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STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
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BY  **ANALYST**

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

12 In the Matter of the Accusation Against:

Case No. 12 1999 99290

13 **JOHN P. TOTH, M.D.**
2299 Bacon Street, Suite 10
14 Concord, CA 94520

ACCUSATION

15 Physician's and Surgeon's
16 Certificate No. A 17586

17 Respondent

18
19 Complainant alleges:

20 **PARTIES**

21 1. Ron Joseph ("Complainant") brings this accusation solely in his official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs.

24 2. On or about July 1, 1957, the Medical Board of California issued
25 physician's and surgeon's license Number A 17586 to John Peter Toth, M.D. ("Respondent").
26 The physician's and surgeon's certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on February 28, 2001, unless renewed.
28

1 JURISDICTION

2 3. This Accusation is brought before the Division of Medical Quality,
3 Medical Board of California ("Division"), under the authority of the following sections of the
4 Business and Professions Code ("Code").

5 4. Section 2003 of the Code states the board shall consist of the following
6 two divisions: a Division of Medical Quality, and a Division of Licensing. This section shall
7 become operative on July 1, 1994.

8 5. Section 2004 of the Code states:

9 The Division of Medical Quality shall have the responsibility for the following:

10 (a) The enforcement of the disciplinary and criminal provisions of the
11 Medical Practice Act.

12 (b) The administration and hearing of disciplinary actions.

13 (c) Carrying out disciplinary actions appropriate to findings made by a
14 medical quality review committee, the division, or an administrative law judge.

15 (d) Suspending, revoking, or otherwise limiting certificates after the
16 conclusion of disciplinary actions.

17 (e) Reviewing the quality of medical practice carried out by physician and
18 surgeon certificate holders under the jurisdiction of the board.

19 6. Section 2220 of the Code states except as otherwise provided by law, the
20 Division of Medical Quality may take action against all persons guilty of violating this chapter.
21 The division shall enforce and administer this article as to physician and surgeon certificate
22 holders, and the division shall have all the powers granted in this chapter for these purposes
23 including, but not limited to:

24 (a) Investigating complaints from the public, from other licensees, from health
25 care facilities, or from a division of the board that a physician and surgeon may be guilty
26 of unprofessional conduct. The board shall investigate the circumstances underlying any
27 report received pursuant to Section 805 within 30 days to determine if an interim
28 suspension order or temporary restraining order should be issued. The board shall

1 otherwise provide timely disposition of the reports received pursuant to Section 805.

2 (b) Investigating the circumstances of practice of any physician and surgeon
3 where there have been any judgments, settlements, or arbitration awards requiring the
4 physician and surgeon or his or her professional liability insurer to pay an amount in
5 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect
6 to any claim that injury or damage was proximately caused by the physician's and
7 surgeon's error, negligence, or omission.

8 (c) Investigating the nature and causes of injuries from cases which shall be
9 reported of a high number of judgments, settlements, or arbitration awards against a
10 physician and surgeon.

11 7. Section 2234 of the Code provides that unprofessional conduct includes,
12 but is not limited to, the following:

13 (a) Violating or attempting to violate, directly or indirectly, or assisting in
14 or abetting the violation of, or conspiring to violate, any provision of this chapter.

15 (b) Gross negligence.

16 (c) Repeated negligent acts.

17 (d) Incompetence.

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

21 (f) Any action or conduct which would have warranted the denial of a
22 certificate.

23 8. Section 2427 of the Code states:

24 (a) Except as provided in Section 2429, a license which has expired may
25 be renewed at any time within five years after its expiration on filing an
26 application for renewal on a form prescribed by the licensing authority and
27 payment of all accrued renewal fees and any other fees required by Section 2424.
28 If the license is not renewed within 30 days after its expiration, the licensee, as a

1 condition precedent to renewal, shall also pay the prescribed delinquency fee, if
2 any. Except as provided in Section 2424, renewal under this section shall be
3 effective on the date on which the renewal application is filed, on the date on
4 which the renewal fee or accrued renewal fees are paid, or on the date on which
5 the delinquency fee or the delinquency fee and penalty fee, if any, are paid,
6 whichever last occurs. If so renewed, the license shall continue in effect through
7 the expiration date set forth in Section 2422 or 2423 which next occurs after the
8 effective date of the renewal, when it shall expire and become invalid if it is not
9 again renewed.

10 (b) Notwithstanding subdivision (a), the license of a doctor of podiatric
11 medicine which has expired may be renewed at any time within three years after
12 its expiration on filing an application for renewal on a form prescribed by the
13 licensing authority and payment of all accrued renewal fees and any other fees
14 required by Section 2424. If the license is not renewed within 30 days after its
15 expiration, the licensee as a condition precedent to renewal, shall also pay the
16 prescribed delinquency fee, if any. Except as provided in Section 2424, renewal
17 under this section shall be effective on the date on which the renewal application
18 is filed, on the date on which the renewal fee or accrued renewal fees are paid, or
19 on the date on which the delinquency fee or the delinquency fee and penalty fee, if
20 any, are paid, whichever last occurs. If so renewed, the license shall continue in
21 effect through the expiration date set forth in Section 2422 or 2423 which next
22 occurs after the effective date of the renewal, when it shall expire and become
23 invalid if it is not again renewed.

24 9. Section 118 of the Code states:

25 (a) The withdrawal of an application for a license after it has been filed with a
26 board in the department shall not, unless the board has consented in writing to such
27 withdrawal, deprive the board of its authority to institute or continue a proceeding against
28 the applicant for the denial of the license upon any ground provided by law or to enter an

1 order denying the license upon any such ground.

2 (b) The suspension, expiration, or forfeiture by operation of law of a license
3 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
4 of the board or by order of a court of law, or its surrender without the written consent of
5 the board, shall not, during any period in which it may be renewed, restored, reissued, or
6 reinstated, deprive the board of its authority to institute or continue a disciplinary
7 proceeding against the licensee upon any ground provided by law or to enter an order
8 suspending or revoking the license or otherwise taking disciplinary action against the
9 licensee on any such ground.

10 (c) As used in this section, "board" includes an individual who is authorized by
11 any provision of this code to issue, suspend, or revoke a license, and "license" includes
12 "certificate," "registration," and "permit."

