

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

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WEST VIRGINIA  
STATE ARCHIVES

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: WV Board of Medicine TITLE NUMBER: 11

CITE AUTHORITY West Virginia Code § 30-3-7(a)(1)

AMENDMENT TO AN EXISTING RULE: YES  NO

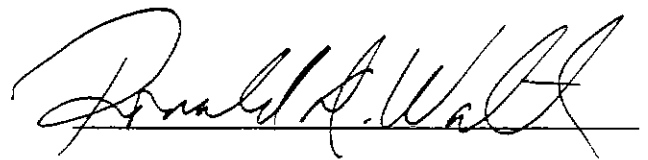
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1A

TITLE OF RULE BEING AMENDED: Licensing, Disciplinary and  
Complaint Procedures: Physicians, Podiatrists

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_  
\_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



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MAR 25 1992

Legislative Rule Making  
Review Committee



# State of West Virginia

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**Thomas S. Clark, M.D.**  
Morgantown

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Huntington

**Jesus Tan Ho, M.D.**  
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**WEST VIRGINIA BOARD OF MEDICINE**  
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Wheeling

**Mrs. Lydia Winfrey**  
Princeton

The Board proposes to remove a rule (see p. 24) specifying that it is unprofessional conduct to use chelation therapy for diseases other than acute hypercalcemia, lead poisoning, and intoxications caused by some other heavy metals.

The Board has substituted another rule for the removed rule, (see p. 24) pertaining to disciplining a practitioner who fails to meet the standard of practice in connection with any supervisory and/or collaborative agreement with any category of health practitioner. The Board must be able to discipline physicians and podiatrists who do not meet their obligations in this regard so that citizens receive proper care and treatment, and at present there is no mechanism for the Board to do this.

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<b>PRESIDENT</b> <b>Eliza Carrison, M.D.</b> Pineville	<b>VICE PRESIDENT</b> <b>Thomas Harward, P.A.-C.</b> Beington	<b>SECRETARY</b> <b>William T. Wallace, Jr., M.D., M.P.H.</b> Charleston	<b>COUNSEL</b> <b>Deborah Lewis Rodecker</b> Charleston	<b>EXECUTIVE DIRECTOR</b> <b>Ronald D. Walton</b> Charleston
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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Licensing, Disciplinary and Complaint Procedures, Physicians; Podiatrists

Type of Rule: X Legislative          Interpretive          Procedural

Agency West Virginia Board of Medicine Address 101 Dee Drive

Charleston, West Virginia 25311

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

No increase in state funding will be needed.

3. Objectives of these rules: To amend the rules by deleting one rule which has resulted in distressing many West Virginia citizens who believe they are being denied treatment which is helping them, and by substituting another rule in its place permitting the Board to discipline a practitioner for failing to meet the standard of care with respect to a collaborative and/or supervisory agreement with any category of health care practitioner.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Governments.

No change

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

No change

C. Economic Impact on Citizens/Public at Large.

No change

Date: January 22, 1992

Signature of Agency Head or Authorized Representative

Ronald D. Wolf

DATE: March 25, 1992

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Board of Medicine

LEGISLATIVE RULE TITLE: Licensing, Disciplinary and Complaint Procedures:  
Physicians, Podiatrists

1. Authorizing statute(s) citation \_\_\_\_\_

West Virginia Code §30-3-7(a)(1)

2. a. Date filed in State Register with Notice of Hearing:

January 22, 1992

b. What other notice, including advertising, did you give of the hearing?

Notice of comment period given, (see attached) and

letters sent to interested parties who had participated

in Board hearings on Chelation Therapy in December, 1991, and

January, 1992. (See attached)

c. Date of hearing(s): Comment period ended March 6, 1992

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

March 25, 1992

f. Name and phone number(s) of agency person(s) to contact for additional information:

Ronald D. Walton 348-2921

\_\_\_\_\_  
\_\_\_\_\_

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

n/a

b. Date of hearing: \_\_\_\_\_

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

n/a

d. Attach findings and determinations and reasons:

Attached \_\_\_\_\_

WEST VIRGINIA LEGISLATIVE RULES  
WEST VIRGINIA BOARD OF MEDICINE  
CHAPTER 30-3  
SERIES IA

FILED  
1992 MAR 25 10:15  
SECRETARY OF STATE

**TITLE:** Licensing, Disciplinary and Complaint Procedures:  
Physicians; Podiatrists.

**S11-1A-1. General.**

- 1.1. Scope. -- West Virginia Code §30-3-7(1)(a) authorizes the Board of Medicine to promulgate rules which are necessary to perform the duties and responsibilities of the Board.
- 1.2. Authority. -- West Virginia Code §30-3-7(a)(1).
- 1.3. Filing Date. --
- 1.4. Effective Date. --
- 1.5. Repeal of former rule. -- These legislative rules amend 11 CSR 1A "Licensing, Disciplinary and Complaint Procedures: Physicians; Podiatrists.", legislative rules that were filed on April 4, 1991, and became effective on July 1, 1991.

**S11-1A-2. Application And Enforcement.**

These legislative rules implement the West Virginia Medical Practice Act, West Virginia Code §30-3-1 et seq.

**S11-1A-3. Definitions Applicable To All Board of Medicine Regulations.**

- (a) ACGME -- The Accreditation Council of Graduate Medical Education.
- (b) Adjudicatory hearing. -- A formal administrative hearing before the Board or designated hearing examiner, conducted to determine the truth and validity of complaints filed against a licensee. An adjudicatory hearing may result in disciplinary action including, but not limited to, suspension

or revocation of a licensee's license, reprimand, censure or other limitation, including probation, on a licensee's practice.

- (c) **Affiliate.** -- A member of a group of two (2) or more fully accredited health care institutions legally united by an agreement of affiliation, conceived to enhance the potential of all participants in the provision of health care and medical education
- (d) **AMA.** -- The American Medical Association.
- (e) **APMA.** -- The American Podiatric Medical Association.
- (f) **Board.** -- The West Virginia Board of Medicine, established in West Virginia Code §30-3-5.
- (g) **Crimes involving moral turpitude.** -- Those crimes which have dishonesty as a fundamental and necessary element; including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud or misrepresentation.
- (h) **Department.** -- The West Virginia Department of Health.
- (i) **ECFMG.** -- The Educational Commission for Foreign Medical Graduates.
- (j) **FLEX.** -- The Federation of State Licensing Boards Examination.
- (k) **Gender of pronouns.** -- The use of the word "He" in these regulations shall include the feminine gender.
- (l) **LCME.** -- The Liaison Committee on Medical Education.
- (m) **NBME.** -- The National Board of Medicine Examiners.
- (n) **Number.** -- Words in these regulations importing the singular include the plural, and words in these regulations importing the plural include the singular.

- (o) Order to show cause. -- A paper served by the Board upon a registrant ordering the person to appear before the Board for an adjudicatory proceeding.
- (p) PMLexis. -- Podiatric Medical Licensing Examination for States
- (q) Probation. -- Imposing such conditions and requirements upon a licensee for a period of time that the Board, in its discretion, determines to be justified under any provision of law. A licensee placed on probation shall be permitted to continue to practice subject to limitations imposed by the Board, including the requirements that the licensee appear before the Board, or an officer or agent thereof, at such times and places as are designated by the Board. A licensee may be placed on probation without a previous or concurrent suspension or revocation of his or her license.
- (r) SPEX. -- Special Purpose Examination of the Federation of State Medical Boards.
- (s) West Virginia Medical Practice Act - West Virginia Code §30-3-1 et seq.

**§11-1A-4. Qualification and Application For A License To Practice Medicine And Surgery.**

- 4.1. An application for a license to practice medicine and surgery shall be completed on a form provided by the Board. The application shall be completed in full with all required supporting documents received by the Board not later than fifteen (15) days prior to the Board's consideration of such application.
- 4.2. An application for a license to practice medicine and surgery shall include the following:
  - (a) A photograph taken within the previous twelve (12) months which substantially resembles the applicant;

- (b) Evidence of graduation from a medical school approved by the LCME or by the Board;
- (c) A sworn and notarized statement on a form provided by the Board from another physician stating that the applicant is of good moral character;
- (d) Evidence of completion of one (1) year of postgraduate clinical training approved by the ACGME;
- (e) A nonrefundable cashier's check or money order payable to the Board in an amount established by the Board under Board regulations 11 CSR 4; and
- (f) Any other documents as may be required by the Board under sections 8.1 of this rule.

4.3. An applicant for a license to practice medicine and surgery shall be required to obtain a passing score on the FLEX. For those applicants who did not take the two (2) component FLEX program, a passing score shall consist of a weighted average score of seventy-five percent (75%) or better obtained in one sitting. For those applicants taking the two (2) component FLEX program, a passing score shall consist of seventy-five (75) or better on component one of the FLEX and seventy-five (75) or better on component two of the FLEX. A weighted average score of the two (2) component FLEX program shall not be used by the Board in the determination of a passing score. Any applicant who passes either component one or component two of the FLEX, but not both, shall be required to retake only the component upon which the applicant did not obtain a passing score to be eligible for licensure. An applicant must obtain a passing score of seventy-five (75) or better on both components before the elapse of seven (7) consecutive years. Failure to obtain a passing score on both components before the elapse of seven (7) consecutive years shall render the applicant ineligible for licensure.

- 4.4. The Board (or a majority of them) shall accept the certificate of the NBME, in lieu of a passing score on the FLEX. The Board (or a majority of them) may also accept successful passage of a State Board Examination in lieu of the certificate of the NBME or a passing score on the FLEX. An applicant relying on the certificate of the NBME shall request certification of scores from the NBME on forms provided by the Board.
- 4.5. All applicants for a license to practice medicine and surgery shall demonstrate their ability to communicate in the English language to the satisfaction of the Board.
- 4.6. An applicant for a license to practice medicine and surgery who is a graduate of a school of medicine located outside the United States, the Commonwealth of Puerto Rico or Canada, shall also provide evidence of certification by the ECFMG or of receipt of a passing score on the examination of the ECFMG and proof of successful completion of a total of three (3) years of postgraduate clinical training in a program approved by the ACGME.
- 4.7. An applicant shall arrange for a personal interview with a member of the Board prior to the meeting at which his or her application will be considered. Any applicant may be required to appear before the Board at the meeting at which his or her application is to be considered. The purpose of such interview or required attendance at a Board meeting is to verify the existence and the identity of all required documents and information and to enable the Board to clarify information contained in the application. The Board may require production of original documents at such interview or required attendance at a Board meeting.
- 4.8. The application, together with all photocopied documents submitted therewith, shall become the property of the Board and shall not be returned.

