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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 25, 20 14  
BY Jan K. McGlone ANALYST

**BEFORE THE  
BOARD OF PODIATRIC MEDICINE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
**THOMAS GRANT SHOCK, D.P.M.**  
1300 West Lodi Avenue, Suite W  
Lodi, California 95240  
Podiatrist License No. E 3241,  
Respondent.

Case No. 1B-2012-226841

**A C C U S A T I O N**

Complainant alleges:

**PARTIES**

1. James Rathlesberger (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine (Board).
2. On July 10, 1984, the Board issued Podiatrist License Number E 3241 to Thomas Grant Shock, D.P.M. (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2015, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1           4.     Section 2222 of the Code states the Board shall enforce and administer this article as  
2 to doctors of podiatric medicine. Any acts of unprofessional conduct or other violations  
3 proscribed by this chapter are applicable to licensed doctors of podiatric medicine and wherever  
4 the Medical Quality Hearing Panel established under Section 11371 of the Government Code is  
5 vested with the authority to enforce and carry out this chapter as to licensed physicians and  
6 surgeons, the Medical Quality Hearing Panel also possesses that same authority as to licensed  
7 doctors of podiatric medicine.

8           The California Board of Podiatric Medicine may order the denial of an application or issue  
9 a certificate subject to conditions as set forth in Section 2221, or order the revocation, suspension,  
10 or other restriction of, or the modification of that penalty, and the reinstatement of any certificate  
11 of a doctor of podiatric medicine within its authority as granted by this chapter and in conjunction  
12 with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373,  
13 and 11529 of the Government Code. For these purposes, the California Board of Podiatric  
14 Medicine shall exercise the powers granted and be governed by the procedures set forth in this  
15 chapter.

16           5.     Section 2234 of the Code states in pertinent part:

17                   "The Board shall take action against any licensee who is charged with  
18 unprofessional conduct. In addition to other provisions of this article, unprofessional  
19 conduct includes, but is not limited to, the following:

20                           “(a) Violating or attempting to violate, directly or indirectly, assisting in  
21 or abetting the violation of, or conspiring to violate any provision of this chapter  
22 [Chapter 5, the Medical Practice Act].

23                           “(b) Gross negligence.

24                           “(c) Repeated negligent acts. To be repeated, there must be two or more  
25 negligent acts or omissions. An initial negligent act or omission followed by a  
26 separate and distinct departure from the applicable standard of care shall constitute  
27 repeated negligent acts.

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1                   “(1) An initial negligent diagnosis followed by an act or omission  
2 medically appropriate for that negligent diagnosis of the patient shall constitute a  
3 single negligent act.

4                   “(2) When the standard of care requires a change in the diagnosis, act, or  
5 omission that constitutes the negligent act described in paragraph (1), including, but  
6 not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
7 licensee's conduct departs from the applicable standard of care, each departure  
8 constitutes a separate and distinct breach of the standard of care.”

9       6.     Section 2497 of the Code states:

10                   “(a) The board may order the denial of an application for, or the  
11 suspension of, or the revocation of, or the imposition of probationary conditions  
12 upon, a certificate to practice podiatric medicine for any of the causes set forth in  
13 Article 12 (commencing with Section 2220) in accordance with Section 2222.

14                   “(b) The board may hear all matters, including but not limited to, any  
15 contested case or may assign any such matters to an administrative law judge. The  
16 proceedings shall be held in accordance with Section 2230. If a contested case is  
17 heard by the board itself, the administrative law judge who presided at the hearing  
18 shall be present during the board's consideration of the case and shall assist and  
19 advise the board.”

20       7.     Section 2497.5 of the Code states:

21                   “(a) The board may request the administrative law judge, under his or her  
22 proposed decision in resolution of a disciplinary proceeding before the board, to  
23 direct any licensee found guilty of unprofessional conduct to pay to the board a sum  
24 not to exceed the actual and reasonable costs of the investigation and prosecution of  
25 the case.

26                   “(b) The costs to be assessed shall be fixed by the administrative law judge and  
27 shall not in any event be increased by the board. When the board does not adopt a  
28 proposed decision and remands the case to an administrative law judge, the

1 administrative law judge shall not increase the amount of any costs assessed in the  
2 proposed decision.

3 "(c) When the payment directed in the board's order for payment of costs is not  
4 made by the licensee, the board may enforce the order for payment by bringing an  
5 action in any appropriate court. This right of enforcement shall be in addition to any  
6 other rights the board may have as to any licensee directed to pay costs.

7 "(d) In any judicial action for the recovery of costs, proof of the board's  
8 decision shall be conclusive proof of the validity of the order of payment and the  
9 terms for payment.