13 10. Section 14124.12 of the Welfare and Institutions Code states:

14 (a) Upon receipt of written notice from the Medical Board of California,
15 the Osteopathic Medical Board of California, or the Board of Dental Examiners of
16 California, that a licensee's license has been placed on probation as a result of a
17 disciplinary action, the department may not reimburse any Medi-Cal claim for the
18 type of surgical service or invasive procedure that gave rise to the probation,
19 including any dental surgery or invasive procedure, that was performed by the
20 licensee on or after the effective date of probation and until the termination of all
21 probationary terms and conditions or until the probationary period has ended,
22 whichever occurs first. This section shall apply except in any case in which the
23 relevant licensing board determines that compelling circumstances warrant the
24 continued reimbursement during the probationary period of any Medi-Cal claim,
25 including any claim for dental services, as so described. In such a case, the
26 department shall continue to reimburse the licensee for all procedures, except for
27 those invasive or surgical procedures for which the licensee was placed on
28 probation.

22 (b) The Medical Board of California, the Osteopathic Medical Board of
23 California, and the Board of Dental Examiners of California, shall work in
24 conjunction with the State Department of Health Services to provide all
25 information that is necessary to implement this section. These boards and the
26 department shall annually report to the Legislature by no later than March 1 that
27 number of licensees of these boards, placed on probation during the immediately
28 preceding calendar year, who are:

(1) Not receiving Medi-Cal reimbursement for certain surgical
services or invasive procedures, including dental surgeries or invasive
procedures, as a result of subdivision (a).

(2) Continuing to receive Medi-Cal reimbursement for certain

1 surgical or invasive procedures, including dental surgeries or invasive
2 procedures, as a result of a determination of compelling circumstances
made in accordance with subdivision (a).

3 (c) This section shall become inoperative on July 1, 2003, and, as of
4 January 1, 2004, is repealed, unless a later enacted statute that is enacted before
5 January 1, 2004, deletes or extends the dates on which it becomes inoperative and
is repealed.

6 11. Section 125.3 of the Code states, in pertinent part, that the Board may
7 request the administrative law judge to direct a licentiate found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 DRUGS

11 12. The following drugs are classified as follows:

12 A. **Augmentin** is an oral antibacterial combination of the semisynthetic
13 antibiotic amoxicillin and clavulanate potassium. The formulation of amoxicillin with clavulanic
14 acid in Augmentin protects amoxicillin from degradation by B-lactamase enzymes and
15 effectively extends the antibiotic spectrum of amoxicillin to include many bacteria normally
16 resistant to amoxicillin and other B-lactam antibiotics. Augmentin is indicated in the treatment
17 of infections caused by susceptible strains of the designated organisms in the conditions of lower
18 respiratory tract infections, Otitis Media, Sinusitis, Skin infections and Urinary Tract Infections.
19 It is a dangerous drug as defined in section 4022 of the Code.

20 B. **Ativan** is a trade name for **lorazepam**, a psychotropic drug for the
21 management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a
22 dangerous drug as defined in section 4022, a schedule IV controlled substance as defined by
23 section 11057, subdivision (d) of the Health and Safety Code, and a Schedule IV controlled
24 substance as defined by Section 1308.14 (c) of Title 21 of the Code of Federal Regulations. It
25 has a central nervous system depressant effect. Lorazepam can produce psychological and
26 physical dependence and it should be prescribed with caution particularly to addiction-prone
27 individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to
28 habituation and dependence.

1 C. **Lasix** is the trade name for the generic substance **Furosemide**. It is a loop
2 diuretic given to help reduce the amount of water in the body. They work by acting on the
3 kidneys to increase the flow of urine. It is a dangerous drug as defined in section 4022.

4 D. **Levodopa** (aka **L-Dopa**) is the levorotatory isomer of dopa which is the
5 metabolic precursor of dopamine in indicated in the treatment of Parkinson's Disease (**Paralysis**
6 **Agitans**), post encephalitic parkinsonism, symptomatic parkinsonism which may follow injury to
7 the nervous system by carbon monoxide intoxication, and manganese intoxication. It is indicated
8 in those elderly patients believed to develop parkinsonism in association with cerebral
9 arteriosclerosis. It is a dangerous drug as defined in section 4022 of the Code.

10 E. **Levothyroid**, a trade name for **levothyroxine (T4) sodium**, is indicated as
11 replacement or substitution therapy for diminished or absent thyroid function resulting from
12 functional deficiency, primary atrophy, from partial or complete absence of the gland or from the
13 effects of surgery, radiation or antithyroid agents. It is also used to treat high blood pressure. It
14 is a dangerous drug within the meaning of Business and Professions Code section 4022.

15 F. **Morphine Sulfate**, aka as brand names **Astramorph, Duramorph,**
16 **MSIR, RMS Uniserts and Roxanol**, is for use in patients who require a potent opioid analgesic
17 for relief of moderate to severe pain, and is a dangerous drug as defined in section 4022 of the
18 code and a Schedule II controlled substance as defined in section 11055(b)(1)(M) of the Health
19 and Safety Code. Morphine can produce drug dependence and has a potential for being abused.
20 Tolerance and psychological and physical dependence may develop upon repeated
21 administration. Abrupt cessation or a sudden reduction in dose after prolonged use may result in
22 withdrawal symptoms. After prolonged exposure to morphine, if withdrawal is necessary, it
23 must be undertaken gradually.

24 **MS Contin** is a trade name for **morphine sulfate controlled release tablets**. **MS**
25 **Contin 30 mg** tablets contain 30 mg. morphine sulfate.

26 G. **Prinivil** or **Zestril** (**Lisinopril**) is an ACE inhibitor belonging to the class
27 of medicines call high blood pressure medicines (antihypertensives). It is a dangerous drug as
28 defined by section 4022 of the Business and Professions Code.