- 4.9. The burden of satisfying the Board of the applicant's qualifications for licensure shall be upon the applicant.
- 4.10. Subject to the provision in and implementation of section 10.1 of this rule pertaining to one-half of the licensees renewing for a one year period in nineteen hundred and ninety one, a license to practice medicine and surgery in this state shall be valid for a term of two (2) years and shall be renewed upon the receipt of a nonrefundable fee, as established by the Board, together with an application provided by the Board: Provided, That an initial license shall expire on the thirtieth day of June of the ensuing year established by the Board for renewal.
- 4.11. The Board may renew, on an inactive basis, the license of a physician who is currently licensed to practice medicine and surgery, but who is not actually practicing medicine and surgery in this State. A physician holding an inactive license shall not practice medicine and surgery in this State, but such inactive license may be converted by the Board to an active license, upon request of the physician to the Board, provided that the period of inactivity is accounted for to the satisfaction of the Board. An inactive license may be obtained upon receipt of a nonrefundable fee, as established by the Board under Board regulations 11 CSR 4 and submission of an application on forms provided by the Board. Subject to the provision in and implementation of section 10.1 of this rule pertaining to one-half of the licensees renewing for a one year period in nineteen hundred and ninety one, an inactive license shall be valid for a term of two (2) years, and shall be renewable.

**§11.1A.5. Application Required For Examination - Federation Of Licensing Boards Examination (FLEX).**

- 5.1. The FLEX shall be administered each June and December by the Board in Charleston, West Virginia.

- 5.2. An application for the FLEX shall be completed on a form provided by the Board. The Application shall be completed in full prior to the examination.
- 5.3. An application for the FLEX must be received by the Board not later than ninety (90) days prior to the date of examination.
- 5.4. An application to take the FLEX shall include the following:
- (a) Evidence of graduation from a medical school approved by the LCME or by the Board;
  - (b) Two (2) photographs taken within the previous twelve (12) months which substantially resemble the applicant's appearance at the time the examination is to be given;
  - (c) A sworn and notarized statement on a form provided by the Board from another physician stating that the applicant is of good moral character;
  - (d) Evidence of certification by or receipt of a passing score on the examination of the ECFMG, where applicable;
  - (e) A nonrefundable cashier's check or money order payable to the Board in an amount as established by the Board under Board regulations 11 CSR 4; and
  - (f) Any other documents as may be required by the Board.
- 5.5. The application, together with all photocopied documents submitted therewith, shall become the property of the Board and shall not be returned.
- 5.6. Procedures for each examination shall be provided to each approved applicant at least fifteen (15) days prior to such examination.

5.7. Applicants to take the FLEX who have taken and who have failed the FLEX in West Virginia on two (2) or more occasions must prepare and submit to the Board a detailed plan of study designed to improve the applicant's competence to practice medicine and surgery before the applicant shall be permitted to take the examination again. The applicant's plan of study shall be verified by proof of enrollment in a course of study, or other such information as would be accepted by a reasonable person as demonstration of a concerted effort by the applicant to adequately prepare the applicant to pass the examination. The Board shall approve all plans of study.

**S11-1A-6. Qualification For The Issuance Of A License To Practice Medicine And Surgery By Reciprocal Endorsement.**

- 6.1. An applicant for a license to practice medicine and surgery by reciprocal endorsement from another state, the District of Columbia, Canada or the Commonwealth of Puerto Rico, shall provide proof of licensure in such jurisdiction under licensure requirements substantially similar to those existing in this State, and proof that he or she has the requisite qualifications to provide the same standard of care as a physician initially licensed in this State. These requirements and qualifications are specifically enumerated in this section below.
- 6.2. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide evidence of graduation from a medical school approved by the LCME or by the Board.
- 6.3. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide proof of successful completion of at least one (1) year of postgraduate clinical training in a program approved by the ACGME.
- 6.4. An applicant for a license to practice medicine and surgery by reciprocal endorsement who is a graduate of a medical school located outside of the United States, Canada, or the Commonwealth of Puerto Rico shall also provide evidence of

certification by the ECFMG or receipt of a passing score on the examination of the ECFMG and proof of successful completion of a total of three (3) years of postgraduate clinical training in a program approved by the ACGME.

- 6.5. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide proof of passage of the FLEX, which scores must meet the requirements established in Section 4.3 of these regulations. The Board (or a majority of them) shall accept in lieu of the FLEX the certificate of the NBME in lieu of a passing score on the FLEX. The Board (or a majority of them) may also accept successful passage of a State Board Examination in lieu of the certificate of the NBME or a passing score on the FLEX.
- 6.6. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide a sworn and notarized statement from another physician that the applicant is of good moral character.
- 6.7. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall provide a statement that the physician is in good standing in each jurisdiction in which he or she is licensed, and that he or she has had no medical disciplinary action taken against him or her and has no medical disciplinary action pending against him or her.

**S11-1A-7. License To Practice Medicine And Surgery By Reciprocal Endorsement; Application Required.**

- 7.1. An application for a license to practice medicine and surgery by reciprocal endorsement shall be completed on forms provided by the Board. All parts of the application shall be completed in full with all required supporting documents received by the Board not later than fifteen (15) days prior to consideration by the Board.

- 7.2. An applicant shall arrange for a personal interview with a member of the Board prior to the meeting during which his or her application is to be considered and the Board may require an applicant's attendance at a Board meeting. The purpose of such interview or required attendance at a Board meeting is to verify the existence and the identity of all required documents and information and to enable the Board to clarify any information contained in the application. The Board may require production of original documents at such interview or required attendance at a Board meeting.
- 7.3. An applicant shall have available for review by a Board member, or by the Board, if the applicant appears at the meeting, the following original documents:
- (a) Medical school diploma;
  - (b) ECFMG certificate, if applicable;
  - (c) A document attesting to the successful completion of the required minimum postgraduate clinical training;
  - (d) A certified copy of the scores attained by the applicant on the FLEX, which scores must meet the requirements established in Section 4.3. of these regulations;
  - (e) A sworn and notarized statement on a form provided by the Board from another physician stating that the applicant is of good moral character, and is physically and mentally capable of engaging in the practice of medicine and surgery;
  - (f) A statement that the physician is in good standing in each jurisdiction in which he or she is licensed to practice and that he or she has no medical disciplinary actions pending; and
  - (g) Such other documents as may be required by the Board.

- 7.4. An applicant for a license to practice medicine and surgery by reciprocal endorsement shall also provide photocopies of all documents presented to the Board. Such photocopies shall be attached to the application and made a part thereof. The application, together with all photocopied documents submitted therewith, shall become the property of the Board and shall not be returned.
- 7.5. An applicant for licensure to practice medicine and surgery by reciprocal endorsement shall pay by cashier's check or money order payable to the Board a nonrefundable fee in an amount established by the Board under Board regulations 11 CSR 4.
- 7.6. An applicant for a license to practice medicine and surgery by reciprocal endorsement whose application is complete may request a temporary license to practice until the next regular meeting of the Board, by meeting the qualifications of the Board, by paying an additional nonrefundable fee in an amount established by the Board under Board regulations 11 CSR 4 and by appearing before a member of the Board for a personal interview.
- 7.7. An applicant for a license to practice medicine and surgery by reciprocal endorsement has the burden of demonstrating to the satisfaction of the Board that the applicant has the requisite qualifications of a physician initially licensed in the State.

**§11-1A-8. Application Forms and Processing.**

- 8.1. Application forms for licenses shall include, but not be limited to, requirements for the following information:
  - (a) An AMA biographical printout;
  - (b) A Federation of State Licensing Boards derogatory information sheet regarding other state Board actions;

- (c) A list of all states where the physician has held and holds a medical license, even if such medical license is not active;
- (d) A list of all hospitals where the physician has had privileges in the last five (5) years;
- (e) A list of all state and county medical societies where the physician is currently practicing, whether or not he or she is a member;
- (f) The applicant's medical school;
- (g) A list of all training programs, including postgraduate;
- (h) The state from which the physician is requesting endorsement, with specific reference to that state's examination and grades;
- (i) A copy of the individual's birth certificate, passport or baptismal, to be used in identifying the applicant and the appropriate spelling of his or her name;
- (j) A copy of a marriage license, divorce decree or court order, to document any name change; and
- (k) The place and date of the applicant's birth.

8.2. In the event the staff finds derogatory information during the processing of an application, such information shall be presented to the Board for its review and determination as to whether an individual should be scheduled for an interview during a regular Board meeting or if the staff should obtain additional information.

8.3. It shall be the applicant's responsibility to mail necessary forms to selected institutions for response to the Board.

- 8.4. Completed verification forms shall be mailed directly from selected institutions to the Board and not from the applicant.
- 8.5. The Board reserves the right to obtain additional information through oral or written examinations, psychiatric evaluation, physical examination or other tests as may be necessary to determine the competency of the applicant.
- 8.6. The Board reserves the right to require applicants to take the SPEX or an oral competency examination in their field of practice prior to issuing a license, whenever the Board considers it necessary.

**§11-1A-9. Examinations.**

- 9.1. An applicant for a license who requires a written examination shall be required to take the FLEX, the SPEX, or such other examination as the Board may require. The FLEX and SPEX will be administered by the Board in accordance with instructions and directions issued by the NEME/FLEX and NEME/SPEX.
- 9.2. The conduct of FLEX and SPEX examinees shall be governed by written guidelines issued by the NEME/FLEX and NEME/SPEX.

**§11-1A-10. License Renewals; Renewal Application Form.**

- 10.1. A license shall be renewed every two (2) years, as of the first day of July of the year, upon timely submission of a fully completed renewal application form and payment of a nonrefundable renewal fee in an amount established by the Board under Board regulations 11 CSR 4: Provided, that in 1991 the Board may renew one-half the licenses at one-half the biennial renewal fee for a one (1) year period, in order to establish a system of biennial renewal wherein each year one-half the licenses are renewed for a two (2) year period. Forms shall be mailed to each known licensee at his or her last known address. It is the responsibility of the licensee to inform the Board

of the licensee's correct address and of any change of address. It is the responsibility of the licensee to acquire and submit renewal application forms. Failure of the licensee to receive a renewal form will not constitute justification for any physician to practice on an expired license. An expired license is not considered a valid license.

10.2. Subject to the provision in and implementation of section 10.1 of this rule pertaining to one-half the licensees renewing for a one (1) year period in 1991, the Board's renewal application form shall include, at a minimum, a request for the following information:

- (a) The applicant's name, date of birth, home and principal business addresses and telephone numbers;
- (b) Personal characteristics of the applicant, such as sex and race;
- (c) A statement of the applicant's medical training and work experience;
- (d) A statement concerning any disciplinary action taken against the applicant in the last two (2) years;
- (e) A statement concerning any civil litigation related to the practice of medicine or any criminal litigation commenced against the applicant within the last two (2) years;
- (f) A statement describing an applicant's present ability to possess or dispense controlled substances; and
- (g) A statement of all other jurisdictions in which the applicant is licensed to practice medicine.
- (h) The number of malpractice settlements made or judgements against the applicant in the last two (2) years.

- (i) Any treatment received for mental illness, chemical substance or alcohol dependency in the last two (2) years.
- (j) Any limitation of hospital privileges in the last two (2) years.

**§11-1A-11. License Exemptions.**

- 11.1. In addition to exemptions provided by law, no license shall be required of any duly licensed nonresident physician or podiatrist who participates in a continuing medical or podiatric education course within the State.
- 11.2. Duly licensed physicians in another state may transmit medical instructions by radio to personnel in this State in emergency situations.

