



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Dennis P. Whalen
Executive Deputy Commissioner of Health
Anne F. Saile, Director
Office of Professional Medical Conduct
William J. Comiskey, Chief Counsel
Bureau of Professional Medical Conduct

William P. Dillon, M.D.
Chair
Denise M. Bolan, R.P.A.
Vice Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

February 10, 1999

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mark Scheier, M.D.
9526 Palermo Way
Cypress, California 90630

RE: License No. 136318

Dear Dr. Scheier:

Enclosed please find Order #BPMC 99-29 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 10, 1999**.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Steve Martino, Esq.
Madory, Zell & Pleiss
17822 East Seventeenth Street
Tustin, California 92780

Michael McTighe, Esq.

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
MARK SCHEIER, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #99-29

MARK SCHEIER, M.D., (Respondent) says:

That on or about October 20, 1978, I was licensed to practice as a physician in the State of New York, having been issued License No. 136318 by the New York State Education Department.

My current address is 9526 Palermo Way, Cyprus, CA 90630, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A".

I admit guilt to the specification, in full satisfaction of the charge against me. I hereby agree to the following penalty:

Suspension of my license to practice medicine in the State of New York until such time as the Division of Medical Quality, Medical Board of California certifies my full satisfaction of all terms and conditions of its Disciplinary Order dated May 19, 1998, a copy of which is annexed to Exhibit "A".

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent.

Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29) (McKinney Supp 1998).

I agree that in the event I am charged with professional misconduct in the

future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney, or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 1/18/99


MARK SCHEIER, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 12/23/98


STEVE MARTINO, ESQ.
Attorney for Respondent

DATE: 01/27/99.


MICHAEL J. MCTIGHE
Senior Attorney
Bureau of Professional
Medical Conduct

DATE: January 29, 1999


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
MARK SCHEIER, M.D.

CONSENT
ORDER

Upon the proposed agreement of MARK SCHEIER, M.D., for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 2/3/99


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
MARK SCHEIER, M.D. : CHARGES

-----X

MARK SCHEIER, M.D., the Respondent, was licensed to practice medicine in New York State on or about October 20, 1978, by the issuance of license number 136318 by the New York State Education Department. Respondent is not currently registered to practice medicine in New York State. Respondent's current address is 9526 Palermo Way, Cyprus, CA 90630.

FACTUAL ALLEGATIONS

A. By its Stipulated Settlement And Disciplinary Order dated March 6, 1998, copy annexed hereto, the Division of Medical Quality, Medical Board of California (hereinafter "the Medical Board"), revoked Respondent's license to practice medicine in California, stayed said revocation, and imposed probation upon Respondent for a period of four years subject to the terms and condition set forth in its Disciplinary Order. Said Disciplinary Order was based on Respondent's admission that the charges and allegations set forth in the Medical Board's Accusation No. 11-96-61601 were true and correct as follows:

(i) that Respondent violated California Business and

Exh. "A"

Professions Code Section 2234(c) by committing acts of negligence in his care, management and treatment of Patients C.C. and C.S.;

(ii) that Respondent violated California Business and Professions Code Section 2234(d) by committing acts of incompetence in his care, management and treatment of patients C.C. and C.S.;

(iii) that Respondent violated California Business and Professions Code Section 2234 in that he was unprofessional in his care, management and treatment of patients C.C. and C.S.;

(iv) that Respondent violated California Business and Professions Code Section 2266 by failing to keep accurate or complete records relating to the provision of services to Patients C.C. and C.S.

The conduct which Respondent was disciplined for in California would, if committed in New York State, constitute professional misconduct under N.Y.Educ.Law Sec. 6530 Subsections (3) [negligence on more than one occasion], (5) [incompetence on more than one occasion], and (32) [failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient].

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

DISCIPLINARY ACTION BY ANOTHER STATE

Respondent is charged with professional misconduct as defined in N.Y.Educ.Law Sec. 6530(9)(d) in that he had

disciplinary action taken against him by a duly authorized disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner alleges:

1. The facts of Paragraph A.

DATED: Albany, New York
December 15, 1998

Peter D. Van Buren

PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 KAREN B. CHAPPELLE (State Bar No. 141267)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8944
5
Attorneys for Complainant
6
7

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

11 In the Matter of the Accusation)	Case No. 11-96-61601
Against:)	
12)	OAH No. L-1997120247
13 MARK SCHEIER, M.D.)	Accusation No. 07-93-
19117 Bloomfield Avenue)	33341
14 Cerritos, California 90703)	
15 Physician and Surgeon's Certificate)	STIPULATED SETTLEMENT
No. A 36345,)	AND
)	DISCIPLINARY ORDER
16 Respondent.)	

