, functions and responsibilities shall be paid by  
6 respondent. Respondent is specifically prohibited from entering  
7 into any bartering arrangement with the monitor, (i.e., using the  
8 referral of patients to the monitor to offset the expenses  
9 incurred in satisfying this term of probation, etc.) which would  
10 or could compromise the integrity of the monitor to render fair  
11 and unbiased reports to the Division.

12           **(K) CONTROLLED DRUGS--PARTIAL RESTRICTION**

13           Respondent shall not prescribe administer, dispense,  
14 order, or possess any controlled substances as defined by the  
15 California Uniform controlled Substances Act, except for those  
16 drugs listed in Schedules IV and V of the Act. Respondent shall  
17 immediately surrender respondent's current DEA permit to the Drug  
18 Enforcement Administration for cancellation and reapply for a new  
19 DEA permit limited to those Schedules authorized by this order.  
20 Respondent shall not order, maintain or keep an office supply of  
21 any controlled substance. Respondent's ability to prescribe any  
22 Schedule IV or V drug is subject to paragraph 10 (L) below.

23           **(L) SCHEDULE IV OR SCHEDULE V CONTROLLED DRUGS--**

24           **MAINTAIN A RECORD**

25           Respondent shall maintain a record of all Schedule IV  
26 and Schedule V controlled substances prescribed by respondent  
27 during probation, showing all the following: 1) the name and

1 address of the patient, 2) the date, 3) the character and  
2 quantity of controlled substances involved, and 4) the  
3 indications and diagnosis for which the controlled substance was  
4 furnished.

5 Respondent shall keep these records in a separate file  
6 or ledger, in chronological order, and shall make them available  
7 for inspection and copying by the Division or its designee, upon  
8 request.

9 GENERAL TERMS OF PROBATION

10 (M) OBEY ALL LAWS

11 Respondent shall obey all laws of the United States,  
12 State of California, and its political subdivisions, and all  
13 rules and regulations and laws pertaining to the practice of  
14 medicine.

15 (N) QUARTERLY REPORTS

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

19 (O) SURVEILLANCE PROGRAM

20 Respondent shall comply with the Board's probation  
21 surveillance program.

22 (P) INTERVIEW WITH MEDICAL CONSULTANT

23 Respondent shall appear in person for interviews with  
24 the Board or its designee upon request at various intervals and  
25 with reasonable notice.

26 (Q) TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE

27 In the event respondent should leave California to

1 reside or to practice outside the State, respondent must notify  
2 the Board in writing of the dates of departure and return.  
3 Periods of residency or practice outside California will not  
4 apply to the reduction of this probationary period.

5 (R) COMPLETION OF PROBATION

6 Upon full compliance with all the terms and conditions  
7 hereof, and the expiration of ten (10) years from the effective  
8 date of this decision, this stay shall become permanent, and  
9 respondent's physician's and surgeon's license shall be fully  
10 restored.

11 (S) VIOLATION OF PROBATION

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

20 11. IT IS FURTHER STIPULATED AND AGREED that the terms  
21 set forth herein shall be null and void, and in no way binding

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1 upon the parties hereto, unless and until accepted by the Medical  
2 Board of California of the State of California.

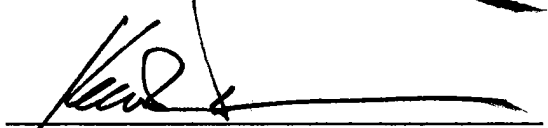
3  
4 DATED: October 13, 1992

DANIEL E. LUNGREN  
Attorney General of the  
State of California


  
SUSAN K. MEADOWS  
Deputy Attorney General

Attorneys for Complainant

10  
11 DATED: October 9, 1992

  
KENNETH L. FREEMAN, Esq.  
Attorney for Respondent

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14  
15  
16 I hereby certify that I have read this Stipulation in  
17 its entirety, that I discussed the same with my attorney of  
18 record, that I fully understand all of same, and in witness  
19 thereof, I affix my signature this 9 day of October,  
20 1992 at San Francisco, California.

  
RONALD A. BORTMAN, M.D.  
Respondent

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10/1/92  
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1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 SUSAN K. MEADOWS  
Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
4 Telephone: (415) 703-2509

5 Attorneys for Complainant

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BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
8 STATE OF CALIFORNIA

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In the Matter of the Accusation  
and Petition to Revoke Probation  
11 Against:

No.: D-4687

12

RONALD A. BORTMAN, M.D.  
2232 Carleton Street  
13 Berkeley, CA 94704  
Physician's and Surgeon's  
14 Certificate No. C28370,

AMENDED ACCUSATION  
AND PETITION TO REVOKE  
PROBATION

15

Respondent.

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Complainant Kenneth J. Wagstaff, as causes for  
disciplinary action and revocation of probation against the above  
named respondent, Ronald A. Bortman, M.D., (hereinafter referred  
to as "respondent") charges and alleges as follows:

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1. He is the Executive Director of the Medical Board  
of California (hereinafter the "Board") and makes and files these  
charges and allegations solely in his official capacity and not  
otherwise.

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2. On or about August 17, 1966, the board issued to  
respondent physician's and surgeon's certificate number C-28370.  
Said certificate has been previously disciplined and respondent



1 is currently on probation to the Board as is more clearly set  
2 forth hereinafter.

3           3. Effective March 8, 1985, in case number D-3219  
4 before the Board, by way of adopted stipulated decision,  
5 respondent's certificate was revoked with revocation stayed and  
6 respondent was placed on probation, under various terms and  
7 conditions, including obeying all laws and filing timely  
8 quarterly reports, for a period of seven (7) years. Attached  
9 hereto as "Exhibit A" and incorporated herein by reference as  
10 though fully set forth at length is a true and correct copy of  
11 the board's decision in said case number D-3219.

12                               STATUTES

13           4. Section 2018 of the Business and Professions Code<sup>1/</sup>  
14 authorizes the Division of Medical Quality to adopt regulations  
15 as may be necessary to enable it to carry into effect the  
16 provisions of law relating to the practice of medicine.