1 A. On or about **October 19, 1995** respondent undertook the care and
2 treatment of female patient L.K¹, a 92 year old woman who first consulted respondent following
3 the retirement of her physician of longstanding. Her past medical history included a history of
4 ulcer disease, congestive heart failure, stroke and TIA's (Transient Ischemic Attacks) along with
5 a distant history of radioablation of the thyroid gland for Graves Disease. Her medications
6 included lisinopril (**Prinivil**) 5 mg, furosemide (**Lasix**) 40 mg and ranitidine (**Zantac**) 150 mg.
7 This medication had been recommended as a "lifetime dose" by a gastroenterologist.
8 Respondent discontinued the patient's Zantac during this visit. Although the recorded physical
9 exam was not supportive of a diagnosis of hypothyroidism, **L-thyroxine** 0.1 mg was begun.
10 Also, the patient was given an injection of Vitamins B-12, B-complex and Folic acid and was
11 inexplicably asked to record her basal body temperature. A battery of laboratory studies were
12 ordered and were essentially normal except for a slightly decreased platelet count. Notably, the
13 TSH (Thyroid Stimulating Hormone) was normal. When interviewed, respondent stated, "*TSH*
14 *isn't the only criteria for determining need for thyroid therapy.*" Consistent with this belief,
15 thyroid supplementation continued throughout respondent's care of patient L.K. No other
16 medication adjustments were recommended except the advice "no aspirin or NSAIDS."

17 B. Approximately three and one-half weeks after first seeing
18 respondent, on or about **November 14, 1995** patient L.K. was admitted to the hospital for an
19 upper GI (gastrointestinal) bleed. Respondent recorded in his admission note "*The patient had*
20 *been on Zantac on a regular basis until she saw me on 10/19, at which time, I believe, I*
21 *discontinued it.*" However, respondent did not make a connection between the discontinuation
22 of the Zantac and the onset of upper GI bleeding. The association between these events was
23 clearly made by the consultant gastroenterologist who also performed an endoscopy which
24 revealed a pyloric ulcer. During subsequent interviews, respondent indicated that he
25 discontinued patient L.K.'s Zantac because of "reports of long term. use (causing) gastric
26

27 1. The true and full name of patient L.K. will be disclosed and made available to
28 respondent upon receipt of a Request for Discovery.

1 atrophy." The notes during this hospitalization included the facts that the patient had a
2 longstanding history of congestive heart failure and hypertension. The gastroenterologist also
3 noted a history of rheumatic mitral valvular disease with mitral stenosis and mitral insufficiency
4 was noted. After multiple transfusions and medical therapy with Zantac plus both carafate and a
5 proton pump inhibitor, patient L.K. was deemed stable for discharge on **November 27, 1995**.
6 She was discharged to a skilled nursing facility.

7 C. On **December 1, 1995** patient L.K. was examined by respondent
8 at her residence facility pursuant to a complaint of shortness of breath. The presence of edema
9 led to a diagnosis of congestive heart failure and an increase in her Lasix dose. Persistent
10 dyspnea prompted respondent to recommend evaluation in the Mount Diablo Hospital
11 emergency department on **December 5, 1995** where she was found to have large pleural
12 effusions. This hospitalization and thoracentesis, which yielded 1300 cc's of pleural fluid, was
13 overseen by a "chest medicine specialist." Patient L.K.'s blood pressure on that same day was
14 recorded at 180/68. This was not referenced in respondent's notes for the office visit she paid to
15 his office. There also was no reference to any of her current medications except for digoxin in
16 respondent's office notes.

17 D. On **August 30, 1996** her blood pressure was 180/80 for which
18 enalapril (Vasotec) was prescribed. The Vasotec was never started, according to a **September**
19 **16, 1996** note regarding a telephone conversation between respondent and the patient's son
20 during which, respondent maintains, the patient's son asked that the medication be
21 "discontinued". On September 16, 1996, the record reflects that there is a phone call from her
22 son, that her blood pressure at home is ranging 169/62, 175/73 and 160/62, more alert now,
23 would like to discontinue Vasotec, doing remarkably well. Despite persistent systolic
24 hypertension, respondent evidently discontinued the therapy with Vasotec.

25 E. There were no office visits by the patient after her Vasotec was
26 discontinued, nor contact with the family until she came in on **December 12, 1996** with
27 productive cough for a week. Her lungs were found to be clear and she was started on **Biaxin**,
28 and noted that she was on Lasix 40 mg twice a day. This uneventful bout of bronchitis on

1 December 12, 1996 was followed by a **January 29, 1997** office visit for "swollen ankles." The
2 physical exam was remarkable for a new heart murmur and "3+ edema." There was no recorded
3 temperature. The left leg was reportedly "red and hot" leading to a diagnosis of cellulitis. A one
4 week course of antibiotics, cefuroxime axetil (**Ceftin**), was prescribed for the cellulitis. The
5 edema was ascribed to "ASHD with CHF for which the daily dose of **Lasix** was doubled and,
6 atypically, **L-Dopa** was prescribed. During subsequent interviews, respondent has stated that he
7 prescribed L-Dopa because of its "*ionotropic effect on cardiac muscle*." Respondent has also
8 stated that he used this medication with this patient to obtain a "boost" in contractility and
9 cardiac muscle efficiency. The new murmur was not commented upon and an EKG was not
10 obtained.

11 F. One week later, on February 6, 1997, the bilateral leg edema
12 persisted and the left leg remained red. There is no documented exam of the heart or lungs and
13 there are no clearly recorded vital signs for this visit. Attributing the leg redness to inadequately
14 treated cellulitis, respondent prescribed a different antibiotic (**Augmentin**). Four days later, on
15 **February 10, 1997**, a complaint of shortness of breath prompted a chest X-ray and office visit.
16 The physical exam and the chest X-ray were consistent with congestive heart failure. Her chest
17 x-ray was noted to have some pleural disease and moderate cardiovascular enlargement. She
18 mentioned her diarrhea and it was felt she had congestive heart failure. Her **Lasix** was increased
19 by 40mg to 125mg in the morning, 80mg at night and **L-dopa** ,was started at 250 mg a day.
20 Respondent noted in his plans, "*OK to start L-Dopa*." An elevated systolic blood pressure of
21 172/66 is neither commented upon nor specifically addressed. Four days later still, on **February**
22 **14, 1997** the edema and redness of the legs was gone and L.K. was reportedly feeling better,
23 without any follow-up mention of her diarrhea. Nontraditionally, an intravenous injection of
24 "**MgCl and B-6**" was administered. On interview, respondent explained that these substances,
25 I.V. magnesium and I.V. vitamin B-6, were given to "*control cardiac rate and increase*
26 *efficiency of cardiac contraction*." On **February 19, 1997**, a telephone call concerning a
27 complaint of watery diarrhea prompted laboratory stool analysis and a recommendation to start
28 "*grapefruit seed extract*." On interview, respondent explained that possibly the **Augmentin**

1 caused the watery diarrhea and that elderly persons can contract giardia from young visitors and
2 that he has found "grapefruit seed extract" to be effective treatment for giardia. This was her last
3 outpatient visit with respondent.

