

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:)
JAMES R. PRIVITERA, M.D.)
Physician and Surgeon's)
Certificate No. C-30445,)
Respondent.)

No. D-1998

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 October 26, 1980.

IT IS SO ORDERED September 26, 1980.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



MILLER MEDEARIS
Secretary-Treasurer

STATE OF CALIFORNIA
Board of Medical Quality Assurance
I, VERNON A. LEEPER, Official
custodian of the records, do hereby
certify that this document is a true
and correct copy of the original on
file in this office.

Vernon A. Leeper 6/11/81
SIGNED DATE

Barbara Manzalek
Enforcement Clerk

1 GEORGE DEUKMEJIAN, Attorney General
EARL R. PLOWMAN,
2 Deputy Attorney General
3 3580 Wilshire Boulevard
Los Angeles, California 90010
4 Telephone: (213) 736-2031

5 Attorneys for Complainant

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

11 In the Matter of the Accusation) NO. D-1998
Against:)
12) STIPULATION AND SETTLEMENT
JAMES ROBERT PRIVITERA, JR., M.D.) OF ACCUSATION
13 627 South Eremland Drive)
Covina, California 91722)
14)
Physician's and Surgeon's)
15 Certificate No. C-30445,)
16 Respondent.)
17

18 IT IS HEREBY STIPULATED by the parties to the above entitled matter
19 that the following is true:

20 1. James Robert Privitera, Jr., M.D. (hereinafter referred to as
21 "respondent"), is the holder of physician's and surgeon's certificate
22 number C-30445.

23 2. Said certificate was issued by the Board of Medical Examiners,
24 predecessor in interest to the Board of Medical Quality Assurance, on or
25 about August 22, 1968, and has, at all times mentioned herein, been in full
26 force and effect.

27 3. On or about May 6, 1977, Joseph P. Consentino, M.D., in his

1 official capacity and not otherwise as acting executive director of the Board
2 of Medical Quality Assurance caused to be filed accusation number D-1998
3 setting forth causes for disciplinary action against respondent's physician's
4 and surgeon's certificate. Thereafter, on or about June 20, 1980, Robert G.
5 Rowland, in his official capacity as executive director of the Board of
6 Medical Quality Assurance, caused to be filed a first supplemental accusation
7 bearing the same case number and setting forth further causes for
8 disciplinary action against respondent.

9 4. Respondent herein was duly and properly served with both the
10 original accusation and the supplemental accusation and thereafter filed a
11 timely notice of defense requesting a hearing on the charges and allegations
12 contained in the accusation and supplemental accusation.

13 5. Complainant herein has at all times been represented by the
14 Attorney General of the State of California by and through Earl R. Plowman,
15 deputy attorney general.

16 6. Respondent herein is represented and counselled by the law firm
17 of Lewin and Lewin, by Henry Lewin, personally.

18 7. Respondent herein is fully aware of the charges and allegations
19 contained in the accusation and supplemental accusation on file with the
20 Division of Medical Quality and respondent has been fully advised with
21 regards to his rights in this matter.

22 Respondent is fully aware of his right to an administrative hearing
23 on the charges and allegations contained in the accusation and supplemental
24 accusation; his right to process to secure witnesses and documents in his
25 defense; his right to confront and cross-examine witnesses against him; his
26 right to reconsideration by the division of any decision adverse to him; his
27 right to appeal to the courts of the State of California, and any other

1 which it may accorded him pursuant to the California Administrative Procedure
2 Act or the Code of Civil Procedure.

3 8. Respondent hereby freely and voluntarily waives all of the
4 rights enumerated hereinabove in paragraph 7 in any and all of the rights
5 which may be accorded him pursuant to the California Administrative Procedure
6 Act in the Code of Civil Procedure with regard to the accusation and
7 supplemental accusation on file before the division, and agrees that the
8 instant matter may be resolved by the division pursuant to stipulation.