17           5. Section 2220 provides that the Division of Medical  
18 Quality of the Board may take action against all persons guilty  
19 of violating the provisions of the Medical Practice Act (sections  
20 2000 et seq.)

21           6. Section 2234 provides, in pertinent part, that the  
22 Division of Medical Quality shall take action against any  
23 licensee who is charged with unprofessional conduct. In addition  
24 to other provisions of this article, unprofessional conduct  
25 includes, but is not limited to, the following: ...

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

- 1 (a) Violating or attempting to violate, directly or  
2 indirectly, or assisting in or abetting the violation  
3 of, or conspiring to violate, any provision of this  
4 chapter.
- 5 (b) Gross negligence.
- 6 (d) Incompetence
- 7 (e) The commission of any act involving dishonesty or  
8 corruption which is substantially related to the  
9 qualifications, functions, or duties of a physician and  
10 surgeon.

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

16 8. Section 2238 provides that a violation of any  
17 federal statute or federal regulation or any of the statutes or  
18 regulations of this state regulating dangerous drugs or  
19 controlled substances constitutes unprofessional conduct.

20 9. Section 2242 (a) provides that prescribing,  
21 dispensing, or furnishing of dangerous drugs as defined in  
22 section 4211 without a good faith prior examination and medical  
23 indication therefor, constitutes unprofessional conduct.

24 10. Section 4051 provides, in pertinent part, that a  
25 prescriber may furnish a limited quantity of drug samples to the  
26 patient in the package provided by the manufacturer, if no charge  
27 is made to the patient therefor, and an appropriate record is

1 entered in the patient's chart.

2           11. Section 4232 provides that any physician who  
3 fails, neglects, or refuses to maintain records of the  
4 disposition of dangerous drugs when called upon by an authorized  
5 officer of the board, and who fails to produce those records  
6 within a reasonable amount of time, is guilty of a misdemeanor.

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

10           13. Section 11154 of the Health and Safety Code  
11 provides in relevant part that except in the practice of his or  
12 her profession, no person shall knowingly prescribe, administer,  
13 dispense, or furnish a controlled substance to or for any person  
14 which is not under his or her treatment for a pathology or  
15 condition other than addiction to a controlled substance, except  
16 as provided in this division.

17           14. Section 11174 of the Health and Safety Code  
18 provides that no person shall in connection with the prescribing,  
19 furnishing, administering, or dispensing of a controlled  
20 substance, give a false name or false address.

21           15. Section 11153 of the Health and Safety Code  
22 provides that a prescription for a controlled substance shall  
23 only be issued for a legitimate medical purpose by an individual  
24 practitioner acting in the usual course of his or her  
25 professional practice. The responsibility for the proper  
26 dispensing of controlled substances is upon the prescribing  
27 practitioner, but a corresponding responsibility rests with the

1 pharmacist who fills the prescription. Except as authorized by  
2 this division, the following are not legal prescriptions: (1) an  
3 order purporting to be a prescription which is issued not in the  
4 usual course of professional treatment or in legitimate and  
5 authorized research; or (2) an order for an addict or habitual  
6 user of controlled substances, which is issued not in the course  
7 of professional treatment or as part of an authorized methadone  
8 maintenance program for the purpose of providing the user with  
9 controlled substances, sufficient to keep him or her comfortable  
10 by maintaining customary use.

11 DRUGS

12 16. The following controlled substances and/or  
13 dangerous drugs are involved in this proceeding.

14 A. Tylenol with Codeine, a trade name for a  
15 combination of acetaminophen and codeine, is a dangerous drug as  
16 defined in section 4211 and a schedule III controlled substance  
17 and narcotic as defined by section 11056, subdivision (e) (2), of  
18 the Health and Safety Code and a Schedule III controlled  
19 substance as defined by section 1308.13 (e) (2) of Title 21 of  
20 the Code of Federal Regulations.

21 B. Xanax, a trade name for alprazolam, is a dangerous  
22 drug as defined in section 4211 and a schedule IV controlled  
23 substance as defined by section 1308.14 (c) (1) of Title 21 of  
24 the Code of Federal Regulations.

25 C. Halcion, a trade name for triazolam, is a dangerous  
26 drug as defined in section 4211 of the code and a schedule IV  
27 controlled substance as defined by section 1308.14 (c) (1) of

1 Title 21 of the Code of Federal Regulations.

2 D. Trazadone, a trade name for desyrel, is a dangerous  
3 drug as defined in section 4211.

4 E. Vicodin, a trade name for 5 mg hydrocodone  
5 bitartrate and 500 mg acetaminophen, is a dangerous drug as  
6 defined in section 4211 and a schedule III controlled substance  
7 as defined in section 11056 (e) (4) of the Health and Safety  
8 Code.

9 F. Hycodan, a trade name for hydrocodone bitartrate  
10 and homatropine methylbromide, is a dangerous drug as defined in  
11 section 4211 and a schedule III controlled substance as defined  
12 in section 11056 (e) (4) of the Health and Safety Code.

13 G. Naldecon is a dangerous drug as defined in section  
14 4211 of the Code.

15 H. Phenegran Expectorant with Codeine, also known as  
16 promethazine hydrochloride and codeine phosphate syrup, is a  
17 dangerous drug as defined in section 4211 and a schedule V  
18 controlled substance as defined in section 11056 (e) (4) of the  
19 Health and Safety Code.

20 I. Promethazine with codeine is a dangerous drug as  
21 defined in section 4211 of the Code and a schedule V controlled  
22 substance as defined in section 11056 (e) (4) of the Health and  
23 Safety Code.

