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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FRANK V. ROMANI, M.D.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9007241MED

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 9 day of Nov, 1992.

George W. Lindt

STATE OF WISCONSIN
THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE
DISCIPLINARY PROCEEDINGS AGAINST

FRANK V. ROMANI, M.D.,
RESPONDENT.

PROPOSED DECISION
Case No. LS9007241MED

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53 are:

Frank V. Romani, M.D.
4536 22nd Avenue
Kenosha, WI 53140

Medical Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A hearing was held in the above-captioned matter on December 2-6, 12, 13 and 16, 1991. The respondent, Dr. Frank V. Romani, appeared personally and by his attorneys, Stephen P. Hurley, HURLEY, BURISH & MILLIKEN, S.C., 301 North Broom Street, Madison, Wisconsin 53703, and William F. Nelson, DEWITT, PORTER, HUGGETT, SCHUMACHER & MORGAN, S.C., 2 East Mifflin Street, Suite 600, Madison, Wisconsin 53703. The complainant appeared by attorney, Gilbert C. Lubcke, Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

Subsequent to the completion of the evidentiary phase of the hearing, a transcript was prepared and counsel submitted written closing statements, all of which were received by April 16, 1992.

Based upon the record herein, the administrative law judge recommends that the Medical Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Frank V. Romani, M.D., Respondent herein, of 4536 22nd Avenue, Kenosha, Wisconsin 53140, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, license #19798, said license having been granted on 1/23/76.

2. Respondent specializes in the practice of internal medicine.

COUNT I

3. Respondent issued a prescription for 30 Xanax, 1 mg., dated 7/16/86, and bearing the name of Debbie Belongia in the location on the prescription designated for the patient's name.

4. In truth and in fact, Respondent intended that the Xanax obtained from the prescription for Debbie Belongia be utilized by a person not identified on the prescription.

5. Respondent delivered the prescription to Debbie Belongia and directed Debbie Belongia to have the prescription filled and to return the Xanax to him.

6. Debbie Belongia had the prescription filled at Midtown Pharmacy, 5002 22nd Avenue, Kenosha, Wisconsin.

7. Debbie Belongia delivered the Xanax from the prescription to Respondent. Debbie Belongia did not retain possession of or consume any of the Xanax dispensed pursuant to the prescription by the Midtown Pharmacy.

8. Xanax contains alprazolam, a Schedule IV controlled substance as defined in Wis. Stats. secs. 161.01(4) and 161.20(2)(a), and 21 CFR 1308.14(c)(1).

9. 21 CFR 1306.05(a) requires that a prescription for a controlled substance when issued bear the name of the patient for whom the prescription was intended.

COUNT II

10. Respondent issued a prescription for 30 Xanax, 1 mg., dated 7/16/86, and bearing the name of Debbie Belongia in the location on the prescription designated for the patient's name.

11. In truth and in fact, Respondent issued the prescription with the intent that the Xanax obtained from the prescription be for Respondent's own personal use.

12. Respondent delivered the prescription to Debbie Belongia and directed Debbie Belongia to have the prescription filled and to return the Xanax to him.

13. Debbie Belongia had the prescription filled at Midtown Pharmacy, 5002 22nd. Avenue, Kenosha, Wisconsin.

14. Debbie Belongia delivered the Xanax from the prescription to Respondent.

15. Debbie Belongia did not retain possession of or consume any of the Xanax dispensed pursuant to the prescription by the Midtown Pharmacy.

16. Respondent retained the Xanax for his own personal use and consumed the drug.

17. Xanax contains alprazolam, a Schedule IV controlled substance as defined in Wis. Stats. secs. 161.01(4) and 161.20(2)(a), and 21 CFR 1308.14(c)(1).

18. Wis. Stats. sec. 161.38(5) prohibits a practitioner from prescribing, orally or in writing, or from taking without a prescription, a controlled substance included in Schedule IV for the practitioner's own personal use.

COUNT III

19. Respondent issued a prescription for 30 Fastin dated 8/12/86, and bearing the name of William Belongia in the location on the prescription designated for the patient's name.

20. In truth and in fact, Respondent intended that the Fastin obtained from the prescription for William Belongia be utilized by a person not identified on the prescription.

21. Respondent delivered the prescription to Deborah Belongia and directed Deborah Belongia to have the prescription filled and to return the Fastin to him.

22. Deborah Belongia had the prescription filled at Park Drug Store, 3809 22nd Avenue, Kenosha, Wisconsin.

23. Deborah Belongia delivered the Fastin from the prescription to Respondent.

24. William Belongia did not receive or consume any of the Fastin dispensed pursuant to the prescription by the Park Drug Store.

25. Fastin contains phentermine hydrochloride, a Schedule IV controlled substance as defined in Wis. Stats. secs. 161.01(4) and 161.20(2m)(d), and 21 CFR 1308.14(e)(4).

26. 21 CFR 1306.05(a) requires that a prescription for a controlled substance when issued bear the name of the patient for whom the prescription was intended.

COUNT IV

27. Respondent issued a prescription for 30 Fastin, dated 8/12/86, and bearing the name of William Belongia in the location on the prescription designated for the patient's name.

28. In truth and in fact, Respondent issued the prescription with the intent that the Fastin obtained from the prescription be for Respondent's own personal use.

29. Respondent delivered the prescription to Deborah Belongia and directed Deborah Belongia to have the prescription filled and to return the Fastin to him.

30. Deborah Belongia had the prescription filled at the Park Drug Store, 3809 22nd Avenue, Kenosha, Wisconsin.

31. Deborah Belongia delivered the Fastin from the prescription to Respondent.

32. William Belongia did not receive or consume any of the Fastin dispensed pursuant to the prescription by the Park Drug Store.

33. Respondent retained the Fastin for his own personal use and consumed the drug.

34. Fastin contains phentermine hydrochloride, a Schedule IV controlled substance as defined in Wis. Stats. secs. 161.01(4) and 161.20(2m)(d).

35. Wis. Stats. sec. 161.38(5) prohibits a practitioner from prescribing, orally or in writing, or from taking without a prescription, a controlled substance included in Schedule IV for the practitioner's own personal use.

COUNT V

36. Mildred Sellers, the patient herein, was born on 10/27/06. She had been engaged in a physician-patient relationship with Respondent since at least 3/8/78.

37. The patient had a history of arteriosclerotic coronary artery disease with angina. She also had mild hypertension and significant peripheral vascular disease. She had a long standing history of recurrent syncope and experienced incidents of lightheadedness and dizziness. She also had a heart murmur which was felt to be a functional mitral insufficiency.

38. Approximately one week prior to 8/24/86, the patient experienced severe crushing substernal chest pains radiating to her left arm lasting approximately 4 hours with increased shortness of breath. In the week that followed this episode, the patient experienced recurrent chest pain lasting for periods of 5 minutes or less with associated shortness of breath. The patient experienced extreme weakness and dizziness, and in the 24 hours prior to 5:40 p.m. on 8/24/86, she developed acute shortness of breath and a dry nonproductive cough.

39. The patient was transported to the emergency room at St. Catherine's Hospital in Kenosha, Wisconsin on 8/24/86 and was admitted to the emergency room at 5:40 p.m. under the care of the emergency room physician, Therese M. Harms, M.D.

40. Dr. Harms obtained the patient's history, examined the patient and ordered diagnostic tests including an orthostatic pressure, a CBC, a Chem Panel, a chest x-ray, a KUB, a minicath UA, and a 12 lead EKG.

41. The results of the tests indicated a recent myocardial infarction and evidence of congestive heart failure.

42. Respondent was contacted at approximately 8:15 p.m. and advised of the results of the test.

43. Respondent arrived at the hospital to examine the patient at approximately 8:25 p.m.

44. Respondent was aware of the patient's history including the events of the previous week.

45. Respondent recommended the patient return home and come to see him at his office at the Romani Neighborhood Clinic the next day.

46. The patient and the patient's daughters rejected Respondent's recommendations and requested the patient be hospitalized immediately at St. Catherine's Hospital. Respondent refused the patient's request and advised the patient and her daughter that if she wished to be hospitalized, she would have to find another physician. The physician-patient relationship was terminated at approximately 8:55 p.m. on 8/24/86.

47. The patient was admitted to St. Catherine's Hospital at 12:01 a.m. on 8/25/86 under the care of Dr. Garretto.

48. The patient was discharged from the hospital on 8/29/86 with discharge diagnoses of recent myocardial infarction, post-myocardial angina pectoris, congestive heart failure, renal insufficiency, dehydration, anemia, mitral regurgitation, hypouricemia, chronic labyrinthitis, hypertension, claudication and constipation.

49. Respondent's conduct in recommending the patient return home on the evening of 8/24/86 fell below the minimum standards of competence established in the profession.

50. Respondent's recommendation subjected the patient to the unacceptable risks that the patient would experience further deterioration in her cardiac rhythm and further progression of her congestive heart failure leading to cardiac arrest or life threatening ventricular fibrillation.

51. A minimally competent physician, to avoid or minimize the unacceptable risks of further deterioration in her cardiac rhythm and further progression of her congestive heart failure, would have recommended immediate hospitalization for further evaluation of her condition and for observation and treatment by competent medical personnel at an adequately staffed and equipped medical facility.

COUNT VI

52. Nancy Cutler, the patient herein, was 48 years of age on 11/10/86 and had a history of heart palpitations, syncope and hypertension.

53. Approximately two weeks prior to 11/10/86, the patient experienced an episode in which she felt her heart skip a beat, became flushed in her face and then lost consciousness. Following this incident, the patient made an appointment to see Respondent at his office at the Romani Neighborhood Clinic, 4536 22nd Avenue, Kenosha, Wisconsin at 2:45 p.m. on 11/10/86.

54. Respondent had not been engaged in a physician-patient relationship with this patient prior to 11/10/86 and was not aware of the patient's history prior to 11/10/86.

55. At approximately 3:30 p.m. on 11/10/86, while the patient was in the waiting room at the Romani Neighborhood Clinic waiting to see the Respondent, the patient experienced heart palpitations. The patient reported she was having a spell to a person employed at the Romani Neighborhood Clinic. It has not been established at what time the person to whom the patient reported her episode, in turn, advised Respondent of the patient's condition.

56. At approximately 4:00 p.m., the patient was placed in an examination room. At some point thereafter, the patient's height, weight and blood pressure were obtained by a person employed at the Romani Neighborhood Clinic. Her blood pressure while seated was 150/90 on the left and 160/92 on the right. A rhythm strip was also taken, which indicated a heart rate at 200.

57. The patient remained in the examination room until Respondent arrived at approximately 5:00 p.m.

58. At approximately 5:00 p.m., Respondent conducted an examination of the patient. Respondent determined that the patient had a heart rate of 200.

59. Respondent's diagnosis of the patient's condition based upon the patient's history, the examinations and the results of the rhythm strip was atrial fibrillation with rapid ventricular response.

60. Respondent advised the patient she had a serious heart condition and she should go to the hospital. Respondent did not provide further treatment for the patient.

61. The patient was transported to St. Catherine's Hospital in Kenosha, Wisconsin by her son and was admitted to that facility through the emergency room at 6:00 p.m. on 11/10/86. The patient remained hospitalized at St. Catherine's Hospital for diagnostic evaluation and treatment under the care of Wendel Friedl, M.D. until her discharge on 11/13/86.

62. It has not been established that Respondent's conduct in providing medical care and treatment for the patient fell below the minimum standards of competence established in the profession or that he failed to react promptly to a report of heart palpitations.

63. It has not been established that Respondent's conduct created the unacceptable risks that the patient may have been experiencing abnormal cardiac rhythms of a rapidly deteriorating nature, which if not promptly evaluated and treated by competent medical personnel in an adequately staffed and equipped medical facility could lead to cardiac arrest, ventricular fibrillation or other life threatening rhythms.

64. A minimally competent physician, to avoid or minimize the unacceptable risks associated with life threatening deteriorating rhythm patterns, would have immediately, upon having been advised that the patient was experiencing heart palpitations, assessed the nature of the patient's condition and the necessity for further emergency care by competent medical personnel at an adequately staffed and equipped medical facility. It has not been established that respondent failed to meet this standard.

COUNT VII

65. At all times relevant to this count, Respondent practiced medicine and surgery at the Romani Neighborhood Clinic, 4536 22nd Avenue, Kenosha, Wisconsin.

66. At all times relevant to this count, physical therapy services were available at the Romani Neighborhood Clinic. On and after 3/12/86, the physical therapy services were made available at the Romani Neighborhood Clinic through Kenosha Physical Therapy Associates, S.C. All physical therapy services rendered at this location as hereinafter set forth were rendered under the supervision of Respondent.

67. Respondent derived direct financial benefit from the physical therapy services rendered to patients at the Romani Neighborhood Clinic.

68. Helen Smith was engaged in a physician-patient relationship with Respondent from 5/20/81 through 6/12/86.

69. On or about 9/16/85, Helen Smith presented at Respondent's office at the Romani Neighborhood Clinic complaining of severe pain in her neck which radiated down her dorsal spine and into the trapezius bilaterally. She reported that this condition developed after she lost consciousness and fell while at work. This condition persisted through 6/12/86. On and after 10/10/85, the patient also developed headaches.

70. Respondent's initial diagnosis on 9/16/85 was severe cervical strain and contusions to the lower cervical and upper dorsal region. Following the patient's hospitalization at American International Hospital in Zion, Illinois, and a consultation with Dr. Galo Tan, a neurologist, on or about 12/14/85, Respondent changed his diagnosis to acute, recurrent cervical spondylosis with possible herniated disc with radiculopathy and post cerebral concussion syndrome, aggravated by an injury on 9/13/85.

71. Respondent prescribed physical therapy for treatment of the patient's condition from 9/16/85 through 6/12/86 including moist heat, ultrasound, cervical traction, Hubbard Tank, full body whirlpool, electrical stimulation and massage.

72. Helen Smith did not possess specialized knowledge in the practice of medicine and surgery or in the practice of physical therapy and, therefore, relied upon the professional expertise of the Respondent.