10 "(e)(1) Except as provided in paragraph (2), the board shall not renew or  
11 reinstate the license of any licensee who has failed to pay all of the costs ordered  
12 under this section.

13 "(2) Notwithstanding paragraph (1), the board may, in its discretion,  
14 conditionally renew or reinstate for a maximum of one year the license of any  
15 licensee who demonstrates financial hardship and who enters into a formal agreement  
16 with the board to reimburse the board within one year period for those unpaid costs.

17 "(f) All costs recovered under this section shall be deposited in the Podiatry  
18 Fund as a reimbursement in either the fiscal year in which the costs are actually  
19 recovered or the previous fiscal year, as the board may direct."

20 8. Section 2472 of the Code states:

21 "(a) The certificate to practice podiatric medicine authorizes the holder to  
22 practice podiatric medicine.

23 "(b) As used in this chapter, "podiatric medicine" means the diagnosis,  
24 medical, surgical, mechanical, manipulative, and electrical treatment of the human  
25 foot, including the ankle and tendons that insert into the foot and the nonsurgical  
26 treatment of the muscles and tendons of the leg governing the functions of the foot.

27 "(c) No podiatrist shall do any amputation or administer an anesthetic other  
28 than local. If an anesthetic other than local is required for any procedure, the

1 anesthetic shall be administered by another health care practitioner licensed under this  
2 division, who is authorized to administer the required anesthetic within the scope of  
3 his or her practice.

4 "(d) Surgical treatment of the ankle and tendons at the level of the ankle may  
5 be performed by a doctor of podiatric medicine who was certified by the board on an  
6 after January 1, 1984.

7 "(e) Surgical treatment by a podiatrist of the ankle and tendons at the level of  
8 the ankle shall be performed only in the following locations:

9 "(1) A licensed general acute care hospital, as defined in Section 1250 of the  
10 Health and Safety Code.

11 "(2) A licensed surgical clinic, as defined in Section 1204 of the Health and  
12 Safety Code, if the podiatrist has surgical privileges, including the privilege to  
13 perform surgery on the ankle, in a general acute care hospital described in  
14 subparagraph (1) and meets all the protocols of the surgical clinic.

15 "(3) An ambulatory surgical center that is certified to participate in the  
16 Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal  
17 Social Security Act, if the podiatrist has surgical privileges, including the privilege to  
18 perform surgery on the ankle, in a general acute care hospital described in  
19 subparagraph (1) and meets all the protocols of the surgical center.

20 "(4) A freestanding physical plant housing outpatient services of a licensed  
21 general acute care hospital, as defined in Section 1250 of the Health and Safety Code,  
22 if the podiatrist has surgical privileges, including the privilege to perform surgery on  
23 the ankle, in a general acute care hospital described in paragraph (1). For purposes of  
24 this section, a "freestanding physical plant" means any building that is not physically  
25 attached to a building where inpatient services are provided.

26 "(f) The amendment of this section made at the 1983-84 Regular Session of the Legislature  
27 is intended to codify existing practice."  
28

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence)

3 9. Respondent is subject to disciplinary action under sections 2227 and 2234(b) of the  
4 Code in that he was grossly negligent in the care and treatment of patient B.L. The circumstances  
5 are as follows:

6 10. On or about January 4, 2011, patient B.L. first presented to Respondent's Lodi office  
7 complaining of right foot pain and an ingrown toenail of the great toe on her right foot.

8 Respondent noted in the patient chart palpable but diminished pulses in both feet.

9 11. Later, on November 1, 2011, patient B.L. returned to Respondent's office and was  
10 treated by Respondent's associate, Dr. S. B.L. had an infected ingrown great toenail on the left  
11 foot. The chart noted the patient had paronychia, an infection of the folds of tissue surrounding  
12 the toe. An incision and draining of the infected area was performed with surgical removal of the  
13 infected tissue. Local erythema, or swelling and redness of the medial border of the left great toe,  
14 was also noted. No vascular exam was recorded in the patient's chart. There was also no consent  
15 form for the procedure found in B.L.'s chart, nor a detailed description of the procedure.

16 12. On November 9, 2011, the patient complained of pain and redness in her toe and was  
17 prescribed the antibiotic, Keflex.

18 13. Respondent resumed treatment of the patient on November 14, 2011. Respondent's  
19 treatment notes indicate a matricectomy<sup>1</sup> had been performed on November 1, 2011. Respondent  
20 also noted there was persistent paronychia and more of the patient's toe nail was removed.  
21 Respondent did not obtain any cultures from the infected site and there is no vascular status of the  
22 foot or toes mentioned in the chart.

23 14. On November 16, 2011, Respondent prescribed the antibiotic Cipro for the patient but  
24 again no cultures of the infected toe were obtained.