24 J. Paraflex, a trade name for chlorzoxazone tablets,  
25 is a dangerous drug as defined by section 4211.

26 K. Prednisone is a dangerous drug as defined by  
27 section 4211.

1 17. Section 726 of the code provides, in pertinent,  
2 part, that the commission of any act of sexual abuse, misconduct,  
3 or relations with a patient which is substantially related to the  
4 qualifications, functions or duties of the occupation for which a  
5 license was issued constitutes unprofessional conduct and grounds  
6 for disciplinary action.

7 CODE OF ETHICS

8 18. The Principles of Medical Ethics With Annotations  
9 Especially Applicable To Psychiatry, published by the American  
10 Psychiatric Association, state as follows:

11 "While psychiatrists have the same goals as all  
12 physicians, there are special ethical problems in  
13 psychiatric practice that differ in color and degree  
14 from ethical problems in other branches in medical  
practice, even though the basic principles are the  
same." (FOREWORD, Paragraph 2).

15 Section 1, paragraph 1, states as follows:

16 "SECTION 1

17 "A physician shall be dedicated to providing  
18 competent medical service with compassion and  
respect for human dignity.

19 "1. The patient may place his/her trust in  
20 his/her psychiatrist knowing that the psychiatrist's  
ethics and professional responsibilities preclude  
21 him/her gratifying his/her own needs by exploiting the  
patient. This becomes particularly important because  
22 of the essentially private, highly personal, and  
sometimes intensely emotional nature of the  
23 relationship established with the psychiatrist."

24 Section 2, paragraphs 1 and 2, state, in pertinent  
25 part, as follows:

26 "SECTION 2

27 "A physician shall deal honestly with patients  
and colleagues, and strive to expose those

1 physicians deficient in character or competence,  
2 or who engage in fraud or deception.

3 "1. The requirement that the physician conduct  
4 himself with propriety in his/her profession and in all  
5 the actions of his/her life is especially important in  
6 the case of the psychiatrist because the patient tends  
7 to model his/her behavior after that of his/her  
8 therapist by identification. Further, the necessary  
9 intensity of the therapeutic relationship may tend to  
10 activate sexual and other needs and fantasies on the  
11 part of both patient and therapist, while weakening the  
12 objectivity necessary for control. Sexual activity  
13 with a patient is unethical.

14 "2. The psychiatrist should diligently guard  
15 against exploiting information furnished by the patient  
16 and should not use the unique position of power  
17 afforded him/her by the psychotherapeutic situation to  
18 influence the patient in any way not directly relevant  
19 to the treatment goals."

20 STATEMENT OF FACTS

21 19. In or about April of 1983 S.H.<sup>2/</sup> was referred to  
22 respondent by her family practitioner for insomnia and depression  
23 following the break-up of her marriage approximately two months  
24 earlier. S.H. saw respondent approximately four months (from  
25 April of 1983 through the end of August of 1983). Her visits  
26 consisted of at least twice weekly one hour psychiatric sessions.

27 20. While treating S.H., respondent prescribed  
Trazadone, an anti-depressant, at a dosage of 200 mg daily for  
relief of S.H.'s "vegetative depressive symptoms."

28 21. On or about August 31, 1983, respondent advised  
29 S.H. that she no longer needed therapy and announced that he  
30 could no longer be her therapist because he was falling in love  
31 with her. During that same session, respondent encouraged a

---

32 2. Initials are used to describe patients in this  
33 pleading. Full names will be disclosed pursuant to a request for  
34 discovery.

1 social relationship with S.H. and asked if they could meet. That  
2 same evening, respondent and S.H. met at a McDonald's restaurant  
3 in Berkeley, California. Respondent drove S.H. to his apartment  
4 that evening and attempted to have sexual intercourse with S.H.;  
5 however, she protested and he eventually drove her home.

6           22. After that evening of August 31, 1983, respondent  
7 sent S.H. flowers and a personal card. Two or three weeks after  
8 her last session, respondent and S.H. became sexually intimate.  
9 It was at this time that respondent began providing S.H. with  
10 samples of Xanax. The first time that respondent gave Xanax to  
11 S.H. was immediately prior to sexual intercourse; respondent  
12 advised S.H. that Xanax would help her to relax. In June of  
13 1985, respondent and S.H. were married.

14           23. During the course of their relationship before  
15 marriage, and during the marriage, respondent provided S.H. with  
16 multiple prescriptions for Tylenol/Codeine #3 using the names of  
17 her parents and her sister in order to obtain this drug for S.H.  
18 Respondent also supplied S.H. with multiple drug samples of  
19 Xanax, and Halcion.

20           24. In March of 1985, S.H. injured her back. Although  
21 S.H. was already under the treatment of another physician,  
22 respondent increased the Xanax prescriptions for her and also  
23 gave her Vicodin and Tylenol/Codeine #3 to help ease her pain.

24           25. From August of 1983 through November of 1987, S.H.  
25 became physically and psychologically addicted to Xanax, Tylenol/  
26 Codeine #3 and various other drugs that were supplied to her by  
27 respondent.



1           26. On or about October of 1987, respondent left S.H.  
2 after impregnating another woman. S.H. and respondent were  
3 divorced in 1988.

4           27. At the end of 1987, S.H. was hospitalized for  
5 depression and suicidal ideation. S.H. was and continues to be  
6 emotionally and psychologically traumatized by respondent's  
7 conduct towards her.

8                           FIRST CAUSE FOR DISCIPLINARY ACTION

9           28. The allegations of paragraphs 19 through 27 are  
10 incorporated herein by reference.

11           29. Although respondent advised S.H. that she no  
12 longer needed treatment, he continued to prescribe and/or supply  
13 her with Xanax, Tylenol with Codeine and other dangerous drugs  
14 and controlled substances after August of 1983, thereby  
15 continuing the patient/physician relationship with S.H.