73. Helen Smith, acting in reliance upon Respondent's recommendations, received the following physical therapy at the Romani Neighborhood Clinic on the dates indicated:

9/16/85	Moist heat (X2)
9/17/85	Moist heat (X2); Ultrasound (X2)
9/18/85	Moist heat (X2); Ultrasound (X2)
9/19/85	Moist heat (X2); Ultrasound (X2)
9/20/85	Moist heat (X2); Ultrasound (X2)
9/21/85	Moist heat (X2); Ultrasound (X2)
9/23/85	Ultrasound (X2)
9/24/85	Ultrasound (X2); Cervical traction
9/25/85	Ultrasound (X2); Cervical traction
9/26/85	Ultrasound (X2); Cervical traction
9/27/85	Cervical traction

9/28/85 Cervical traction
 9/30/85 Moist heat; Cervical traction
 10/2/85 Moist heat; Cervical traction
 10/3/85 Moist heat; Cervical traction
 10/4/85 Moist heat; Cervical traction
 10/5/85 Moist heat; Cervical traction
 10/7/85 Moist heat; Cervical traction
 10/8/85 Moist heat; Cervical traction
 10/9/85 Cervical traction
 10/10/85 Moist heat; Cervical traction
 10/11/85 Moist heat; Cervical traction
 10/14/85 Cervical traction (X2)
 10/15/85 Cervical traction (X2)
 10/16/85 Cervical traction (X2)
 10/17/85 Cervical traction (X2)
 10/18/85 Moist heat (X2)
 10/19/85 Moist heat
 10/21/85 Moist heat (X2)
 10/23/85 Moist heat (X2)
 10/24/85 Moist heat (X2)
 10/25/85 Moist heat (X2)
 10/26/85 Moist heat
 10/28/85 Moist heat (X2)
 10/30/85 Moist heat (X2)
 12/26/85 Moist heat; Hubbard Tank
 12/27/85 Moist heat; Hubbard Tank
 12/30/85 Moist heat; Hubbard Tank
 12/31/85 Moist heat; Hubbard Tank
 1/2/86 Moist heat; Hubbard Tank
 1/3/86 Moist heat; Hubbard Tank
 1/4/86 Moist heat; Hubbard Tank
 1/6/86 Moist heat; Hubbard Tank
 1/9/86 Moist heat; Hubbard Tank
 1/10/86 Moist heat; Hubbard Tank
 1/11/86 Moist heat
 1/13/86 Moist heat; Hubbard Tank
 1/14/86 Moist heat; Hubbard Tank
 1/17/86 Moist heat; Hubbard Tank
 1/18/86 Moist heat; Hubbard Tank
 1/20/86 Moist heat; Hubbard Tank
 1/21/86 Moist heat; Hubbard Tank
 1/22/86 Hubbard Tank

1/23/86 Moist heat; Hubbard Tank
 1/28/86 Hubbard Tank
 1/29/86 Hubbard Tank
 2/3/86 Full body whirlpool
 2/4/86 Full body whirlpool
 2/5/86 Full body whirlpool
 2/6/86 Full body whirlpool
 2/10/86 Full body whirlpool
 2/11/86 Full body whirlpool
 2/13/86 Full body whirlpool; Ultrasound; Electrical stimulation; Massage; Moist heat
 2/17/86 Full body whirlpool; Ultrasound; Electrical stimulation; Massage; Moist heat
 2/18/86 Ultrasound; Electrical stimulation; Massage; Moist heat
 2/19/86 Ultrasound; Electrical stimulation; Massage
 2/24/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 2/25/86 Full body whirlpool; Ultrasound; Electrical stimulation; Massage
 3/3/86 Ultrasound; Electrical stimulation; Massage
 3/4/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/5/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/6/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/10/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/12/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation; Massage
 3/13/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/17/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/19/86 Moist heat
 3/20/86 Full body whirlpool; Ultrasound; Electrical stimulation; Moist heat; Massage
 3/21/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/24/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 3/25/86 Moist heat; Ultrasound; Electrical stimulation; Massage; Full body whirlpool
 3/26/86 Moist heat; Ultrasound; Electrical stimulation; Massage; Full body whirlpool
 3/27/86 Full body whirlpool; Moist heat
 4/1/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 4/2/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 4/3/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 4/24/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 4/26/86 Moist heat; Ultrasound; Electrical stimulation; Massage
 4/28/86 Moist heat; Ultrasound; Electrical stimulation; Massage

4/29/86	Moist heat; Ultrasound; Electrical stimulation; Massage
4/30/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/5/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/6/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/7/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/12/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/13/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/14/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/15/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/19/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/21/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/22/86	Moist heat; Ultrasound; Electrical stimulation; Massage
5/23/86	Moist heat
5/27/86	Moist heat
5/28/86	Moist heat
5/30/86	Moist heat; Ultrasound; Electrical stimulation; Massage
6/2/86	Moist heat
6/3/86	Moist heat
6/5/86	Moist heat; Ultrasound; Electrical stimulation; Massage
6/9/86	Moist heat; Ultrasound; Electrical stimulation; Massage
6/10/86	Moist heat; Ultrasound; Electrical stimulation; Massage
6/12/86	Moist heat

74. Moist heat, Hubbard Tank, and full body whirlpool are superficial heating modalities having the same therapeutic purpose.

75. Ultrasound is a deep heating therapeutic modality.

76. Respondent knew by 10/16/85, after a reasonable trial period of 30 days, that the superficial heating modalities were not of any significant therapeutic value in treating this patient's condition.

77. Respondent, knowing that the superficial heating modalities were not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the superficial heating modalities were of therapeutic value that she should continue treatment with the superficial heating modalities after 10/16/85.

78. Helen Smith, acting in reliance upon Respondent's recommendations, continued to receive treatments by superficial heating modalities from 10/16/85 through 6/12/86 even though these treatment modalities had no significant therapeutic value.

79. Respondent knew by 9/26/85 that the ultrasound was not of any significant therapeutic value in treating this patient's condition.

80. Respondent, knowing that the ultrasound was not of any therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the ultrasound treatments were of therapeutic value and that she should continued treatment with ultrasound after 9/26/85.

81. Helen Smith, acting in reliance on Respondent's recommendations, continued to receive ultrasound treatments from 2/13/86 through 6/10/86 even though the ultrasound treatments had no significant therapeutic value.

82. Respondent knew by 3/14/86, after a reasonable trial period of 30 days, that electrical stimulation was not of any significant therapeutic value in treating this patient's condition.

83. Respondent, knowing that the electrical stimulation was not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the electrical stimulation was of therapeutic value and that she should continue to receive the electrical stimulation after 3/14/86.

84. Helen Smith, acting in reliance upon Respondent's recommendations, continued to receive treatment by electrical stimulation from 3/17/86 through 6/10/86 even though the electrical stimulation had no therapeutic value.

85. Respondent knew that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality.

86. Respondent, knowing that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality, represented to the patient that the combined use of superficial heating modalities was of therapeutic value and that she should receive treatment with multiple superficial heating modalities.

87. Helen Smith, acting in reliance upon Respondent's recommendations, received treatments with moist heat and a Hubbard Tank in combination from 12/26/85 through 1/23/86, and with moist heat and full body whirlpool in combination on 2/13/86, 2/17/86, 3/12/86, 3/20/86 and 3/25/86 through 3/27/86.

88. Respondent attempted to obtain a professional fee by fraud and deceit by billing for treatments with the physical therapy treatment modalities as above indicated which he knew were of no significant therapeutic value.

COUNT VIII

89. At all times relevant to this count, Respondent practiced medicine and surgery at the Romani Neighborhood Clinic, 4536 22nd Avenue, Kenosha, Wisconsin.

90. At all time relevant to this count, physical therapy services were available at the Romani Neighborhood Clinic. On and after 3/12/86, the physical therapy services were made available at the Romani Neighborhood Clinic through Kenosha Physical Therapy Associates, S.C. All physical therapy services rendered at this location as hereinafter set forth were rendered under the supervision of Respondent.

91. Respondent derived direct financial benefit from physical therapy services rendered to patients at the Romani Neighborhood Clinic.

92. Jose Hernandez was engaged in a physician-patient relationship with Respondent from 6/12/85 through 2/18/86.

93. On or about 6/12/85, Jose Hernandez presented at Respondent's office at the Romani Neighborhood Clinic complaining of pain in his left shoulder radiating to his neck and ear on his left side. This condition persisted through 2/17/86.

94. Respondent's initial diagnosis on 6/12/85 was acute cervical strain and tendonitis bursitis of the left shoulder with possible rotator cuff injury. On 12/18/85, Respondent changes his diagnosis to C6 & 7 herniated disc with left radiculopathy and left trapezius pain with muscle weakness of the left upper extremity.

95. Respondent prescribed physical therapy for treatment of the patient's condition from 6/18/85 through 2/17/86, including moist heat, Hubbard Tank, full body whirlpool, ultrasound, cervical traction, electrical stimulation and massage.

96. Jose Hernandez did not possess specialized knowledge in the practice of medicine and surgery or in the practice of physical therapy and, therefore, relied upon the professional expertise of the Respondent.

97. Jose Hernandez, acting in reliance upon Respondent's recommendations, received the following physical therapy at the Romani Neighborhood Clinic on the dates indicated:

6/18/85	Moist heat; Ultrasound
6/19/85	Moist heat; Ultrasound
6/20/85	Moist heat; Ultrasound
6/21/85	Moist heat; Ultrasound
6/22/85	Moist heat; Ultrasound
6/24/85	Moist heat; Ultrasound
6/25/85	Moist heat; Ultrasound
6/26/85	Moist heat; Ultrasound
6/27/85	Moist heat; Ultrasound
6/28/85	Moist heat; Ultrasound
6/29/85	Moist heat; Ultrasound
7/1/85	Moist heat; Ultrasound
7/2/85	Moist heat; Ultrasound
7/3/85	Moist heat; Ultrasound
7/5/85	Moist heat; Ultrasound
7/6/85	Ultrasound
7/8/85	Moist heat; Ultrasound
7/9/85	Moist heat; Ultrasound
7/10/85	Moist heat; Ultrasound
7/11/85	Moist heat; Ultrasound
7/12/85	Moist heat; Ultrasound
7/13/85	Moist heat; Ultrasound
7/15/85	Moist heat; Ultrasound
7/16/85	Moist heat; Ultrasound
7/17/85	Moist heat; Ultrasound
7/18/85	Moist heat; Ultrasound
7/19/85	Moist heat; Ultrasound
7/20/85	Moist heat; Ultrasound
7/22/85	Moist heat; Ultrasound
7/23/85	Moist heat; Ultrasound
7/24/85	Moist heat; Ultrasound
7/25/85	Moist heat; Ultrasound
7/26/85	Moist heat; Ultrasound
7/27/85	Moist heat; Ultrasound
7/29/85	Moist heat; Ultrasound
7/30/85	Moist heat; Ultrasound
7/31/85	Moist heat; Ultrasound
8/1/85	Moist heat; Ultrasound

8/2/85	Moist heat; Ultrasound
8/5/85	Moist heat; Cervical traction
8/6/85	Moist heat; Cervical traction
8/7/85	Moist heat; Cervical traction
8/8/85	Moist heat; Cervical traction
8/9/85	Moist heat; Cervical traction; Ultrasound
8/10/85	Moist heat; Cervical traction; Ultrasound
8/12/85	Moist heat; Cervical traction; Ultrasound
8/13/85	Moist heat; Cervical traction; Ultrasound
8/14/85	Moist heat; Cervical traction; Ultrasound
8/15/85	Moist heat; Cervical traction; Ultrasound
8/16/85	Moist heat; Cervical traction; Ultrasound
8/17/85	Moist heat; Cervical traction; Ultrasound
8/19/85	Moist heat; Cervical traction; Ultrasound
8/21/85	Moist heat; Cervical traction; Ultrasound
8/22/85	Moist heat; Cervical traction; Ultrasound
8/23/85	Moist heat; Cervical traction; Ultrasound
8/26/85	Moist heat; Cervical traction; Ultrasound
8/27/85	Moist heat; Cervical traction; Ultrasound
8/28/85	Moist heat; Cervical traction; Ultrasound
8/29/85	Moist heat; Cervical traction; Ultrasound
8/30/85	Moist heat; Cervical traction; Ultrasound
9/3/85	Cervical traction; Moist heat; Ultrasound
9/4/85	Cervical traction; Moist heat; Ultrasound
9/5/85	Cervical traction; Moist heat; Ultrasound
9/6/85	Cervical traction; Moist heat; Ultrasound
9/7/85	Cervical traction; Moist heat; Ultrasound
9/9/85	Cervical traction; Ultrasound
9/10/85	Cervical traction; Ultrasound
9/11/85	Cervical traction; Ultrasound
9/12/85	Cervical traction; Ultrasound
9/13/85	Cervical traction; Ultrasound
9/16/85	Cervical traction; Ultrasound
9/17/85	Cervical traction; Ultrasound
9/18/85	Cervical traction; Ultrasound
9/19/85	Cervical traction; Ultrasound
9/20/85	Cervical traction; Ultrasound
9/21/85	Cervical traction; Ultrasound
9/23/85	Cervical traction; Ultrasound
9/24/85	Moist heat; Cervical traction; Ultrasound (X2)
9/25/85	Moist heat; Cervical traction; Ultrasound (X2)
9/26/85	Moist heat; Cervical traction; Ultrasound (X2)

9/27/85 Moist heat; Cervical traction; Ultrasound (X2)
 9/28/85 Moist heat; Cervical traction; Ultrasound
 9/30/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/1/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/2/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/3/85 Cervical traction; Ultrasound
 10/4/85 Moist heat; Cervical traction; Ultrasound
 10/5/85 Cervical traction; Ultrasound
 10/7/85 Moist heat; Cervical traction; Ultrasound
 10/8/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/9/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/10/85 Moist heat; Cervical traction; Ultrasound
 10/11/85 Moist heat; Cervical traction; Ultrasound (X2)
 10/12/85 Moist heat; Cervical traction; Ultrasound
 10/14/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/15/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/16/85 Cervical traction; Ultrasound (X2 am & pm)
 10/17/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/18/85 Moist heat; Ultrasound (X2 am & pm)
 10/19/85 Ultrasound
 10/21/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/22/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/23/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/24/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/25/85 Moist heat; Cervical traction; Ultrasound (X2 am & pm)
 10/28/85 Moist heat (X2); Ultrasound (X2)
 10/29/85 Moist heat (X2); Ultrasound (X2)
 10/30/85 Moist heat (X2); Ultrasound (X2)
 10/31/85 Moist heat (X2); Ultrasound (X2)
 11/1/85 Moist heat (X2); Ultrasound (X2)
 11/2/85 Moist heat; Ultrasound
 11/4/85 Moist heat (X2); Ultrasound (X2)
 11/5/85 Moist heat (X2); Ultrasound (X2)
 11/6/85 Moist heat (X2); Ultrasound (X2)
 11/7/85 Moist heat (X2); Ultrasound (X2)
 11/8/85 Moist heat (X2); Ultrasound (X2)
 11/9/85 Moist heat; Ultrasound
 11/18/85 Moist heat (X2); Ultrasound (X2)
 11/19/85 Moist heat; Ultrasound
 11/20/85 Moist heat (X2); Ultrasound (X2)
 11/21/85 Moist heat (X2); Ultrasound (X2)
 11/22/85 Moist heat (X2); Ultrasound (X2)

11/23/85 Moist heat; Ultrasound
 11/25/85 Moist heat; Ultrasound
 11/26/85 Moist heat; Ultrasound
 12/18/85 Hubbard Tank; Cervical traction; Ultrasound
 12/19/85 Hubbard Tank; Cervical traction; Ultrasound
 12/20/85 Hubbard Tank; Cervical traction; Ultrasound
 12/21/85 Hubbard Tank; Cervical traction; Ultrasound
 12/23/85 Hubbard Tank; Cervical traction; Ultrasound
 12/24/85 Cervical traction; Ultrasound
 12/26/85 Hubbard Tank; Cervical traction; Ultrasound
 12/27/85 Hubbard Tank; Cervical traction; Ultrasound
 12/28/85 Hubbard Tank; Cervical traction; Ultrasound
 12/30/85 Hubbard Tank; Cervical traction; Ultrasound
 12/31/85 Hubbard Tank; Cervical traction; Ultrasound
 1/2/86 Hubbard Tank; Cervical traction; Ultrasound
 1/3/86 Hubbard Tank; Cervical traction; Ultrasound
 1/4/86 Hubbard Tank; Cervical traction; Ultrasound
 1/6/86 Hubbard Tank; Cervical traction; Ultrasound
 1/7/86 Hubbard Tank; Cervical traction; Ultrasound
 1/8/86 Hubbard Tank; Cervical traction; Ultrasound
 1/9/86 Hubbard Tank; Cervical traction; Ultrasound
 1/10/86 Hubbard Tank; Cervical traction; Ultrasound
 1/11/86 Hubbard Tank; Cervical traction; Ultrasound
 1/13/86 Hubbard Tank; Cervical traction; Ultrasound
 1/14/86 Hubbard Tank; Cervical traction; Ultrasound
 1/15/86 Hubbard Tank; Cervical traction; Ultrasound
 1/16/86 Hubbard Tank; Cervical traction; Ultrasound
 1/17/86 Moist heat; Hubbard Tank; Ultrasound
 1/18/86 Moist heat; Hubbard Tank; Ultrasound
 1/20/86 Moist heat; Hubbard Tank; Ultrasound
 1/22/86 Moist heat; Hubbard Tank; Ultrasound
 1/24/86 Moist heat; Hubbard Tank; Ultrasound
 1/27/86 Moist heat; Hubbard Tank; Ultrasound
 1/29/86 Moist heat; Hubbard Tank; Ultrasound
 1/31/86 Moist heat; Hubbard Tank; Ultrasound
 2/3/86 Cervical traction; Ultrasound; Full body whirlpool
 2/5/86 Cervical traction; Ultrasound; Full body whirlpool
 2/7/86 Cervical traction; Ultrasound; Full body whirlpool
 2/10/86 Hubbard Tank; Cervical traction; Ultrasound; Moist heat; Full body
 whirlpool
 2/11/86 Hubbard Tank; Cervical traction; Ultrasound
 2/12/86 Hubbard Tank; Cervical traction; Ultrasound; Nerve stimulator;
 Massage; Electrical stimulation; Moist heat; Full body whirlpool

2/14/86 Moist heat; Ultrasound; Electrical stimulation; Massage; Cervical traction

2/17/86 Moist heat; Ultrasound; Electrical stimulation; Massage

98. Moist heat, Hubbard Tank, and full body whirlpool are all superficial heating modalities having the same therapeutic purpose.