9 9. Respondent herein stipulates to the truth of the factual
10 allegations contained in paragraphs 1, 2, 6, 7, 8, 9, 10, 11, 16, 18, and 21,
11 of the accusation and supplemental accusation. (Attached as annex "A")

12 10. By reason of his stipulation to the truth of factual
13 allegations as set forth hereinabove, it is further stipulated that
14 respondent's certificate is subject to disciplinary action by the division for
15 violation of section 2378.5 of the Business and Professions Code in
16 conjunction with section 1707.1 of Health and Safety Code, together with
17 section 2361 subdivision (f), of the Business and Professions Code
18 and sections 490 and 2383 of said code.

19 11. It is expressly stipulated that the admissions of fact and
20 characterizations of law made herein are for purposes of resolution of the
21 instant matter before the Division of Medical Quality, and shall be null,
22 void, and inadmissible in any other proceeding by any party except as between
23 respondent and the Board of Medical Quality Assurance in this and any future
24 proceeding.

25 12. It is further expressly stipulated and acknowledged that the
26 instant document constitutes an offer in settlement to the Division of Medical
27 Quality, and it is not effective until adoption by the division. In the event

1 the division rejects the instant offer in stipulation, the admissions of fact
2 and characterizations of law set forth herein shall be null, void, and of no
3 evidentiary significance to either party in this or any other
4 proceeding involving either party.

5 WHEREFORE, it is stipulated and agreed that the Division of Medical
6 Quality may issue the following order:

7 1. Physician 's and Surgeon's Certificate number C-30445,
8 previously issued to respondent James Robert Privitera, Jr., M.D., is hereby
9 revoke; however said order of revocation is stayed and respondent is placed on
10 probation to the Division of Medical Quality for a period of ten (10) years
11 subject to the following terms and conditions;

12 A. Respondent herein shall be actually suspended from the practice
13 of medicine for a period of four (4) months;

14 B. Within sixty (60) days from the effective date of this decision,
15 respondent herein shall take and pass an oral clinical examination in the
16 specialty of Human Nutrition, to be administered by the Division of
17 Medical Quality or its designees. The administration of the examination
18 shall be stenographically or magnetically recorded. If respondent fails
19 this examination, he must wait three months to take a reexamination,
20 except that after three failures he must wait one (1) year to take the
21 necessary examination. The Division of Medical Quality shall pay the
22 cost of the first examination and thereafter, respondent shall bear the
23 cost of any subsequent examinations. In the event respondent fails the
24 examination three times, or, if he fails to pass the examination within
25 the period of one year from the effective day of the instant order
26 respondent shall thereafter be suspended from the practice of medicine
27 for a period of one year at which time he will again be eligible to take

1 the necessary examination and thereafter, on an annual basis.

2 C. Within sixty days after the effective day of the instant order,
3 respondent shall meet with the Board's medical consultant and submit a
4 plan for continuing education. Within the period of his probation,
5 respondent herein shall take twenty five hours per year of category I
6 continuing education as approved by the division or its designee. Said
7 continued education shall be over and above the education requirement
8 imposed upon all licensee to maintain their license in full force and
9 effect.

10 D. Respondent Privitera shall obey all federal and state laws, and
11 all rules governing the practice of medicine in California; including
12 those statutes and rules specifically pertaining to the prescription,
13 dispensing, administration or sale of drugs, substances and devices for
14 the diagnosis, alleviation, treatment or cure of cancer in any of its
15 forms. This restriction shall not prohibit respondent from
16 nutritionally, counseling or treating persons who have cancer subject to
17 the following restrictions;

18 (1) Respondent may not diagnose, nor may he represent any
19 person of said person has cancer unless such a diagnoses has been
20 made and confirmed in writing to respondent by a board certified
21 oncologist or other board certified specialist in the area of the
22 human body where cancer lies.

23 (2) Respondent is expressly prohibited from making any
24 representation he is able to cure cancer through nutrition.

25 (3) The person seeing respondent shall express in writing
26 an acknowledgment that he has cancer, the presence of which has
27 been confirmed by another board certified physician, and said person

1 has either; (a) declined, or; (b) is currently engaged in, treatment
2 of said cancer using conventional therapies.