16           30. Respondent's conduct, as set forth above  
17 constitutes unprofessional conduct under the Principles of  
18 Medical Ethics with Annotations Especially applicable to  
19 Psychiatry, section 1, paragraph 1 and section 2, paragraphs 1  
20 and 2 and pursuant to sections 726 (sexual misconduct), 2234(b)  
21 (gross negligence), and/or (d) (incompetence) by reason of the  
22 following acts or omissions:

23           A. Respondent failed to recognize his own wishes for  
24 personal involvement with S.H. as potentially endangering the  
25 patient's welfare and he allowed his own feelings to influence or  
26 interfere with the treatment of S.H.

27           B. Respondent failed to seek professional consultation

1 or psychotherapy regarding his personal feelings towards S.H.  
2 from April of 1983 through August of 1983.

3 C. Respondent failed to clearly and ethically  
4 terminate the physician-patient relationship and to refer S.H. to  
5 the care of another physician in a way that did not compromise  
6 the S.H.'s already fragile condition. Respondent, ostensibly,  
7 terminated therapy with S.H. and immediately began to pursue a  
8 social and sexual relationship with her.

9 D. Respondent failed to allow any time to pass after  
10 he allegedly terminated treatment with S.H. before commencing a  
11 social and sexual relationship with S.H.

12 31. Therefore, cause exists for disciplinary action  
13 pursuant to sections 726 and 2234.

14 SECOND CAUSE FOR DISCIPLINARY ACTION

15 32. The allegations of paragraphs 19 through 27 are  
16 incorporated herein by reference.

17 33. The following indicates the prescriptions that  
18 respondent wrote for S.H. after allegedly terminating therapy on  
19 or about August 31, 1983:

20	<u>DATE</u>	<u>DRUG</u>	<u>AMOUNT</u>	<u>STRENGTH</u>
21	6/1/83	Trazadone	60	50
22	8/9/83	Trazadone	50	100
23	5/17/84	Naldecon	50	
24	7/13/84	Prednisone	30	5 mg
25	11/27/84	Hycodan	6 oz	
26	12/10/84	Hycodan	6 oz	
27	10/25/83	Tuberculin Test	n/a	n/a

1	8/23/85	Xanax (1 refill)	50	1 mg
2	2/25/86	Naprosyn (3 refills)	50	250 mg
3	4/20/86	Naprosyn	50	250 mg
4	5/29/86	Naprosyn (11 refills)	100	500 mg
5	6/13/86	Naprosyn (1 refill)	60	500 mg
6	6/24/86	Cortisporin Otic Susp.	--	--
7	7/21/86	Naprosyn	50	250 mg
8	8/20/86	Paraflex	100	250 mg
9	9/29/86	Promethazine w/codeine	8 oz	
10	2/19/87	Lomotil	24	--
11	2/19/87	Tigan Suppositories	6	--
12	2/19/87	same as above	5	--
13	6/29/87	Hycodan	8 oz	
14	9/29/87	Phenegran Exp. w/codeine	6 oz	

15                   34. Respondent also, on numerous occasions after  
16 August 31, 1983 provided S.H. with physician's samples of Xanax  
17 as well as Halcion. He also provided S.H. with Tylenol/Codeine  
18 #3 obtained through false prescriptions to S.H.'s parents and  
19 sister. As a result, S.H. became drug dependent.

20                   35. Respondent's conduct, as set forth above,  
21 constitutes unprofessional conduct pursuant to section 2242(a)  
22 (prescribing without a good faith prior examination and medical  
23 indication), section 4232 (failure to maintain records of the  
24 disposition of dangerous drugs), section 4051 (failure to  
25 maintain record of drug samples given to patient), 725 (clearly  
26 excessive administration of drugs or treatment), and 2238  
27 (violation of statutes or regulations regulating dangerous drugs

1 or controlled substances) and 2234(b) (gross negligence) and/or  
2 (d) (incompetence) and 2234 (unprofessional conduct) by reason of  
3 the following acts or omissions:

4           A. Respondent failed to prepare and maintain adequate  
5 medical/treatment records on S.H. relating to the drugs that he  
6 supplied and or prescribed for her.

7           B. Respondent prescribed and/or supplied Xanax and  
8 Tylenol with Codeine and other dangerous drugs and/or controlled  
9 substances to S.H. in excessive amounts far beyond the period of  
10 time said drug(s) should have been administered, if at all.

11           C. Respondent prescribed and/or supplied S.H. with  
12 Xanax, Tylenol with Codeine and other dangerous drugs and/or  
13 controlled substances over an inordinate amount of time without a  
14 legitimately recognized medical indication and/or medical  
15 purpose.

16           D. Respondent failed to recognize and/or to act  
17 appropriately upon the adverse reactions suffered by S.H. due to  
18 said drugs that respondent supplied and/or prescribed in that  
19 respondent continued to supply these drugs to S.H. after S.H.  
20 became physically and psychologically addicted to said drugs.

21           E. Respondent prescribed and/or furnished drugs and  
22 treatment to a member of his family on a long term basis without  
23 consultation or other objective assessment, including medical  
24 records. In fact, respondent knew that such treatment  
25 constituted unprofessional conduct in that he obtained controlled  
26 substances for his patient/fiancee/wife through subterfuge,  
27 especially after the marriage.

1           36. Therefore, cause exists for disciplinary action  
2 pursuant to sections 2234, 2234(b) and/or (d), 2234 through  
3 section 2238, sections 4051 and 4232 through sections 2234 and  
4 2238 and section 2234 through section 2242(a).

5                           THIRD CAUSE FOR DISCIPLINARY ACTION

6           37. The allegations of paragraphs 19 through 27 and  
7 paragraph 34 are incorporated herein by reference.

8           38. Between 1983 and 1987, S.H.'s parents, H.H. and  
9 M.H. received prescription medication from respondent on two  
10 occasions. On or about 1987 respondent's mother, H.H., had a  
11 back spasm. Respondent brought H.H. some Tylenol with Codeine to  
12 relieve her pain. After taking one or two of the pills, H.H.  
13 became extremely nauseated and because of that negative reaction,  
14 did not take any more of the Tylenol with Codeine pills.