99. Ultrasound is a deep heating therapeutic modality.

100. Respondent knew by 7/17/85, after a reasonable trial period of 30 days, that the superficial heating modalities were not of any significant therapeutic value in treating this patient's condition.

101. Respondent, knowing that the superficial heating modalities were not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the superficial heating modalities were of therapeutic value and that he should continue treatment with the superficial heating modalities after 7/17/85.

102. Jose Hernandez, acting in reliance upon Respondent's recommendations, continued to receive treatments by superficial heating modalities from 7/18/85 through 11/26/85 and from 12/18/85 through 2/17/86 even though these treatment modalities had no significant therapeutic value.

103. Respondent knew by 7/17/85, after a reasonable trial period of 30 days, that the ultrasound was not of any significant therapeutic value in treating this patient's condition.

104. Respondent, knowing that the ultrasound was not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the ultrasound treatments were of therapeutic value and that he should continue treatment with the ultrasound after 7/17/85.

105. Jose Hernandez, acting in reliance on Respondent's recommendations, continued to receive ultrasound treatments from 7/18/85 through 11/26/85 and from 12/18/85 through 2/17/86 even though the ultrasound treatments had no significant therapeutic value.

106. Respondent knew by 9/3/85, after a reasonable trial period of 30 days, that the cervical traction was not of any significant therapeutic value in treating this patient's condition.

107. Respondent, knowing that the cervical traction was of no significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that cervical traction was of therapeutic value and that he should continue treatment with the cervical traction after 9/3/85.

108. Jose Hernandez, acting in reliance on Respondent's recommendations, continued to receive cervical traction from 9/4/85 through 10/25/85, from 12/18/85 through 1/16/86, and from 2/3/86 through 2/14/86 even though the cervical traction had no significant therapeutic value.

109. Respondent knew that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality.

110. Respondent, knowing that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality represented to the patient, with the intent that these representations be acted upon, that the combined use of superficial heating modalities was of therapeutic value and that he should receive treatment with multiple superficial heating modalities.

111. Jose Hernandez, acting in reliance on Respondent's recommendations, received treatments with moist heat and the Hubbard Tank in combination from 1/17/86 through 1/31/86 and with moist heat and the full body whirlpool in combination from 2/10/86 through 2/12/86.

112. Respondent attempted to obtain a professional fee by fraud and deceit by billing for treatments with the physical therapy modalities as above indicated which he knew were of no significant therapeutic value.

COUNT IX

113. At all times relevant to this count, Respondent practiced medicine and surgery at the Romani Neighborhood Clinic, 4536 22nd Avenue, Kenosha, Wisconsin.

114. At all times relevant to this count, physical therapy services were available at the Romani Neighborhood Clinic. On and after 3/12/86, the physical therapy services were made available at the Romani Neighborhood Clinic through Kenosha Physical Therapy Associates, S.C. All physical therapy services rendered at this location as hereinafter set forth were rendered under the supervision of Respondent.

115. Respondent derived direct financial benefit from physical therapy services rendered to patients at the Romani Neighborhood Clinic.

116. Willie Parham was engaged in a physical-patient relationship with Respondent from 6/12/80 through 10/31/86.

117. On or about 5/20/85, Willie Parham presented at Respondent's office at the Romani Neighborhood Clinic complaining of pain in his right shoulder area. This condition persisted through 4/4/86. On and after 6/10/85, the patient reported pain radiating from his right shoulder into his back. On and after 8/5/85, the patient complained of pain in his shoulder radiating down his arm into his hand. On and after 9/4/85, the patient reported that he also developed pain in his neck and up into his head with recurrent headaches. On and after 9/30/85, the pain also radiated down the front right side of the patient's chest.

118. Respondent's initial diagnosis on or about 5/20/85 was a severe muscle strain in the right latissimus and scapular region. On 9/9/85, Respondent modified his diagnosis to a torn brachialis muscle. On 9/13/85, following a consultation with Dr. Galo Tan, a neurologist, Respondent changed his diagnosis to cervical disc compression with nerve root irritation. On 11/11/85, Respondent made a diagnosis of cervical strain with severe cephalagia. On 2/17/86, Respondent's diagnosis was cervical strain with cervical radiculopathy.

119. Respondent prescribed physical therapy for treatment of the patient's condition from 5/28/85 through 4/4/86, including moist heat, full body whirlpool, diathermy, ultrasound, cervical traction, electrical stimulation and massage.

120. Willie Parham did not possess specialized knowledge in the practice of medicine and surgery or in the practice of physical therapy and, therefore, relied upon the professional expertise of the Respondent.

121. Willie Parham, acting in reliance upon Respondent's recommendations, received the following physical therapy at the Romani Neighborhood Clinic on the dates indicated:

5/28/85	Diathermy (X2); Ultrasound (X2)
5/29/85	Diathermy (X2); Ultrasound (X2)
5/30/85	Diathermy (X2); Ultrasound (X2)
5/31/85	Diathermy (X2); Ultrasound (X2)
6/3/85	Diathermy (X2); Ultrasound

6/4/85	Diathermy (X2); Ultrasound
6/5/85	Diathermy (X2); Ultrasound
6/6/85	Diathermy (X2); Ultrasound
6/7/85	Diathermy (X2)
6/8/85	Diathermy (X2); Ultrasound
6/10/85	Diathermy (X2); Ultrasound
6/11/85	Diathermy (X2); Ultrasound
6/12/85	Diathermy (X2); Ultrasound
6/13/85	Diathermy (X2); Ultrasound
6/14/85	Diathermy (X2); Ultrasound
6/15/85	Diathermy (X2); Ultrasound
6/17/85	Diathermy (X2); Ultrasound
6/18/85	Diathermy (X2); Ultrasound
6/19/85	Diathermy (X2); Ultrasound
6/20/85	Diathermy (X2); Ultrasound
6/21/85	Diathermy (X2); Ultrasound
6/22/85	Diathermy (X2); Ultrasound
6/24/85	Diathermy (X2); Ultrasound
6/25/85	Diathermy (X2); Ultrasound
6/26/85	Diathermy (X2); Ultrasound
6/27/85	Diathermy (X2); Ultrasound
6/28/85	Diathermy (X2); Ultrasound
6/29/85	Diathermy (X2)
7/1/85	Moist heat; Ultrasound
7/2/85	Moist heat; Ultrasound
7/3/85	Moist heat; Ultrasound
7/5/85	Moist heat; Ultrasound
7/6/85	Moist heat; Ultrasound
7/8/85	Moist heat; Ultrasound
7/9/85	Moist heat; Ultrasound
7/10/85	Moist heat; Ultrasound
7/11/85	Moist heat; Ultrasound
7/12/85	Moist heat; Ultrasound
7/13/85	Moist heat; Ultrasound
7/15/85	Moist heat; Ultrasound
7/16/85	Moist heat; Ultrasound
7/17/85	Moist heat; Ultrasound
7/18/85	Moist heat; Ultrasound
7/19/85	Moist heat; Ultrasound
7/22/85	Moist heat; Ultrasound
7/23/85	Moist heat; Ultrasound
7/24/85	Moist heat; Ultrasound

7/29/85	Moist heat; Ultrasound
7/30/85	Moist heat; Ultrasound
7/31/85	Moist heat; Ultrasound
8/1/85	Moist heat; Ultrasound
8/5/85	Moist heat
8/7/85	Moist heat
8/8/85	Moist heat; Ultrasound
8/9/85	Moist heat; Ultrasound
8/10/85	Moist heat; Ultrasound
8/12/85	Moist heat; Ultrasound
8/13/85	Moist heat; Ultrasound
8/14/85	Moist heat; Ultrasound
8/15/85	Moist heat; Ultrasound
8/16/85	Moist heat; Ultrasound
8/17/85	Moist heat; Ultrasound
8/19/85	Moist heat; Ultrasound
8/20/85	Moist heat; Ultrasound
8/21/85	Moist heat; Ultrasound
8/22/85	Moist heat; Ultrasound
8/23/85	Moist heat; Ultrasound
9/4/85	Moist heat; Ultrasound
9/5/85	Moist heat; Ultrasound
9/6/85	Moist heat; Ultrasound
9/9/85	Moist heat; Ultrasound
9/10/85	Moist heat; Ultrasound
9/11/85	Moist heat; Ultrasound
9/12/85	Moist heat; Ultrasound
9/13/85	Moist heat; Ultrasound
9/14/85	Moist heat; Ultrasound
9/16/85	Moist heat; Ultrasound; Cervical traction
9/17/85	Moist heat; Ultrasound; Cervical traction
9/18/85	Moist heat; Ultrasound; Cervical traction
9/19/85	Moist heat; Ultrasound; Cervical traction
9/20/85	Moist heat; Ultrasound; Cervical traction
9/21/85	Moist heat; Ultrasound; Cervical traction
9/23/85	Ultrasound; Cervical traction
9/24/85	Ultrasound; Cervical traction
9/25/85	Ultrasound; Cervical traction
9/26/85	Ultrasound; Cervical traction
9/27/85	Ultrasound; Cervical traction
9/28/85	Ultrasound; Cervical traction
9/30/85	Ultrasound; Cervical traction

10/1/85 Cervical traction; Ultrasound
 10/2/85 Cervical traction; Ultrasound
 10/3/85 Ultrasound; Cervical traction
 10/4/85 Cervical traction; Ultrasound
 10/5/85 Cervical traction; Ultrasound
 10/7/85 Cervical traction; Ultrasound
 10/8/85 Cervical traction; Ultrasound
 10/9/85 Cervical traction; Ultrasound
 10/10/85 Cervical traction; Ultrasound
 10/11/85 Cervical traction; Ultrasound
 10/12/85 Cervical traction; Ultrasound
 10/14/85 Cervical traction; Ultrasound
 10/15/85 Cervical traction; Ultrasound
 10/16/85 Cervical traction; Ultrasound
 10/17/85 Cervical traction; Ultrasound
 10/18/85 Cervical traction; Ultrasound
 10/19/85 Cervical traction; Ultrasound
 10/21/85 Cervical traction; Ultrasound
 10/22/85 Cervical traction; Ultrasound
 10/23/85 Cervical traction; Ultrasound
 10/24/85 Cervical traction; Ultrasound
 11/12/85 Ultrasound; Cervical traction
 11/13/85 Moist heat; Ultrasound
 11/14/85 Moist heat; Ultrasound
 11/15/85 Moist heat; Ultrasound
 11/16/85 Moist heat; Ultrasound
 11/18/85 Moist heat; Ultrasound
 11/19/85 Moist heat; Ultrasound
 11/20/85 Moist heat; Ultrasound
 11/21/85 Moist heat; Ultrasound
 11/22/85 Moist heat; Ultrasound
 11/23/85 Moist heat; Ultrasound
 11/26/85 Moist heat; Ultrasound
 2/18/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
 Massage
 3/28/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
 Massage
 3/31/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
 Massage
 4/1/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
 Massage

4/3/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
Massage

4/4/86 Full body whirlpool; Moist heat; Ultrasound; Electrical stimulation;
Massage

122. Moist heat and full body whirlpool are superficial heating modalities having the same therapeutic purpose.

123. Diathermy and ultrasound are deep heating modalities having the same therapeutic purpose.

124. Respondent knew by 7/30/85, after a reasonable trial period of 30 days, that the superficial heating modalities were not of any significant therapeutic value in treating the patient's condition.

125. Respondent, knowing that the superficial heating modalities were not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the superficial heating modalities were of therapeutic value and that he should continue treatment with the superficial heating modalities after 7/30/85.

126. Willie Parham, acting in reliance upon Respondent's recommendations, continued to receive treatments with superficial heating modalities from 7/31/85 through 9/21/85, from 11/13/85 through 11/26/85, on 2/18/86, and from 3/28/86 through 4/4/86 even though these treatment modalities had no significant therapeutic value.

127. Respondent knew by 6/26/85, after a reasonable trial period of 30 days, that the deep heating modalities were not of any significant therapeutic value in treating the patient's condition.

128. Respondent, knowing that the deep heating modalities were of no significant therapeutic value in treating the patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that the deep heating modalities were of therapeutic value and that he should continue treatment with the deep heating modalities after 6/26/85.

129. Willie Parham, acting in reliance on Respondent's recommendations, continued to receive treatments with deep heating modalities from 6/27/85 through 10/24/85, from 11/12/85 through 11/26/85, on 2/18/86, and from 3/28/86 through 4/4/86 even though the deep heating modalities had no significant therapeutic value.

130. Respondent knew by 10/15/85, after a reasonable trial period of 30 days, that the cervical traction was not of any significant therapeutic value in treating this patient's condition.

131. Respondent, knowing that the cervical traction was not of any significant therapeutic value in treating this patient's condition, continued to represent to the patient, with the intent that these representations be acted upon, that cervical traction was of therapeutic value and that he should continue treatment with the cervical traction after 10/15/85.

132. Willie Parham, acting in reliance on Respondent's recommendations, continued to receive cervical traction from 10/16/85 through 10/24/85 and on 11/12/85 even though the cervical traction had no significant therapeutic value.

133. Respondent knew that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality. Respondent, knowing that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality, represented to the patient, with the intent that these representations be acted upon, that the combined use of superficial heating modalities was of therapeutic value and that he should receive treatment with superficial heating modalities.

134. Willie Parham, acting in reliance on Respondent's recommendations, received treatments with moist heat and fully body whirlpool in combination on 2/18/86 and from 3/28/86 through 4/4/86.

135. Respondent knew that the combined use of multiple deep heating modalities had no additional therapeutic value over treatment with a single deep heating modality.

136. Respondent, knowing that the combined use of multiple deep heating modalities had no additional therapeutic value over treatment with a single deep heating modality, represented to the patient, with the intent that these representations be acted upon, that the combined use of deep heating modalities was of therapeutic value and that he should receive treatment with multiple deep heating modalities.

137. Willie Parham, acting in reliance on Respondent's recommendations, received treatments with diathermy and ultrasound in combination from 5/28/85 through 6/28/85.

138. Respondent attempted to obtain a professional fee by fraud and deceit by billing for treatments with the physical therapy modalities as above indicated which he knew were of no significant therapeutic value.

COUNT X

139. At all times relevant to this count, Respondent practiced medicine and surgery at the Romani Neighborhood Clinic, 4536 22nd Avenue, Kenosha, WI.

