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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 9 19 99
BY [Signature] ANALYST

6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation)
Against:) Case No. 10-1998- 91390
12)
13 **JUERGEN WINKLER, M.D.**)
3727 Camino Del Rio South,) **ACCUSATION**
14 Suite 220)
San Diego, CA 92108)
15)
Physician's and Surgeon's)
16 Certificate No. G 67075)
17 Respondent.)

18 Complainant, Ron Joseph, as causes for disciplinary
19 action, hereby alleges:

20 **PARTIES**

21 1. Complainant, Ron Joseph, is the Executive Director
22 of the Medical Board of California (hereinafter the "Board") and
23 brings this Accusation solely in his official capacity.

24 2. On or about September 18, 1989, Physician's and
25 Surgeon's Certificate No. G 67075 was issued by the Board to
26 Juergen Winkler, M.D. ("respondent"), and at all times relevant
27 herein, said Physician's and Surgeon's Certificate was in

1 full force and effect. Unless renewed, it will expire on
2 November 30, 2000.

3 JURISDICTION

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

8 A. Code section 2227 provides, in pertinent
9 part, that the Division may revoke, suspend for a period not
10 to exceed one year, or place on probation and order the
11 payment of probation monitoring cost, the license of any
12 licensee who has been found guilty under the Medical
13 Practice Act.

14 B. Code section 2234 provides, in pertinent
15 part, that the Division shall take action against any
16 licensee who is charged with unprofessional conduct.

17 C. Code section 2264 provides, in pertinent
18 part, that the employing, directly or indirectly, the
19 aiding, or the abetting of any unlicensed person or any
20 suspended, revoked, or unlicensed practitioner to engage in
21 the practice of medicine or any other mode of treating the
22 sick or afflicted which requires a license to practice
23 constitutes unprofessional conduct.

24 D. Code section 2266 provides, in pertinent
25 part, that the failure of a physician and surgeon to
26 maintain adequate and accurate records relating to the

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1 provision of services to their patients constitutes
2 unprofessional conduct.

3 E. Code section 125.3 provides, in part, that
4 the Board may request the administrative law judge to direct
5 any licentiate found to have committed a violation or
6 violations of the licensing act, to pay the Board a sum not
7 to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 4. Section 14124.12 of the Welfare and Institutions
10 Code provides, in pertinent part, that: "Upon receipt of written
11 notice from the Medical Board of California, the Osteopathic
12 Medical Board of California, or the Board of Dental Examiners of
13 California, that a licensee's license has been placed on
14 probation as a result of a disciplinary action, the department
15 [of Health Services] may not reimburse any Medi-Cal claim for the
16 type of surgical service or invasive procedure that gave rise to
17 the probation including any dental surgery or invasive procedure,
18 that was performed by the licensee on or after the effective date
19 of probation and until the termination of all probationary terms
20 and conditions or until the probationary period has ended,
21 whichever occurs first. This section shall apply except in any
22 case in which the relevant licensing board determines that
23 compelling circumstances warrant the continued reimbursement
24 during the probationary period of any Medi-Cal claim, including
25 any claim for dental services, as so described. In such a case,
26 the department shall continue to reimburse the licensee for all
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1 procedures, except for those invasive or surgical procedures for
2 which the licensee was placed on probation."

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Aiding and Abetting Unlicensed
5 Practice and Failure to Maintain Records
6 B&P Code 2264 & 2266)

6 5. Respondent Juergen Winkler, M.D., is subject to
7 disciplinary action on account of the following:

8 A. In 1997 and 1998, Ravi Devgan, a person not
9 licensed as a physician and surgeon in California, was
10 treating patients in his home in La Jolla, California. In
11 or about July 1997, Devgan hired respondent to treat
12 patients at Devgan's La Jolla home when Devgan was out of
13 town.

14 B. Respondent treated six Devgan patients in
15 1997 and 1998. Each was an advanced cancer patient.
16 Respondent did not maintain progress notes for these
17 patients. Respondent did not maintain records of controlled
18 substances prescribed to these patients, except for
19 information listed in his triplicate book. Respondent
20 authorized a non-licensed person employed by Devgan to
21 administer IV medications to at least one of these patients
22 even though respondent was not on site at the time of
23 administration.

24 6. Respondent Juergen Winkler, M.D., is subject to
25 disciplinary action in that he aided and abetted the unlicensed
26 practice of medicine and failed to maintain adequate and accurate
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1 records as alleged in paragraph 5 above, which is incorporated
2 herein by reference, in violation of B&P Code sections 2264 and 2266.

3 **PRAYER**

4 WHEREFORE, complainant requests that the Division hold
5 a hearing on the matters alleged herein, and that following said
6 hearing, the Division issue a decision:


7 1. Revoking or suspending Physician's and Surgeon's
8 Certificate No. G 67075, heretofore issued to respondent Juergen
9 Winkler, M.D.;

10 2. Revoking, suspending or denying approval of
11 respondent's authority to supervise physician assistants pursuant
12 to Code section 3527;

13 3. Directing respondent Juergen Winkler, M.D., to pay
14 to the Board a reasonable sum for its investigative and
15 enforcement costs of this action, and directing respondent, if
16 placed on probation, to pay costs of probation monitoring; and,

17 4. Taking such other and further action as the
18 Division deems appropriate to protect the public health, safety
19 and welfare.

20 DATED: December 9, 1999

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23 _____
24 Ron Joseph
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
State of California

Complainant

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