15           39. The second and last occasion that H.H. and M.H.  
16 received medication from respondent occurred when S.H.'s father,  
17 M.H., was having difficulty sleeping because he was undergoing  
18 chemotherapy. Without requesting that respondent do so,  
19 respondent provided M.H. with a sample packet of Xanax for M.H.  
20 Other than the incidents cited above, neither H.H. nor M.H.  
21 received or took any prescription medication where the  
22 prescription was written by respondent.

23           40. M.H. and H.H. were never patients of respondent  
24 and respondent never took a medical history from M.H. or H.H.,  
25 never medically examined M.H. or H.H. and did not keep any  
26 medical records for M.H. and H.H.

27           41. S.H.'s sister, L.G. was never a patient of

1 respondent, and respondent never took medical history from her or  
2 medically examined her, and he did not keep any medical records  
3 for L.G. Respondent never directly provided L.G. with any  
4 medications or directly prescribed any medication for L.G.  
5 pursuant to any medical complaint or otherwise.

6 42. Respondent prescribed the following dangerous  
7 drugs and/or controlled substances for S.H. using the names of  
8 her parents, H.H. and M.H., and that of her sister, L.G., in  
9 order to supply S.H. with said drugs as follows:

10	<u>DATE</u>	<u>DRUG</u>	<u>AMOUNT</u>	<u>STRENGTH</u>
11	<u>For H.H.</u>			
12	12/24/84	Hycodan	6 oz	
13	9/23/85	Tylenol/Codeine #3	60	--
14	11/15/85	Hycodan	6 oz	
15	11/15/85	Erythromycin	30	250 mg
16	11/20/85	Hycodan	6 oz	
17	11/20/85	Erythromycin	40	250 mg
18	11/24/85	Hydrocodone Syrup	--	--
19	11/29/85	Tylenol/Codeine #3	30	--
20	2/12/86	Same as above	30	--
21	12/31/86	Same as above	36	
22	4/18/86	Same as above	20	
23	8/28/87	Same as above	50	--
24	10/4/87	Same as above	50	30 mg
25	<u>For M.H.</u>			
26	2/28/87	Tylenol/Codeine #3	50	--
27	3/15/87	Same as above	50	

1	3/31/87	Same as above	50	
2	4/7/87	Same as above	50	--
3	4/22/87	Same as above	50	--
4	5/12/87	Same as above	50	--
5	5/23//87	Same as above	50	--
6	7/7/87	Xanax	30	--
7	<u>For L.G.</u>			
8	2/20/87	Tylenol/Codeine #3	50	--

9

10                   43. Conduct with Respect to H.H., M.H. and L.G.

11                   Based on the allegations of paragraphs 37 through 42

12 above, respondent is subject to disciplinary action for

13 unprofessional conduct pursuant to sections 2242(a) (prescribing

14 drugs without a good faith prior examination and medical

15 indication), and 2234 through sections 2238 and 4232 (failure to

16 maintain records of prescriptions in patient chart).

17                   44. False Prescriptions.

18                   Based upon the allegations of paragraphs 37 through 42,

19 above, respondent is subject to disciplinary action for

20 unprofessional conduct pursuant to sections 2234(e) (act

21 involving dishonesty or corruption which is substantially related

22 to the qualifications, functions or duties of a physician and

23 surgeon) and section 2234 in conjunction with section 2238

24 (violation of drug laws) and Health and Safety Code sections

25 11157 (issuing a false prescription), 11154 (knowingly issuing a

26 prescription for a person not under his treatment for a pathology

27 or condition), 11174 (giving a false name or address on a

1 prescription) and 11153 (issuing prescriptions for controlled  
2 substances without legitimate medical purpose).

3 CAUSES FOR REVOCATION OF PROBATION

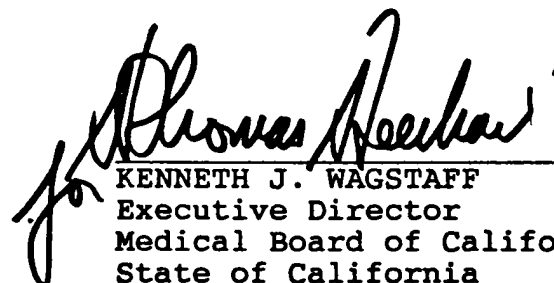
4 45. Respondent's probationary terms, which were  
5 effective March 8, 1985, as set forth in Exhibit A, includes the  
6 following term:

7 "3. Respondent shall obey all federal, state and  
8 local laws, and all rules governing the practice of  
9 medicine in California."

10 46. Respondent's probation is subject to revocation  
11 for violating condition "3" of his terms of probation for all  
12 violations occurring after March 8, 1985 as set forth herein  
13 above in the first, second and third causes for disciplinary  
14 action.

15 WHEREFORE, complainant requests that the Board hold a  
16 hearing on the matters hereinabove alleged and after that hearing  
17 issue an order suspending or revoking physician's and surgeon's  
18 certificate No. C-28370, heretofore issued to respondent Ronald  
19 A. Bortman and taking such other and further action as is deemed  
20 just and proper.

21 DATED: June 2, 1992

22  
23   
24 KENNETH J. WAGSTAFF  
25 Executive Director  
26 Medical Board of California  
27 State of California

Complainant



**EXHIBIT A**

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

In the Matter of the Accusation )  
Against: )

RONALD A. BORTMAN, M.D. )  
Certificate No. C-28370 )

No. D-3219

Respondent. )  
\_\_\_\_\_ )

DECISION

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

This Decision shall become effective on March 8, 1985.