3 (4) In the event a patient sees respondent and represents to
4 respondent that he has some general condition which the patient
5 thinks may be cancerous, respondent is required to send the patient
6 to a board certified oncologist or other board certified specialist
7 in the particular area of the body where said condition lies for a
8 diagnosis, and said patient may not be treated by respondent
9 nutritionally or counseled by said respondent until respondent has
10 received a confirming diagnosis from the board certified oncologist
11 or other specialist, and said patient expressed his freedom of
12 choice by intelligently declining conventional cancer therapy or
13 engaging in such conventional therapy concurrently with a nutritional
14 program propounded by respondent.

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

18 F. Respondent shall comply with the division's probation
19 surveillance program.

20 G. Respondent shall appear in person for interviews with the
21 division's medical consultant upon request at various intervals and with
22 reasonable notice.

23 H. In the event respondent shall leave the State of California to
24 reside or to practice outside the State, respondent must notify the
25 division in writing of the dates of departure and return. Periods of
26 residency or practice outside California will not apply to the reduction
27 of the probationary period.

1 of the probationary period.

2 I. In the event respondent violates the terms and conditions of its
3 probation, the division after giving respondent notice and an opportunity
4 to be heard, may set aside the stay and order the revocation of
5 respondent's certificate as provided by this order.

6 J. Upon successful completion of probation, respondent's
7 certificate will be fully restored.

8 SUBMISSION

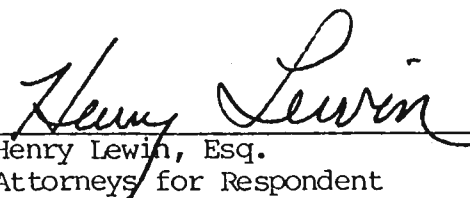
9 1. I have reviewed the terms and conditions of the instant offer in
10 stipulation with my counsel. I understand the admissions and waivers may
11 herein and the terms and conditions of the order and agree to be bound by
12 them.

13 Dated: 7-23-80


James Robert Privitera, Jr., M.D.
Respondent

15
16 2. I have discussed the terms and conditions of the instant
17 stipulation and order with my client, and I am satisfied that he understands
18 the terms and conditions, and also understand the obligations placed upon him
19 by the stipulated order.

20 Dated: 7-23-80


Henry Lewin, Esq.
Attorneys for Respondent

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The instant stipulation and order is hereby submitted to the
Division of Medical Quality for its consideration as its decision in case
number D-1998.

Dated: July 23, 1980

GEORGE DEUKMEJIAN
Attorney General



EARL R. PLOWMAN
Deputy Attorney General

Attorneys for Complainant

RP:jmm
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8 BEFORE THE DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA
12

13 In the Matter of the Accusation	}	NO. D-1998
14 Against:		
15 JAMES ROBERT PRIVITERA, JR., M.D.		ACCUSATION
16 627 South Eremland Drive		
17 Covina, California 91722		
18 Physician's and Surgeon's		
19 Certificate No. C-30445,		
20 Respondent.		

21 COMES NOW Joseph P. Cosentino, M.D., complainant
22 herein who as causes for disciplinary action alleges as follows:

23 ✓ 1. That he is Acting Executive Director of the Board
24 of Medical Quality Assurance, Department of Consumer Affairs,
25 State of California, and makes and brings this Accusation in his
26 official capacity and not otherwise.

27 ✓ 2. On or about August 22, 1968, James Robert Privitera,
28 Jr., M.D. (hereinafter referred to as "respondent"), was issued
29 Physician's and Surgeon's Certificate No. C-30445. Said
30 certificate was duly issued by the Board of Medical Examiners,
31 predecessor to the present Board of Medical Quality Assurance,
and its divisions, and was, at all times mentioned herein, and

1 is currently in full force and effect.