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the
19 parties to the above-entitled proceedings that the following
20 matters are true:

21 1. An Accusation in case number 07-93-33341 was filed
22 with the Division of Medical Quality, of the Medical Board of
23 California Department of Consumer Affairs (the "Division") on
24 October 23, 1997 and is currently pending against Mark Scheier,
25 M.D. (the "respondent").

26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 October 3, 1997, and respondent filed his Notice of Defense
2 contesting the Accusation on or about November 11, 1997. A copy
3 of Accusation No. 07-93-33341 is attached as Exhibit "A" and
4 hereby incorporated by reference as if fully set forth.

5 3. Complainant, Ron Joseph, is the Executive Director
6 of the Medical Board of California and brought this action solely
7 in his official capacity. The Complainant is represented by the
8 Attorney General of California, Daniel E. Lungren, by and through
9 Deputy Attorney General Karen B. Chappelle.

10 4. At all times relevant herein, respondent has been
11 licensed by the Medical Board of California under Physician and
12 Surgeon's Certificate No. A 36345.

13 5. Respondent is represented in this matter by Steve
14 Martino, Esq., whose address is Madory, Zell and Pleiss, 17822 E.
15 Seventeenth Street, Suite 205, Tustin, California 92780 .

16 6. Respondent and his attorney have fully read and
17 discussed the charges contained in Accusation Number 07-93-33341.
18 Respondent has been fully advised regarding his legal rights and
19 the effects of this Stipulated Settlement and Disciplinary Order.

20 7. Respondent understands the nature of the charges
21 alleged in the Accusation and that, if proven at hearing, the
22 charges and allegations would constitute cause for imposing
23 discipline upon his Physician and Surgeon's Certificate.
24 Respondent is fully aware of his right to a hearing on the
25 charges contained in the Accusation, his right to confront and
26 cross-examine witnesses against him, his right to the use of
27 subpoenas to compel the attendance of witnesses and the

1 production of documents in both defense and mitigation of the
2 charges, his right to reconsideration, court review and any and
3 all other rights accorded by the California Administrative
4 Procedure Act and other applicable laws.

5 8. Respondent knowingly, voluntarily and irrevocably
6 waives and gives up each of these rights.

7 9. For the purpose of resolving Accusation No. 07-93-
8 33341, all of the charges and allegations contained in Accusation
9 No. 07-93-33341 shall be deemed admitted by respondent and shall
10 be deemed true and correct, thereby subjecting his Physician and
11 Surgeon's certificate to disciplinary action. Admissions made by
12 respondent herein are for purposes of this proceeding, for any
13 other disciplinary proceedings by the Division, and shall have no
14 force or effect in any other case or proceeding. Respondent
15 agrees to be bound by the Division's Disciplinary Order as set
16 forth below.

17 10. Based on the foregoing admissions and stipulated
18 matters, the parties agree that the Division shall, without
19 further notice or formal proceeding, issue and enter the
20 following order:

21
22 **DISCIPLINARY ORDER**

23 IT IS HEREBY ORDERED that Physician and Surgeon's
24 Certificate No. A 36345 issued to Mark Scheier, M.D. is revoked.
25 However, the revocation is stayed and respondent is placed on
26 probation for four years on the following terms and conditions.
27 Within 15 days after the effective date of this decision the

1 respondent shall provide the Division, or its designee, proof of
2 service that respondent has served a true copy of this decision
3 on the Chief of Staff or the Chief Executive Officer at every
4 hospital where privileges or membership are extended to
5 respondent or where respondent is employed to practice medicine
6 and on the Chief Executive Officer at every insurance carrier
7 where malpractice insurance coverage is extended to respondent.

8 1. P.A.C.E.

9 Respondent agrees that, within 60 days of the effective
10 date of this decision, he shall, at his own expense, enroll in
11 the Physician Assessment and Clinical Education Program at the
12 University of California, San Diego School of Medicine
13 (hereinafter, the "P.A.C.E Program"). The P.A.C.E. clinical
14 education program shall be at least three days and shall focus on
15 family practice and gynecology. The program should also include
16 appropriate patient chart documentation in the same context.
17 Upon successful completion of the program, respondent agrees to
18 cause the P.A.C.E. representatives to forward a Certification of
19 Successful Completion to the Division. Respondent shall be
20 completely prohibited from the practice of obstetrics until
21 completion of the P.A.C.E. program.