IT IS SO ORDERED February 6, 1985.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE



MILLER MEDEARIS  
Secretary-Treasurer

1 JOHN K. VAN DE KAMP, Attorney General  
of the State of California  
2 FRANK H. PACOE  
Deputy Attorney General  
3 6000 State Building  
San Francisco, California 94102  
4 Telephone: (415) 557-2546  
5 Attorneys for Complainant

6  
7 BEFORE THE  
8 BOARD OF MEDICAL QUALITY ASSURANCE  
DIVISION OF MEDICAL QUALITY  
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation ) NO. D-3219  
Against: )  
11 )  
RONALD A. BORTMAN, M.D. ) STIPULATION  
12 2232 Carleton Street )  
Berkeley, California 94704 )  
13 )  
Respondent. )  
14 )  
15 )

16  
17 IT IS HEREBY STIPULATED BY AND BETWEEN Ronald A.  
18 Bortman, M.D., (hereinafter "respondent") with the advice and  
19 consent of his attorney, Kenneth L. Freeman, Esq., and the  
20 Division of Medical Quality, Board of Medical Quality Assurance  
21 (hereinafter "Division") by and through its attorney Frank H.  
22 Pacoe, Deputy Attorney General, as follows:

23 1. Accusation No. D-3219 is presently pending before  
24 the Division.

25 2. Respondent is represented by Kenneth L. Freeman,  
26 Esq., in this matter.

27 //

1           3. Respondent and his attorney have fully discussed the  
2 charges and allegations in Accusation No. D-3219 and respondent  
3 has been fully advised by his attorney of his rights concerning  
4 this Accusation.

5           4. Respondent is fully aware of and understands his  
6 right to a hearing on the charges and allegations in Accusation  
7 No. D-3219; his right to reconsideration, to appeal, and any and  
8 all other rights which may be afforded him under the California  
9 Administrative Procedure Act and the laws of the State of  
10 California as they relate to Accusation No. D-3219.

11           5. Respondent hereby fully and voluntarily waives his  
12 right to a hearing, to reconsideration, to appeal, and any and  
13 all other rights afforded him under the California Administrative  
14 Procedure Act and the laws of the State of California as they  
15 relate to Accusation No. D-3219, except for those statutory rights  
16 pertaining to modification or termination of probation.

17           6. Respondent admits the charges and allegations  
18 contained in Accusation No. D-3219, and admits that grounds for  
19 discipline are stated under Business and Professions Code section  
20 2236 in conjunction with sections 2227 and 2234.

21           7. Based on the foregoing admissions, it is further  
22 stipulated and agreed by the parties hereto that the Division may  
23 issue the following decision:

24           Certificate No. C-28370 issued to the respondent  
25 Ronald A. Bortman is revoked. However, revocation is stayed and  
26 respondent is placed on probation for seven years upon the following  
27 terms and conditions:

1 (1) Within 90 days of the effective date of this  
2 decision and on an annual basis thereafter, respondent shall  
3 submit to the Division for its prior approval educational programs  
4 or courses related to psychiatry or an area of general medicine  
5 related to the general practice of psychiatry which shall not be  
6 less than 25 hours per year, for each year of probation. These  
7 programs shall be in addition to the Continuing Medical Education  
8 requirements for re-licensure. Following the completion of each  
9 of the courses, the Division or its designee may administer an  
10 examination to test respondent's knowledge of the courses.  
11 Respondent shall provide proof of attendance for continuing  
12 medical education of which 25 hours were in satisfaction of this  
13 condition and were approved in advance by the Division.

14 (2) Within 60 days of the effective date of this  
15 decision respondent shall submit to the Division for its prior  
16 approval a community service program in which respondent shall  
17 provide free medical services on a regular basis to a community  
18 or charitable facility or agency for at least 384 hours during  
19 the first 48 months of probation. *6 m 11/2*

20 Respondent is currently providing community services  
21 as ordered by the Municipal Court for the County of Alameda  
22 (Berkeley-Albany Judicial District) in case number 93938. No  
23 community service hours performed under that court order shall  
24 be included in the 384 hour community service obligation  
25 provided for herein.

26 (3) Respondent shall obey all federal, state and local  
27 laws, and all rules governing the practice of medicine in  
28 California.

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

5 (5) Respondent shall comply with the Division's  
6 probation surveillance program.

7 (6) Respondent shall appear in person for interviews  
8 with the Division's medical consultant upon request at various  
9 intervals and with reasonable notice.

10 (7) In the event respondent should leave California to  
11 reside or to practice outside the State, respondent must notify  
12 the Division in writing of the dates of departure and return.  
13 Periods of residency or practice outside California will not apply  
14 to the reduction of this probationary period.

15 (8) Upon successful completion of probation, respondent's  
16 certificate will be fully restored.

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

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9. The parties hereto agree that the terms and conditions set forth herein shall be null and void and not binding upon them unless approved and adopted by the Division.

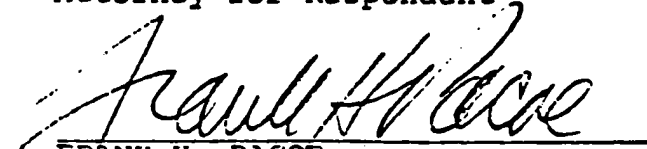
DATED: 11/9/84

  
RONALD A. BORTMAN, M.D.  
Respondent

DATED: 12/4/84

  
KENNETH L. FREEMAN, ESQ.  
Attorney for Respondent

DATED: 12/6/84

  
FRANK H. PACOE  
Deputy Attorney General  
Attorney for Complainant

1 JOHN K. VAN DE KAMP, Attorney General  
of the State of California  
2 FRANK H. PACOE  
Deputy Attorney General  
3 6000 State Building  
San Francisco, CA 94102  
4 Telephone: (415) 557-2546

5 Attorneys for Complainant  
6  
7

8 BEFORE THE  
9 BOARD OF MEDICAL QUALITY ASSURANCE  
DIVISION OF MEDICAL QUALITY  
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation )  
Against: )

12 )  
13 RONALD A. BORTMAN, M.D. )  
2232 Carleton Street )  
14 Berkeley, CA 94704 )  
Physician and Surgeon )  
15 Certificate No. C-28370, )  
Respondent. )

NO. D-3219

ACCUSATION

16  
17 Complainant, KENNETH J. WAGSTAFF, charges and alleges  
18 as follows:

19 1. He is the Executive Director of the Board of  
20 Medical Quality Assurance (hereinafter referred to as the "Board")  
21 and makes these charges and files this Accusation in his official  
22 capacity as such.