140. At all times relevant to this count, physical therapy services were available at the Romani Neighborhood Clinic. On and after 3/12/86, the physical therapy services were made available at the Romani Neighborhood Clinic through Kenosha Physical Therapy Associates, S.C. All physical therapy services rendered at this location as hereinafter set forth were rendered under the supervision of Respondent.

141. Respondent derived direct financial benefit from physical therapy services rendered to patients at the Romani Neighborhood Clinic.

142. Retha Jones was engaged in a physician-patient relationship with Respondent from 8/14/85 through 7/15/87.

143. On or about 11/1/85, Retha Jones presented at Respondent's office at the Romani Neighborhood Clinic complaining of pain in both wrists and hands, and pain in her left elbow. On 11/11/85, she reported numbness and spasms in her left arm originating in her left elbow and radiating down to her hand. On 11/25/85, she complained of pain in her left upper arm. On 1/21/86, she reported severe pain in her neck. On 2/15/86, she reported numbness in both upper extremities with neck pain radiating into her shoulders and down her arm into her hands. On 5/5/86, she complained of progressive neck and low back pain.

144. Respondent's initial diagnoses on 11/1/85 were severe sprain of both wrists, synovitis of the right wrist, and bursitis of the left elbow. On 12/6/85, Respondent expanded his diagnoses to include a possible cervical strain with nerve root irritation. On 12/16/85, Respondent added carpal tunnel syndrome of both wrists to his diagnoses. On or about 7/15/86, following consultation with Dr. Galo Tan, a neurologist, Respondent expanded his diagnoses to include cervical lumbosacral neck and back pain due to L4-L5 protruded disc, spondylolysis and spondylolisthesis and C5-C6 spondylosis.

145. Respondent prescribed physical therapy for treatment of the patient's condition from 11/7/85 through 7/15/87, including moist heat, paraffin bath, whirlpool, Hubbard Tank, full body whirlpool, ultrasound, cervical traction, electrical stimulation and massage.

146. Retha Jones did not possess specialized knowledge in the practice of medicine and surgery or in the practice of physical therapy and, therefore, relied upon the professional expertise of the Respondent.

147. Retha Jones, acting in reliance upon Respondent's recommendations, received the following physical therapy at the Romani Neighborhood Clinic on the dates indicated:

11/7/85	Moist heat (X2); Paraffin bath (X2); whirlpool (X2); Ultrasound (X2)
11/8/85	Moist heat; Paraffin bath; whirlpool; Ultrasound
11/9/85	Moist heat; Paraffin bath; whirlpool; Ultrasound
11/11/85	Moist heat; Paraffin bath; Ultrasound
11/12/85	Moist heat; Cervical traction; Paraffin bath; Ultrasound
11/13/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); whirlpool (X2); Ultrasound (X2)
11/14/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)
11/15/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)
11/16/85	Moist heat; Cervical traction; Paraffin bath; Whirlpool; Ultrasound
11/18/85	Moist heat (X2); Cervical traction; Paraffin bath (X2); Whirlpool (X2); Ultrasound (X6)
11/19/85	Moist heat (X2); Cervical traction; Paraffin bath (X2); Whirlpool (X2); Ultrasound (X6)
11/20/85	Moist heat (X2); Cervical traction; Paraffin bath (X2); Whirlpool (X2); Ultrasound (X3)
11/21/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X3)
11/22/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X3)
11/23/85	Moist heat; Cervical traction; Paraffin bath; Whirlpool; Ultrasound (X3)
11/25/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)
11/26/85	Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)

11/27/85 Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool; Ultrasound (X2)
 11/29/85 Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Ultrasound (X2)
 11/30/85 Moist heat; Cervical traction; Paraffin bath; Ultrasound
 12/2/85 Moist heat (X2); Cervical traction; Whirlpool; Ultrasound (X4)
 12/3/85 Moist heat (X2); Cervical traction; Whirlpool (X2); Ultrasound (X4)
 12/4/85 Moist heat (X2); Cervical traction; Whirlpool (X2); Ultrasound (X4)
 12/5/85 Moist heat (X2); Cervical traction; Whirlpool; Ultrasound
 12/6/85 Moist heat (X2); Cervical traction; Whirlpool (X2); Ultrasound
 12/7/85 Moist heat (X2); Cervical traction; Whirlpool; Ultrasound (X4)
 12/9/85 Moist heat (X2); Cervical traction (X2); Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)
 12/10/85 Moist heat (X2); Paraffin bath (X2); Whirlpool; Ultrasound (X2)
 12/11/85 Moist heat (X2); Cervical traction; Paraffin bath (X2); Whirlpool (X2); Ultrasound (X2)
 12/12/85 Moist heat (X3); Cervical traction; Paraffin bath (X2); Ultrasound (X2)
 12/13/85 Moist heat; Cervical traction; Paraffin bath; Whirlpool; Ultrasound
 12/14/85 Moist heat; Cervical traction; Paraffin bath; Whirlpool; Ultrasound
 12/16/85 Moist heat; Cervical traction; Paraffin bath; Whirlpool; Ultrasound
 12/17/85 Moist heat; Cervical traction; Paraffin bath; Ultrasound (X2); Hubbard Tank
 12/18/85 Moist heat; Cervical traction; Paraffin bath; Ultrasound (X2); Hubbard Tank
 12/19/85 Moist heat (X2); Paraffin bath (X2); Ultrasound (X2); Hubbard Tank
 12/20/85 Moist heat; Cervical traction; Paraffin bath; Ultrasound (X2); Hubbard Tank
 12/21/85 Moist heat; Cervical traction; Paraffin bath; Ultrasound (X2); Hubbard Tank
 12/23/85 Moist heat; Paraffin bath; Ultrasound (X4); Hubbard Tank
 12/24/85 Moist heat; Paraffin bath; Ultrasound (X2)
 12/26/85 Moist heat; Paraffin bath; Ultrasound
 12/27/85 Moist heat (X2); Paraffin bath (X2); Ultrasound (X2)
 12/28/85 Moist heat; Paraffin bath; Ultrasound; Hubbard Tank
 12/30/85 Moist heat; Paraffin bath; Ultrasound (X2); Hubbard Tank

12/31/85 Moist heat; Paraffin bath; Ultrasound (X2)
 1/2/86 Moist heat; Paraffin bath; Ultrasound (X2); Hubbard Tank
 1/3/86 Moist heat; Paraffin bath
 1/21/86 Moist heat (X2); Paraffin bath; Whirlpool; Ultrasound (X2)
 1/22/86 Moist heat (X2); Paraffin bath; Whirlpool; Ultrasound (X2)
 1/23/86 Moist heat (X2); Paraffin bath; Whirlpool; Ultrasound (X2)
 1/24/86 Moist heat (X2); Paraffin bath
 1/25/86 Moist heat; Paraffin bath; Whirlpool; Ultrasound (X2)
 1/27/86 Moist heat; Paraffin bath; Ultrasound (X2)
 1/28/86 Moist heat; Paraffin bath; Ultrasound (X2); Hubbard Tank
 1/29/86 Moist heat; Paraffin bath; Whirlpool; Ultrasound (X2)
 1/30/86 Moist heat; Paraffin bath; Ultrasound (X2)
 2/5/86 Ultrasound
 2/6/86 Full body whirlpool; Ultrasound; Paraffin bath; Moist heat
 2/7/86 Full body whirlpool; Ultrasound; Paraffin bath; Moist heat
 2/8/86 Ultrasound; Whirlpool; Paraffin bath; Moist heat (X2)
 2/10/86 Paraffin bath; Ultrasound; Moist heat
 2/11/86 Paraffin bath; Ultrasound (X2); Moist heat
 2/12/86 Moist heat (Right hand and neck); Paraffin bath (Right hand);
 Ultrasound (Right hand); Ultrasound (Neck); Electrical stimulation
 (Neck); Massage (Neck)
 2/13/86 Full body whirlpool; Paraffin bath (right hand); Ultrasound (right
 hand); Electrical stimulation (right hand); Moist heat (neck); Ultrasound
 (neck); Electrical stimulation (neck); Massage (neck)
 2/14/86 Paraffin bath (right hand); Moist heat (right hand and cervical area);
 Ultrasound (right hand); Electrical stimulation (right hand); Massage
 (cervical area)
 2/15/86 Paraffin bath; Massage; Electrical stimulation (X2); Ultrasound (X2);
 Moist heat; Full body whirlpool
 2/17/86 Full body whirlpool; Paraffin bath (right hand); Moist heat (cervical
 area); Ultrasound (cervical area); Electrical stimulation (cervical area);
 Massage (cervical area)
 2/18/86 Full body whirlpool; Paraffin bath (right hand); Ultrasound (right hand
 and cervical area); Electrical stimulation (right hand and cervical area);
 Moist heat (cervical area and right hand); Massage (cervical area)
 2/19/86 Full body whirlpool; Ultrasound (right hand, under water); Paraffin
 bath (right hand); Moist heat (cervical area); Moist heat (right hand on
 top of paraffin bath); Ultrasound (cervical area); Electrical stimulation
 (cervical area); Massage (cervical area)

2/20/86 Full body whirlpool; Moist heat (cervical area); Ultrasound (right hand, under water); Ultrasound (cervical area); Electrical stimulation (cervical area); Massage (cervical area); Paraffin bath

2/25/86 Paraffin bath (both hands); Ultrasound (both hands); Ultrasound (cervical area); Electrical stimulation (cervical area); Massage (cervical area)

2/26/86 Moist heat (neck); Paraffin bath (both hands); Ultrasound (cervical area); Electrical stimulation (cervical area); Massage (cervical area); Ultrasound (both hands, under water); Full body whirlpool

2/27/86 Full body whirlpool; Paraffin bath (both hands); Moist heat (cervical area); Ultrasound (cervical area); Electrical stimulation (cervical area); Massage (cervical area)

2/28/86 Full body whirlpool; Paraffin bath (both hands); Moist heat (cervical area); Ultrasound (neck); Electrical stimulation (neck); Massage (neck); Ultrasound (both hands, under water)

3/1/86 Paraffin bath (both hands); Ultrasound (both hands, under water); Whirlpool

3/3/86 Paraffin bath (both hands); Ultrasound (right wrist, under water); Whirlpool

3/5/86 Paraffin bath (both hands); Ultrasound (right hand, under water); Whirlpool

3/6/86 Paraffin bath (both hands); Ultrasound (right wrist)

3/7/86 Paraffin bath (both hands); Ultrasound (right wrist, under water)

3/10/86 Paraffin bath (both hands); Ultrasound (right wrist, under water)

3/12/86 Paraffin bath (both hands); Ultrasound (right wrist)

3/14/86 Paraffin bath (X2); Ultrasound (X2); Whirlpool

3/17/86 Paraffin bath (X2); Ultrasound (X2); Whirlpool

3/18/86 Paraffin bath (X2); Moist heat

3/19/86 Paraffin bath (X2); Ultrasound

3/20/86 Paraffin bath (X2); Ultrasound

3/21/86 Paraffin bath (X2); Ultrasound

3/24/86 Paraffin bath (X2); Ultrasound

3/25/86 Paraffin bath (X2); Ultrasound

3/26/86 Paraffin bath (X2); Ultrasound

3/27/86 Paraffin bath (X2); Ultrasound

3/31/86 Paraffin bath (X2); Ultrasound

4/1/86 Paraffin bath (X2); Ultrasound

4/2/86 Paraffin bath (X2); Ultrasound

4/3/86 Paraffin bath (X2); Ultrasound

4/7/86 Paraffin bath (X2); Ultrasound

4/8/86 Paraffin bath (X2); Ultrasound
 4/9/86 Paraffin bath (X2); Ultrasound
 4/10/86 Paraffin bath (X2); Ultrasound
 4/14/86 Paraffin bath (X2); Ultrasound
 4/15/86 Paraffin bath (X2); Ultrasound
 4/16/86 Paraffin bath (X2); Ultrasound
 4/17/86 Paraffin bath (X2); Ultrasound
 4/21/86 Paraffin bath (X2); Ultrasound
 4/22/86 Paraffin bath (X2); Ultrasound
 4/23/86 Paraffin bath (X2); Ultrasound
 4/24/86 Paraffin bath (X2); Ultrasound
 4/28/86 Paraffin bath (X2); Ultrasound
 4/29/86 Paraffin bath (X2); Ultrasound
 4/30/86 Paraffin bath (X2); Ultrasound (X2); Massage; Moist heat; Electrical stimulation
 5/1/86 Paraffin bath (X2); Ultrasound
 6/25/86 Paraffin bath (X2); Massage; Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 6/26/86 Paraffin bath (X2); Massage; Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 6/27/86 Paraffin bath (X2); Massage; Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 6/28/86 Massage; Cervical traction (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 7/2/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 7/3/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
 7/5/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
 7/8/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 7/9/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
 7/11/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
 7/12/86 Massage; Moist heat; Electrical stimulation; Ultrasound
 7/15/86 Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2)
 7/16/86 Paraffin bath (X2); Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
 7/18/86 Moist heat (X2); Paraffin bath (X2); Full body whirlpool

7/19/86	Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
7/23/86	Massage (X2); Moist heat (X2); Electrical stimulation (X2); Ultrasound (X2); Full body whirlpool
7/25/86	Paraffin bath; Massage; Moist heat; Electrical stimulation; Ultrasound; Full body whirlpool
7/26/86	Electrical stimulation (X2); Ultrasound (X2); Moist heat; Full body whirlpool
7/29/86	Massage (X2); Ultrasound (X2); Moist heat; Electrical stimulation (X2); Ultrasound (X2)
7/31/86	Paraffin bath; Ultrasound (X3); Moist heat; Electrical stimulation; Massage; Full body whirlpool
8/2/86	Electrical stimulation (X2); Ultrasound (X4); Moist heat; Massage; Full body whirlpool
8/6/86	Electrical stimulation (X2); Ultrasound (X4); Moist heat; Massage; Full body whirlpool
8/7/86	Electrical stimulation (X2); Ultrasound (X4); Moist heat; Massage; Full body whirlpool
8/14/86	Paraffin bath (X2); Electrical stimulation (X2); Moist heat; Ultrasound (X2); Massage
8/15/86	Paraffin bath (X2); Electrical stimulation (X2); Moist heat; Ultrasound (X2); Massage
6/9/87	Moist heat; Electrical stimulation; Ultrasound; Massage
6/10/87	Moist heat; Whirlpool; Electrical stimulation; Ultrasound; Massage
6/11/87	Moist heat; Whirlpool; Electrical stimulation; Ultrasound; Massage
6/15/86	Moist heat; Electrical stimulation; Ultrasound; Massage
6/16/87	Moist heat; Electrical stimulation; Ultrasound; Massage
6/19/87	Electrical stimulation; Ultrasound; Massage
6/26/87	Moist heat; Electrical stimulation; Ultrasound; Massage
6/29/87	Moist heat; Electrical stimulation; Ultrasound; Massage
6/30/87	Moist heat; Electrical stimulation; Ultrasound; Massage
7/1/87	Moist heat; Electrical stimulation; Massage; Ultrasound
7/8/87	Moist heat; Electrical stimulation; Ultrasound; Massage
7/13/87	Moist heat; Electrical stimulation; Ultrasound; Massage
7/14/87	Moist heat; Electrical stimulation; Ultrasound; Massage
7/15/87	Moist heat; Electrical stimulation; Ultrasound; Massage

148. Moist heat, paraffin bath, whirlpool, Hubbard Tank, and full body whirlpool are superficial heating modalities having the same therapeutic purpose.