2 3. Pursuant to the provisions of section 2361 of the
3 California Business and Professions Code, the Division of
4 Medical Quality of the Board of Medical Quality Assurance, shall
5 take action against any holder of a physician's and surgeon's
6 certificate who is guilty of unprofessional conduct.

7 4. Section 2378.5 of the Business and Professions Code
8 provides in pertinent part:

9 "The violation of any provision of Chapter 7
10 (commencing at Section 1700) Division 2 of the
11 Health and Safety Code . . . constitutes unprofessional
12 conduct within the meaning of this chapter."

13 5. Section 1707.1 of the Health and Safety Code,
14 a provision contained within chapter 7 of said Code provides:

15 "The sale, offering for sale, holding for sale,
16 delivering, giving away, prescribing or administering
17 of any drug, medicine, compound or device to be used
18 in the diagnosis, treatment, alleviation or cure of
19 cancer is unlawful and prohibited unless: (1) an
20 application with respect thereto has been approved
21 under section 505 of the Federal Food, Drug and
22 Cosmetic Act, or (2) there has been an approved
23 application filed with the board setting forth:

24 "(a) Full reports of investigations which
25 have been made to show whether or not such drug,
26 medicine, compound or device is safe for such use,
27 and whether such drug, medicine, compound or device
28 is effective in such use;

29 "(b) A full list of the articles used as
30 components of such drugs, medicine, compound or
31 device;

1 "(c) A full statement of the composition of
2 such drug, medicine, compound or device;

3 "(d) A full description of the methods used
4 in, and the facilities and controls used for, the
5 manufacture, processing and packaging of such drug,
6 medicine, or compound or in the case of a device,
7 a full statement of its composition, properties
8 and construction and the principle or principles
9 of its operation;

10 "(e) Such samples of such drug, medicine,
11 compound or device and if the articles used as
12 components of the drug, medicine, compound, or
13 device as the Board may require; and

14 "(f) Specimens of the labeling and advertising
15 proposed to be used for such drug, medicine, compound
16 or device."

17 ✓6. Respondent herein is further subject to disciplinary
18 action by the Division for unprofessional conduct in that he
19 has violated section 2378.5 of the Business and Professions Code
20 in conjunction with section 1707.1 of the Health and Safety Code,
21 to wit, he has sold, offered for sale, held for sale, delivered,
22 given away, prescribed, and/or administered unapproved substances
23 whether classified as drugs, medicines, compounds, or devices,
24 for the diagnosis, treatment, alleviation, or cure of cancer.
25 The circumstances are as follows:

26 On or about December 19, 1973, respondent
27 herein administered to one Lloyd Whaley, a person
28 respondent knew or believed to have cancer, injections
29 of Laetrile for the purpose of diagnosing, treating,
30 alleviating, or otherwise attempting to cure cancer.

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1 ✓ 7. Complainant herein reincorporates by reference the
2 statutory allegations set forth in paragraph 6. The circumstances
3 are as follows:

4 During the period August 31, 1973, through
5 November 1973, respondent herein prescribed and
6 administered Laetrile, Hydrazine Sulfate and Koch
7 treatments to one Margaret Stevens, a person
8 respondent knew or believed to have cancer, for
9 purposes of diagnosing, treating, alleviating or
10 curing said cancer.

11 ✓ 8. Complainant herein reincorporates by reference
12 the statutory allegations set forth hereinabove in paragraph 6.
13 The circumstances are as follows:

14 On or about June 7, 1974, respondent herein
15 sold, offered for sale, held, delivered, prescribed
16 and/or administered the following unapproved substances
17 to one Helen B. Dillis whom respondent knew or believed
18 had bone cancer:

- 19 (1) Hydrazine Sulfate;
20 (2) "Oxygen shot";
21 (3) Amygdalin;
22 (4) Laetrile; and
23 (5) Anthrone test.

24 ✓ 9. Complainant herein reincorporates herein by
25 reference the statutory allegations set forth hereinabove in
26 paragraph 6. The circumstances are as follows:

27 A. On or about July 11, 1974, respondent
28 saw as a patient one Florence Dordett who represented
29 to respondent that she had cancer.