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27 <sup>1</sup> A matricectomy is the removal of an underlying section of a toenail, referred to as the  
28 nail matrix, using a chemical or an electrosurgical method. The entire matrix or only a piece of it  
could be excised.

1           15. On November 21, 2011, the patient's toe was still red, swollen, and had some  
2 drainage. Respondent suspected MRSA<sup>2</sup> and prescribed the antibiotics Septra and Rifampin.  
3 Again, no cultures were obtained at that time.

4           16. On December 5, 2011, Respondent finally took cultures from the patient's toe due to  
5 the continued redness and drainage. On December 12, 2011, the patient was given an antifungal  
6 medication as testing of the cultures revealed a fungus was present. The chart note indicated the  
7 patient had had a bone scan ordered by her primary care physician that was negative for  
8 osteomyelitis, an infection of the bone most often caused by bacteria.

9           17. The wound was re-cultured and Respondent advised B.L. to go to the emergency  
10 department at Lodi General Hospital for IV antibiotics. B.L. went, but she was not admitted as  
11 the emergency department physician did not think admission was indicated.

12           18. On December 27, 2011, handwritten notes in the patient chart from respondent's  
13 associate, Dr. S. indicate that B.L.'s entire nail was removed, the wound had dead tissue at its  
14 base (necrotic). The toe was cool and was questionable for Raynaud's, which is a disease causing  
15 an interruption of blood flow to the affected area.

16           19. On December 30, 2011, the antifungal medication was refilled and the patient was  
17 prescribed Trental, a medication intended to increase blood flow to the toe. Chart notes indicate a  
18 vascular surgeon was consulted.

19           20. Over the next month, several injections, including nerve blocks, were given the  
20 patient in her toe, foot and even ankle, to relieve pain. Hallux blocks, which are nerve blocks of  
21 the great toe using the anesthetic Marcaine, were given every day from January 1 to 4, 2012.

22           21. On January 30, 2012, an injection of anesthesia directed to the patient's forefoot  
23 (Mayo block), was given and it was noted that there was a large area of necrosis due to defective  
24 blood supply (dysvascular) to that area of the patient's foot, and daily injections of pain  
25

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26           <sup>2</sup> MRSA stands for Methicillin-resistant Staphylococcus aureus, an infection caused by a  
27 strain of staph bacteria that has become resistant to the antibiotics commonly used to treat  
28 ordinary staph infections.

1 medication were recommended. B.L. had daily hallux block injections from January 31 to  
2 February 2, 2012. No change in appearance of the toe was noted in the patient's chart.

3 22. On February 6, 2012, the patient's chart note indicates she was being treated at a  
4 wound center and was given prescriptions for pain medications. Between February 6 to  
5 February 12, 2012, the patient received daily injections of pain medication in the big toe.

6 23. On February 11, 2012, the chart noted that the patient had another vascular surgery  
7 consult, and the results were normal.

8 24. On February 15, 2012, Respondent's notes for the patient state there was bone  
9 exposed in the wound and Respondent recommended amputating the toe. Between February 17  
10 and 20, 2012, B.L. received daily injections of pain medications in the toe.

11 25. On February 24, 2012, Respondent performed a partial hallux amputation of the great  
12 toe at the surgery center in Lodi. On February 25, 2012, the patient returned to Respondent's  
13 office for a hallux block for pain control.

14 26. On February 27, 2012, Respondent noted in the chart that the amputation site was  
15 healing well and he gave the patient another hallux block. The patient had hallux injections for  
16 pain on February 28, March 1, and March 6.

17 27. Respondent's note on March 1, 2012, stated there was not complete vascularity to the  
18 patient's toe. On March 2, 2012, Respondent noted in the chart that skin flap covering the  
19 amputation site was dusky. Pathology results showed osteomyelitis and the patient was referred  
20 to the University of California at Davis Medical Center at her request.

21 28. On March 12, 2012, Respondent noted the skin flap was necrotic and Respondent  
22 intended to schedule a more proximal<sup>3</sup> amputation. That is the last chart note entered by  
23 Respondent for patient B.L. On March 29, 2012, the patient underwent a trans metatarsal  
24 amputation in which half of her foot was surgically removed.

25 29. Respondent's care and treatment of patient B.L., as described above, constitutes gross  
26 negligence as follows:

27 <sup>3</sup> Proximal in this context signifies a further amputation of tissue closer to the midline of  
28 the body.



1 A. It is standard of care to obtain wound cultures promptly if the wound is not  
2 responding to an initial course of antibiotics and infection is suspected.

3 B. Respondent started antibiotics for this patient on November 9, 2011, which was  
4 eight days after her surgery. Respondent did not obtain cultures of the potentially infected toe.