23 2. On August 17, 1966, the Board issued Physician and  
24 Surgeon Certificate No. C-28370 to Ronald A. Bortman (hereinafter  
25 referred to as the "respondent").

26 3. Business and Professions Code sections 2227 and 2234  
27 provide, in pertinent part, that the Division of Medical Quality



1 shall take disciplinary action against any licensee who is guilty  
2 of unprofessional conduct.

3           4. Business and Professions Code section 2236 provides  
4 that the conviction of any offense substantially related to the  
5 qualifications, functions, or duties of a physician and surgeon  
6 constitutes unprofessional conduct.

7           5. Welfare and Institutions Code section 14107  
8 provides that any person who, with intent to defraud, presents  
9 for allowance or payment by the California Medical Assistance  
10 Program (hereinafter referred to as the "Medi-Cal Program" Welfare  
11 and Institutions Code section 14000, et seq.) any false or  
12 fraudulent claim for furnishing services or merchandise, knowingly  
13 submits false information for the purpose of obtaining greater  
14 compensation than that to which he is legally entitled for  
15 furnishing services or merchandise, or knowingly submits false  
16 information for the purpose of obtaining authorization for  
17 furnishing services or merchandise under Division 9, Part 3,  
18 Chapters 7 or 8 of the Welfare and Institutions Code, is punish-  
19 able by imprisonment in the county jail not longer than one year  
20 or in the state prison not exceeding five years, or by fine not  
21 exceeding five thousand dollars (\$5,000.00), or by both such fine  
22 and imprisonment.

23           The enforcement remedies provided under Welfare and  
24 Institutions Code section 14107 are not exclusive and shall not  
25 preclude the use of any other criminal or civil remedy.

26           6. Respondent has been guilty of unprofessional  
27 conduct pursuant to Business and Professions Code section 2236,

1 thereby providing grounds for disciplinary action under sections  
2 2227 and 2234 of said Code in that respondent was convicted of an  
3 offense substantially related to the qualifications, functions,  
4 and duties of a physician and surgeon, as is more particularly  
5 set forth as follows:

6 On or about January 19, 1984, respondent was con-  
-7 victed by guilty plea in the Municipal Court, County of  
8 Alameda, Case No. 93938, on two counts of violation of  
9 Welfare and Institutions Code section 14107 (presenting  
10 false claims). Pursuant to said conviction, respondent  
11 was sentenced to three years probation, ordered to pay  
12 a fine in the amount of \$10,000.00, to make restitution  
13 in the amount of \$33,112.41 and perform 300 hours of  
14 service. The circumstances of the aforementioned  
15 offense involved respondent's submission of false and  
16 fraudulent claims to the Medi-Cal Program and the  
17 acceptance of payment therefore.


18 The aforementioned offense was substantially re-  
-19 lated to the qualifications, functions, and duties of a  
20 physician and surgeon in that it evidences unfitness to  
21 perform the functions authorized by a physician's and  
22 surgeon's certificate in a manner consistent with the  
23 public health, safety and welfare.

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WHEREFORE, complainant prays that a hearing be held and respondent's license be suspended or revoked or such other action be taken as may be deemed proper.

DATED: July 18, 1984.

  
KENNETH J. WAGSTAFF  
Executive Director  
Board of Medical Quality Assurance  
Complainant.

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 SUSAN K. MEADOWS  
Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 6200  
San Francisco, California 94102-3658  
4 Telephone: (415) 703-2509

5 Attorneys for Complainant

6

7

BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

8

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10 In the Matter of the Accusation )  
and Petition to Revoke Probation )  
11 Against: )

No.: D-4687

12 RONALD A. BORTMAN, M.D. )  
2232 Carleton Street )  
13 Berkeley, CA 94704 )  
Physician's and Surgeon's )  
14 Certificate No. C28370, )

FIRST SUPPLEMENTAL  
ACCUSATION AND PETITION  
TO REVOKE PROBATION

15 Respondent. )

16

17 Kenneth J. Wagstaff, complainant herein, as causes for  
18 disciplinary action and revocation of probation against the above  
19 named respondent, Ronald A. Bortman, M.D., (hereinafter referred  
20 to as "respondent") further charges and alleges as follows:

21 1. The allegations of paragraphs 1 through 15,  
22 inclusive, of the amended accusation heretofore filed in this  
23 matter are incorporated herein by reference as if fully set  
24 forth.

25 2. Section 2234 provides, in pertinent part, that  
26 unprofessional conduct includes, but is not limited to, (c)  
27 repeated negligent acts.

1 DRUGS

2 3. The following dangerous drug is involved in this  
3 proceeding.

4 A. Norpramine, a trade name for desipramine  
5 hydrochloride, is a dangerous drug as defined in section 4211.

6 FOURTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

7 4. The allegations of paragraphs 1 and 2 are  
8 incorporated herein by reference.

9 5. On or about June 6, 1989 patient C.H.<sup>1/</sup>, then a 37  
10 year old female, was admitted to the psychiatric inpatient unit  
11 of Alta Bates-Herrick Hospital pursuant to Welfare and  
12 Institutions Code section 5150 (involuntary hospitalization of  
13 any person who, as a result of a mental disorder, is a danger to  
14 others or to himself or herself) following an apparent suicide  
15 attempt. At Herrick hospital, on or about June 8, 1989,  
16 respondent, undertook to treat C.H. who was suffering from severe  
17 depression. Prior to the June 6, 1989 hospitalization, C.H. had  
18 been hospitalized several times for depression and had made at  
19 least three previous suicide attempts during her depressive  
20 illness. C.H. also suffered from problems with alcoholism.