**§11-1A-12. Causes For Denial, Probation, Limitation, Discipline, Suspension Or Revocation of Licenses of Physicians and Podiatrists.**

- 12.1. The Board may deny an application for a license, place a licensee on probation, suspend a license, limit or restrict a license or revoke any license heretofore or hereafter issued by the Board, upon satisfactory proof that the licensee has:
  - (a) Knowingly made, or presented or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other material in connection with an application for a license;
  - (b) Been or is involved in fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license;
  - (c) Become addicted to a controlled substance;
  - (d) Become a chronic or persistent alcoholic;
  - (e) Engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof;

- (f) Willfully violated a confidential communication;
- (g) Had his or her license to practice medicine or podiatry in any other state, territory, jurisdiction or foreign nation revoked, suspended, restricted or limited, or otherwise acted against, or has been subjected to any other disciplinary action by the licensing authority thereof, or has been denied licensure in any other state, territory, jurisdiction, or foreign nation.
- (h) Been or is unable to practice medicine or podiatry with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals or any other type of material, or by reason of any physical or mental abnormality;
- (i) Demonstrated a lack of professional competence to practice medicine or podiatry with a reasonable degree of skill and safety for patients. In this connection, the Board may consider repeated acts of a physician or podiatrist indicating his or her failure to properly treat a patient and may require such physician or podiatrist to submit to inquiries or examinations, written or oral, by members of the Board, or by other physicians or podiatrists licensed to practice medicine or podiatry in this State, as the Board considers necessary to determine the professional qualifications of such licensee;
- (j) Engaged in unprofessional conduct, including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing medical or podiatric practice, or the ethics of the medical or podiatric profession, irrespective of whether or not a patient is injured thereby, or has committed any act contrary to honesty, justice or good morals, whether the

same is committed in the course of his or her practice or otherwise and whether committed within or without this State;

- (k) Been convicted of or found guilty of a crime in any jurisdiction which directly relates to the practice of medicine or podiatry or to the ability to practice medicine or podiatry. Any plea of nolo contendere shall be considered conviction for purposes of these regulations;
- (l) Advertised, practiced or attempted to practice under a name other than his or her own;
- (m) Failed to report to the Board any person whom the licensee knows is in violation of these regulations or of provisions of the West Virginia Medical Practice Act;
- (n) Aided, assisted, procured or advised any unlicensed person to practice medicine or podiatry contrary to these regulations or the West Virginia Medical Practice Act;
- (o) Failed to perform any statutory or legal obligation placed upon a licensed physician or podiatrist;
- (p) Made or filed a report which the licensee knows to be false; intentionally or negligently failed to file a report or record required by state or federal law, willfully impeded or obstructed such filing or induced another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician or podiatrist.
- (q) Paid or received any commission, bonus, kickback or rebate, or engaged in any split-fee arrangement in any form whatsoever with a physician, podiatrist, organization, agency or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not

limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The provisions of this subdivision shall not be construed to prevent a physician or podiatrist from receiving a fee for professional consultation services;

- (r) Exercised influence within a patient-physician or patient-podiatrist relationship for purposes of engaging a patient in sexual activity;
- (s) Made deceptive, untrue or fraudulent representations in the practice of medicine or podiatry or employed a trick or scheme in the practice of medicine or podiatry when such trick or scheme fails to conform to the generally prevailing standards of treatment in the medical or podiatric community;
- (t) Solicited patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or by overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate response from the recipient;
- (u) Failed to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results and test results and treatment rendered, if any;
- (v) Exercised influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances or drugs and the promoting or advertising on any prescription form of a community pharmacy. For the purposes of this subdivision, it shall be legally presumed that prescribing, dispensing, administering, mixing or otherwise preparing legend drugs, including

all controlled substances, inappropriately or in excessive or inappropriate quantities, is not in the best interests of the patient and is not in the course of the physician's or podiatrist's professional practice, without regard to his or her intent;

- (w) Prescribed, dispensed or administered any medicinal drug appearing on any schedule set forth in chapter 60A of the West Virginia Code by the physician or podiatrist to himself or herself, except one prescribed, dispensed or administered to the physician or podiatrist by another practitioner authorized to prescribe, dispense or administer medicinal drugs;
- (x) Engaged in malpractice or failed to practice medicine or podiatry with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician or podiatrist engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances;
- (y) Performed any procedure or prescribed any therapy which, by the prevailing standards of medical or podiatric practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed and written consent from the patient;
- (z) Practiced or offered to practice medicine and surgery or podiatry beyond the scope permitted by law or accepted and performed professional responsibilities which the licensee knows or has reason to know he or she is not competent to perform;
- (aa) Delegated professional responsibilities to a person whom the licensee knew or had reason to know is not qualified by training, experience or licensure to perform such responsibilities;

- (bb) Violated or attempted to violate any law or lawfully promulgated rule or regulation of this State, any other state, the Board, the United States or any other lawful authority (without regard to whether the violation is criminally punishable), which law or rule or regulation relates to or in part regulates the practice of medicine or podiatry, when the licensee or applicant knows or should know that such action is violative of such law, rule or regulation; or has violated a lawful order of the Board; or has failed to comply with a lawfully issued subpoena of the Board; or has violated an order of any court entered pursuant to any proceedings commenced by the Board;
- (cc) Presigned blank prescription forms;
- (dd) Prescribed any medicinal drug appearing on Schedule II in chapter 60A of the West Virginia Code for office use;
- (ee) Prescribed, ordered, dispensed, administered, supplied, sold or given any drug which is an amphetamine or sympathomimetic amine drug and a compound designated as a Schedule II controlled substance under West Virginia Code Chapter 60A, to or for any person except for:
  - (A) The treatment of narcolepsy; attention deficit disorder, a behavioral syndrome characterized by inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability and impulsivity; or drug-induced brain dysfunction;
  - (B) The differential diagnostic psychiatric evaluation of depression or the treatment of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

- (C) The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefore is submitted to, reviewed and approved by the Board before such investigation is begun;
- (ff) Knowingly maintained a professional connection or association with any person who is in violation of the West Virginia Medical Practice Act or the rules or regulations of the Board; or has knowingly aided, assisted, procured or advised any person to practice medicine or podiatry contrary to the West Virginia Medical Practice Act or to the Rules and Regulations of the Board; or knowingly performed any act which in any way aids, assists, procures, advises or encourages any unlicensed person or entity to practice medicine or podiatry; or has divided fees or agreed to divide fees received for professional services with any person, firm, association, corporation or other entity for bringing or referring a patient; or has engaged in the practice of medicine or podiatry as an officer or employee of any corporation other than one organized and existing pursuant to the West Virginia Medical Practice Act, except as a licensed physician or podiatrist, intern or resident of a hospital or teaching institution licensed by this State;
- (gg) Offered, undertaken or agreed to cure or treat disease by a secret method, procedure, treatment or medicine; or has treated, operated or prescribed for any human condition, by a method, means, or procedure which the licensee has refused to divulge upon demand of the Board.
- (hh) Engaged in false or deceptive advertising. "False or Deceptive Advertising" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material

facts, is intended or is likely to create false or unjustified expectations of favorable results or includes representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or be deceived;

(ii) Engaged in advertising that is not in the public interest. Advertising that is not in the public interest includes the following, with the exceptions specifically listed:

(A) Advertising that has the effect of intimidating or exerting undue pressure;

(B) Advertising that uses testimonials;

(C) Advertising which is false, deceptive, misleading, sensational or flamboyant;

(D) Advertising which guarantees satisfaction or a cure;

(E) Advertising which offers gratuitous services or discounts, the purpose of which is to deceive the public. This subdivision does not apply to advertising which contains an offer to negotiate fees, nor to advertising in conjunction with an established policy or program of free care for patients; and

(F) Advertising which makes claims of professional superiority which a licensee is unable to substantiate.

12.2. Acts declared to constitute dishonorable, unethical or unprofessional conduct: As used in these regulations at section 12.1(e), "Dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" includes, but is not limited to:

(a) Prescribing or dispensing any "Controlled Substance" as defined in Chapter 60A of the West Virginia Code:

- (1) With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;
- (2) With the intent to evade any law with respect to the sale, use or disposition of such controlled substance(s);
- (3) For the licensee's personal use, or for the use of his or her immediate family when the licensee knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice; or
- (4) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards;

(b) Issuing or publishing in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

- (1) Any representation in which the licensee claims that he or she is able to cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value;
- (2) Represents or professes or holds himself or herself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice;

- (A) Other than that for which he or she holds a certificate or license granted by the Board;
  - (B) Other than that for which he or she holds a degree or diploma from a school otherwise recognized as accredited by the Board; or
  - (C) Which he or she professes to be self-taught;
- (c) A serious act, or a pattern of acts committed during the course of his or her medical or podiatric practice which, under the attendant circumstances, would be considered to be gross incompetence, gross ignorance, gross negligence or malpractice, including the performance of any unnecessary service or procedure;
- (d) Conduct which is calculated to bring or has the effect of bringing the medical or podiatric profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing medical or podiatric practice within the state, and any departure from or failure to conform to the principles of medical ethics of the AMA or the principles of podiatric ethics of the APMA. For the purposes of this subsection, actual injury to a patient need not be established;
- (e) Any charges or fees for any type of service rendered within 72 hours of the initial visit, if the licensee advertises free service, free examination or free treatment;
- (f) The administration of anabolic steroids for other than therapeutic purposes;
- (g) ~~The use of chelation therapy for diseases and conditions other than acute hypercalcemia, lead poisoning, and intoxications caused by some other heavy metals;~~  
Not to meet the standard of practice in connection with any supervisory and/or collaborative agreement with any category of health practitioner;

- (h) Violation of the Board rules for dispensing of legend drugs, as set forth in Board regulations 11 CSR 5;
- (i) Charging or collecting an excessive, unconscionable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:
  - (1) The time and effort required;
  - (2) The novelty and difficulty of the procedure or treatment;
  - (3) The skill required to perform the procedure or treatment properly;
  - (4) Any requirements or conditions imposed by the patient or circumstances;
  - (5) The nature and length of the professional relationship with the patient;
  - (6) The experience, reputation, and ability of the licensee;
  - (7) The nature of the circumstances under which the services are provided.

In any case where it is found that an excessive, unconscionable fee has been charged, in addition to any actions taken under the the provisions of section 12.3 of these regulations, the Board may require the licensee to reduce or pay back the fee;

- (j) Failure by a licensee to report a known or observed violation of these regulations, the regulations for dispensing legend drugs as set forth in Board regulations 11 CSR 5, and/or the provisions of the West Virginia Medical Practice Act.

12.3. When the Board finds that any applicant is unqualified to be granted a license or finds that any licensee should be disciplined pursuant to the

West Virginia Medical Practice Act or regulations of the Board, the Board may take any one or more of the following actions:

- (a) Refuse to grant a license to an applicant;
- (b) Administer a public reprimand.
- (c) Suspend, limit or restrict any license for a definite period, not to exceed five (5) years;
- (d) Require any licensee to participate in a program of education prescribed by the Board;
- (e) Revoke any license;
- (f) Require the licensee to submit to care, counseling or treatment by physicians or other professional persons.
- (g) Assess a civil fine of between \$1,000 and \$10,000 and/or assess cost of the Board's investigation and administrative proceedings against the licensee;
- (h) Require him or her to practice under the direction or supervision of another practitioner.
- (i) Require the licensee to provide a period of free public or charitable service.