5 C. On November 16, 2011, there was no improvement and Respondent prescribed  
6 additional antibiotics because the toe was not healing. Still, Respondent failed to obtain cultures  
7 of the infected area.

8 D. On November 21, 2011, the toe was still red and swollen with very little  
9 drainage and Respondent suspected MRSA. Respondent changed the antibiotics prescribed but  
10 he still failed to obtain cultures.

11 E. On December 5, 2011, Respondent finally obtained cultures which revealed  
12 fungus and skin bacteria.

13 F. It was an extreme departure from the standard of care for Respondent to delay  
14 in obtaining wound cultures for a suspected infection that was not improving with antibiotics.

15 30. Respondent's care and treatment of patient B.L., as described above, constitutes gross  
16 negligence and is unprofessional conduct in violation of sections 2227 and 2234 (b) of the Code  
17 thereby providing cause for discipline to Respondent's license.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Gross Negligence)

20 31. Respondent is subject to disciplinary action under sections 2227 and 2234(b) of the  
21 Code in that he was grossly negligent in the care and treatment of patient B.L. The circumstances  
22 are as follows:

23 32. Paragraphs 9 through 28 above, are repeated here as if fully set forth.

24 33. Respondent's care and treatment of patient B.L., as described above, constitutes gross  
25 negligence as follows:

26 A. Respondent inappropriately used local anesthetic blocks to the patient's first  
27 metatarsal to provide vasodilation and improve circulation which is an extreme departure from  
28 the standard of care.

1 B. Respondent inappropriately treated the patient with local anesthesia nerve  
2 blocks for pain control to the patient's toe and foot on almost a daily basis for several weeks  
3 which constitutes an extreme departure from the standard of care.

4 34. Respondent's care and treatment of patient B.L., as described above, constitutes gross  
5 negligence and is unprofessional conduct in violation of sections 2227, and 2234 (b) of the Code  
6 thereby providing cause for discipline to Respondent's license.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Repeated Negligent Acts)

9 35. Respondent is subject to disciplinary action under sections 2227 and 2234(c) of the  
10 Code in that he committed acts of repeated negligence in the care and treatment of patient B.L.  
11 The circumstances are as follows:

12 36. Paragraphs 9 through 34, above, are repeated here as if fully set forth.

13 37. Respondent's care and treatment of patient B.L., as described above, constitutes  
14 repeated acts of negligence as follows:

15 A. It is standard of care to obtain wound cultures promptly if the wound is not  
16 responding to an initial course of antibiotics and infection is suspected. Respondent started  
17 antibiotics for this patient on November 9, 2011, which was eight days after her surgery;  
18 however, Respondent did not obtain cultures of the potentially infected toe.

19 B. On November 16, 2011, Respondent prescribed additional antibiotics because  
20 the patient's toe was not healing. Still, Respondent failed to obtain cultures of the infected area.  
21 On November 21, 2011, the toe was still red and swollen with very little drainage and Respondent  
22 suspected that the patient had a serious MRSA infection. Respondent changed the antibiotics  
23 prescribed but he still failed to obtain cultures of the infected site. Respondent failed to obtain  
24 cultures until December 5, 2011, which upon examination revealed fungus and skin bacteria.

25 C. Respondent inappropriately gave local anesthetic blocks to the patient's first  
26 metatarsal for the purpose of providing vasodilation and improve circulation.

27 D. Respondent excessively and inappropriately treated the patient for pain with  
28 local anesthesia blocks to her toe and foot on almost a daily basis for several weeks.

1 E. Respondent failed to perform or document a comprehensive vascular  
2 examination of the patient's foot upon initial treatment even though an examination a year earlier  
3 had noted diminished pulses in the patient's foot which indicated that blood circulation to that  
4 area was compromised.

5 F. Respondent's treatment notes were incomplete and failed to document  
6 examinations performed and full descriptions of procedures.

7 38. Respondent's care and treatment of patient B.L., in any two or more instances as  
8 described above, constitutes repeated acts of negligence and is unprofessional conduct in  
9 violation of sections 2227 and 2234(c) of the Code and thereby provides cause for discipline to  
10 Respondent's license.

11 **PRAYER**

12 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Podiatric Medicine issue a decision:

14 1. Revoking or suspending Podiatrist License Number E 3241, issued to Thomas Grant  
15 Shock, D.P.M.;

16 2. Ordering him to pay the Board of Podiatric Medicine the reasonable costs of the  
17 investigation and enforcement of this case, pursuant to Business and Professions Code section  
18 2497.5; and,

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: April 25, 2014

  
21 JAMES RATHLESBERGER  
22 Executive Officer  
23 Board of Podiatric Medicine  
24 Department of Consumer Affairs  
25 State of California

*Complainant*

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