22 2. COMMUNITY SERVICES - FREE SERVICES Within 60 days of the
23 effective date of this decision, respondent shall submit to the
24 Division or its designee for its prior approval a community
25 service program in which respondent shall provide 120 hours of
26 free non-medical services on a regular basis during the first
27 year of probation.

1 3. ETHICS COURSE Within sixty (60) days of the
2 effective date of this decision, respondent shall enroll in a
3 course in Ethics approved in advance by the Division or its
4 designee, and shall successfully complete the course during the
5 first year of probation.

6 4. MONITORING Within thirty (30) days of the
7 effective date of this decision, respondent shall submit to the
8 Division or its designee for its prior approval a plan of
9 practice in which respondent's practice shall be monitored by
10 another physician in respondent's field of practice for six
11 months, who shall make periodic reports to the Division or its
12 designee.

13 If the monitor resigns or is no longer available,
14 respondent shall, within fifteen (15) days, move to have a new
15 monitor appointed, through nomination by respondent and approval
16 by the Division or its designee.

17 5. OBEY ALL LAWS Respondent shall obey all federal,
18 state and local laws, all rules governing the practice of
19 medicine in California, and remain in full compliance with any
20 court ordered criminal probation, payments and other orders.

21 6. QUARTERLY REPORTS Respondent shall submit
22 quarterly declarations under penalty of perjury on forms provided
23 by the Division, stating whether there has been compliance with
24 all the conditions of probation.

25 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent
26 shall comply with the Division's probation surveillance program.
27 Respondent shall, at all times, keep the Division informed of his

1 business and residence addresses which shall both serve as
2 addresses of record. Changes of such addresses shall be
3 immediately communicated in writing to the Division. Under no
4 circumstances shall a post office box serve as an address of
5 record.

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

10 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED
11 PHYSICIAN(S) Respondent shall appear in person for interviews
12 with the Division, its designee or its designated physician(s)
13 upon request at various intervals and with reasonable notice.

14 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
15 PRACTICE In the event respondent should leave California to
16 reside or to practice outside the State or for any reason should
17 respondent stop practicing medicine in California, respondent
18 shall notify the Division or its designee in writing within ten
19 (10) days of the dates of departure and return or the dates of
20 non-practice within California. Non-practice is defined as any
21 period of time exceeding thirty (30) days in which respondent is
22 not engaging in any activities defined in Sections 2051 and 2052
23 of the Business and Professions Code. All time spent in an
24 intensive training program approved by the Division or its
25 designee shall be considered as time spent in the practice of
26 medicine. Periods of temporary or permanent residence or
27 practice outside California or of non-practice within California,

1 as defined in this condition, will not apply to the reduction of
2 the probationary period.

3 10. COMPLETION OF PROBATION Upon successful completion
4 of probation, respondent's certificate shall be fully restored.

5 11. VIOLATION OF PROBATION If respondent violates
6 probation in any respect, the Division, after giving respondent
7 notice and the opportunity to be heard, may revoke probation and
8 carry out the disciplinary order that was stayed. If an
9 accusation or petition to revoke probation is filed against
10 respondent during probation, the Division shall have continuing
11 jurisdiction until the matter is final, and the period of
12 probation shall be extended until the matter is final.

13 12. COST RECOVERY The respondent is hereby ordered to
14 reimburse the Division the amount of \$7,500.00 payable as
15 follows: \$3,750 within ninety (90) days of the effective date of
16 this decision and \$3,750 ninety (90) days thereafter for its
17 investigative and prosecution costs. Failure to reimburse the
18 Division's cost of investigation and prosecution shall constitute
19 a violation of the probation order, unless the Division agrees in
20 writing to payment by an installment plan because of financial
21 hardship. The filing of bankruptcy by the respondent shall not
22 relieve the respondent of his responsibility to reimburse the
23 Division for its investigative and prosecution costs.

24 13. PROBATION COSTS Respondent shall pay the costs
25 associated with probation monitoring each and every year of
26 probation, which are currently set at \$2,304.00, but may be
27 adjusted on an annual basis. Such costs shall be payable to the

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the Division of Medical Quality, Medical Board of California
Department of Consumer Affairs.