30 B. Respondent, knowing or believing that
31 Mrs. Dordett had cancer, administered the following

1 ✓ 7. Complainant herein reincorporates by reference the
2 statutory allegations set forth in paragraph 6. The circumstances
3 are as follows:

4 During the period August 31, 1973, through
5 November 1973, respondent herein prescribed and
6 administered Laetrile, Hydrazine Sulfate and Koch
7 treatments to one Margaret Stevens, a person
8 respondent knew or believed to have cancer, for
9 purposes of diagnosing, treating, alleviating or
10 curing said cancer.

11 ✓ 8. Complainant herein reincorporates by reference
12 the statutory allegations set forth hereinabove in paragraph 6.
13 The circumstances are as follows:

14 On or about June 7, 1974, respondent herein
15 sold, offered for sale, held, delivered, prescribed
16 and/or administered the following unapproved substances
17 to one Helen B. Dillis whom respondent knew or believed
18 had bone cancer:

- 19 (1) Hydrazine Sulfate;
- 20 (2) "Oxygen shot";
- 21 (3) Amygdalin;
- 22 (4) Laetrile; and
- 23 (5) Anthrone test.

24 ✓ 9. Complainant herein reincorporates herein by
25 reference the statutory allegations set forth hereinabove in
26 paragraph 6. The circumstances are as follows:

27 A. On or about July 11, 1974, respondent
28 saw as a patient one Florence Dordett who represented
29 to respondent that she had cancer.

30 B. Respondent, knowing or believing that
31 Mrs. Dordett had cancer, administered the following

1 substances for the treatment, alleviation, or cure
2 of said cancer:

- 3 (1) "Oxygen shot"; and
4 (2) "Vitamin B-17" (a synonym for
5 Laetrile).

6 v 10. Complainant herein reincorporates herein by
7 reference the factual allegations set forth hereinabove in
8 paragraph 6. The circumstances are as follows:

9 A. On or about February 26, 1975, respondent
10 saw a patient, one Joslyn Carmody, an individual with
11 a confirmed diagnosis of acute Myelogenous leukemia.

12 B. Respondent, knowing or relieving
13 Miss Carmody had leukemia, prescribed a course of
14 treatment for Miss Carmody's leukemia, including
15 injectible Laetrile, "Vitamin B-15" and Amygdalin
16 tablets. Respondent herein sold Miss Carmody and
17 and her father the "Vitamin B-15" and directed them
18 to other sources to purchase both injectible Laetrile,
19 and Amygdalin tablets. Respondent's fee for the
20 consultation with the Carmodys and the various pre-
21 parations sold by the respondent to the Carmodys at
22 the initial visit was \$273.

23 C. On or about March 18, 1975, respondent
24 herein again saw Joslyn Carmody. At that time,
25 respondent prescribed for Miss Carmody's leukemia
26 further substances including "Vitamin B-15" and Cetane.
27 At that time, respondent's fee for his services,
28 together with the substances sold to the Carmodys
29 was \$219.

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1 D. On or about April 9, 1975, respondent
2 again saw Joslyn Carmody and at that time prescribed
3 for her leukemia "Japanese Vaccine." Respondent
4 administered to Miss Carmody some of the purported
5 vaccine and furnished instructions for self-administra-
6 tion. Respondent herein further sold the Carmody's
7 twenty-five three gram ampules of Amygdalin and a
8 quantity of Abscissic acid. The total bill for
9 respondent's services and the various and sundry
10 substances sold to the Carmody's on this date was \$360.

11 E. At the April 9, 1975, appointment,
12 Miss Carmody advised respondent that she had been
13 following his prescribed regimen closely; however, she
14 was becoming very weak and that it was nearly impossible
15 to continue. At that time, Miss Carmody asked respondent
16 to indicate which items on his list of treatment were
17 the most important and which she could do without.
18 Respondent herein advised Miss Carmody to continue
19 taking carrot juice, B-15 enzymes, Amygdaline, Betaine
20 Hydrochloride, Vitamin E, apricot seeds, coffee enemas,
21 Abscissic acid and liver injections. Respondent herein
22 lowered the number of Amygdalin injections given
23 Miss Carmody from one a day to five per week.