In addition to and in conjunction with the foregoing actions, the Board may make a finding adverse to the licensee or applicant, but withhold imposition of judgment and penalty, or it may impose the judgement and penalty but suspend enforcement thereof and place the physician or podiatrist on probation, which probation may be vacated upon noncompliance with such reasonable terms as the Board may impose. In its discretion, the Board may restore and reissue a license to practice medicine or podiatry issued under

the West Virginia Medical Practice Act or any antecedent law, and as a condition thereof, it may impose any disciplinary or corrective measure provided for in these Rules and Regulations or in the West Virginia Medical Practice Act.

12.4. The Board has the authority to place a licensee in a probationary status and to apply varying conditions upon the licensee during the probationary period.

(a) Conditions for probation: Upon reaching the conclusion that a licensee to practice medicine or podiatry should be placed on probation, the Board may impose any one or more of the following conditions:

(1) The Board may appoint one or more Board members to be responsible for having the probationary licensee report for interviews on a regular basis. These interviews may be set up on a periodic basis as determined by the Board and the Board members so appointed shall then report back to the Board at its regularly scheduled meeting on the progress of the licensee;

(2) The Board may cause the probationary licensee to appear before the Board at such intervals as the Board may determine in order that said licensee may report on his or her progress. During these appearances by the probationary licensee, the Board may ask the probationary licensee questions so as to observe his or her behavior and progress;

(3) The Board may select a physician or podiatrist, as applicable, or request the concerned licensee to select a physician or podiatrist, as applicable, who shall be approved by the Board and said physician or podiatrist shall submit periodic progress reports on the

concerned licensee as the Board may then thereafter so direct;

- (4) The Board may appoint a medical consultant whose responsibility is to handle interviews with the probationary licensee. The probationary licensee shall then report to the so appointed medical consultant on a regular basis as determined by the Board, and said medical consultant shall then thereafter report to the Board at intervals determined by the Board;
- (5) In cases of alcoholism and/or drug abuse, as a condition of probation, the Board may require that the probationary licensee submit periodic blood samples and/or urine drug screen samples;
- (6) The Board may require that a probationary licensee report all medications that he or she may be utilizing and that he or she make such reports to the Board, at such intervals as the Board may direct from time to time;
- (7) The Board may require that the probationary licensee authorize his or her personal physician to submit to the Board, for review, the concerned licensee's medical history, both as to past medical history and any and all new medical history as may become available to the personal physician during the period of the probationary term;
- (8) The Board may require that prior to the termination of a probationary term, the probationary licensee appear at a regularly scheduled Board meeting and furnish the Board with information as it may then request, and the Board may utilize subpoenas, subpoenas duces tecum and its investigators as it considers necessary to gather facts and evidence

to determine compliance by the concerned licensee with the terms of probation; and

- (9) In those situations where indicated, the Board may impose additional terms of probation upon a licensee who has initially been placed on probation, as long as the entire period of any additional imposed probationary period does not exceed five (5) years from the initiation date of the originally imposed probationary period.

**S11-1A-13. Appeal.**

- 13.1. Any applicant for a license who has had his or her application denied by order of the Board may appeal such order within thirty (30) days of such action, in accordance with the contested case hearing procedure, West Virginia Code §29A-5-1 et seq. and regulations of the Board set out at 11 CSR 3: Provided, That such appeal shall not include cases in which the Board issues a license or certificate after an examination to test the knowledge or the ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination.
- 13.2. Any physician or podiatrist practicing medicine and surgery or podiatry in this State, who has had his or her license denied, suspended, restricted, or revoked by order of the Board, may appeal such order within thirty (30) days of such action in accordance with the contested case hearing procedure, West Virginia Code §29A-5-1 et seq. and regulations of the Board set out at 11 CSR 3: Provided, That such appeal shall not include cases in which the Board issues a license, permit or certificate after an examination to test the knowledge or the ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination.

#### S11-1A-14. Disposition of Reports And Complaints.

14.1. Any person, medical peer review committee, firm, corporation, member of the Board or public officer may make a complaint to the Board which charges a physician or podiatrist with a violation of the West Virginia Medical Practice Act or of the Rules and Regulations of the Board. The Board may provide a form for such purpose, but such a complaint may be filed in any written form. In addition to describing the alleged violation which prompted the complaint, the complaint shall contain the following:

- (a) The name and address of the individual(s) against whom the complaint is lodged;
- (b) The date of care;
- (c) The name(s) of individual(s) who may have treated the patient after the alleged incident; and
- (d) The name of any health care institution in which the patient was an inpatient or outpatient after or during the alleged incident.

14.2. Reports submitted by a medical or podiatric peer review committee, a physician, a podiatrist, the chief executive officer of a hospital, a professional society, an insurer or any other person, in compliance with the provisions of West Virginia Code §30-3-14(b) may result in the initiation of its own complaint by the Board.

- (a) The Board shall prepare copies of the provisions of Section 12.1 of these regulations and of the provisions of West Virginia Code §30-14-3(c) and mail them to all known medical or podiatric peer review committees in the state, every licensed physician and podiatrist in the state, the chief executive officer of every hospital in the state and every known medical and podiatric professional society in the state.

- (b) The Board may prepare forms for filing required reports and make them available upon request.
- (c) The Board will advise all medical and podiatric peer review committees in the state that it desires any and all information which such committee has, or may any time obtain, which relates to improper practice or performance of a physician or podiatrist. Any such information may be submitted by the Board to the physician concerned for his or her written comment and he or she shall submit a written reply within fifteen (15) days.
- (d) Any individual or any medical or podiatric entity having reason to believe that the conduct of a physician or podiatrist amounts to professional malpractice or professional incompetence shall be encouraged to report such information to the Board.
- (e) The chief executive officer of every hospital shall within sixty (60) days after the completion of the hospital's formal disciplinary procedure, and also after the commencement of and again after the conclusion of any resulting legal action, report in writing to the Board the name of any member of the medical staff or any other physician or podiatrist practicing in the hospital whose hospital privileges have been revoked, restricted, reduced, or terminated for any cause, including resignation, together with all pertinent information relating to such action. The chief executive officer shall also report within sixty (60) days after the action is taken any other formal disciplinary action taken against any physician or podiatrist by the hospital upon the recommendation of its medical staff relating to professional ethics, medical incompetence, medical malpractice, moral turpitude or drug or alcohol abuse. This

subsection does not apply to any temporary suspension for failure to maintain records on a timely basis or for failure to attend staff or section meetings.

- (f) Any professional society in this State comprised primarily of physicians, and any professional society in this state comprised primarily of podiatrists, which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, professional malpractice, moral turpitude or drug or alcohol abuse, shall, within sixty (60) days of a final decision, report in writing to the Board the name of such member, together with all pertinent information relating to such action.
- (g) Every insurer providing professional liability insurance to a physician or podiatrist in this State shall submit to the Board the following information within thirty (30) days from any judgment, dismissal or settlement of a civil action involving the insured: The date of any judgment, dismissal or settlement; whether any appeal has been taken on the judgment, and, if so, by which party; the amount of any settlement or judgment against the insured; and such other information within the knowledge of the insurer as the Board requires. The Board shall mail a copy of this section to every insurer in the state which has sold or may hereafter sell, professional liability insurance to a physician or podiatrist licensed to practice medicine or podiatry in this State.
- (h) Within thirty (30) days after the conviction of a person known to be a physician or podiatrist licensed or otherwise lawfully practicing medicine and surgery and podiatry in this State, or applying to be so licensed, of a felony under the laws of this State, or of any crime under the laws of this state involving alcohol or drugs in any way, including any controlled substance under

state or federal law, the clerk of the court of record in which the conviction was entered shall forward to the Board a certified true and correct abstract of record of the convicting court. The abstract shall include the name and address of such physician or podiatrist or applicant, the nature of the offense committed and the final judgment and sentence of the court. The Board shall mail a copy of this section 14.2(h) to every circuit clerk in the state.

- (i) Information received by the Board under the provisions of West Virginia Code §30-3-14(c) and this section 14.2 may be used by the Board in its determination as to whether to deny an application for a license or to initiate disciplinary action against a physician or podiatrist licensed in this State, and such information may be submitted into evidence notwithstanding its prior use in any administrative civil or criminal hearing involving such applicant physician or podiatrist.

14.3. All communications with the Board charging a physician or podiatrist with such violations are conditionally privileged and a person making a communication is privileged from liability based upon the communication unless the person makes the communication in bad faith or for a malicious reason.

14.4. The Board shall maintain a complaint log which records the receipt of each complaint, its nature and its disposition.

14.5. An individual making a complaint should receive one of the following acknowledgments:

- (a) That the matter will be reviewed by the Board;
- (b) That the complaint is outside of the jurisdiction of the Board, with suggestions as to how the complainant might best obtain a resolution of his or her problem; or

- (c) That more information will be required in order to adequately review the individual complaint.
- 14.6. A separate investigative or complaint folder shall be maintained on each case reviewed, and each folder shall have a case number assigned to it.
- 14.7. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of Section 14.5 (b) of these regulations, the complaint committee of the Board established by the Board under Board regulations 11 CSR 3 shall cause to be conducted any reasonable inquiry or investigation it considers necessary to determine the truth and validity of the allegations set forth in the complaint. The complaint committee shall provide reports to the Board on the number, nature, procedure and handling of the complaints received.
- 14.8. A complaint against an individual must allege that in his or her professional capacity he or she is acting in violation of the law, regulations or good and accepted medical practice and may be founded on any violation enumerated in West Virginia Code §30-3-14(c) or Sections 12.1 or 12.2 of these regulations or of any rule or regulation hereinafter promulgated by the Board.
- 14.9. The complaint committee may request the Board to issue subpoenas and subpoena duces tecum as required to complete its investigation and may utilize the Board investigator to conduct whatever investigations are necessary to determine the truth and validity, or lack thereof, of complaints. In the event the Board initiates its own complaint, it may utilize subpoenas, subpoenas duces tecum and its investigators as it determines necessary to gather facts and evidence.
- 14.10. To facilitate disposition of a complaint, the Board or the complaint committee may request any person to attend an informal conference, or to appear at a regular meeting of the Board, at any time prior to the commencement of an adjudicatory proceeding. The Board or committee shall give

fifteen (15) days' notice of the conference, which notice shall include a statement of the issues to be informally discussed. Statements made at a conference may not be introduced at any hearing on the merits without the consent of all parties to the hearing. No prejudice shall attach for failure to attend a conference pursuant to a request.