4 G. Four days later, on **February 23, 1997**, patient L.K.'s daughter
5 took her to the emergency department of Mt. Diablo Medical Center. The patient was admitted
6 for decreased responsiveness and inability to eat as well as possible dehydration and
7 gastroenteritis. The emergency room physician recorded that "*on the fifth day (of Augmentin)*
8 *she started having diarrhea and has been having diarrhea for two weeks.*" Presumed
9 dehydration prompted this physician to begin intravenous fluids. It was noted she had a Grade
10 IV over VI midsystolic apical ejection murmur that did not refer. The patient had 3 + edema of
11 both legs and ankles. The plan was to evaluate her with an echocardiogram to find out if her
12 murmur had gotten worse. She was noted as possibly having a ruptured Cordaetendonae. It was
13 felt she was in congestive heart failure. The next day, respondent noted a loud heart murmur and
14 ascribed patient L.K.'s "*inanition*" as "*probably due to congestive heart failure.*" Respondent did
15 not note a relationship between diarrhea and former antibiotic use and speculated that "*(her)*
16 *loose stools may..be..due to the K-dur ... that she has recently been on.*" Treatment with
17 **Lasix** was reinstated by respondent and an echocardiogram obtained. In respondent's opinion
18 the patient probably had more congestive heart failure. A verbal report of an echocardiogram
19 showed "*fibrosis of all the chambers.*" Respondent added Co-enzyme Q-10 for its "*regulatory*
20 *effect*" on cardiac rhythm. Persistent systolic blood pressure readings of over 170 were neither
21 treated nor specifically addressed in the progress notes. A "*Do not resuscitate*" order was written
22 **February 25, 1997**, although there is no notation in respondent's records that this subject was
23 addressed with either the patient or her surrogate. As treatment for heart failure, presumably,
24 L.K. received injections of MgSO4 and her dose of L-Dopa was increased. Complaints of
25 "*nervousness*" were treated with **Valium** 5 mg twice daily. Also prescribed was "**alpha-lipoic**
26 **acid**" which respondent deemed as indicated "*for liver support.*" After a 3 day stay, patient L.K.
27 was transferred to a skilled nursing facility where her care was assumed by another physician.
28 There is a discharge summary dictated **February 26, 1997** stating that the patient was evaluated

1 and felt to be anorexic and probably in congestive heart failure. The final diagnosis was
2 atherosclerotic heart disease with marked congestive heart failure, secondary to generalized
3 fibrosis of all cardiac chambers, responding well to above therapies. This was the end of
4 respondent's involvement with patient L.K. After a difficult medical course at the skilled
5 nursing facility, patient L.K. died on **April 4, 1997.**

6 14. In diagnosing, caring for and treating patient L.K. during said time,
7 respondent did so in a grossly negligent and/or repeatedly negligent and/or incompetent manner
8 as follows:

9 A. When assuming the office care of an adult patient, the usual standard of
10 care is to review the relevant medical history including all medications, and perform a focused
11 physical examination. When time constraints preclude a thorough evaluation, as was apparently
12 the case in respondent's initial evaluation of L.K., chronic medications are usually continued
13 until the doctor "has a handle on" his or her new patient. The decision to discontinue
14 medications is then based upon review of past medical records, current symptoms and physical
15 examination and relevant laboratory data. Respondent's decision to discontinue L.K.'s ranitidine
16 (**Zantac**) was a departure from the standard of care. Respondent's apparent failure to note the
17 relationship between his discontinuation of Zantac and the activation of patient L.K.'s ulcer
18 disease constitutes another departure from the usual standard of care. Notably, respondent
19 seemed to disregard the possibility of such an association even though causation was strongly
20 implied by the gastroenterologist who consulted on the case. His interview comment that he
21 discontinued patient L.K.'s Zantac because "*reports of long term use (causing) gastric atrophy*"
22 demonstrates a lack of knowledge concerning the pharmacology of ranitidine.

23 B. Similarly, the usual standard is to thoroughly evaluate conditions for
24 which additional medications may be necessary. There is no indication that respondent
25 specifically evaluated L.K. for thyroid disease except to order a TSH. The normal TSH value
26 essentially precludes a diagnosis of hypothyroidism. Thus, the medical record does not support
27 respondent's diagnosis of hypothyroidism in patient L.K. and there is nothing to support ongoing
28 treatment with thyroid supplements. Respondent's diagnosis and treatment of hypothyroidism in

1 his care of L.K. constituted a departure from the standard of care. Respondent's comments
2 regarding his decision to continue thyroid supplements despite the normal TSH demonstrates a
3 lack of knowledge regarding the ultra sensitive TSH and the laboratory evaluation of thyroid
4 disease.

5 C. Usual allopathic medical practice does not involve injections with
6 vitamins unless a deficiency is known to exist. Typical care of an elderly woman does not
7 include daily monitoring of basal body temperature and respondent's monitoring of basal
8 temperature and empiric use of vitamin injections falls outside the usual practice of allopathic
9 medicine.

10 D. The usual standard of medicine is to treat persistently elevated systolic
11 blood pressure, especially in individuals with a history of strokes and TIA's as was the case with
12 patient L.K. Use of such drugs as Vasotec is independently helpful in the treatment of
13 congestive heart failure (CHF). Respondent's decision not to pursue treatment with Vasotec or
14 similar medications constitutes a departure from the standard of care. Respondent's comment
15 during his taped interview that Vasotec has "*no side effects except a little cough*" and has no
16 "*significant effect on reducing afterload*" reveals a lack of knowledge regarding the
17 pharmacology of Vasotec and demonstrates a lack of knowledge regarding the treatment of
18 congestive heart failure.

19 E. When patients such as L.K. develop a worsening of their congestive heart
20 failure, the usual care standard is to investigate possible causes. There is no evidence that
21 respondent considered the various possible causes when evaluating her on January 29, 1997,
22 February 6, 1997, February 10, 1997 or February 14, 1997. This oversight is especially
23 remarkable in this patient in whom a new heart murmur, and leg symptoms that may have
24 reflected embolic disease. In failing to evaluate the source of the worsened heart failure
25 respondent departed from the standard practice. In addition, respondent employs untraditional
26 remedies for CHF in his use of L-Dopa and injections with MgCl and Vitamin B-6. Use of these
27 medications for the treatment of CHF is a clear departure from usual allopathic medicine. In two
28

1 standard medication references² there is nothing to corroborate respondent's assertion that L-
2 Dopa "has a significant inotropic effect on the cardiac muscle." Thus, the departure from care
3 standard is at least partly secondary to a lack of knowledge regarding contemporary treatment of
4 congestive heart failure (CHF).