24 F. On or about May 1, 1975, respondent
25 saw Miss Carmody for the last time in his offices. At
26 that time, Miss Carmody's condition had so deteriorated
27 that respondent advised her that his program did not
28 seem to be working and she should attempt to procure
29 orthodox chemotherapy from a doctor near her home.

30 G. Joslyn Carmody died on May 10, 1975.

1 ✓ 11. Respondent is subject to discipline pursuant to
2 section 2378.5 of the Business and Professions Code, in con-
3 junction with section 1707.1 of the Health and Safety Code, as
4 more particularly alleged hereinafter: .

5 At all times pertinent to the instant pleading,
6 the following named items whether classified as drugs,
7 medicines, compounds, or devices were employed by
8 respondent in violation of section 1707.1 of the Health
9 and Safety Code for the diagnosis, treatment, alleviation
10 or cure of cancer:

- 11 (1) Amygdalin;
- 12 (2) Anthrone test;
- 13 (3) Calcium orotate;
- 14 (4) "Oxygen shot";
- 15 (5) Pangamic acid;
- 16 (6) Laetrile;
- 17 (7) "Vitamin B-17";
- 18 (8) Koch treatments;
- 19 (9) Hydrazine Sulfate;
- 20 (10) "Japanese vaccine";
- 21 (11) Calcium Pangamate;
- 22 (12) Dimethylsulfoxide (DMSO); and
- 23 (13) "Priviteria vaccine."

24 12. Section 2361(f) of the Business and Professions
25 Code provides in pertinent part that it is a cause for
26 disciplinary action against a physician's and surgeon's certifi-
27 cate holder to engage in acts of moral turpitude within or
28 without the practice of medicine.

29 13. Respondent herein is subject to disciplinary action
30 by the Division pursuant to section 2361(f) of the Business and
31 Professions Code for the commission of acts of moral turpitude,

1 to wit; the administering of, furnishing, or selling to the
2 individuals set forth hereinabove, whom he knew or believed had
3 cancer, with unproven remedies for said cancer and further,
4 directing these persons to sources where they could purchase
5 further supplies of said unproven remedies for cancer.

6 14. Section 261(b) and (d) of the Business and
7 Professions Code provides that unprofessional conduct includes
8 gross negligence and incompetence.

9 15. Respondent herein is subject to disciplinary action
10 by the Division, pursuant to section 2361(b) and (d) of the
11 Business and Professions Code for gross negligence and
12 incompetence. The circumstances are as follows:

13 Respondent's attempts to treat individuals
14 as described in paragraphs 7 and 10 above, whom he
15 knew or believed had cancer, with unproven remedies,
16 which were and are untested or determined to be
17 worthless, in violation of chapter 7 of Division 2 of
18 the Health and Safety Code and its regulations,
19 constitutes gross negligence and incompetence.

20 WHEREFORE, complainant prays that a hearing be held and
21 following said hearing a decision issue suspending respondent's
22 physician's and surgeon's certificate.

23 DATED: 5-6-77

24 
25 JOSEPH P. COSENTINO, M.D.
26 Acting Executive Director
27 Board of Medical Quality Assurance

28 Complainant
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4 Attorneys for Complainant

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

11 In the Matter of the Accusation) NO. D-1998
Against:)
12 JAMES ROBERT PRIVITERA, JR., M.D.) FIRST SUPPLEMENTAL
13 627 South Eremland Drive) ACCUSATION
Covina, California 91722)
14 Physician's and Surgeon's)
15 Certificate No. C-30445,)
16 Respondent.)

18 COMES NOW Robert G. Rowland, complainant herein,
19 who has supplemental causes for disciplinary action and alleges
20 as follows:

21 16. He is the Executive Director of the Board of
22 Medical Quality Assurance, Department of Consumer Affairs, State
23 of California, successor to Joseph P. Cosentino, M.D., complainant
24 in the original accusation, and makes and brings the instant
25 supplemental accusation in his official capacity and not
26 otherwise.