149. Ultrasound is a deep heating therapeutic modality.

150. Respondent knew by 12/6/85, after a reasonable trial period of 30 days, that the superficial heating modalities were not of any significant therapeutic value in treating the condition of the patient's wrists and hands.

151. Respondent, knowing that the superficial heating modalities were not of any significant therapeutic value in treating the condition of the patient's wrists and hands, continued to represent to the patient, with the intent that these representations be acted upon, that the superficial heating modalities were of therapeutic value and that she should continue treatment of her hands and wrists with the superficial heating modalities after 12/6/85.

152. Retha Jones, acting in reliance upon Respondent's recommendations, continued to receive treatments for her hands and wrists with superficial heating modalities from 12/7/85 through 5/1/86, from 6/25/86 through 8/15/86, and from 6/9/87 through 7/15/87 even though these treatment modalities had no significant therapeutic value.

153. Respondent knew by 12/6/85, after a reasonable trial period of 30 days, that the ultrasound was not of any significant therapeutic value in treating the condition of the patient's wrists and hands.

154. Respondent, knowing that the ultrasound was not of any therapeutic value in treating the patient's wrists and hands, continued to represent to the patient, with the intent that these representations be acted upon, that the ultrasound was of therapeutic value and that she should continue treatment of her hands and wrists with the ultrasound after 12/6/85.

155. Retha Jones, acting in reliance on Respondent's recommendations, continued to receive treatments for her hands and wrists with the ultrasound from 12/7/85 through 5/1/86, from 6/25/86 through 8/15/86, and from 6/9/87 through 7/15/87 even though the ultrasound had no significant therapeutic value.

156. Respondent knew by 12/10/85, after a reasonable trial period of 30 days, that the superficial heating modalities were not of any significant therapeutic value in treating the condition of the patient's elbow.

157. Respondent, knowing that the superficial heating modalities were not of any significant therapeutic value in treating the patient's elbow, continued to represent to the patient, with the intent that these representations be acted upon, that the superficial heating modalities were of therapeutic value and that she should continue treatment with the superficial heating modalities after 12/10/85.

158. Retha Jones, acting in reliance upon Respondent's recommendations, continued to receive treatments with superficial heating modalities from 12/11/85 through 1/3/86 even though these treatment modalities had no significant therapeutic value.

159. Respondent knew by 12/17/85, after a reasonable trial period of 30 days, that the ultrasound was not of any significant therapeutic value in treating the condition of the patient's elbow.

160. Respondent, knowing that the ultrasound was not of any significant therapeutic value in treating the patient's elbow, continued to represent to the patient, with the intent that these representations be acted upon, that the ultrasound was of therapeutic value and that she should continued treatment of her elbow with the ultrasound after 12/17/85.

161. Retha Jones, acting in reliance on Respondent's recommendations, continued to receive treatments for her elbow with the ultrasound from 12/18/85 through 1/3/86 even though the ultrasound had no significant therapeutic value.

162. Respondent knew by 12/10/85, after a reasonable trial period of 30 days, that the moist heat was not of any significant therapeutic value in treating the condition of the patient's neck.

163. Respondent, knowing that the moist heat was not of any significant therapeutic value in treating the patient's neck, continued to represent to the patient, with the intent that these representations be acted upon, that the moist heat was of therapeutic value and that she should continue treatment of her neck with the moist heat after 12/10/85.

164. Retha Jones, acting in reliance on Respondent's recommendations, continued to receive treatments for her neck with the moist heat from 12/11/85 through 1/3/86 and from 1/27/86 through 2/28/86 even though the moist heat had no significant therapeutic value.

165. Respondent knew by 12/10/85, after a reasonable trial period of 30 days, that the ultrasound was not of any significant therapeutic value in treating the condition of the patient's neck.

166. Respondent, knowing that the ultrasound was not of any significant therapeutic value in treating the patient's neck, continued to represent to the patient, with the intent that these representations be acted upon, that the ultrasound was of therapeutic value and that she should continue treatment of her neck with the ultrasound after 12/10/85.

167. Retha Jones, acting in reliance on Respondent's recommendations, continued to receive treatments for her neck with the ultrasound from 12/11/85 through 1/3/86 and from 2/15/86 through 2/28/86 even though the ultrasound had no significant therapeutic value.

168. Respondent knew by 12/11/85, after a reasonable trial period of 30 days, that the cervical traction was not of any significant therapeutic value in treating the condition of the patient's neck.

169. Respondent, knowing that the cervical traction was not of any significant therapeutic value in treating the patient's neck, continued to represent to the patient, with the intent that these representations be acted upon, that the cervical traction was of therapeutic value and that she should continue treatment of her neck with the cervical traction after 12/11/85.

170. Retha Jones, acting in reliance on Respondent's recommendations, continued to receive treatments for her neck with the cervical traction from 12/12/85 through 12/21/85 even though the cervical traction had no significant therapeutic value.

171. Respondent knew that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality.

172. Respondent, knowing that the combined use of multiple superficial heating modalities had no additional therapeutic value over treatment with a single superficial heating modality, represented to the patient, with the intent that these representations be acted upon, that the combined use of superficial heating modalities was of therapeutic value and that she should receive treatment for her hands, wrists and left elbow with multiple superficial heating modalities.

173. Retha Jones, acting in reliance on Respondent's recommendations, received treatments for her hands and wrists with moist heat, full body whirlpool, paraffin bath, whirlpool and Hubbard Tank by the combined use of two or more of these superficial heating modalities from 11/7/85 through 1/2/86, from 1/21/86 through 3/18/86, from 6/25/86 through 8/15/86, and from 6/10/87 through 6/11/87.

174. Retha Jones, acting in reliance on Respondent's recommendations, received treatments for her left elbow with moist heat and whirlpool in combination from 11/13/85 through 12/28/85.

175. Respondent attempted to obtain a professional fee by fraud and deceit by billing for treatments with the physical therapy modalities as above indicated which he knew were of no significant therapeutic value.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 448.02(3).

2. Respondent's conduct, set forth above in Count I, in issuing a prescription for Xanax in the name of a person other than the patient identified on the prescription in violation of 21 CFR 1306.05(a), constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(p), in that respondent prescribed controlled substances as defined in Wis. Stats. sec. 161.01(4) otherwise than in the course of legitimate professional practice and as otherwise prohibited by law.

3. Respondent's conduct, set forth above in Count II, in issuing a prescription for Xanax for his own personal use contrary to Wis. Stats. sec. 161.38(5), was unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(p), in that respondent prescribed controlled substances as defined in Wis. Stats. sec. 161.01(4) otherwise than in the course of legitimate professional practice and as otherwise prohibited by law.

4. Respondent's conduct, set forth above in Count III, in issuing a prescription for Fastin in the name of a person other than the patient identified on the prescription in violation of 21 CFR 1306.05(a), constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(p), in that respondent prescribed controlled substances as defined in Wis. Stats. sec. 161.01(4) otherwise than in the course of legitimate professional practice and as otherwise prohibited by law.

5. Respondent's conduct, set forth above in Count IV, in issuing a prescription for Fastin for his own personal use contrary to Wis. Stats. sec. 161.38(5), was unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(p), in that respondent prescribed controlled substances as defined in Wis. Stats. sec. 161.01(4) otherwise than in the course of legitimate professional practice and as otherwise prohibited by law.

6. Respondent's conduct, set forth above in Count V, constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(h).

7. It has not been satisfactorily established that respondent's conduct, set forth above in Count VI, constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(h).

8. Respondent's conduct, set forth above in Count VII, in obtaining or attempting to obtain a professional fee or compensation of any form by fraud or deceit constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(m).

9. Respondent's conduct, set forth above in Count VIII, in obtaining or attempting to obtain a professional fee or compensation of any form by fraud or deceit constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(m).

10. Respondent's conduct, set forth above in Count IX, in obtaining or attempting to obtain a professional fee or compensation of any form by fraud or deceit constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(m).

11. Respondent's conduct, set forth above in Count X, in obtaining or attempting to obtain a professional fee or compensation of any form by fraud or deceit constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. Med 10.02(2)(m).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Frank V. Romani, M.D., to practice medicine and surgery in the State of Wisconsin shall be, and hereby is, revoked, effective thirty days following the date of the Final Decision and Order of the Medical Examining Board.

FURTHERMORE, IT IS ORDERED that the assessable costs of this proceeding be imposed against Frank V. Romani, M.D., pursuant to Wis. Stats. sec. 440.22.

OPINION

The respondent, Dr. Frank V. Romani, is charged with ten counts of unprofessional conduct. Four involve allegations of illegally obtaining controlled substances for the purpose of self-administration. Two concern the care of patients claimed to constitute an unreasonable risk to their health, safety and welfare. The remaining four regard charges of fraud in his physical therapy practice. Respondent denies all of the charges.

PRESCRIPTIVE PRACTICES--Counts I-IV

Two of the prescriptive practice counts deal with his having provided prescription orders for Xanax in the name of an employee, Deborah Belongia, allegedly for the purpose of obtaining the substances for his own personal use. The remaining two counts in this area make the same basic allegations, the primary factual differences being that the prescription orders were made out in the name of William Belongia, Deborah Belongia's husband, and were written for Fastin.

The gravamen of the allegations is that Dr. Romani directed his employee to have the prescription orders filled by a pharmacist, and to return the substances to him for his own personal use. If true, such conduct involves the falsification of prescription orders regarding the 'patient' named on the prescription order, as well as the illegal self-prescribing of controlled substances.

The state primarily relies upon the testimony of Deborah Belongia to substantiate the charges, and the central issue becomes one of her credibility. Respondent contends that she is not to be believed as she: 1) is mentally ill, 2) is driven by malice, and 3) fraudulently obtained a prescription by using respondent's name at the time she was being fired.

The record does raise questions which must be addressed regarding the credibility of Ms. Belongia. Respondent notes that it has been established that her relationship with medications have involved two situations adversely reflecting upon her character. First, it is suggested that on September 4, 1986--a day she stayed home from work because she knew respondent intended to fire her--she fraudulently used respondent's name to call in an order for Fastin. Second, in 1989 she attempted suicide by trying to take an overdose of Xanax following an argument with her husband. These two instances are set forth to support the inference that she was a drug abuser and was not adverse to obtaining drugs illicitly.

These factors bring into question the credibility of Debbie Belongia. Standing alone, Belongia's testimony might be considered sufficiently discredited, due to her motive and action of having obtained Fastin illicitly. However, corroborating her version of the events is the testimony of respondent's father-in-law, Milton Staskus, who was involved in a similar incident.

Mr. Staskus was interviewed by an investigator in this matter on September 25, 1986. In the written statement provided at that time, Mr. Staskus said:

"I cannot say that Dr. Romani is addicted to drugs or their use. He asked me to pick up a prescription from Midtown Drug in June of '86. It was xanax (sic)-1 milligram (sic) and 90 capsules. It was under my name. I handed it to Dr. and heard nothing since." (Hearing Exhibit 39).

However, Mr. Staskus testified much differently at the actual hearing, claiming that the June 18, 1986 prescription for Xanax was legitimately intended for treatment of anxiety and that he consumed the medication obtained. Complainant contends that Mr. Staskus' testimony at the hearing was intended to protect respondent, and that he actually told the truth during the 1986 interview.

Mr. Staskus was clearly more aware of the damage which his testimony could cause respondent, and of the personal consequences it might have on his daughter, at the time of the hearing than during his interview in 1986. The September, 1986 interview also occurred only three months after the date of the prescription order, itself, and thus at a time within close proximity to the event upon which he was being questioned. Thus, his memory would likely have been more fresh at that time. I believe Mr. Staskus' explanation of the circumstances was accurate during the 1986 interview, but not at the hearing held 5 years later. I believe that respondent used his father-in-law to illicitly obtain controlled substances in 1986. This practice, in my opinion, was continued through the use of his employee, Debbie Belongia, during the same time frame.

It is further notable that the xanax prescription order written in Mr. Staskus' name on or about June 18, 1986, is close in the time of its writing to those at issue in the name of Debbie Belongia for Xanax on July 16, 1986, and in the name of William Belongia for Fastin on August 12, 1986.

MILDRED SELLERS--Count V

At approximately 8:15 p.m. on the evening of August 24, 1986, respondent received a call at his home from Dr. Therese M. Harms, the emergency room physician on duty at St. Catherine's Hospital in Kenosha, Wisconsin. Respondent was informed that Mildred Sellers had been admitted to the emergency room of the hospital. Ms. Sellers had been a patient of respondent's since March, 1978 and respondent was aware that she had a history of cardiac problems, among other medical problems.

The contents of the telephone conversation between the respondent and Dr. Harms is in substantial dispute. The testimony of Dr. Harms is that she relayed to respondent the results of tests which had been taken of Ms. Sellers upon her admission to the emergency room. The test results indicated that Ms. Sellers had suffered a recent myocardial infarction and evidenced congestive heart failure. Dr. Harms claimed that she informed respondent that she believed Ms. Sellers should be hospitalized, but that respondent disagreed, indicating that she should be treated further on an out-patient basis. Dr. Harms claims that she then informed respondent that she would not discharge Ms. Sellers from the emergency room and that he would have to come to the hospital himself and discharge her. (Tr., pp., 392, 435-6). However, Dr. Harms admits that she made no notation of this professional disagreement in the hospital record, despite her claim that such notations were a part of her standard practice. (Tr., p. 437). Dr. Harms then indicated that she informed the family of Ms. Sellers that respondent disagreed with her belief that hospitalization was necessary and that respondent would be coming to the hospital.

Respondent claims that Dr. Harms did not inform him any of the results of the tests performed upon Ms. Sellers during the telephone conversation. He stated that he was essentially told only that a patient of his was in the emergency room, whereupon he went to the hospital.

The hospital records indicate that respondent arrived at the hospital around 8:25 p.m. Donna Virgili, the daughter of Ms. Sellers, was in the emergency room with her mother when the respondent arrived. She testified that after respondent talked to her mother, and paged through and closed her chart, respondent told Ms. Sellers that she should go home and come into his office the next day. Ms. Virgili indicated that she (Ms. Virgili) objected, and that respondent answered that Ms. Sellers could either go the American Hospital in Zion, Illinois or to a nursing home. Ardis Schaeffer, another daughter of Ms. Sellers, confirmed her sister's recollection of respondent's recommendation. (Tr., pp. 355-6). Ms. Sellers then became upset--as she had always resisted going into a nursing home--so Ms. Virgili and respondent went out into the hall. (Tr., pp. 48-61).

After a discussion in the hallway, respondent was discharged as Ms. Sellers' physician. The reason given by Ms. Sellers' daughters for respondent's discharge was that he refused to admit their mother to the hospital when she was in obvious distress and that they could not care for her at home in that condition.

Respondent admitted that had he been informed of the results of all of the tests on Ms. Sellers over the telephone, as claimed by Dr. Harms, he would have concurred with the opinion that the patient's hospitalization was necessary. However, the test results were available in the chart of Ms. Sellers' at the hospital. Nevertheless, upon arriving at the hospital and at least briefly reviewing Ms. Sellers' chart, he recommended to her daughters that Ms. Sellers either be discharged and placed in a nursing home or taken to a different hospital the next day. He either disregarded the test results or, if he overlooked those results, was not interested in having tests performed and evaluated prior to making his recommendation. Whichever is the case, such conduct demonstrates unprofessional conduct; especially given his previous knowledge of Ms. Sellers' history of heart problems.

It can be observed that what Dr. Harms actually relayed to respondent over the telephone is not necessarily determinative of the competency of respondent in this matter. What is important is that respondent personally saw Ms. Sellers at the hospital, had the test results available for his review, and was previously aware of Ms. Sellers' heart problem. Yet, respondent recommended that her daughters take Ms. Sellers home.