DATED: March 6, 1998

DANIEL E. LUNGREN, Attorney General
of the State of California

Karen Chappelle
KAREN B. CHAPPELLE
Deputy Attorney General

Attorneys for Complainant

Exhibit: Accusation

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 KAREN B. CHAPPELLE, State Bar No. 141267
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8944
5 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *October 19 97*
BY *Mike Stone* ASSOCIATE

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

13 In the Matter of the Accusation) Case No. 11-96-61601 -
14 Against:)

15 **MARK SCHEIER, M.D.**) **ACCUSATION**
16 19115 Bloomfield Avenue)
17 Cerritos, California 90701)

18 Physician's and Surgeon's) **MEDICAL BOARD OF CALIFORNIA**
19 Certificate No. A 36345,)
20 Respondent.) I do hereby certify that
21 this document is true
22 and correct copy of the
23 original on file in this
24 office.

25 The Complainant alleges:

Nancy C. Garcia 9-30-98
SIGNED DATE

Assistant Custodian of Records
TITLE

26 **PARTIES**

27 1. Ron Joseph ("Complainant") brings this accusation
solely in his official capacity as the Executive Director of the
Medical Board of California (hereinafter the "Board").

2. On or about February 23, 1981, Physician and
Surgeon's Certificate No. A 36345 was issued by the Board to Mark
Scheier, M.D. (hereinafter "respondent"). At all times relevant to

1 the charges brought herein, this license has been in full force and
2 effect. Unless renewed, it will expire on May 31, 1998.
3 Dr. Scheier is not a supervisor of a physician's assistant.

4
5 **JURISDICTION**

6 3. This accusation is brought before the Division of
7 Medical Quality of the Medical Board of California, Department of
8 Consumer Affairs (hereinafter the "Division"), under the authority
9 of the following sections of the Business and Professions Code
10 (hereinafter "Code"):

11 A. Section 2227 of the Code provides that a
12 licensee who is found guilty under the Medical Practice Act
13 may have his license revoked, be suspended for a period not to
14 exceed one year, be placed on probation and required to pay
15 the costs of probation monitoring, or have such other action
16 taken in relation to discipline as the Division deems proper.

17 B. Section 2234 of the Code provides that
18 unprofessional conduct includes, but is not limited to, the
19 following:

20 (a) Violating or attempting to violate,
21 directly or indirectly, or assisting in or abetting the
22 violation of, or conspiring to violate, any provision of
23 this chapter.

- 24 (b) Gross negligence.
- 25 (c) Repeated negligent acts.
- 26 (d) Incompetence.
- 27 (e) The commission of any act involving

1 dishonesty or corruption which is substantially related
2 to the qualifications, functions, or duties of a
3 physician and surgeon.

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

6 C. Section 2266 provides:

7 "The failure of a physician and surgeon to maintain
8 adequate and accurate records relating to the provision
9 of services to their patients constitutes unprofessional
10 conduct."

11 D. Section 16.01 of the 1997/1998 Budget Act of
12 the State of California provides, in pertinent part, that:

13 "(a) No funds appropriated by this act
14 may be expended to pay any Medi-Cal claim for
15 any service performed by a physician while
16 that physician's license is under suspension
17 or revocation due to disciplinary action of
18 the Medical Board of California.

19 "(b) No funds appropriated by this act may be
20 expended to pay any Medi-Cal claim for any surgical
21 services or other invasive procedure performed on
22 any Medi-Cal beneficiary by a physician if that
23 physician has been placed on probation due to a
24 disciplinary action of the Medical Board of
25 California related to the performance of that
26 specific service or procedure on any patient,
27 except in any case where the board makes a

1 determination during its disciplinary process that
2 there exist compelling circumstances that warrant
3 continued Medi-Cal reimbursement during the
4 probationary period."

5 E. Section 125.3 of the Business and Professions
6 Code provides, in part, that the board may request the
7 administrative law judge to direct a licentiate found to have
8 committed a violation or violations of the licensing act to
9 pay a sum not to exceed the reasonable costs of the
10 investigation and enforcement of the case.

11

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Repeated Negligent Acts)**

14 4. Respondent Mark Scheier, M.D., is subject to
15 disciplinary action under section 2234, subdivision (c), of the
16 Business and Professions Code in that he committed repeated acts of
17 negligence in the prenatal care, treatment and management of
18 Patient "C.C.".^{1/} As a result, it was not known until late in the
19 pregnancy that the fetus was abnormal. The child was born with
20 spinal bifida. The circumstances are as follows:

21 **A. FACTS- PATIENT C.C**

22 (1) On or about January 7, 1994, 20 year-old patient C.C.
23 presented to respondent's office for her first prenatal visit.
24 Initial laboratory tests were done. The estimated date of
25

26 1. All patient references in this pleading are by initials
27 only. The true names of the patients shall be revealed to
respondent upon his request for discovery pursuant to Government
Code section 11507.6.