5 F. When patients have a change in their bowel habits such as diarrhea,
6 physicians typically run through a mental list of possible etiologies. Prominent on this list is the
7 possibility that a currently or recently prescribed drug is to blame. In his failure to consider the
8 relationship between recent antibiotic therapy and the later development of diarrhea respondent
9 departed from the usual standard of care.

10 G. Medications prescribed by respondent such as **alpha-lipoic acid** and **Co-**
11 **enzyme-Q** are not typically prescribed by physicians practicing within the usual care standard.
12 The usual practice is to evaluate possible medical causes of "nervousness" in chronically ill
13 persons in whom psychologic distress has not previously been a problem. In failing to evaluate
14 the reason for patient L.K. "nervousness" respondent departed from the usual care standard.
15 Treatment with long-acting tranquilizers such as **Valium** is especially problematic in the elderly.
16 By prescribing **Valium** to patient L.K., respondent demonstrated a lack of understanding of the
17 pharmacology of **Valium** and its potential toxicity in the elderly.

18 H. The usual practice is to review with competent patients, or the surrogates
19 of incompetent patients, the pros and cons of cardiopulmonary resuscitation. In his apparent
20 failure to engage in such a conversation prior to writing a "Do not resuscitate" order, respondent
21 violated the autonomy of patient L.K., departed both from the usual care standard and the code of
22 medical ethics under which physicians practice.

23 I. In almost every interaction between respondent and his patient L.K. there
24 was a departure from the usual standard of medicine. These departures involved different
25 clinical problems (congestive heart failure, hypertension, thyroid disease, ulcer disease, diarrhea)

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27
28 2. Physician's Desk Reference, 54th edition and Goodman and Gilman, The Pharmacologic
Basis of Therapeutics, 5th edition.


1 and involved the inappropriate use of many medications (ranitidine (Zantac), enalapril (Vasotec
2 L-Dopa, Valium) along with several nontraditional therapeutics. Taken as a whole, the medical
3 care provided by respondent represents an extreme departure from the standard practice of
4 medicine. Respondent evidences a lack of knowledge regarding the pharmacology of several
5 medications, the laboratory diagnosis of thyroid disease and the treatment of congestive heart
6 failure. In addition, respondent's medical records and taped interview demonstrate an
7 inattentiveness to detail and a non-systematic approach to diagnosis. Such a non-methodical
8 approach to patient care commonly results in diagnostic inaccuracy and inappropriate drug
9 therapy.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Medical Board of California issue a decision:

- 13 1. Revoking or suspending physician and surgeon's certificate Number A
14 17586, issued to John Peter Toth, M.D.;
- 15 2. Ordering John Peter Toth, M.D. to pay the Medical Board of California
16 the reasonable costs of the investigation and enforcement of this case, and, if placed on
17 probation, the costs of probation monitoring;
- 18 3. Taking such other and further action as the Medical Board of California
19 deems necessary and proper.

20
21 DATED: June 1, 200

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24 
25 RON JOSEPH
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California
Complainant

H

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

In the Matter of the Accusation)
Against:)

JOHN P. TOTH, M.D.)
Certificate No. A-17586)

No: 12-1999-99290

Respondent)

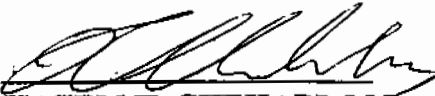
DECISION

The attached Stipulation Waiver and Agreement for the Issuance of a Public Reprimand is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on August 27, 2001

IT IS SO ORDERED July 27, 2001

By:


HAZEM H. CHEHABI, M.D.
President
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 ALFREDO TERRAZAS, State Bar No. 78403
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, Suite 2000
4 Oakland, California 94612
Telephone: (510) 622-2220
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6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 JOHN P. TOTH, M.D.
2299 Bacon Street, Suite 10
14 Concord, CA 94520
15 Physician's and Surgeon's
Certificate No. A 17586

Respondent

Accusation Number 12 1999 99290

**STIPULATION, WAIVER AND
AGREEMENT FOR THE ISSUANCE
OF A PUBLIC REPRIMAND**

**(BUSINESS AND PROFESSIONS
CODE SECTIONS 495 & 2227)**

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IT IS HEREBY STIPULATED AND AGREED by and between the parties of
the above-entitled matter as follows:

1. At the time of executing and filing the Accusation in the above matter,
complainant, Ronald Joseph, was the Executive Director of the Medical Board of California,
State of California (hereinafter the "Board") and performed said acts solely in his official
capacity as such, and is represented herein by Bill Lockyer, Attorney General of the State of
California, by Alfredo Terrazas, Deputy Attorney General.

2. John P. Toth, M.D. (hereinafter "respondent"), is represented herein by
Robert J. Sullivan, Attorney at Law, of the firm NOSSAMAN, GUTHNER, KNOX &
ELLIOTT. Respondent has retained said attorneys in regard to the administrative action

1 herein and respondent has counseled with said attorneys concerning the effect of this
2 Stipulation, Waiver and Agreement for the Issuance of a Public Reprimand (hereinafter
3 "Stipulation") which respondent has carefully read and which he fully understands.

4 3. Respondent has received and read the Accusation which is presently on
5 file and pending in Accusation number 12 1999 99290 before the Division of Medical Quality
6 of the Medical Board of California (hereinafter the "Division"). A true and accurate copy of
7 said Accusation number 12 1999 99290 (hereinafter the "Accusation") is attached hereto as
8 Exhibit A.

9 4. Respondent understands the nature of the charges alleged in the above-
10 mentioned Accusation and that said charges and allegations, if proven, would constitute cause
11 for imposing discipline upon the respondent's physician's and surgeon's certificate heretofore
12 issued by the Board, although respondent denies all of the allegations contained in the
13 Accusation.