Complainant has met its burden of proof on the allegation concerning respondent's professional incompetency in handling of the care of Ms. Sellers.

NANCY CUTLER--Count VI

This count involves an allegation that respondent failed to react in a timely manner to a report that an individual had experienced heart palpitations while in the waiting room of his clinic.

Nancy Cutler testified that she experienced one of her "spells" while in respondent's waiting room on November 10, 1986. She indicated that she informed a member of respondent's staff immediately, and that they had indicated respondent would see her as soon as possible. In fact, respondent did not see her until after an hour or more had passed after Ms. Cutler reported the incident to the nurse or receptionist.

Respondent argues there is no evidence that establishes he was informed Ms. Cutler was having a "spell" in the office, and that complainant essentially assumes that such a situation would have immediately been reported to respondent by his staff. Furthermore, respondent contends that it is unclear the extent to which Ms. Cutler described to the nurse or receptionist what she meant by having a spell, which could explain the reason for the staff person not immediately bringing the episode to his attention.

Additionally, according to respondent, a rhythm strip had been taken of Ms. Cutler's heart beat prior to the time that respondent was informed of her presence. If true, this suggests that a nurse had handled Ms. Cutler's situation by seeing the necessity for taking a rhythm strip upon her complaint. She was then taken to see respondent after obtaining the results. Respondent testified he was actually handed the rhythm strip "a few seconds" before seeing Ms. Cutler.

Respondent does not dispute the testimony of Ms. Cutler that she told the receptionist or nurse that she was experiencing one of her "spells". What has been not been established is that Ms. Cutler's complaint was immediately communicated to the respondent. No one questions the fact that Dr. Romani had an extremely heavy traffic in his clinic, day-in, day-out. He had three receiving rooms for clientele. His routine was to go progressively from one to the next, unless he was informed of an "emergency" situation by his receiving staff. On the day of Ms. Cutler's appointment, Dr. Romani had numerous patients awaiting his attention.

The problem with the state's case on this count is that there is a question regarding the assumption that because Ms. Cutler informed the nurse or receptionist of her "spell", that this was in turn immediately communicated to respondent. That essential link has not been established, other than by inference.

In other words, if Ms. Cutler adequately expressed a health concern in respondent's office to respondent's nurse or receptionist, and if the receptionist or nurse communicated that concern to respondent, then, and only then would respondent's failure to take immediate action, within 15 minutes according to the expert testimony presented on complainant's behalf, constitute unprofessional conduct.

It appears that the time elapsing between Ms. Cutler's "spell" and respondent's seeing her was between 1 to 1 hours. That means either respondent was not aware of the spell, or that he consciously disregarded major presenting medical problems. It must be conceded that there was a risk Ms. Cutler could be experiencing a fatal heart attack in the middle of a crowded waiting room in either event. However, it is just as likely from this record that respondent was not aware of Ms. Cutler's situation due to his employee's failure to report it to him in a timely manner, as it is that he chose to disregard it. In my opinion, complainant has not carried the burden of proof under such circumstances.

PHYSICAL THERAPY PATIENTS--Counts VII-X

The remainder of the Complaint involves allegations of fraud in the rendition of physical therapy services. The counts involve four separate patients; Helen Smith, Jose Hernandez, Willie Parham and Retha Jones. In each of the cases it is alleged that the elements of fraud are met. These are:

1. False representations;
2. That were made with the intent to defraud and for the purpose of inducing another to act upon the false representations; and,
3. The person to whom the false representations were made relied upon them to their detriment and loss.

In my opinion, the Complainant's case regarding these allegations has been established.

The findings of fact set forth the physical therapy modalities which were rendered to each patient and are based upon Hearing Exhibit 31. The allegations essentially challenge the duration of use of physical therapy modalities, as well as the use at individual sessions of multiple modalities with the same purpose.

It was the testimony of complainant's expert witness, Dr. Idarraga, that both ultrasound and diathermy are deep heating modalities and that there is no real difference between them regarding therapeutic benefit. He testified that there was no medical justification for treating a patient with both modalities at the same session. Similarly, Dr. Idarraga testified that there is no therapeutic distinction among moist heat, whirlpool, Hubbard Tank and paraffin bath, which are all superficial heating modalities. According to Dr. Idarraga, there is also no medical justification for utilizing more than one of these modalities at any given treatment session.

A review of the individual treatment sessions for each of the four patients, however, establishes that they all received combinations of both deep heating and superficial heating modalities at individual sessions on numerous occasions.

In addition to inappropriately combining modalities at individual sessions, Dr. Idarraga also testified that the use of any type of physical therapy modality beyond 30 days violates the standards of the profession, unless there is "significant improvement" in the patient's condition to indicate that continued use is warranted.

Each of the patients received one or more of the modalities for a period of time far in excess of 30 days, and the record indicates that each failed to have the "significant improvement" which would justify continued physical therapy. In fact, each of these patients were referred to a potential future business associate, Dr. Tan, for consultation, precisely because they were failing to show improvement. (There were also occasional hospitalizations for the same reason). Dr. Tan's recommendation, nearly without exception, was for continued physical therapy. They would return to respondent's clinic where respondent would review Dr. Tan's prescriptions and often add modalities to those recommended.

A major defense of respondent's is the attempted allocation of decision-making responsibility to Dr. Tan. Respondent claims that once the physical therapy modalities he had recommended for his patients no longer appeared to have the desired effect, the patient would be referred to Dr. Tan. Thereafter, respondent claims only to have followed the recommended approach of Dr. Tan. However, this cannot be accepted given Dr. Tan's testimony to the contrary, the fact that all physical therapy was conducted in respondent's clinic and given that respondent often deviated from the recommended treatment of Dr. Tan. There can be no question but that respondent was, and he considered himself, the primarily care provider for each patient. Dr. Tan essentially fulfilled a consultation role.

The false representations made in this case are contended to be found, at least in part, in respondent's continuing to recommend that the patients receive physical therapy when he knew that such on-going treatment was not medically beneficial or justifiable. Recommendations for treatment are viewed by the patient as a "representation" by a professional practitioner that such continued physical therapy is medically beneficial to them; otherwise, such continued treatments would not be recommended.

Complainant's argument is accepted. Respondent's continued treatment of each patient constituted a representation that such was medically acceptable within the profession. As Dr. Idarraga testified, such is not the case and respondent's representations through his words and actions to the contrary were false.

Respondent's expert, Dr. Gerol, testified that there was a "school of thought" in the profession which might justify respondent's practice of utilizing simultaneous physical therapy modalities of the same type at the same time over an extended period of years. Dr. Gerol admitted that he personally did not subscribe to that position, and at least questioned the basis for such practice:

"Q. But isn't it your opinion, Doctor, that with respect to that school of thought, it's your professional opinion that the physician determines how long to continue to administer a given physical therapy modality to a patient by who's going to pay for it?

"A. I must admit that this is true most of the time.

"Q. And isn't it also your professional opinion that in that school of thought, the physician determines how long to continue to administer a given physical therapy modality to a patient by how much the physician can get away with?

"A. I think there are some physicians who do that, yes. And they practice nowadays down the street here." (Trans., p. 12/19/91, pp. 1397-8)

Dr. Gerol's testimony does not so much establish the validity of a medically accepted second school of thought consistent with respondent's practices in these instances, as it tends to verify complainant's position that respondent's actions were motivated by greed through inducing patients to continue to receive physical therapy in a manner and for a time period beyond which there was any medical justification. Respondent's claim that he had repaid insurance companies substantial amounts to settle their concerns does not legitimize nor alleviate the unprofessional character of the conduct.

Respondent made false representations. However, the next question is whether those representations were made with the intent to defraud, or whether they were simply negligent. In other words, did respondent know he was making misrepresentations, or were those misrepresentations a product of not being aware of the proper standards? If the former is the case, fraud will lie; if the latter, it does not due to the lack of the requisite intent.

It is my opinion that respondent was fully aware that his actions were beyond the bounds of competent practice. He was not simply mistaken as to the minimal standards of professional practice in the field of physical therapy, or undereducated in that area. Respondent testified at length regarding his study and experience in the field. It is not necessary to fully accept Dr. Idarraga's "cut-off" date of 30-days in treatment in order for even the lay person to recognize that the extent of physical therapy given in these cases had a duration far beyond that in which one would expect to see "significant improvement" in the patient's condition, if physical therapy were capable of providing it.

Respondent also induced his patients to rely upon his false representations, not only through continuing to prescribe and order physical therapy, but also by requiring Ms. Jones and Mr. Parham, at least, to sign a document in which he threatened to certify them as ready to go back to work if they did not keep their appointments. The document, itself, read as follows:

"Anyone to receive physical therapy here at Romani Neighborhood Clinic or anywhere else for a work related injury or an injury as a result of an accident in which any insurance company is involved and any patient receiving physical therapy for a non work related injury, must attend physical therapy program as has been outlined for them. Failure to attend physical therapy as outlined is confirmation to use, by that patient, that their problem has been resolved, they are no longer in need of treatment, and may continue their normal activities.

"Therefore, I (patient name) agree that should I fail to comply or fail to attend physical therapy as outlined that I am no longer in need of treatment for this malady, and that communication of this fact should be immediately forwarded in writing to my insurance carrier and employer and that my disability should be terminated immediately." (Hearing Ex. 4).

With regard to the impact of being required to execute this form, Ms. Jones testified:

"A. Yes, she said that if I didn't come like I was supposed to, then I'd be able to--I have to go back to work, you know. I'm supposed to come here twice a day and if I didn't show up or have a good reason why I couldn't make it, then they--they would return me back to work." (Trans., 12/5/91, p. 747).

Similarly, Mr. Jones stated:

"After the surgery in January, 1986 I was going to Dr. Romani's Clinic in the morning and afternoon with 5 to 6 hours between therapy sessions. Dr. Romani told me that I had to make the therapy sessions or he would have to report me back to work. I thought this was a lot of physical therapy but I had to go or he would have sent me back to my job at Chrysler." (Hearing Exhibit 36).

Requiring the execution of such a document was argued by respondent to have the simple intent of discouraging patients from not keeping appointments. However, the failure to comply with the extensive physical therapy "recommended" to them held consequences which would obviously discourage patients in need of medical attention from questioning either the duration or manner of implementation of the physical therapy ordered by respondent.

Respondent's explanation for the form is not accepted under the circumstances of this case, given his penchant for prescribing inappropriately protracted and medically unjustifiable physical therapy treatment. The document was intended, in my opinion, to have an intimidating effect upon patients in order to induce them to follow respondent's direction without question. It achieved the desired effect, as intended.

Complainant has clearly and convincingly established that the respondent engaged in fraud with respect to each of the four patients involved in these counts.

DISCIPLINE

Frank V. Romani has engaged in unprofessional conduct. This is true in respect to his using other employees to obtain drugs for him, on at least two occasions, as well as his recommendation that a patient be discharged from a hospital emergency room in a situation in which there can be no real question but that hospitalization was necessary.

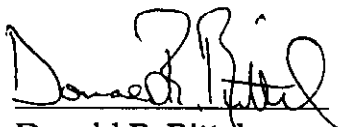
Additionally, his treatment of physical therapy patients for excessive periods of time with unnecessarily overlapping modalities, can only be described, in complainant's word, as greed. Respondent may be able to personally justify his indiscretions as not actually being harmful to his patients or by contending that there is a "second school" of thought regarding the extent to which these modalities may be substantially beneficial to patients. Perhaps, this is so in the sense that although his prescribed treatments did not medically assist them, there is no evidence that he harmed them either. They could have, however, if they were in need of medical assistance beyond mere physical therapy. Dr. Romani was treating symptoms, not the underlying conditions. He was aware of that and I believe he was aware that his actions constituted unprofessional conduct.

The issue is the appropriate discipline, if any, to be imposed against respondent's license to practice medicine and surgery. In this regard, it must be recognized that the interrelated purposes for applying disciplinary measures are: 1) to promote the rehabilitation of the licensee, 2) to protect the public, and 3) to deter other licensees from engaging in similar misconduct. State v. Aldrich, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. State v. MacIntyre, 41 Wis 2d 481, 485 (1969).

Respondent's conduct in this case is broad, repetitive and long-standing in nature. He has intentionally violated the law regarding the prescribing and consumption of controlled substances. His mishandling of the situation regarding his patient in the emergency room demonstrates significant incompetency. Finally, respondent's extensive fraud concerning the provision of physical therapy for multiple patients over a protracted period of years speaks of a dishonest character.

It is my opinion that Dr. Romani's license to practice medicine and surgery must be revoked in order to protect the public from future unprofessional conduct, while at the same time sending a strong message to other licensees that such conduct will be strongly dealt with in order to deter others from following respondent's course of practice. Neither a reprimand nor suspension would be adequate to serve these purposes, especially given they provide no guarantee that respondent would not resume his current practices in the future. Also, it is difficult to fashion appropriate limitations upon his license at this time, especially since his conduct does not appear to have stemmed from any lack of training; but rather, from intentional misconduct. Under such circumstances, standard limitations, such as reeducation are of no significance to public protection. Rather, any reinstatement of respondent's right to practice should place the burden upon him to demonstrate his fitness to practice. The order of revocation does that.

Dated this 7th day of August, 1992.



Donald R. Ritter
Administrative Law Judge

DRR:BDLS-1138

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FRANK V. ROMANI, M.D.,
RESPONDENT.

:
:
: AFFIDAVIT OF COSTS OF
: OFFICE OF BOARD LEGAL SERVICES
: (Case No. LS9007241MED)
:

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Donald R. Rittel, being first duly sworn on oath, deposes and states as follows:

1. Your affiant is an attorney licensed to practice law in the state of Wisconsin, and is employed by the Wisconsin Department of Regulation and Licensing, Office of Board Legal Services.

2. In the course of his employment, your affiant was assigned as the administrative law judge in the above-captioned matter.

3. Set out below are the actual costs of this proceeding for the Office of Board Legal Services in this matter:

ADMINISTRATIVE LAW JUDGE EXPENSE

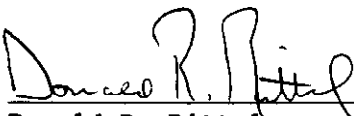
Donald R. Rittel

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
8/21/90	Preparing Notice of Prehearing Conference	.25 hours
8/29/90	Telephone Conference w/ Atty's; Preparing Amended Notice of Prehearing Conference	.25 hours
9/16/90	Conducting and preparing memo on Prehearing Conf.	1.25 hours
12/3/90	Letter to Attorneys	.25 hours
1/21/91	Conducting and preparing memo on Prehearing Conf.	1.00 hours
9/16/91	Conducting and preparing memo on Prehearing Conf.	.50 hours
12/2/91	Presiding over Hearing	6.75 hours
12/3/91	Presiding over Hearing	7.25 hours
12/4/91	Presiding over Hearing	6.25 hours
12/5/91	Presiding over Hearing	6.50 hours
12/6/91	Presiding over Hearing	6.25 hours
12/12/91	Presiding over Hearing	6.25 hours
12/13/91	Presiding over Hearing	2.25 hours
12/16/91	Presiding over Hearing	6.25 hours
2/20/92	Conducting conference and preparing order on briefing schedule	.25 hours
4/16/92- 8/7/92	Reviewing record; preparing Proposed Decision	39.50 hours
TOTAL TIME SPENT		91.00 hours

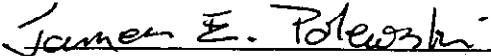
Total administrative law judge expense for Donald R. Rittel:
91.00 hours @ 34.03, salary and benefits: \$3096.73

REPORTER EXPENSE
Magne-Script

<u>ACTIVITY</u>	<u>COST</u>
Attending and transcribing 12/2/91 Hearing	\$ 872.10
Attending and transcribing 12/3/91 Hearing	776.40
Attending and transcribing 12/4/91 Hearing	769.80
Attending and transcribing 12/5/91 Hearing	905.10
Attending and transcribing 12/6/91 Hearing	891.90
Attending and transcribing 12/12/91 Hearing	710.40
Attending and transcribing 12/13/91 Hearing	320.60
<u>Attending and transcribing 12/16/91 Hearing</u>	<u>779.70</u>
Total reporter expense for Magne-Script	\$6026.00
<hr/>	
TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES	<u>\$9122.73</u>


Donald R. Rittel
Administrative Law Judge

Sworn to and subscribed before me
this 20th day of November, 1992.