- 14.11. If the complaint committee determines that a complaint complies substantially with regulation 14.8 and that it relates to matters set forth in West Virginia Code §30-3-14(c) or sections 12.1 or 12.2 of these regulations, it may request that the individual complained of (hereinafter referred to as the "Respondent") respond to the complaint within thirty (30) days. The committee shall attach a copy of the complaint to the order for response or shall describe the acts alleged in the complaint. A respondent may answer either personally or through his or her attorney, but the answer must address the substantive allegations set forth in the complaint or order.
- 14.12. Upon receipt of the respondent's answer or at any point in the course of investigation or inquiry into a complaint, the committee may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint fails to allege misconduct for which a licensee may be sanctioned by the Board. In such event, the committee shall recommend to the Board to dismiss the complaint. The committee shall retain a file of all complaints and shall review this file periodically.
- 14.13. At any point in its investigation of a complaint, the Board or complaint committee may assign the matter to one of its medical consultants for review. The report of the medical consultant shall contain a statement of the allegations, the facts, analysis of the complaint and care provided, a brief description of the records reviewed and a recommendation and finding. The medical consultant shall, upon request, be afforded an opportunity to have an investigation interview with the physician or podiatrist in

question or other involved parties, a report of which shall be placed in the investigative file.

- 14.14. If a respondent fails to answer within the thirty (30) day period or if the committee determines that there is reason to believe that the acts alleged occurred and constitute a violation for which a registrant may be sanctioned by the Board, the committee shall recommend that there be a finding of probable cause to believe there is a violation of the law or these regulations.
- 14.15. The Board shall review the recommendation of the committee and shall require an adjudicatory hearing if it determines that there is probable cause to believe that acts alleged occurred and may constitute a violation of any provision of law or these regulations. The Board may take such informal action as it determines a complaint warrants.
- 14.16. The Board may suspend or refuse to renew a license pending a hearing if the health, safety or welfare of the public necessitates such summary action. The Board shall provide a hearing on the necessity for the summary action within fifteen (15) days after the suspension. The Board shall render its decision within five (5) days of the conclusion of a hearing under this section.
- 14.17. West Virginia Code §30-3-9(a) requires the Board to maintain a permanent file on each physician or podiatrist licensed or otherwise lawfully practicing in this State and of all persons applying to be so licensed. This file shall include an individual historical record of each such physician and podiatrist, which shall include all reports and information furnished to the Board pursuant to applicable law. In the event an investigative or complaint file is opened, a record shall be made thereof. The Board shall provide a licensee written notice of the substance of any record placed in his or her historical file, and the licensee will be permitted thirty (30) days in which to file a written statement regarding such record; such statement shall always accompany that part of the record in contention.

A physician or podiatrist may examine his or her historical file during regular office hours of the Board or may designate his or her attorney to do so. A request for photocopies of his or her historical file may be made by a physician or podiatrist and it shall be processed by the Board on the basis of staff availability, and the cost of the request shall be paid by the requesting physician or podiatrist. Requests for matters relating to an ongoing investigation shall be handled at the discretion of the Board. All matters in an historical file are strictly confidential, except as exempted by West Virginia Code §30-3-9. Except for information enumerated in West Virginia Code §30-3-9(f), any matter in an historical file which is not involved in a proceeding for a hearing regarding the physician or podiatrist concerned within (2) years from its placement into such file shall be expunged therefrom. If the investigative or complaint file is closed on the basis that the individual physician or podiatrist concerned is not guilty of any misconduct or wrongdoing, all matters relating to that investigation shall be removed from his or her historical file.

- 14.18. A physician or podiatrist shall respond within thirty (30) days to a written communication from the Board or its designee and shall make available to the Board any relevant and authorized records with respect to an inquiry or complaint about his or her professional conduct. The thirty (30) day period shall commence on the date the Board sends the communication by registered or certified mail with return receipt requested to his or her last known address. Said physician or podiatrist shall maintain a medical record for each patient which is adequate to enable the physician or podiatrist to provide proper diagnosis and treatment. Said physician or podiatrist must maintain a patient's medical record for a minimum period of three (3) years from the date of the last patient encounter and in a manner which permits the former patient or a successor physician or podiatrist access to them within the terms of these regulations and as set forth in West Virginia Code §16-29-1 et seq.

**§11-1A-15. Practice of Podiatry.**

- 15.1. Application to practice podiatry. -- Each person who desires to practice podiatry and is not now authorized to do so shall file with the Board a written application, under oath, on a form prescribed by the Board.
- 15.2. Examination; license; use of title; renewal; inactive license.
  - (a) If the applicant passes an examination approved by the Board, which approved examination is the PMLexis, has paid the required fee, and meets the requirements for licensure set forth in West Virginia Code §30-3-10, the Board shall issue a license signed by the president and secretary.
  - (b) The burden of satisfying the Board of the applicant's qualifications shall be upon the applicant.
  - (c) A passing score on the PMLexis shall be a score above the nationally recommended cut score for the specific PMLexis taken by the applicant: Provided, the nationally recommended cut score is criterion referenced according to the method known as the Angoff method.
  - (d) A license authorizing the practice of podiatry does not permit the holder to use the title of "Physician" or to use the title "Surgeon," unless the title is qualified by letters or words showing that the holder of the license is a practitioner of podiatry.
  - (e) A license to practice podiatry in this state is valid for a term of two (2) years and shall be renewed every two (2) years, as of the first day of July of the year, upon the receipt of a nonrefundable fee as established by the Board under Board regulations 11 CSR 4 together with a timely submitted fully completed renewal application form provided

by the Board: Provided, That an initial license shall expire on the thirtieth day of the ensuing odd-numbered year. Forms shall be mailed to each known licensee at his or her last known address. It is the responsibility of the licensee to inform the Board of the licensee's correct address and of any change of address. It is the responsibility of the licensee to acquire and submit renewal application forms. Failure of the licensee to receive a renewal form will not constitute justification for any podiatrist to practice on an expired license. An expired license is not a valid license.

(f) The Board may renew, on an inactive basis, the license of a podiatrist who is currently licensed to practice podiatry, but who is not actually practicing podiatry in this state. A podiatrist holding an inactive license shall not practice podiatry in this state, but such inactive license may be converted by the Board to an active license, upon request of the podiatrist to the Board, provided that the period of inactivity is accounted for to the satisfaction of the Board. An inactive license may be obtained upon receipt of a nonrefundable fee, as established by the Board under Board regulations 11 CSR 4, and submission of an application on forms provided by the Board. An inactive license shall be valid for a term of two (2) years, and shall be renewable.

15.3. License to persons licensed in other states. -- When a podiatrist licensed by the licensing authority of another state, territory or the District of Columbia wishes to move to this State to practice his or her profession, the Board may, in its discretion, issue to him or her a license to practice podiatry, if he or she meets the requirements for entrance set forth in West Virginia Code §30-3-10 and pays a fee as established by the Board under Board regulations 11 CSR 4. Application shall be made on a form prescribed by the Board. Such application to the Board shall be accompanied by a nonrefundable

check or money order in an amount established by the Board under Board regulations 11 CSR 4.

15.4. Prohibition. -- No person shall practice podiatry without a license from the Board; no person shall advertise or announce himself or herself as a practitioner of podiatry without a license from the Board; no person shall open or conduct an office or other place for such practice without a license from the Board; no person shall conduct an office in the name of some other person who has a license to practice podiatry; and no person shall practice podiatry after a license has been revoked, or if suspended, during the time of such suspension.

15.5. Denial, revocation, limitation, or suspension of license for violation of statutes; application of regulations.

(a) The foregoing provisions of these regulations that relate to disciplinary, reporting, complaint and investigative procedures, and the provisions of the contested case hearing and appeal procedures, West Virginia Code §29A-5-1 et seq. and regulations of the Board 11 CSR 3, shall be applicable to podiatrists and the practice of podiatry and shall be applied in that context to matters relating to podiatrists.

**§11-1A-16. Severability.**

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of these rules which can be given effect without the invalid provisions or application and to this end the provisions of these rules are declared to be severable.

Box 87  
Fola Rd Bickmore, WV

February 7, 1992

Ken Heckler, Secretary of State  
Administrative Law Division  
Capitol Building  
Charleston, WV 25305

Dear Sir:

I am an 80 year old male who has had success from the Chelation treatments that I have received. Prior to the treatments I was on four different medicines for circulation problems. I had extreme difficulty doing anything that was in the least bit demanding. Circulation in my legs was extremely bad. I had lumps on my knees that I could not tolerate.

After starting treatment in 1984 I received only a few treatments until I noticed significant improvement. After completing 30 treatments I stopped taking my medicine and I have been able to do about anything I chose to do. When chelation was stopped in WV I went to Ohio for treatment. There I had a complete physical examination and was pronounced in excellent condition. I have taken no medicine for this problem in nearly eight years.

It is my hope that the decision to halt chelation in WV will be reconsidered so that I and others in a similar situation may be able to continue to receive this treatment without having to travel hundreds of miles.

Thank you for your consideration of this matter.

Sincerely

Denver Jeffers

OFFICE OF THE SECRETARY OF STATE

1992 FEB 14 PM 3:41

FILED

KEN HECHLER, Sect. of STATE  
Adm. Law Division  
Capitol Bldg.  
Charleston, WV 25305

DEAR MR. HECHLER:

I have been a  
patient of DR. ZEK and  
wish to advise you  
of the fine results I  
have ~~have~~ received from  
his chelation therapy.

Some 2 yr. ago I was  
told by St. Mary's hospital,  
that I had 90% blockage  
to the main heart artery.  
They strongly recommended  
I should have open heart  
surgery. I refused and a  
short time later ran  
into a patient of DR.  
ZEK.

(2)

AFTER TALKING TO DR.  
ZEKAN AND READING  
HIS LITERATURE ON CHELATION  
THERAPY I WAS CONVINCED  
IT WAS GOOD. SO, IT HAS  
PROVED TO BE JUST THAT.

AT A SAVING OF  
SOME \$50,000 TO OUR COUNTRY  
WE SHOULD CONTINUE THIS  
TREATMENT IN WV.

I HAVE LONG KNOWN  
OF YOUR FINE VOTING  
HABITS AND ~~FEEL~~ FEEL SURE  
YOU WILL DO WHAT IS POSSIBLE.

Yours Truly

Clarence J. Daniels  
Lt. Commander U.S.  
MARITIME SERVICE  
(RETIRED)

P. O. Box 812  
Belington, WV 26250  
January 31, 1992

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

1992 FEB -3 AM 10:53

FILED

Hon. Ken Heckler, Secretary of State  
Administrative Law Division  
Capitol Building  
Charleston, West Virginia 25305

Dear Mr. Heckler:

My wife and I were taking chelation treatments given by Dr. Steven M. Zekan at 1208 Kanawha Boulevard, East, in Charleston. Emogene, my wife, had a heart attack January 27, 1991, but it wasn't diagnosed as such until eleven days later. Normally a person with a heart attack of this magnitude would have spent seven to ten days in the hospital, but she was dismissed from the emergency room believing all she had had, was a gallstone attack. After taking three chelation treatments, she had a heart catheterisation which revealed that the artery which had been clogged, was unclogged and mending fast; the other two arteries were between 40 and 50% clogged.