14 5. Respondent and his attorneys are aware of each of respondent's rights,
15 including the right to a hearing on the charges and allegations; respondent's right to confront
16 and cross-examine witnesses who would testify against him; respondent's right to present
17 evidence in his favor or to call witnesses in his behalf, or to so testify himself, respondent's
18 right to contest the charges and allegations and any other rights which may be accorded him
19 pursuant to the California Administrative Procedure Act (Government Code, § 11500 *et seq.*);
20 his right to reconsideration, appeal to superior court and to any other or further appeal.
21 Respondent also understands that in signing this stipulation rather than contesting the
22 Accusation, he is enabling the Medical Board of California to issue a Public of Reprimand
23 against his license without further process.

24 For purposes of the settlement of the action pending against respondent in
25 Accusation number 12 1999 99290 and to avoid a lengthy administrative hearing that would
26 impose severe economic hardship upon him, impose emotional stain upon him, as well as the
27 risks associated with such a trial, respondent admits that, *if proven*, there is a factual and legal
28 basis for the imposition of discipline by the Medical Board of California alleged in Accusation

1 number 12 1999 99290. Therefore, while not admitting the factual allegations of Accusation
2 number 12 1999 99290 and indeed denying them, respondent stipulates to the jurisdiction of the
3 Medical Board of California to enter as its Decision in this matter the Order contained in this
4 Stipulation, Waiver and Agreement for the Issuance of a Public Reprimand.

5 6. Based upon all of the foregoing stipulations, and recitals, it is stipulated
6 and agreed that the Medical Board of California, upon its approval of the stipulation herein set
7 forth, may, without further notice, enter an order, whereby respondent, as holder of Physician
8 and Surgeon Certificate number A 17586, shall by way of an Order from the President of the
9 Division of Medical Quality be publically reprovved and reprimanded; provided, however, that
10 said public reprovval and reprimand is conditional on respondent first successfully complying
11 with the following terms and conditions:

12 A. ORAL CLINICAL EXAMINATION - Respondent shall take and pass
13 an oral clinical examination in **Family Practice Medicine**, administered by the Division, or its
14 designee. This examination shall be taken within **90** days after the effective date of this
15 agreement. However, if the Division or its designee deems it reasonably necessary, the Division
16 or its designee may have additional reasonable time beyond the **90** days heretofore referenced to
17 schedule said examination. The Medical Board shall pay the costs of the examination. The oral
18 clinical examination will be designed, administered and graded by three physicians to be selected
19 by the Division, or its designee, all of whom shall be board certified in Family Practice Medicine,
20 and have experience in Cardiovascular Disease, Endocrinology, Gastroenterology and/or
21 Geriatric Medicine. The parties agree that a failing grade from two of the examiners shall
22 constitute a failure of the examination. The parties further agree that the examiners
23 determination as to whether or not respondent has passed the oral clinical examination shall be
24 binding. Two of the three examiners will have to give respondent a passing score in order for
25 respondent to pass the oral clinical examination.

26 If respondent fails the first such oral clinical examination, respondent shall be
27 allowed to take and pass a second oral clinical examination, designed, administered and graded at
28 noted above. The waiting period between the first and second examinations shall be at least

1 three months. The cost of this second oral clinical examination, before a set of three different
2 examiners, shall be paid by respondent and is hereby made an express term and condition of this
3 agreement.

4 7. Once the Medical Board has been notified, in writing, that respondent
5 has successfully taken and passed one of the two oral competency examinations as outlined
6 above, a Public Reprimand against his license, without further process, pursuant to Business and
7 Professions Code sections 495 and 2227 shall be issued.

8 8. **FAILURE TO PASS BOTH EXAMINATIONS**- If respondent fails to
9 pass both the first and second oral clinical examinations, complainant, without objection from
10 respondent, shall issue an order disciplining respondent's physician and surgeon's certificate as
11 follows:

12 Respondent's conduct in failing to successfully take and pass either of the oral
13 clinical examinations described herein above in paragraph 6 constitutes incompetency and
14 therefore general unprofessional conduct pursuant to Business and Professions Code section
15 2234(d).

16 That it is understood by all parties hereto that by virtue of the foregoing recitals
17 and solely for purposes of settlement of Accusation number 12 1999 99290:

18 IT IS HEREBY STIPULATED AND AGREED that the Medical Board of
19 California, upon its approval of the Stipulation, and Waiver herein set forth, and if respondent
20 fails to pass both the first and second oral clinical examinations may, without further notice,
21 prepare a decision and enter the following order, whereby Physician and Surgeon Certificate
22 number A 17586, heretofore issued to respondent by the Medical Board of California, is hereby
23 revoked, PROVIDED HOWEVER, that execution of this order of revocation is stayed, and
24 respondent is placed on probation for a period of *five (5) years* from the effective date of the
25 Decision of the Division of Medical Quality adopting this Stipulation upon the following terms
26 and conditions. Within 15 days after the effective date of this decision the respondent shall
27 provide the Division, or its designee, proof of service that respondent has served a true copy of
28 this decision on the Chief of Staff or the Chief Executive Officer at every hospital where

1 privileges or membership are extended to respondent or where respondent is employed to
2 practice medicine and on the Chief Executive Officer at every insurance carrier where
3 malpractice insurance coverage is extended to respondent.

4 **SPECIFIC CONDITIONS**

5 **(A) CONDITION PRECEDENT-PHYSICIAN ASSESSMENT &
6 CLINICAL EDUCATION (PACE)**

7 In order to expedite resolution of the Accusation while taking reasonable
8 measures to address any possible deficiencies in respondent's practice the parties agree that, if
9 respondent fails to pass two oral clinical examinations as set forth herein above, respondent shall
10 not practice medicine until respondent has successfully completed a full Physician Assessment
11 and Clinical Education Program. Within sixty (60) days of being advised that he has failed the
12 second oral clinical examination, respondent shall, at his own expense, enroll in the Physician
13 Assessment and Clinical Education Program at the University of California, San Diego School of
14 Medicine (hereafter the "PACE Program") and shall undergo assessment, clinical training and
15 examination.

16 First, respondent shall undergo the comprehensive assessment program including
17 the measurement of medical skills and knowledge, the appraisal of physical health and
18 psychological testing. After assessment, the PACE Evaluation Committee will review all results
19 and make a recommendation to the Division or its designee, the respondent and other authorized
20 personnel as to what clinical training is required, if any, including scope and length, treatment of
21 any medical or psychological condition, and any other factors affecting the respondent's practice
22 of medicine. The respondent shall undertake whatever clinical training and treatment of any
23 medical or psychological condition as may be recommended by the PACE Program. Finally, at
24 the completion of the PACE Program, respondent shall submit to an examination designed and
25 administered by the PACE faculty. Respondent shall not be deemed to have successfully
26 completed the program unless he passes the examination.