21 6. Respondent began treating C.H., on June 6, 1989  
22 with 20 mg of Prozac, an antidepressant, daily, which was  
23 increased to 40 mg daily. On or about June 19, 1989, the Prozac  
24 was discontinued and respondent prescribed Norpramine at 50 mg  
25 daily. On or about June 20, 1989, respondent increased the  
26

27 1. The name of the patient will be disclosed in discovery  
to be furnished to the respondent.

1 dosage of Norpramine to 75 mg daily. On or about June 22, 1989,  
2 respondent increased the dosage of Norpramine to 125 mg daily.  
3 On or about June 24, 1989, respondent increased the dosage of  
4 Norpramine to 150 mg daily. On or about June 24, 1989 respondent  
5 discharged C.H. On or about June 23, 1989, respondent gave C.H.  
6 a prescription for 15 tablets of Norpramine at a dosage of 50 mg  
7 each. That prescription was filled at Herrick Hospital Pharmacy  
8 on June 23, 1989. When C.H. was discharged, respondent also gave  
9 C.H. a prescription for 100 Norpramine tablets at a dosage of 50  
10 mg each, despite nursing notations in C.H.'s medical chart that  
11 referred to C.H.'s persistent suicidal ideation. That  
12 prescription was filled at Long's Drugs in Alameda on June 24,  
13 1989.

14           7. On or about June 26, 1989 C.H. was found dead in  
15 her home by a friend. After an autopsy, the coroner determined  
16 that the cause of death was acute desipramine intoxication and  
17 estimated the time of death as June 24, 1989.

18           8. Respondent's conduct as set forth above constitutes  
19 gross negligence and/or negligence and/or incompetence and/or  
20 clearly excessive prescribing in that respondent gave C.H., a  
21 patient with a known previous history of suicide attempts and  
22 continuing suicidal ideation, the means to commit suicide by  
23 prescribing one hundred and fifteen 50 milligram tablets of  
24 Norpramine at the time of C.H.'s discharge. Therefore cause for  
25 disciplinary action exists pursuant to section 2234 (b), 2234  
26 (c), and 2234 (d) and section 725 and respondent's conduct is a  
27 violation of condition 3 of respondent's probation in Case No. D-

1 3219.

2 FIFTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

3 9. The allegations of paragraphs 4 through 7 are  
4 incorporated herein by reference as if fully set forth.

5 10. Respondent failed to make a multi-axial diagnosis  
6 using DSM 3R and thereby not diagnosing C.H.'s alcoholism and  
7 other personality traits which predisposed her to depression.  
8 Respondent also failed to diagnose on Axis IV the psychosocial  
9 stressors which contributed to C.H.'s depression. Respondent's  
10 conduct as set forth above constitutes gross negligence and/or  
11 negligence and/or incompetence therefore cause for disciplinary  
12 action exists pursuant to sections 2234 (b) and (d) and is a  
13 violation pursuant to condition 3 of respondent's probation in  
14 Case No. D-3219.

15 SIXTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

16 11. The allegations of paragraphs 4 through 7 are  
17 incorporated herein as if fully set forth.

18 12. Respondent failed to monitor C.H.'s response to  
19 Norpramine (desipramine) following two weeks of Prozac treatment  
20 with vital signs, blood level of desipramine and  
21 electrocardiogram. Respondent's conduct constitutes gross  
22 negligence and/or negligence and/or incompetence and therefore  
23 cause for disciplinary action exists pursuant to sections 2234  
24 (b) and (d) and is a violation of condition 3 of respondent's  
25 probation in Case No. D-3219.

26 SEVENTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

27 13. The allegations of paragraphs 4 through 7 are

1 incorporated herein as if fully set forth.

2           14. Respondent discharged C.H. from the hospital  
3 before C.H. was medically stable and medically safe because of  
4 the rapid increase in Norpramine (desipramine) following  
5 treatment with Prozac without monitoring her blood level and  
6 exposing here to probable toxic levels. Respondent's conduct  
7 constitutes gross negligence and/or negligence and/or  
8 incompetence and therefore cause for disciplinary action exists  
9 pursuant to sections 2234 (b) and (d) and is a violation of  
10 condition 3 of respondent's probation in Case No. D-3219.

11 EIGHTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

12           15. The allegations of paragraphs 4 through 7 are  
13 incorporated herein as if fully set forth.

14           16. Respondent failed to make arrangements to see C.H.  
15 sooner than two to three weeks after her discharge from the  
16 hospital. Respondent's conduct constitutes gross negligence  
17 and/or negligence and/or incompetence and therefore cause for  
18 disciplinary action exists pursuant to sections 2234 (b) and (d)  
19 and is a violation of condition 3 of respondent's probation in  
20 Case No. D-3219.

21 NINTH CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

22           17. The allegations of the fourth through eighth  
23 causes of action for disciplinary action, inclusive, above, are  
24 incorporated herein by reference.

25           18. Respondent's conduct as alleged in paragraphs 17  
26 above whether singularly, jointly, or in any combination thereof,  
27 constitutes gross negligence and/or negligence and/or



1 incompetence and/or repeated acts of negligence and therefore is  
2 cause for disciplinary action pursuant to sections 2234 (b), (c)  
3 and (d) and is a violation of condition 3 of respondent's  
4 probation in Case No. D-3219.

5 WHEREFORE, complainant requests that the Board hold a  
6 hearing on the matters hereinabove alleged and after that hearing  
7 issue an order suspending or revoking physician's and surgeon's  
8 certificate No. C-28370, heretofore issued to respondent Ronald  
9 A. Bortman and taking such other and further action as is deemed  
10 just and proper.

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12 DATED: 7-28-92

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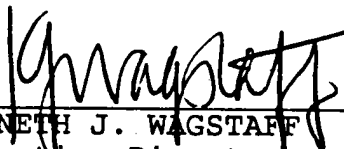
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KENNETH J. WAGSTAFF  
Executive Director  
Medical Board of California  
State of California

Complainant