I have arthritis, asthma, macular degeneration of the retina in one eye, and dying nerves in both hands and my left forearm.

The treatments were helping us to maintain a better quality of life. In June Dr. Zekan stopped giving chelation treatments because The State Board of Medicine declared that any medical doctor giving them could lose his/her licenses to practice medicine because chelation therapy was unethical, unprofessional, and dishonorable.

After we no longer could get chelation treatments in West Virginia, we went to a neighboring state to get them.

We both attended the hearing at the Cultural Center on December 18, 1991, and January 7, 1992. I for one believe there was enough oral and/or written documentation presented to prove that chelation treatments are not unethical, unprofessional, or dishonorable; <sup>b</sup>intravenous medical treatments for most people suffering from clogged arteries, arthritis, lupus, Alzheimer's, diabetes, and other problems.

I hope you will repeal this law when it is brought to your attention.

Sincerely,

*Aurist F. Andrick*

Aurist F. Andrick

BERTRAM COUCH PAYNE  
1890 CONNELL ROAD  
CHARLESTON, WEST VIRGINIA 25314  
TELEPHONE 304 342-7827

JAN. 28, 1992

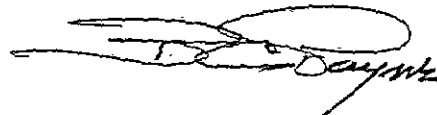
KEN HECHLER  
W. VA. SECRETARY OF STATE  
CAPITOL BUILDING - ROOM 157-K  
CHARLESTON, W. VA. 25305

DEAR MR. HECHLER:

I AM WRITING IN SURPORT OF THE RECENT AMENDMENT  
TO THE W.VA. CODE 520-3-7 (A) (1) PERTAINING TO THE  
AVAILABILITY OF CHELATION THERAPY IN W.VA. I  
SINCERELY HOPE YOU WILL TAKE THE ACTION  
NECESSARY TO ALLOW THE DOCTORS IN OUR STATE  
TO RESUME THIS TREATMENT TO THE THOUSANDS  
OF WEST VIRGINIANS WHO REQUIRE IT.

THANK YOU FOR YOUR EFFORTS IN THE PAST AND  
THE BEST OF EVERY THING IN YOUR EFFORT TO  
MAKE OUR GREAT STATE SECURE FOR THE  
YOUNG PEOPLE OF TODAY.

SINCERELY



STEVE M. ZEKAN, M.D.

1208 Kanawha Blvd., E.

Charleston, WV 25301

Telephone: 343-7559

FILED

1992 JAN 30 PM 3: 20

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

January 28, 1992

Ms. Judy Cooper  
WV Secretary of State  
Administrative Law Division  
State Capitol  
Charleston, WV 25305

RE: WV Board of Medicine Legislative Rules, Chapter  
30-3, Series 1A, Emergency Amendment to § 11-1A-12.2(g)

Dear Ms. Cooper:

As a practicing physician in the state of West Virginia, with experience in chelation therapy over the last five years. I am in complete agreement with the decision to resume the use of chelation therapy for diseases other than acute hypercalcemia, lead poisoning and intoxications caused by some heavy metals. I do feel there are individuals in my practice that are in need of the treatment. Chelation does need to be allowed at the present time rather than waiting 9 to 12 months for this to be fully enacted. Thus, the emergency rule change is quite appropriate.

For example, Mr. Ben Bostic from Charleston, 346-9376, has significant coronary artery disease and undergone coronary bypass with a single vessel open. At present, he is not a candidate for further surgical or angioplastic procedures. He has benefited markedly in the past from chelation therapy. Not having received this for the last eight months, he is starting to notice his anginal again. He had a stroke approximately 2½ months ago. He is working at the present time and is very anxiously awaiting the reversal of the chelation rule.

Another patient, Miss Beatrice Burgess, 755-7299, has noticed a progression of her angina over the last several months. She has been a major proponent in changing the stance regarding chelation therapy and wants to resume the treatments as soon as possible.

Ms. Judy Cooper  
January 28, 1992  
Page 2

If you need further information regarding any patient scenarios or information regarding chelation, I will be glad to discuss this with you personally. There is also a large body of information in the patient testimony given at the public hearing held at the Capitol Complex on January 7, 1992, endorsing reconsideration of the boards stance on chelation therapy.

Again, I support the acceptance of this new ruling so the people of West Virginia can be offered every option of medical care.

Sincerely,

A handwritten signature in cursive script that reads "Steve Zekan, M.D.".

Steve Zekan, M.D., F.A.C.S.

117 Lock St.  
Nitro, W. Va., 25143  
February 27, 1992

Secretary of State Mr. Ken Heckler  
State Capitol  
Charleston, W. Va., 25305

Dear Mr. Heckler:

I am delighted to know you have not yet joined the group of us who are so forgetful we don't know why we have come to where we are!

Enclosed is my statement to the State Board of Medicine, Dr. Magnus, the hearing officer. I spoke to him and Dr. Skaggs, who was also at the hearing on January 7, and said that in all my years of working with older adults, this was the only thing I had found to get older adults healthy, and keep them that way.

I have discovered that our health system is set up on a drug and hospital and crisis orientation. Older adults need tuning up, not crisis, and so this preventive therapy, is just fine for them.

If you are interested further, let me know, I will be glad to give you a book which has helped me understand where we are coming from, written by Dr. Robert Atkins, "Dr. Atkins Health Revolution."

Thank you for your help in setting Dr. Zekan free to work again in chelation therapy! I had gone to Beckley three times, and now I can stay here in the valley.

Sincerely,

*Bia Burgess*

STATEMENT TO THE WEST VIRGINIA BOARD OF MEDICINE

By Beatrice R. Burgess

December 18, 1991

I am 68 years of age and have worked with older adults for 34 years, 20 of those as a Church and Community Worker. In Monroe County, I worked to bring transportation services to the new Health Center where Dr. Hansbarger worked. As I turned diabetic my doctor, Dr. Gelderman, gave me a choice of Weight Watchers or the Adkins diet, and commented that I would be healthier because I had become diabetic. I chose the Adkins diet, I have always believed in doing my best to stay healthy.

As I worked with many older adults, I came to believe that there was something missing in the health care system. There had to be something better than trying to get a good country woman to change her diet of 60 years or face amputation of her legs because of diabetes. When I was asked to serve on the W. Va. Health Systems Agency Board of Directors, I did. I educated many to the meanings of being poor, rural or elderly in West Virginia, as they taught me the health planning system.

Many years ago I had attended a workshop sponsored by the Commission on Religion in Appalachia at Hungry Mother State Park in Virginia and heard Dr. Cranton speak of holistic health and chelation therapy. I began looking for a preventive health doctor, but found none.

In 1986 in the spring, I had a major heart attack, a silent one. I did not even remember the pain from my left elbow to my shoulder. I moved from Kincaid to Sissonville in June, and went to Dr. Popescue to get my prescriptions written. As he did a health examination, he discovered the damage to my heart. He said most people died in their sleep, I survived. He died in February, 1987. I was again looking for a doctor.

Shortly after, at a meeting at St. Francis hospital of the CAPS (Clergy Association for Pastoral Services) I heard Dr. Steve Zekan speak on the subject: "A Surgeon Looks at Preventive Health." He spoke of free radicals and oxidation and other chemical explanations of our health problems today. I made an appointment the next day. I had found my preventive health doctor!

Dr. Zekan asked that I change my diet to eliminate many starches (I had already begun this process through the Adkins diet.) After getting the results of the

very extensive testing which he had ordered, he began my regimen of vitamins and minerals to balance the deficits in my body. He suggested chelation therapy. I began in the spring of 1987, at first twice a week, then weekly, and for years now, every other week.

My mother died of Alzheimer's Disease, and 40% of the children will get it. I fear this greatly. I discovered my memory improved greatly, my diabetes was better controlled, my heart problems were well controlled and problems with my arthritis were greatly reduced. I was being healthy again!

As we sit and take the treatment for 3-4 hours, we talk or read or sleep. I submit to you two articles, "The Tomato Effect, Rejection of Highly Efficacious Therapies" by Drs. James S. Goodwin and Jean M. Goodwin and "Nutritional Factors in Cardiovascular Disease" by Dr. Alan R. Gaby. The latter points up the need for the medical profession to get back to basic chemistry and take very seriously the consequences of everything we put into our mouths, or fail to get into our systems.

I look forward to the day all Americans will be required to have 20 chelation therapies before having by-pass surgery, as some in other countries now do. I look forward to the day the medical profession puts great effort into keeping us healthy instead of patching us up by surgery after our illnesses have become unmanageable. I look forward to the day the mothers and schools of the land know how to feed our children to keep them healthy, and do it!

In the six months we have been denied treatment by chelation my short-term memory has deteriorated greatly, I am suffering again pains in my left arm from my heart problems and my arthritis is out of control. Since I believe this board has been derelict in its duty to inform Dr. Zekan of the public hearing on chelation after he presented this board with information on chelation a year ago, I instruct my nephew to sue the Board of Medicine if I suffer a debilitating stroke or heart attack before you can correct your error and allow us to again receive chelation therapy. I shall also see if I can be checked by our expert doctor in Alzheimer's, to see if my short-term memory improves in a measurable way when we can again obtain therapy.

I salute those medical schools which have remained faithful to basic nutritional research, and I deplore the close-minded stance of the medical profession in opposing so strenuously this emerging branch of medicine.

Respectfully submitted,

*Beatrice R. Burgess*

Beatrice R. Burgess

117 Lock St.

Nitro, W. Va., 25143

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE: Board of Medicine Legislative Rule  
11 CSR 1A 12.2 (g), effective July 1, 1991,  
pertaining to dishonorable, unethical  
or unprofessional conduct of a character  
likely to deceive, defraud or harm the  
public or any member thereof as including  
the use of chelation therapy for diseases  
and conditions other than acute  
hypercalcemia, lead poisoning and  
intoxications caused by some other heavy  
metals.

TRANSCRIPT OF PROCEEDINGS had and testimony  
adduced in the above-styled case, taken pursuant to  
notice before Jimmie Mangus, M.D., Hearing Examiner,  
on January 7, 1992, commencing at 9:00, in the West  
Virginia Cultural Center, State Capitol Complex,  
Charleston, Kanawha County, West Virginia.

*Action Court Reporting*

*Mary K. Comer*

*Post Office Box 2229*

*Charleston, West Virginia 25364*

*304/925-5588*

COPY

1 APPEARANCES: Appearing on behalf of the West Virginia  
2 Board of Medicine

3 DEBORAH RODECKER, ESQUIRE  
4 West Virginia Board of Medicine  
101 Dee Drive  
Charleston, West Virginia 25311

5  
6 Appearing on behalf of the patients  
of Steven Zekan, M.D.