27 The parties agree that the determination of the PACE Program faculty as to
28 whether or not respondent has passed the examination and/or successfully completed the PACE

1 Program shall be binding.

2 Respondent also agrees that he shall complete the PACE Program no later than six
3 months after his initial enrollment unless the Division or its designee agree in writing to a later
4 time for completion.

5 If respondent successfully completes the PACE Program, including the
6 examination referenced above, he agrees to cause the PACE representatives to forward a
7 Certification of Successful Completion of the program to the Division.

8 If respondent fails to successfully complete the PACE Program within the time
9 limits set forth above, the stay ordered herein above shall be rescinded and the agreed to
10 revocation of license shall be made immediately effective.

11 **(B) EDUCATION COURSE**

12 Within **90 days** of the effective date of such an Order, and on an annual basis
13 thereafter, respondent shall submit to the Division for its prior approval an education program or
14 course to be designated by the Division, but which shall be in Category 1 *Family Practice*
15 *Medicine* continuing medical education, and which shall not be less than **15 hours per year, for**
16 **each year of probation.** Respondent is placed on notice that no less than one-half of the
17 required 15 hours of additional continuing medical education required as a result of this term and
18 condition of probation, **for first two years of probation**, shall be in the subject matter area of
19 Cardiovascular Disease, Endocrinology, Gastroenterology and/or Geriatric Medicine.

20 Respondent is specifically placed on notice that should he attempt to satisfy the terms of this
21 probationary condition by taking continuing medical education courses outside of California that
22 the courses must be pre-approved by the Division or its designee and that said course(s) must be,
23 at minimum, sponsored or certified as meeting the criteria established by the American Medical
24 Association (AMA) physician's recognition award. This program shall be in addition to the
25 Continuing Medical Education requirements for re-licensure. Respondent shall provide proof of
26 attendance for **a total of 40 hours of continuing medical education** for each year of probation of
27 which 15 hours were in satisfaction of this condition and were approved in advance by the
28 Division.

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(C) MONITOR OF PRACTICE

Within 30 days of the effective date of such an Order, respondent shall submit to the Division for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide **quarterly reports** to the Division or its designee. The monitor must be Board Certified by the American Board of Family Practice Medicine.

The monitor must meet, in person, with respondent a minimum of once per month and the monitor must be made specifically aware that he/she must, at a minimum, review the following aspects of respondent's care for 25 patients per quarter:

- The level and adequacy of good faith prior physical and history examinations as medical indications for any and all diagnostic and treatment procedures;
- The medical indications for all diagnostic procedures and treatments;
- The interpretation of all diagnostic procedures performed on patients;
- The appropriateness of diagnosis and differential diagnosis;
- The appropriateness and level of competency displayed in diagnostic and treatment modalities;
- The appropriateness of medications and/or treatments their use, length of their use, dosage and possible adverse effects;
- The appropriateness and adequacy of medical records created;
- The level and adequacy of appropriate disclosures of alternative treatments as well as the risks and benefits of recommended treatments; and
- The adequacy and level of patient informed consent to diagnostic and treatment protocols.

The monitor shall have the discretion to review any and all of respondent's medical records as he/she deems necessary.

The monitor and all costs associated with the monitor's duties, functions and responsibilities shall be paid by respondent. Respondent is specifically prohibited from entering

1 into any bartering arrangement with the monitor, (i.e., using the referral of patients to the monitor
2 to offset the expenses incurred in satisfying this term of probation, etc.) which would or could
3 compromise the integrity of the monitor to render fair and unbiased reports to the Division.

4 If the monitor quits, or is no longer available, respondent shall within 15 calendar
5 days to nominate a new monitor for approval by the Division.

6 A violation of this term of probation, if established, can result in the lifting of the
7 stay order contained herein and can result in the reimposition of the revocation of respondent's
8 certificate as a physician and surgeon.

9 **GENERAL TERMS OF PROBATION**

10 **(D) OBEY ALL LAWS**

11 Respondent shall obey all federal, state and local laws, all rules governing the
12 practice of medicine in California, and remain in full compliance with any court ordered
13 criminal probation, payments and other orders.

14 **(E) QUARTERLY REPORTS**

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

18 **(F) SURVEILLANCE PROGRAM**

19 Respondent shall comply with the Division's probation surveillance program.
20 Respondent shall, at all times, keep the Division informed of his or her addresses of business
21 and residence which shall both serve as addresses of record. Changes of such addresses shall
22 be immediately communicated in writing to the Division. Under no circumstances shall a post
23 office box serve as an address of record.

24 Respondent shall also immediately inform the Division, in writing, of any travel
25 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
26 than thirty (30) days.

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1 **(G) INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
2 **DESIGNATED PHYSICIAN(S)**

3 Respondent shall appear in person for interviews with the Division, its designee
4 or its designated physician(s) upon request at various intervals and with reasonable notice.

5 **(H) TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**
6 **IN-STATE NON-PRACTICE**

7 In the event respondent should leave California to reside or to practice outside
8 the State or for any reason should respondent stop practicing medicine in California,
9 respondent shall notify the Division or its designee in writing within ten days of the dates of
10 departure and return or the dates of non-practice within California. Non-practice is defined as
11 any period of time exceeding thirty days in which respondent is not engaging in any activities
12 defined in Sections 2051 and 2052 of the Business and Professions Code. All time spent in an
13 intensive training program approved by the Division or its designee shall be considered as time
14 spent in the practice of medicine. Periods of temporary or permanent residence or practice
15 outside California or of non-practice within California, as defined in this condition, will not
16 apply to the reduction of this probationary period.

17 **(I) COMPLETION OF PROBATION**

18 Upon successful completion of probation, respondent's certificate shall be fully
19 restored.

20 **(J) VIOLATION OF PROBATION**

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

26 **(K) COST RECOVERY**

27 *If respondent fails to successfully take and pass both the first and second oral*
28 *clinical examinations set forth in paragraph 6 herein above and this disciplinary Order is*
 issued, respondent is also hereby ordered to reimburse the Division the amount of \$3,059.00

1 within 90 days from the date of the issuance of this Order for its investigative and prosecution
2 costs. Failure to reimburse the Division's cost of its investigation and prosecution shall
3 constitute a violation of the probation order, unless the Division agrees in writing to payment
4 by an installment plan because of financial hardship. The filing of bankruptcy by the
5 respondent shall not relieve the respondent of his responsibility to reimburse the Division for
6 its investigative and prosecution costs.