Notary Public, State of Wisconsin
My Commission is permanent

BDLS2-2553

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FRANK V. ROMANI, M.D.,
RESPONDENT.

:
:
:

AFFIDAVIT IN SUPPORT OF
MOTION FOR COSTS

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Dale E. Nash, being duly sworn on oath, deposes and states as follows:

1. Affiant is employed as an investigator by the Wisconsin Department of Regulation and Licensing, Division of Enforcement.

2. Affiant rendered investigative services in the above-captioned matter.

3. The records and files of the Department of Regulation and Licensing, Division of Enforcement, indicate the following costs of Affiant's investigative services (based upon average salary and benefits for Division of Enforcement Investigators) in the above-captioned matter:

INVESTIGATOR EXPENSES --- DALE NASH

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
8/12/91	Investigation to Locate Witness	08:00
8/13/91	Investigation to Locate Witness	08:00
8/14/91	Investigation to Locate Witness	08:00
8/15/91	Interview Witness -- Royce	03:45
8/15/91	Memorandum of Royce Interview	02:00
8/15/91	Interview Witness -- Ramos	03:45
8/15/91	Memorandum of Ramos Interview	02:00
8/15/91	Interview Witness -- McCormick	03:45
8/15/91	Memorandum of McCormick Interview	02:00
8/16/91	Interview Witness -- Colon	04:00
8/16/91	Memorandum of Colon Interview	02:30
8/16/91	Interview Witness -- Royce	02:00
8/20/91	Interview Witness -- Saucedo	07:00
8/20/91	Memorandum of Saucedo Interview	02:00
8/21/91	Telephone Witness Interview -- Santos	00:30
8/21/91	Telephone Witness Interview -- Beadle	00:30
8/22/91	Investigation to Locate Witnesses	08:00
8/22/91	Telephone Witness Interview -- Pillizzi	01:00
8/22/91	Letter to Bureau of Vital Statistics	00:30

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> (hr.:min.)
8/26/91	Interview Witness -- Pillizzi	05:00
8/26/91	Memorandum of Pillizzi Interview	01:00
8/27/91	Interview Witness -- Santos	09:00
8/28/91	Memorandum of Santos Interview	01:30
8/28/91	Interview Witness -- Beadle	04:00
8/29/91	Memorandum of Beadle Interview	01:00
8/29/91	Meeting with Prosecuting Attorney	01:00
8/29/91	Proof Memoranda of Witness Interviews	00:45

TOTAL HOURS: 92:30

INVESTIGATOR EXPENSES -- DALE NASH

92 hrs. 30 min. @ \$18.00/hr. \$1,665.00

Dale Nash
Dale Nash

Subscribed and sworn to before me
this 11th day of ~~August~~, 1992.
September,

Notary Public
My Commission is Permanent

GCL:pw
ATY-2186

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	AFFIDAVIT IN SUPPORT OF
	:	MOTION FOR COSTS
FRANK V. ROMANI, M.D.,	:	
RESPONDENT.	:	

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Gilbert C. Lubcke, being duly sworn on oath, deposes and states as follows:

1. Affiant is licensed to practice law in the State of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement.

2. Affiant was assigned and served as the prosecuting attorney in the above-captioned matter.

3. The records and files of the Department of Regulation and Licensing, Division of Enforcement, indicate the following costs of Affiant's prosecutorial services (based upon average salary and benefits for Division of Enforcement Attorneys) in the above-captioned matter:

PROSECUTING ATTORNEY EXPENSES

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
9/26/89	File Review -- Sellers	03:45
9/29/89	Discussion with Board Advisor	00:15
10/2/89	Preparation of File for Board Advisor	
	Review -- Sellers	00:50
10/4/89	File Review -- Prescriptive Practices	03:30
10/5/89	Draft Complaint -- Prescriptive Practices	01:45
10/6/89	Draft Statement of Facts	01:30
10/6/89	Conference with Board Advisor	00:50
10/9/89	Legal Research	02:00
10/10/89	Legal Research	04:30
10/10/89	Discussion with Board Advisor	00:05
10/11/89	Legal Research	03:30
10/11/89	Discussion with Board Advisor	00:10
10/12/89	Telephone Conversation with Expert -- Dr. Miner	00:05
10/12/89	Telephone Conversation with Expert -- Dr. Idarraga	00:05

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
10/17/89	Legal Research	04:00
11/27/89	Preparation for Interview with Expert - Sellers	01:45
11/28/89	Interview with Expert -- Dr. Miner	07:00
12/4/89	Meeting with Investigator	00:10
12/5/89	Meeting with Investigator	00:10
1/31/90	Review of Expert Opinion & Memo -- Sellers	02:00
2/5/90	File Review -- P.T. Cases	07:15
2/6/90	File Review -- P.T. Cases	05:20
2/7/90	File Review -- P.T. Cases	04:30
2/8/90	File Review -- P.T. Cases	05:00
2/9/90	File Review -- P.T. Cases	02:15
2/12/90	File Review -- P.T. Cases	06:00
2/13/90	File Review -- P.T. Cases	04:50
2/14/90	File Review -- P.T. Cases	02:30
2/15/90	File Review -- P.T. Cases	04:20
2/16/90	File Review -- P.T. Cases	03:10
2/19/90	File Review -- P.T. Cases	02:20
3/8/90	File Review -- P.T. Cases	04:30
3/12/90	File Review -- P.T. Cases	06:15
3/13/90	File Review -- P.T. Cases	03:20
3/14/90	File Review -- P.T. Cases	06:00
3/15/90	File Review -- P.T. Cases	00:35
3/23/90	Letter to Expert -- Dr. Idarraga	00:10
3/23/90	Preparation of P.T. Files for Copying	01:25
3/26/90	Proof Summary -- Parham	03:45
3/26/90	Proof Summary -- Jones	04:00
3/26/90	Proof Summary -- Hernandez	00:30
3/27/90	Proof Summary -- Hernandez	03:40
3/27/90	Professional Summary -- Smith	03:50
4/4/90	Preparation of File for Expert	01:15
4/26/90	Preparation for Interview with Dr. Idarraga	03:00
4/26/90	Interview with Dr. Idarraga	09:30
5/7/90	Review File and Draft Memo: Re: Dr. Idarraga's Opinion -- Smith	03:30
5/7/90	Review File and Draft Memo: Re: Dr. Idarraga's Opinion -- Parham	02:35
5/7/90	Review File and Draft Memo: Re: Dr. Idarraga's Opinion -- Jones	00:35
5/8/90	Review File and Draft Memo: Re: Dr. Idarraga's Opinion -- Jones	02:00
5/8/90	Review File and Draft Memo: Re: Dr. Idarraga's Opinion -- Hernandez	01:45
5/9/90	Legal Research	06:30
5/10/90	Review File and Draft Complaint	04:45
5/11/90	Review File and Draft Complaint	03:50
5/14/90	Review File and Draft Complaint	03:30
5/14/90	Review File and Draft Complaint	01:30
5/17/90	Review File and Draft Complaint	04:00

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
5/18/90	Review File and Draft Complaint	02:15
5/21/90	Review File and Draft Complaint	05:30
5/22/90	Draft Complaint -- P.T. Cases	01:50
5/23/90	Draft Complaint -- P.T. Cases	01:15
5/25/90	Draft Complaint -- Sellers	02:20
5/25/90	Proof Complaint	00:50
5/29/90	Proof Complaint	02:20
5/30/90	Proof Complaint	01:30
6/11/90	Telephone Contact with Dr. Idarraga	00:10
6/13/90	Proof Complaint & Review File	03:00
6/14/90	Review Complaint with Investigator	00:30
6/14/90	File Complaint	00:15
8/29/90	Telephone Conversation with Attorney Nelson & ALJ Rittel	00:02
8/29/90	Review Answer	02:20
8/29/90	Draft Complainant's First Set of Interrogatories	01:30
8/30/90	Draft Complainant's First Set of Interrogatories	03:20
8/31/90	Draft Complainant's First Set of Interrogatories & Request for Admissions	05:10
9/4/90	Preparation for Prehearing	00:20
9/4/90	Prehearing	00:15
9/4/90	Response to Respondent's First Set of Interrogatories	01:40
9/5/90	Response to Respondent's First Set of Interrogatories	06:15
9/6/90	Response to Respondent's First Set of Interrogatories	08:00
9/7/90	Response to Respondent's First Set of Interrogatories	06:40
9/7/90	Proof Complainant's Interrogatories & Requests for Admissions	01:10
9/10/90	Response to Respondent's First Set of Interrogatories	03:45
9/11/90	Response to Respondent's First Set of Interrogatories	05:15
9/17/90	Response to Respondent's First Set of Interrogatories	01:15
9/18/90	Response to Respondent's First Set of Interrogatories	04:00
9/24/90	Response to Respondent's First Set of Interrogatories	01:45
9/25/90	Response to Respondent's First Set of Interrogatories	07:15
9/28/90	Response to Respondent's First Set of Interrogatories	08:00
10/1/90	Response to Respondent's First Set of Interrogatories	06:45
10/2/90	Response to Respondent's First Set of Interrogatories	07:15

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
10/3/90	Response to Respondent's First Set of Interrogatories	12:00
10/4/90	Response to Respondent's First Set of Interrogatories	06:20
10/5/90	Response to Respondent's First Set of Interrogatories	05:00
10/5/90	Preparation of Complainant's Preliminary Witness List	02:30
10/8/90	Preparation of Complainant's Preliminary Witness List	01:20
10/10/90	Proof Complainant's Preliminary Witness List	00:10
10/10/90	Proof Response to Respondent's First Set of Interrogatories	02:10
10/12/90	Prepare Response to Respondent's First Set of Interrogatories for Service	01:15
10/12/90	Supplemental Responses to Respondent's First Set of Interrogatories	00:20
10/12/90	Letter to Respondent's Attorneys Re: Amended Complaint	00:10
11/28/90	Meeting with Attorney Hurley & Attorney Nelson	01:00
12/7/90	File Review & Preparation for Interview with Belongias	01:15
12/10/90	Preparation for Interview with Belongias	04:30
12/10/90	Interview Belongias	07:45
12/13/90	Preparation for Deposition of Dr. Romani	06:00
12/14/90	Preparation for Deposition of Dr. Romani	07:30
12/17/90	Depositions of Debbie & William Belongia	13:00
12/18/90	Deposition of Dr. Romani	10:45
1/16/91	Deposition Confirmation Letters -- Dr. Miner & Dr. Idarraga	00:10
1/18/91	Summarize Romani Deposition	02:50
1/29/91	Summarize Romani Deposition	03:00
1/29/91	Prehearing	00:15
2/8/91	Summarize Debbie Belongia Deposition	03:00
2/11/91	Summarize Debbie Belongia Deposition	02:00
2/14/91	Review Employee Time Records & Mail Copy to Attorney Hurley	00:30
2/14/91	Summarize William Belongia Deposition	00:25
2/15/91	Review Amended Complaint & Amended Answer	02:00
2/19/91	File Review	03:30
3/11/91	File Review	05:00
3/12/91	File Review	05:20
3/13/91	File Review	04:45
3/14/91	File Review	04:30
3/15/91	File Review; Letters for Releases & Records	04:20
3/18/91	File Review	04:30
3/18/91	Telephone Conversations with Virgili, Stetson & Schaefer	00:20
3/19/91	File Review	06:00

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
3/20/91	Preparation for Interviews with Virgili, Stetson & Schaefer	00:30
3/21/91	Preparation for Interviews with Virgili, Stetson & Schaefer	02:30
3/21/91	Interviews with Virgili, Stetson & Schaefer	07:30
3/22/91	Summarize Interview with Stetson	00:45
3/22/91	Summarize Interview with Virgili	01:15
3/25/91	Summarize Interview with Stetson	01:30
3/27/91	File Review	03:30
3/27/91	File Review & Draft Request for Documents	04:30
4/1/91	Proof Request for Documents	00:10
4/17/91	File Review -- Parham	04:30
4/18/91	File Review -- Smith	04:00
4/22/91	File Review -- Hernandez	05:00
4/23/91	File Review -- Jones	04:45
4/30/91	Draft Certification Form & Letter Re: Clinic Records	00:20
6/4/91	Interview Witnesses in Sellers Matter	10:00
6/5/91	Summarize Interviews with Witnesses in Sellers Matter	03:50
6/20/91	Preparation for Interview with Dr. Harms	00:45
6/20/91	Interview Dr. Harms	02:45
6/24/91	Summarize Interview with Dr. Harms	00:45
7/23/91	Itemize Records (Tan & AIH) for Attorney Hurley	00:15
7/23/91	Schedule Depositions	00:10
7/25/91	Telephone Conversation with Stetson	00:15
7/25/91	Draft Letters	00:10
7/25/91	Preparation for Interview with Dr. Fullin	01:00
7/26/91	Interview with Dr. Fullin & Summarization of Interview	07:00
7/29/91	Deposition of Stetson & Cappadaro	07:30
7/30/91	Preparation for Depositions -- Jones, Hernandez, Smith & Parham	07:15
7/31/91	Preparation for Depositions -- Jones, Hernandez, Smith & Parham	03:00
8/1/91	Depositions of Jones, Hernandez, Smith & Parham	11:15
8/2/91	Draft & Proof Complainant's Third Set of Interrogatories	00:15
8/5/91	File Review -- P.T. Cases	02:15
8/6/91	File Review -- P.T. Cases	01:30
8/6/91	Telephone Conversation with Attorney Hurley Re: Scheduling of Harms Deposition	00:10
8/12/91	Legal Research	02:30
8/12/91	Response to Respondent's Interrogatories	03:00
8/13/91	Response to Respondent's Interrogatories	05:00
8/14/91	Response to Respondent's Interrogatories	09:30
8/15/91	Response to Respondent's Interrogatories	01:30
8/15/91	Response to Respondent's Interrogatories	00:30