7 JOHN M. HEDGES, ESQUIRE  
8 1018 Kanawha Boulevard, East  
Charleston, West Virginia 25301

9 I N D E X

10 Public Witnesses

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11	Ralph Wayne Sommerville	222
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1 HEARING EXAMINER MANGUS: Good morning. Good  
2 morning, I am Jim Mangus of Charleston, West Virginia. I am  
3 in private practice here in Charleston, and the West  
4 Virginia Board of Medicine has asked me to act as a hearing  
5 officer for a rule that was published and implemented in  
6 July of 1991. That rule states as follows. "It is  
7 unethical, unprofessional or dishonorable conduct of a  
8 character likely to deceive, defraud or harm the public or  
9 any member thereof, as including the use of chelation  
10 therapy for diseases and conditions other than acute  
11 hypercalcemia, lead poisoning, intoxications caused by some  
12 other heavy metals," who are prepared to make a statement  
13 today.

14 This is a continuation and a completion of a  
15 previously scheduled hearing and we are here today to take  
16 evidence, both for and against this ruling of the Board of  
17 Medicine.

18 Last time, we had presentations from the  
19 scientific community in the morning, and in the afternoon we  
20 had some individuals who were -- who had taken this  
21 medication and who were testifying as to its efficacy and to  
22 its effectiveness.

23 And today, I have asked Mr. Hedges to assist us  
24 in doing the following. We had a number of individuals who  
25 came from far parts of the state the last time, but due to

A.C.R.

1 time constraints, they were unable to complete their  
2 testimony.

3 What we did, then, was ask each of those to  
4 sign up. And those individuals who signed up last time to  
5 give testimony but were unable to because of the time  
6 constraints will be given first priority this morning.

7 Those who were here last time who did not sign  
8 up but would like to give testimony today will have second  
9 priority. And then if there is any time left from then,  
10 then those who are here today that were not here the last  
11 time will be given an opportunity.

12 Now, one other point. As your Hearing Officer,  
13 I am here to try to hear both sides of this rule and if you  
14 have questions, please don't hesitate to ask.

15 I am not a professional at this, medicine is my  
16 game, but what I try to do is to take this evidence to the  
17 Board and present to them a recommendation. Now, my  
18 recommendation does not have to be followed, but what we are  
19 to do here is to develop evidence both for and against this  
20 rule.

21 If you have any other questions, we have Debbie  
22 Rodecker here who is the counsel for the Board of Medicine  
23 who is conversant with all the legal requirements and will  
24 hopefully keep me on the straight and narrow. And we have  
25 Mr. John Hedges, who is also an attorney, who will help keep

A.C.R.

1 this organized.

2 Are there any questions before we start?

3 Okay, Mr. Hedges, would you call witnesses,  
4 please?

5 MR. HEDGES: Okay, we are essentially going to  
6 pick up first of all with where we left off the last time.  
7 I have a list of folks who signed up last time to speak and  
8 some did not get the opportunity, so we will take that list  
9 first.

10 There is also a list going around as Dr. Mangus  
11 pointed out for others who wish to speak today.

12 Some of these people may or may not be here,  
13 but I will start with a list and we will go through that.

14 Would you like for us, as we did last time,  
15 anyone who wishes to speak be sworn in at this point to save  
16 time?

17 HEARING EXAMINER MANGUS: Yes, I think so.  
18 This would give everyone -- will expedite things, hopefully.

19 If anyone who intends to speak today could just  
20 raise your right hand, and the court reporter will swear you  
21 in.

22 (Witnesses sworn)

23 MR. HEDGES: These are the folks that are on  
24 the list so you know not to sign them on the list going  
25 around, and these are the folks that will be called first.

A.C.R.

1 Ralph Sommerville, Jerry Norman, James Spencer, Daniel  
2 Codualladen, Michael Kostenko, and P. Corro.

3 So, I would call first Ralph Sommerville.

4 HEARING EXAMINER MANGUS: Also, I would like to  
5 ask each of you, I know sometimes your experiences have been  
6 very complex and your problems have been longstanding, but  
7 if we could try to limit our remarks to maybe between five  
8 and ten minutes, hopefully, this will give everyone an  
9 opportunity. Thank you.

10 (Witness previously sworn)

11 THEREUPON came,

12 R A L P H W A Y N E S O M M E R V I L L E,  
13 called as a witness in opposition to the rule, who, having  
14 been previously duly sworn according to law, testified as  
15 follows:

16 DIRECT EXAMINATION

17 BY MR. HEDGES:

18 Q Could you please state your full name, please,  
19 and where you are from?

20 A Ralph Wayne Sommerville, from Mineral Wells,  
21 West Virginia.

22 Q All right, Mr. Sommerville, I take it you are a  
23 patient of Dr. Zekan's?

24 A Yes, sir, I was.

25 Q For how long?

1           A           I was started in September of '89, and was  
2 there until he was forced to stop.

3           Q           Forced to stop the chelation therapy?

4           A           Yes, sir.

5           Q           Okay, can you give us a brief account of the  
6 problems that led you to go see Dr. Zekan?

7           A           Yes, sir, I can. I will be as brief as  
8 possible.

9                       In September of '89, I was in front of my  
10 mirror shaving and I got this bright flash of light in my  
11 eye and I first thought it was the mirror, maybe a  
12 reflection. And when I went out of the bathroom, the light  
13 was still there, and I walked outside to see the normal  
14 light, and had this gray spot floating around in my eye. If  
15 I would look at that wall and with that gray spot on it, it  
16 would probably would have covered a grapefruit, in that  
17 size.

18                      So, I went straight to my regular eye  
19 physician, and he examined me the best he possibly could,  
20 and he said, you have a ruptured vessel in your eye, as near  
21 as I can tell, so he sent me straight to Charleston to Dr.  
22 Hatfield, and he is a specialist, an eye specialist, and I  
23 understand very good, and I believe he is.

24                      And he examined me and discovered that I did  
25 not have a ruptured vessel in my eye, but I had a piece of

A.C.R.

1 plaque, and this plaque normally breaks loose in the heart  
2 area or in the neck, as he told me. And this thing had come  
3 up and lodged in my eye. And I said, what will we do, and  
4 he said, take an aspirin a day, and maybe some time, it will  
5 go away.

6 So, it was still there, it was there for quite  
7 some time, until I started my chelation, but nevertheless,  
8 previous to this I had had two heart attacks and I had read  
9 the book, Bypassing Bypass, so I went to see a doctor friend  
10 of mine in Parkersburg who is a personal friend, Dr. Bill  
11 Young, and he recommended that I come to see Dr. Zekan  
12 immediately, and I did. He examined me then consultation  
13 and I started chelation therapy.

14 The tests that he ran which was a battery of  
15 tests, blood tests, urine tests, and foods -- a stool test,  
16 to determine the allergies in food, and I can't name them  
17 all, there is too many for me and I don't understand them  
18 all anyway, but anyway, when I started, within two and a  
19 half to three weeks, this spot in my eye was gone. It just  
20 simply went away, it wasn't there any more.

21 I have had high blood pressure since back in  
22 the early '60's, and my blood pressure normally would run  
23 100 -- the high number would be 160 or 70, maybe, and the  
24 low number would be anywhere from 85, 90, and sometimes 100.

25 My blood pressure started dropping, my

1 cholesterol went from 236 to 170, and as I said, the spot in  
2 the eye was gone. All my creatinine tests came out very  
3 good, but in the meantime -- or I missed one thing. The  
4 test for heavy metals showed that I had five different heavy  
5 metals in my system and two of them, the worst two, I  
6 believe it was lead and mercury, I had them both.

7 And as far as feeling better, I started feeling  
8 better in about two weeks. I started feeling better, my  
9 blood pressure went down, I had more energy, and in general  
10 just felt much better at all times.

11 And let me look at my notes here, I want to try  
12 not to miss anything. And I had been having some chest  
13 pain. Now, I know what angina pain is because I had two  
14 heart attacks, and I am going to tell you, they hurt. Now,  
15 this wasn't like a heart attack, but I did have some pain in  
16 my chest. This would occur when I would strain or be  
17 working hard, and I am retired now and operate a small farm,  
18 and you do get into some hard work. I have hay and that  
19 sort of thing.

20 The chest pain is gone, I don't have any more  
21 chest pain, I haven't had. And one thing, but when you talk  
22 of calcium in your system, I had calcium deposits on both  
23 shoulders, two doctors told me this, and I said, what can we  
24 do about it. Well, Ben-Gay and an aspirin and cortisone  
25 shots.

1 Well, I didn't particularly prefer to have  
2 needles stuck in my shoulder because I know some people that  
3 had it done and they say it hurts. I couldn't get this  
4 sweater on. If I could get it on, it was very painful and  
5 at times I would have to have my wife to take it off because  
6 I couldn't get my arms up. The calcium, I'll say it's gone,  
7 it must be, because it doesn't bother me no more. It just  
8 doesn't hurt.

9 And, like I said, I will try to be brief, and I  
10 know there's a lot of people here who want to speak today,  
11 and there's two people that I want to talk about, and one of  
12 them is Dr. Zekan. I have never met in my life a doctor  
13 that was more concerned with his patients than that man.  
14 You will have to excuse me, because I've got another one to  
15 tell you. He took more time with me than any doctor I have  
16 ever talked to in my life. I've been in four different  
17 hospitals in my life and I have never met one like him. He  
18 calls me by my first name, I have never had that happen  
19 before.

20 I think I've said enough about Dr. Zekan, you  
21 people know him, but I hope all of you do before this is  
22 over.

23 There is one more man I want to talk about, his  
24 name was Danny Bitner. He was a dear friend of mine. He  
25 came to Dr. Zekan in a wheelchair. Before Dr. Zekan was

A.C.R.

1 forced to stop, Danny Bitner walked in that office. He had  
2 a cane and he was shaky, but he walked in.

3 When he had to stop his chelation, I visited  
4 him as often as I could. Danny was going downhill because  
5 he couldn't finish his chelation. He wanted it so bad, and  
6 I'm going to tell you, last week, we buried Danny Bitner.

7 I don't want to make any comments on people  
8 that voted to shut this down, or I'm not going to condemn  
9 any doctors, they do amazing things, but I urge you, sir, to  
10 let Dr. Zekan and the people of this state receive their  
11 chelation. Dr. Zekan will tell you that it is not a cure  
12 for everything, I have heard him say that, but it is an  
13 alternative.

14 I have been discriminated against because I  
15 cannot choose the type of medical treatment that I want.  
16 And that's about all I've got to say. I urge you to look at  
17 it very carefully. I didn't come here to lie to you. If I  
18 lied to you, my dad would turn over in his grave.