7 **(L) LICENSE SURRENDER**

8 Following the effective date of this decision, if respondent ceases practicing due
9 to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of
10 probation, respondent may voluntarily tender his certificate to the Board. The Division
11 reserves the right to evaluate the respondent's request and to exercise its discretion whether to
12 grant the request, or to take any other action deemed appropriate and reasonable under the
13 circumstances. Upon formal acceptance of the tendered license, respondent will no longer be
14 subject to the terms and conditions of probation.

15 **(M) PROBATION MONITORING COSTS**

16 All costs incurred for probation monitoring during the entire probation shall be
17 paid by the respondent. The yearly costs for reimbursement purposes of probation monitoring
18 costs shall not exceed **\$2,488.00**.

19 9. This stipulation is entered into by the parties based upon the public policy
20 favoring settlements which further the efficient administration of the Medical Board's duties,
21 as enunciated in case law such as *Rich Vision Centers, Inc. v. Board of Medical Examiners*
22 (1983) 144 Cal.App.3d 110. In consideration for complainant entering into this Stipulation,
23 respondent hereby waives any right to challenge the legal effect of this stipulation, by way of
24 petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further
25 waives any other legal claim or defense which he may have asserted. Respondent further
26 waives any time-based defenses such as laches or statute of limitations with respect to any
27 delay in the prosecution of any Amended Accusation created by entering into this stipulation.

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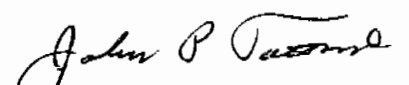
CONTINGENCY

10. This stipulation shall be subject to the approval of the Division of Medical Quality. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Chief of Enforcement of the Division regarding this stipulation, without notice to or participation by respondent or his representative. If the Division of Medical Quality fails to adopt this proposed stipulation in lieu of discipline, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action in this matter by virtue of the Chief of Enforcement's consideration of this stipulation.

ACCEPTANCE

I have read the above Stipulation for successfully taking and passing an Oral Competency Examination and the pre-determined discipline which will automatically be imposed should I fail to successful pass one of two potential oral competency examinations. I have fully discussed the terms and conditions and other matters contained herein with my legal counsel. I understand the effect this stipulation will have on my license and agree to be bound by it. I enter into this stipulation freely, knowingly, intelligently and voluntarily.

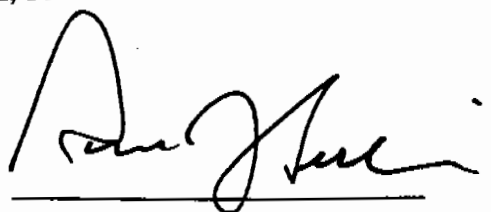
Dated: 6/7/01



John P. Toth, M.D.
Respondent

I have read the above Stipulation for taking and successfully taking an Oral Competency Examination and approve of it as to form and content. I have fully discussed its terms and conditions with respondent John P. Toth, M.D.

Dated: 6/14/2001



Robert J. Sullivan, ESQ.

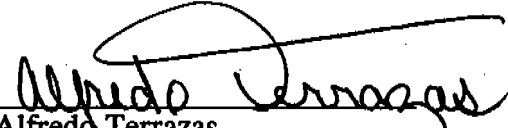
of NOSSAMAN, GUTHNER, KNOX &
ELLIOTT, LLP

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ENDORSEMENT

The foregoing Stipulation for the Conditional Issuance of a Public Reprimand, contingent on respondent successfully undertaking and passing an Oral Competency Examination is respectfully submitted for the consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

Dated: June 25, 2001


Alfredo Terrazas
Deputy Attorney General
Office of the Attorney General

Attorney for the Medical Board
of California



MEDICAL BOARD OF CALIFORNIA
EXECUTIVE OFFICE
1434 Howe Avenue, Suite 92
Sacramento, CA 95825-3236
(916) 263-2525 FAX (916) 263-2387
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October 17, 2001

John P. Toth, M.D.
2299 Bacon Street, Suite 10
Concord, CA 94520

Re: Physician and Surgeon Certificate Number A-17586
Case Number 12-1999-99290

PUBLIC REPRIMAND

On June 1, 2000, the Medical Board of California filed an accusation against your license to practice medicine for alleged violations of Business and Professions Code sections 2234(b), (c) and/or (d).

The Medical Board of California has decided that the alleged violations warrant a public reprimand. In reaching this decision the board has taken into consideration the following factors:

- (A) You were first licensed as a physician and surgeon in California on July 1, 1957 and you have never been the subject of Medical Board discipline. In addition, you either currently have or have had medical staff privileges, never restricted or revoked, at several East Bay hospitals.
- (B) The single case alleged against you involves the care and treatment, over the course of about 18 months, of an elderly (92 year old) female patient with a complicated list of medical problems, including a history of ulcer disease, congestive heart failure, stroke and TIA's (Transient Ischemic Attacks) along with a distant history of radioablation of the thyroid gland for Graves Disease. In addition, she was on many different medications when you undertook her care upon the retirement of her long standing physician.
- (C) Your resolute willingness to cooperate with the Office of the Attorney General and the Enforcement Branch of the Division of Medical Quality to identify and correct any perceived areas of weakness in your practice, coupled with your forthright efforts to demonstrate your medical competence, have been noted and appreciated. You have demonstrated your willingness to take whatever measures are necessary to insure that your experience and training are truly commensurate with the sorts of medical conditions that you can reasonably expect to encounter in your daily practice of medicine. In addition, you have demonstrated, by the course of your

John P. Toth, M.D.

Public Reprimand

Page 2

actions, that you have undertaken action that is calculated to aid in the rehabilitation of your practice to ensure that protection of your patients is paramount among your concerns.

WHEREFORE, pursuant to the authority of Business and Professions Code sections 495 and 2227, the Medical Board of California hereby issues a Public Reprimand and accepts your representation and commitment that these alleged violations will not be repeated and that you have gained a greater awareness of the things expected of you to maintain a practice that is consonant with providing exemplary medical services to your patient charges.



HAZEM H. CHEHABI, M.D.

President

Division of Medical Quality