27 17. Complainant herein reincorporates by reference the

1 factual allegations set forth hereinabove in the original
2 accusation in paragraphs 2, 3, 4, and 5.

3 ✓18. Respondent herein is further subject to disciplinary
4 action by the Division of Medical Quality for violation of
5 section 2378.5 of the Business and Professions Code in conjunction
6 with section 1707.1 of the Health and Safety Code. The
7 circumstances are as follows:

8 A. On or about April 25, 1978, respondent herein
9 saw as a patient Betty Jo Howard. At the time Ms. Howard
10 saw respondent, she was 50 years of age, had previously had
11 a radical mastectomy and was at that time suffering from
12 breast cancer. The respondent herein diagnosed Ms. Howard's
13 condition as a nutritional deficiency associated with cancer
14 and prescribed for her a regimen of vitamins, enzymes,
15 minerals, fruit and vegetables juices and substances along
16 with coffee enemas and Privitera vaccine.

17 B. At all times mentioned herein, the modalities and
18 substances sold or prescribed by respondent were not approved
19 for the diagnosis, alleviation or cure of cancer.

20 19. As further cause for disciplinary action,
21 complainant alleges that respondent's treatment of Betty Joe
22 Howard as described hereinabove constitutes gross negligence
23 within the meaning of section 2361, subdivision (b), of the
24 Business and Professions Code of the State of California.

25 20. Sections 490 and 2383 of the Business and
26 Professions Code provide, in pertinent part, that the conviction
27 of any offense substantially related to the qualifications,

1 functions, or duties of a physician and surgeon constitutes
2 unprofessional conduct.

3 ✓21. Respondent is subject to disciplinary action by the
4 Division of Medical Quality for unprofessional conduct in that he
5 has been convicted of an offense substantially related to the
6 practice of medicine in violation of sections 490 and 2383 of the
7 Business and Professions Code. The circumstances are as follows:

8 A. On or about October 3, 1974, respondent herein
9 was indicted for conspiracy to commit the crime of the
10 unlawful sale of drugs, compounds, or devices for the
11 alleviation or the cure of cancer (Health and Saf. Code
12 § 1707.1), in violation of Penal Code section 182,
13 subdivision (1).

14 B. Thereafter, in a case entitled, "The People of
15 the State of California v. James Robert Privitera, Jr., et
16 al.," bearing case number CR 32978 in the San Diego County
17 Superior Court, on or about December 16, 1975, respondent
18 was found guilty of said offense.

19 C. As a result of said conviction, on February 2,
20 1976, respondent herein was placed on formal probation for
21 a period of five years on the following terms and conditions:

22 (1) That he spend six months in the custody
23 of the Sheriff of San Diego County.

24 (2) That he not sell, give away, prescribe
25 Amygdalin, Laetrile, or B17.

26 (3) That he not sell, give away, promote or
27 prescribe any unapproved substance or device for the

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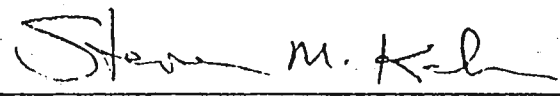
treatment of cancer.

D. Said conduct constitutes cause for disciplinary action pursuant to sections 490 and 2383 of the Business and Professions Code and is further cause for disciplinary action pursuant to sections 2361, subdivision (a), and 2378.5 of said code.

WHEREFORE, complainant prays that the Division of Medical Quality hold a hearing on the matters alleged herein and following said hearing issue a decision:

- 1. Suspending or revoking respondent's physician's and surgeon's certificate;
- 2. Taking such other and further action as is deemed necessary and proper.

Dated: June 20, 1980



STEVEN M. KAHN
Deputy Attorney General for

ROBERT G. ROWLAND
Executive Director
Board of Medical Quality Assurance
State of California
Complainant

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