1 confinement for C.C. was September 23, 1994. During this initial
2 visit, the State mandated Alpha Fetoprotein (AFP) screening test
3 was not done.

4 (2) Patient C.C had office visits with respondent on
5 March 21, 1994 and April 13, 1994, at which AFP testing again was
6 not performed.

7 (3) On January 18, March 4, and June 10, 1994, respondent
8 performed ultrasound on C.C..

9 (4) The ultrasound performed by respondent, on March 4,
10 1994, indicated that the baby was small.

11 (5) The ultrasound performed by respondent on June 10,
12 1994 showed the fetus in a cephalic presentation.

13 (6) The ultrasound performed at La Palma Intercommunity
14 Hospital two weeks later, on June 25, 1994, found the baby to be
15 in breech presentation with neurotube defects.

16 (7) The neurotube defects included a myelomeningocele²
17 with a Chari II malformation and associated hydrocephalus.

18 **B. ACTS OF NEGLIGENCE- PATIENT C.C.**

19 (1) The respondent failed to properly evaluate the
20 patient's status and status of the fetus, despite repeated
21 ultrasound tests. Specifically, respondent failed to do the
22 following acts which, singularly and collectively, represent a
23 departure from the standard of care, including, but not limited to:

24

25

26 2. A congenital defect consisting of a saclike protrusion
27 of the brain and its membranes through a defect in the skull or
spinal column. (Stedman's Medical Dictionary, 25th Edition, 1990,
p. 943.)

1 (a) failing to obtain an AFP test on patient C.C during
2 her pregnancy, as mandated by California state law;

3 (b) failing to discuss and document any AFP counselling,
4 which also constitutes a violation of California state law;

5 (c) failing to diagnose the neurotube defect based on the
6 ultrasound performed in his office,

7 (d) failing to investigate the patient's small size for
8 date status, and

9 (e) failing to comply with state law regarding the AFP
10 test.

11 C. FACTS-PATIENT C.S.

12 (1) On or about May 13, 1991, Patient C.S. was
13 admitted to Doctor's Hospital of Lakewood for a trial of labor.
14 She had been treated prenatally by respondent.

15 (2) C.S. had a history of two previous cesarean
16 sections; the first for cephalopelvic disproportion, and the second
17 for an elective repeat;

18 (3) Based on discussions with respondent during
19 prenatal care, Patient C.S. elected to have a trial of labor, which
20 was induced by amniotome and later by pitocin augmentation;

21 (4) The first stage of labor proceeded normally;

22 (5) During the second stage of labor, fetal distress
23 ensued, which required an emergency cesarean section;

24 (6) At delivery, it was apparent that the uterus of
25 C.S. had been ruptured;

26 (7) The infant subsequently died.
27

1 D. ACTS OF NEGLIGENCE- PATIENT C.S.

2 (1) Respondent, Mark Scheier, M.D., failed to properly:

3 (a) obtain and maintain satisfactory prenatal
4 records of patient C.S. prior to her impending delivery;

5 (b) discuss the patient's care and obstetrical needs
6 with his consultant who would deliver the infant.

7
8 SECOND CAUSE FOR DISCIPLINE

9 **(Incompetence)**

10 5. Respondent, Mark Scheier, M.D., is subject to
11 disciplinary action to section 2234, subdivision (d), of the
12 Business and Professions Code in that he committed acts of
13 incompetence in the care, management and treatment of patients
14 C.C., and C.S..

15 The circumstances of this offense are more particularly
16 alleged in paragraph 4, subparagraphs A through D, inclusive,
17 above, and are incorporated herein by reference as though set forth
18 fully.

19
20 THIRD CAUSE FOR DISCIPLINE

21 **(Unprofessional Conduct)**

22 Respondent, Mark Scheier, M.D., is subject to
23 disciplinary action pursuant to section 2234 of the Business and
24 Professions Code in that he was unprofessional in his care,
25 treatment and management of patients C.S and C.C.

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

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that
this document is true
and correct copy of the
original on file in this
office.

Nancy C. Garcia 9-30-98
SIGNED DATE

Assistant Custodian of Records
TITLE

In the Matter of the
Accusation Against:

Mark Scheier, M.D.
Certificate # A-36345

Respondent.

File No: 11-96-61601

DECISION

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

This Decision shall become effective on June 18, 1998.

It is so ordered May 19, 1998.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Carole Hurvitz *CH*

Carole Hurvitz, M.D.
Chair
Panel B