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
8/19/91	Medical Records Review -- P.T. Cases	02:00
8/19/91	Preparation for Depositions -- Young, Bonn, Schaefer, Fullin & Virgili	02:50
8/19/91	Medical Records Review; Draft Notice of Filing	01:50
8/19/91	Preparation for Harms Deposition	00:45
8/20/91	Depositions of Young, Bonn & Schaefer	10:25
8/21/91	Depositions -- Fullin, Virgili & Harms	10:30
8/28/91	Interview Debbie Belongia	01:30
8/28/91	Deposition -- Dr. Garretto	05:00
8/29/91	File Review -- Hernandez	02:30
8/30/91	File Review -- Jones	02:15
8/30/91	Notice of Filing Health Care Records	00:20
9/3/91	File Review -- Jones	01:30
9/3/91	File Review -- Witness List	04:30
9/4/91	File Review -- Parham	03:40
9/4/91	File Review -- Smith	02:40
9/5/91	File Review -- Smith	00:40
9/5/91	Arrange Deposition of Dr. Harms	01:30
9/9/91	File Review -- Final Witness List	02:15
9/10/91	Supplemental Answer to Respondent's Interrogatories	00:50
9/10/91	Letters to Witnesses & Review of Deposition	00:20
9/11/91	File Review	01:30
9/13/91	Schedule Depositions; Draft Letters & Notices	01:20
9/16/91	Prehearing and Memorandum	00:20
9/17/91	Scheduling Depositions; Notices; Letters	01:40
9/18/91	Telephone Conference with Attorney Nelson	00:05
9/18/91	Scheduling Deposition of Santos; Letter; Notice	00:30
9/23/91	Preparation for Harms Deposition	03:30
9/23/91	Preparation for Harms Deposition	00:45
9/23/91	Interview with Dr. Harms	00:45
9/24/91	Preparation for Harms Deposition	02:15
9/25/91	Harms Deposition	14:25
10/7/91	Preparation for Tan Deposition	04:15
10/9/91	Letters -- Hurley, Nelson, Idarraga & Miner	00:15
10/10/91	Preparation for Tan Deposition	03:30
10/13/91	Preparation for Tan Deposition	02:45
10/14/91	Preparation for Tan Deposition	08:30
10/15/91	Meeting with Attorney Hurley & Attorney Nelson	00:30
10/15/91	Preparation for Santos Deposition	04:00
10/16/91	Preparation for Santos Deposition	01:00
10/16/91	Deposition -- Santos	06:15
10/18/91	Schedule Depositions -- Cosentino, Tan & Gerol	00:50
10/18/91	Preparation for Depositions -- Yao & Agustin	04:20
10/20/91	Preparation for Yao Deposition	02:15
10/20/91	Preparation for Agustin Deposition	01:30
10/21/91	Depositions -- Yao & Agustin	09:30
10/23/91	File Review -- P.T. Cases	03:15
10/24/91	Preparation for Kaplan Deposition	01:30
10/25/91	Preparation for Idarraga Deposition	05:30

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
10/28/91	Preparation for Miner Deposition	03:15
10/29/91	Interview -- Dr. Miner	09:00
10/31/91	Interview -- Dr. Idarraga	08:30
11/3/91	Preparation for Cosentino Deposition	01:00
11/4/91	Cosentino Deposition	07:15
11/5/91	Miner Deposition	08:15
11/5/91	Preparation for Tan Deposition	03:45
11/6/91	Deposition -- Dr. Tan	09:30
11/7/91	Deposition -- Dr. Idarraga	08:45
11/11/91	Preparation for Hearing	03:30
11/12/91	Preparation for Hearing	04:00
11/13/91	Preparation for Hearing	06:00
11/14/91	Preparation for Hearing	08:15
11/15/91	Preparation for Hearing	09:00
11/18/91	Preparation for Hearing	09:30
11/19/91	Interview with Dr. Miner	08:30
11/19/91	Preparation for Tan Deposition	01:45
11/19/91	Legal Research	00:45
11/20/91	Deposition -- Dr. Tan	07:45
11/20/91	Preparation for Hearing	01:30
11/20/91	Preparation for Gerol Deposition	01:30
11/21/91	Legal Research	01:15
11/21/91	Preparation for Gerol Deposition	06:00
11/21/91	Preparation for Gerol Deposition	01:30
11/22/91	Deposition -- Dr. Gerol	09:30
11/23/91	Preparation for Hearing	06:00
11/24/91	Preparation for Hearing	05:00
11/25/91	Preparation for Hearing	03:00
11/25/91	Interview Dr. Idarraga	09:00
11/26/91	Deposition -- Dr. Kaplan	05:00
11/26/91	Preparation for Hearing	04:15
11/26/91	Preparation for Hearing	03:15
11/27/91	Preparation for Hearing	08:15
11/28/91	Preparation for Hearing	03:30
11/29/91	Preparation for Hearing	09:45
11/30/91	Preparation for Hearing	07:45
12/1/91	Preparation for Hearing	10:45
12/2/91	Hearing	08:00
12/2/91	Preparation for Hearing	04:45
12/3/91	Hearing	08:00
12/3/91	Preparation for Hearing	04:15
12/4/91	Hearing	07:45
12/4/91	Preparation for Hearing	04:15
12/5/91	Hearing	07:15
12/5/91	Preparation for Hearing	06:45
12/6/91	Hearing	07:15
12/6/91	Preparation for Hearing	02:15
12/8/91	Preparation for Hearing	03:30

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
12/9/91	Preparation for Hearing	07:00
12/10/91	Preparation for Hearing	04:15
12/10/91	Interview Witnesses	06:15
12/11/91	Preparation for Hearing	07:45
12/11/91	Preparation for Hearing	04:00
12/12/91	Hearing	07:15
12/12/91	Preparation for Hearing	06:30
12/13/91	Hearing	03:15
12/16/91	Preparation for Hearing	02:15
12/16/91	Hearing	07:15
12/17/91	Preparation -- Final Argument	02:10
12/18/91	Preparation -- Final Argument	04:30
2/20/92	Telephone Conference Re: Briefing Schedule	00:12
3/2/92	Final Argument	04:30
3/4/92	Final Argument	06:30
3/5/92	Final Argument	06:50
3/6/92	Final Argument	07:00
3/9/92	Final Argument	06:15
3/10/92	Final Argument	06:00
3/11/92	Final Argument	04:45
3/12/92	Final Argument	04:30
3/13/92	Final Argument	07:15
3/16/92	Final Argument	07:00
3/17/92	Final Argument	05:30
3/18/92	Final Argument	02:45
3/18/92	Final Argument	02:45
3/19/92	Final Argument	08:15
3/31/92	Rebuttal Final Argument	02:45
4/1/92	Rebuttal Final Argument	02:30
4/2/92	Rebuttal Final Argument	01:40
4/6/92	Rebuttal Final Argument	03:10
4/7/92	Rebuttal Final Argument	04:00
4/8/92	Rebuttal Final Argument	07:15
4/9/92	Rebuttal Final Argument	06:20
4/10/92	Rebuttal Final Argument	06:15
4/13/92	Rebuttal Final Argument	04:10
4/14/92	Rebuttal Final Argument	00:50
4/28/92	Submit Final Arguments to Board Advisor	00:10
8/10/92	Review Proposed Decision	03:30
8/10/92	Letter to Board Advisor	00:05
9/15/92	Complainant's Reply to Respondent's Objections	08:00
9/16/92	Complainant's Reply to Respondent's Objections	03:45
10/16/92	Review Motion for Continuance; Draft Response	00:20
10/16/92	Telephone Conversation with Attorney Rhine	00:05
10/16/92	Telephone Conversation with Attorney Rhine	00:05
11/11/92	Motion to Strike; Review Brief	02:20
11/17/92	Telephone Conversation with Board Advisor	00:10
11/17/92	Request to Withdraw Motion to Strike	00:03
11/17/92	Telephone Conversation with Attorney Hurley	00:05

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u> <u>(hr.:min.)</u>
11/17/92	Telephone Conversation with Attorney Hurley	00:03
11/17/92	Preparation for Oral Argument	04:20
11/18/92	Telephone Conversation with Attorney Augustine	00:07
11/18/92	Preparation for Oral Argument	03:15
11/19/92	Preparation for Oral Argument	02:00
11/19/92	Appearance for Oral Argument	<u>01:00</u>
TOTAL HOURS		1167:57

PROSECUTING ATTORNEY EXPENSES: *

1,167 hrs. 57 min. @ \$30.00/hr = \$35,038.50

4. The records and files of the Department of Regulation and Licensing, Division of Enforcement, indicate the following expenses incurred during the investigation and prosecution of the above-captioned matter.

TRANSCRIPT AND DEPOSITION EXPENSES

<u>Date</u>	<u>Activity</u>	<u>Expense</u>
10/8/90	Transcript of Testimony of Deborah Belongia and Deborah Colon, <u>Lundskow vs. Klees</u>	\$ 40.00
12/17/90	Depositions--Deborah & William Belongia (Thomas H. Hansen)	350.74
12/18/90	Deposition--Romani (Magne-Script)	627.83
7/29/91	Depositions--Stetson, Parham, Jones & Smith (Thomas H. Hansen)	319.75
8/1/91	Deposition--Hernandez (Thomas H. Hansen)	129.90
8/20/91	Depositions--Harms, Schaefer, Bonn, Young, Virgili & Garretto (Thomas H. Hansen)	253.10
9/25/91	Deposition--Harms (Phyllis Haynes Edens)	301.90
9/25/91	Deposition Video Taping--Harms (Sodaro's Video Services)	188.00
10/16/91	Deposition--Santos (Thomas H. Hansen)	158.90
10/21/91	Depositions--Yao & Agustin (Thomas H. Hansen)	387.10
11/4/91	Deposition--Cosentino (Bay Reporting Service)	72.00

11/5/91	Deposition--Miner (Rice Reporting Agency)	52.98
11/6/91	Deposition--Tan (Thomas H. Hansen)	966.20
11/7/91	Deposition--Idarraga (Davis & Grossbier Reporters, Inc.)	88.00
11/20/91	Deposition--Tan (Thomas H. Hansen)	127.50
11/22/91	Deposition--Gerol (Thomas H. Hansen)	566.95
11/26/91	Deposition--Kaplan (Thomas H. Hansen)	<u>131.75</u>
	TOTAL TRANSCRIPT AND DEPOSITION EXPENSES	\$4,762.60

EXPERT WITNESS EXPENSES

<u>Activity</u>	<u>Expense</u>
Expert Witness Fees--Dr. Miner	\$1,562.38
Expert Witness Fees--Dr. Idarraga	<u>2,594.25</u>
TOTAL EXPERT WITNESS EXPENSES	\$4,156.63

MEDICAL RECORDS COPYING EXPENSES

<u>Date</u>	<u>Activity</u>	<u>Expense</u>
2/24/87	St. Catherine Hospital Records--Sellers	\$ 26.70
3/6/91	St. Catherine Hospital Records--Jones	5.00
3/20/91	Dr. Garretto's Office Medical Records--Sellers	4.00
4/1/91	A.I.H. Records--Smith, Hernandez, Parham, Jones	181.80
4/3/91	Dr. Tan's Office Records--Smith, Hernandez, Parham, Jones	14.80
12/20/91	Dr. Kaplan's Office Medical Records--Jones	<u>7.70</u>
	TOTAL MEDICAL RECORDS COPYING EXPENSES	\$240.00

SERVICE OF SUBPOENAS EXPENSES

<u>Date</u>	<u>Activity</u>	<u>Expense</u>
9/23/91	Attempted Service of Subpoena on Cosentino	\$12.00
11/1/91	Service of Subpoena on Cosentino	39.50
11/18/91	Service of Subpoena on Romani	14.00

11/18/91	Service of Subpoena on Parham	14.00
11/18/91	Service of Subpoena on Staskus	14.00
11/19/91	Service of Subpoena on Jones	42.00
11/19/91	Service of Subpoena on Hernandez	26.00
11/19/91	Service of Subpoena on Smith	<u>14.00</u>
	TOTAL SERVICE OF SUBPOENAS EXPENSE	\$175.50

WITNESS FEES

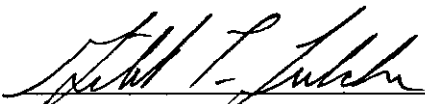
<u>Date</u>	<u>Activity</u>	<u>Expense</u>
12/19/91	Witness Fee--Jones	\$ 50.00
12/20/91	Witness Fee--W. Belongia	55.00
12/20/91	Witness Fee--D. Belongia	5.00
12/23/91	Witness Fee--Parham	5.00
12/23/91	Witness Fee--Colon	52.20
12/30/91	Witness Fee--Fullin	48.60
12/31/91	Witness Fee--Royce	53.00
12/31/91	Witness Fee--Staskus	49.00
1/6/92	Witness Fee--Garretto	55.00
1/6/92	Witness Fee--Smith	50.60
2/10/92	Witness Fee--Virgili	<u>55.00</u>
	TOTAL WITNESS FEES	\$478.40

MISCELLANEOUS EXPENSES

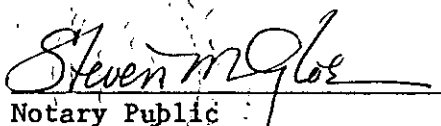
<u>Date</u>	<u>Activity</u>	<u>Expense</u>
9/25/91	Airline Ticket--Travel to Charleston, WV for Deposition of Dr. Harms	<u>\$764.00</u>
	TOTAL MISCELLANEOUS EXPENSES	\$764.00

5. Upon information and belief, the total assessable costs resulting from the investigation and prosecution of the above-captioned matter are as follows:

INVESTIGATOR EXPENSES:	\$1,665.00
PROSECUTING ATTORNEY EXPENSES:	\$35,038.50
TRANSCRIPT AND DEPOSITION EXPENSES:	\$4,762.60
EXPERT WITNESS EXPENSES:	\$4,156.63
MEDICAL RECORDS COPYING EXPENSES:	\$240.00
SERVICE OF SUBPOENAS EXPENSES:	\$175.50
WITNESS FEES:	\$478.40
MISCELLANEOUS EXPENSES:	<u>\$764.00</u>
TOTAL ASSESSABLE COSTS	\$47,280.63


 Gilbert C. Labcke, Attorney
 Division of Enforcement

Subscribed and sworn to before me
 this 23rd day of November, 1992.


 Notary Public
 My Commission is permanent.

GCL:skv
 ATY-2184(1-12)

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.

The date of mailing of this decision is November 23, 1992.

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

FRANK V. ROMANI, M.D.

Respondent

ORDER GRANTING CONTINUANCE

TO: Algis Augustine
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William F. Nelson
DeWitt, Porter, Huggett, Schumacher & Morgan, S.C.
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Madison, WI 53703

Oral arguments before the Medical Examining Board in the above-captioned matter were scheduled to be heard at the board's meeting of October 21, 1992. On October 15, 1992, the board received a Notice of Appearance and Motion for Continuance filed by Algis Augustine, attorney for Dr. Romani. The Motion requests a continuance in the matter until no earlier than December 1, 1992. Mr. Lubcke's letter in response to the Motion was received on October 19, 1992.

Based upon respondent's Motion for a Continuance, and upon other information pertinent thereto, the board rules as follows:

NOW, THEREFORE, IT IS ORDERED that respondent's Motion for a Continuance is hereby granted in part, and further proceedings in this matter are hereby adjourned to November 19, 1992.

DISCUSSION

Because Mr. Augustine was not retained to represent Dr. Romani until October 9, 1992, it is appropriate that he be permitted some additional time to prepare for oral arguments before the board. The board does not consider it appropriate, however, to delay oral arguments until the board's December meeting, which is currently scheduled for December 16, 1992. Mr. Augustine is correct that these proceedings were initiated over two years ago, on July 16, 1990. Having now received the Proposed Decision, however, the board considers it important that there be no further delay beyond what should be necessary to prepare for oral argument. As was pointed out in Mr. Lubcke's letter of October 19, 1992, Mr. Augustine will have had something more than one month to prepare for argument with an adjournment until November 19.

Mr. Augustine is also correct that the record in this matter is voluminous. The board considers this fact to militate for earlier rather than later adjudication. Because the case was scheduled to be decided on October 21, it may be assumed that members of the board have already made themselves familiar with the record. It is reasonable to expect that a delay of one month in considering the matter will probably not require that board members spend substantial time in refreshing their recollections of the record. To delay consideration of the matter for two months, however, will without question require that members refamiliarize themselves with the record. And if the vagaries of Mid-December weather were to force a further delay, the cited problem would be further aggravated.

It is concluded that absent exigent circumstances, oral arguments in this matter must go forward in November.

Dated this 20th day of October, 1992.

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

by George W. Arndt, M.D.
George W. Arndt, M.D.
Chairman