19 HEARING EXAMINER MANGUS: Thank you, Mr.  
20 Sommerville.

21 MR. HEDGES: Thank you very much.

22 THE WITNESS: Thank you, sir.

23 (Witness excused)

24 MR. HEDGES: Is Mr. Jerry Norman here?

25 VOICE: He's not here today.

1 MR. HEDGES: James Spencer, from Richwood?

2 MR. SPENCER: I'm here, but I evidently got my  
3 name on the wrong list the last time. I didn't want to  
4 speak.

5 MR. HEDGES: Okay, I'm not sure I'm pronouncing  
6 this right, but Daniel Codualladen.

7 VOICE: I don't believe he is here today.

8 MR. HEDGES: Okay.. Michael Kostenko?

9 VOICE: He's not here today.

10 MR. HEDGES: Or P. Corro?

11 We need the other list, if it's finished.

12 Russ Winkler?

13 (Witness previously sworn)

14 THEREUPON came,

15 R U S S E L L W I N K L E R,

16 called as a witness in opposition to the rule, who, having  
17 been previously duly sworn according to law, testified as  
18 follows:

19 DIRECT EXAMINATION

20 BY MR. HEDGES:

21 Q Mr. Winkler, could you just state your full  
22 name and your residence, please?

23 A I am Russell Winkler, I live at 2012 Kay Neva  
24 Lane, Charleston, West Virginia.

25 Q And, Mr. Winkler, are you a patient of Dr.

1 Zekan's?

2 A I am a patient, yes.

3 Q Could you give us a history of the problems  
4 relating to your seeing Dr. Zekan?

5 A In 1972, I had my first bypass surgery. This  
6 was in Cleveland Clinic. And in 1979, I had my second one,  
7 seven years later. And in four years more, which is 1983, I  
8 had my third bypass surgery. Six months after that, I  
9 started having chest pains real bad and they said, you are  
10 going to have to go back to Cleveland, and I said, there is  
11 no way I can get cut on again.

12 At this time, a friend informed me about  
13 chelation that he was taking in Columbus, Ohio, from a Dr.  
14 Harlan Wilson. Dr. Wilson, who has passed away now,  
15 practiced medicine for over 50 years in Columbus.

16 I started taking chelation -- I forgot to tell  
17 you, on my third bypass surgery, I had a stroke on the  
18 table. I started taking chelation therapy, it has helped my  
19 stroke. I can walk without any problems until I get tired.  
20 My peripheral vision hasn't completely come back, but 90  
21 percent of it has come back.

22 Q Did you start your chelation therapy in  
23 Columbus or in Charleston?

24 A In Columbus.

25 Q With Dr. Wilson?

1           A           With Dr. Wilson. I had over 100 treatments  
2 over there.

3                       I have been going to Dr. Zekan since about the  
4 time he started practicing chelation, because I couldn't  
5 find anybody in the State of West Virginia. The trip to  
6 Columbus got to be a real drag.

7                       And Dr. Zekan -- well, I had gone down to  
8 Huntington to see a doctor, but I didn't like him, found Dr.  
9 Zekan, he had just started, and was tremendously please with  
10 the man.

11           Q           About when was that, that you started seeing  
12 Dr. Zekan?

13           A           1986, '87, something like that.

14           Q           And you at that time began chelation therapy  
15 with Dr. Zekan?

16           A           Yes, I go once a month. Now, I am having to  
17 travel to Beckley because of some stupidity in our  
18 Legislature.

19           Q           As far as differences in your health after  
20 beginning chelation therapy in Columbus and continuing in  
21 Charleston --

22           A           Well, I have been able to work. I retired from  
23 State Government. I worked in the Treasurer's Office, I had  
24 retired from there two years ago. I am very active, I run  
25 up and down hills, I can do about anything you want me to

1 do, except lift heavy objects, because they have tore my  
2 chest up pretty good.

3 Q Okay, and you mentioned the improvement in your  
4 vision, in your peripheral vision?

5 A Yes, my peripheral vision, I would say it is 90  
6 percent back.

7 Q And you today continue the chelation therapy in  
8 Beckley?

9 A I continue it once a month, yes.

10 Q As far as the Board of Medicine's rule, what is  
11 your opinion or feeling on what --

12 A I feel like that I don't know where the  
13 pressure came from at the Legislature, I will try to find  
14 out. But the pressure that they put on those people to make  
15 these changes is highly unethical on the Board's part  
16 because there was no investigation made on this prior to  
17 this ruling coming down. There is no ethical procedure for  
18 the Legislature to do what they did.

19 Q Okay. All right, is there anything else you  
20 would like to add, then?

21 A No, except that I would advise anybody to take  
22 chelation because it helps so many different things. We  
23 don't know exactly all that it will do, never will know,  
24 because the people just won't let it come out.

25 Q Okay, thank you very much, Mr. Winkler.

1           A           Thank you -- oh, I have a copy here of my  
2 records from the last trip I had into Cleveland. I sent  
3 this copy to all the Board. This is a letter I sent to the  
4 Board and a copy of my letter from Cleveland Clinic.

5           Q           Would you like to again submit that to the  
6 record?

7           A           Yes, and I would submit that.

8           Q           So, this is your letter --

9           A           I sent it to all the Board -- I sent it to all  
10 the Legislators. I have not received a reply from anybody.

11                   HEARING EXAMINER MANGUS: Now, did you say you  
12 didn't hear from anyone, Mr. Winkler?

13                   THE WITNESS: Not a one.

14                   HEARING EXAMINER MANGUS: Thank you, Mr.  
15 Winkler.

16                                   (WHEREUPON, the document referred to  
17 was marked as Winkler Deposition  
18 Exhibit Number 53 for purposes of  
19 identification.)

20                                   (Witness excused)

21                   MR. HEDGES: Anna Stewart?

22                                   (Witness previously sworn)

23 THEREUPON came,

24                                   A N N A       S T E W A R T,

25 called as a witness in opposition to the rule, who, having

1 been previously duly sworn according to law, testified as  
2 follows:

3 DIRECT EXAMINATION

4 BY MR. HEDGES:

5 Q Ms. Stewart, could you state your name and your  
6 residence?

7 A Anna Stewart, Route 7, Box 404-B, South  
8 Charleston.

9 Q Now, Ms. Stewart, could you give us the reason  
10 why you are here today to speak about chelation therapy?

11 A Well, I am here to represent my mother. She  
12 died December 28th, 1990.

13 Q And was your mother a patient of Dr. Zekan's?

14 A Yes, she was.

15 Q Do you recall for how long she was a patient of  
16 Dr. Zekan's?

17 A She started in 1987, and I have chronological  
18 data here with a brief history of her condition before, and  
19 step by step, showing improvement.

20 Q Okay, are you -- would you like to submit that  
21 chronology, do you have a copy to submit it to the Board?

22 A Yes, I would. I have sent copies to each Board  
23 Member.

24 (WHEREUPON, the document referred to  
25 was marked as Stewart Deposition

A.C.R.

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Exhibit Number 54 for purposes of  
identification.)

BY MR. HEDGES:

Q Just briefly, could you give for the benefit of  
Dr. Mangus just an accounting of your mother's health  
problems and what caused her to go see Dr. Zekan and the  
results of that?

A Yes. First of all, Dr. Mangus, I want to thank  
you for your interest in coming. And chelation for the use  
in improving the quality of life for my mother, it was not  
just successful, it was a miracle. And I will briefly go  
through this.

At the age of 69, my mother began complaining  
of stomach cramps, leg cramps. She was always saying things  
were hurting her. She began to lose interest in going to  
church, her personal appearance. She always loved to cook  
and have people in. She began to show some disability in  
being able to complete these tasks and she also had -- her  
head began to shake, her hands began, and this was at the  
age of 69.

At the age of 70 to 77, mother made routine  
visits to family doctors and practitioners and they  
diagnosed her as having high blood pressure, anxiety,  
arthritis, and some signs of Parkinson's Disease. They also  
said she had hardening of the arteries and was becoming

1 senile. I heard senile every time with about four different  
2 doctors.

3 And this upset me because I felt like there  
4 must be something that could be done other than just saying  
5 that she was senile.

6 At the age of 78 to 79, mother became unable to  
7 care for herself. She couldn't change her clothes, she  
8 became very upset if I -- I was an only child, so she became  
9 very upset if I would try to bathe her, if I would say,  
10 mother, we need to change clothes today, oh, change your own  
11 clothes if you want to change someone, not mine, I'm fine, I  
12 have no problems.

13 She was very hostile, she took temper tantrums.  
14 She would even get in the floor and pray to die. This is  
15 the way she really had to get to me. She knew this would  
16 hurt me probably more than anything else. She refused to  
17 leave the house. She didn't want to go get groceries. She  
18 didn't want to go to church, she said her legs hurt too bad,  
19 she was too sick. And she became very difficult to manage  
20 at this point.

21 At the age of 79, that was in 1987, my father  
22 passed away on September the 4th. He passed away during the  
23 night and I was working at the time, but they just lived  
24 next door, within about 40 feet. Mother did not realize  
25 that daddy was gone, and at 4:30, 5:00 that evening, we

1 found him, and he had been dead since early morning. She  
2 thought he was just sleeping.

3 From that day on, she lived with me at my  
4 house. She was -- she had no idea who I was at this time.  
5 She -- an only child, she didn't know my name. She never  
6 mentioned going back to the house, she didn't recognize  
7 living beside me. We would pull in the driveway, she had no  
8 idea where she was. She was in fear that she was going --  
9 something was going to happen to her constantly.

10 We had to put dead bolts on the door because  
11 she didn't know daylight from dark. She couldn't walk  
12 without being assisted through the house. If we took her to  
13 the car, there had to be two of us, one on each side, to  
14 walk her.

15 It was very difficult at this time because she  
16 wasn't sleeping at night, and neither were we, and I'm  
17 talking about my husband and myself, because we were afraid  
18 of what, you know, she may try to get outside or fall in the  
19 bathroom, those type things.

20 So, now we get to chelation therapy. I heard  
21 about chelation therapy from a friend of my daughter's,  
22 whose mother had had similar problems, and she had gone to  
23 Dr. Zekan and it had really helped her mother.

24 So, I called Dr. Zekan's office immediately and  
25 got an appointment. I think it took about three weeks or

1 four to get an appointment.

2 I took mother in, Dr. Zekan gave lots of tests  
3 to determine metals in her body, to determine her  
4 circulation, various things. But he said, Anna, before we  
5 do anything, we want to send her to a neurologist to rule  
6 out any problems there.

7 So, I made an appointment with a neurologist  
8 and I think I got that within about two weeks. And I would  
9 like to say on this report there was something about Dr.  
10 Zekan being non-professional -- or not Dr. Zekan, but giving  
11 chelation, and the price involved.

12 When I went to the neurologist's office, I had  
13 to pay \$125 right there. Mother had UMW Insurance and she  
14 also had PEIA, and she had Medicare.

15 The neurologist gave mother a brief test,  
16 pointing, walking, so forth, and he prescribed a drug for a  
17 central nervous tremor. Well, within a week, I was almost  
18 into a central nervous tremor. This drug drove mother up  
19 the wall, myself, my husband, we were all -- I was almost  
20 ready to check myself into Highland at this point, and I'm  
21 not exaggerating, I'm very serious about this.

22 Needless to say, I discontinued that drug.  
23 Then we had another appointment, a follow-up after all the  
24 tests came back. We had another appointment with Dr. Zekan.  
25 This was the latter part of December. We went in and he

1 spent at least an hour and a half with mother and with me,  
2 telling me, going over the test results, explaining the  
3 levels of heavy metals in her system, various problems that  
4 mother had.

5           And he also told me about chelation and gave me  
6 a book -- some material to read, not a book, but some  
7 material to read. I had already read the book, Bypassing  
8 Bypass.

9           He talked to me about the cost, he explained  
10 about the cost, and that insurance didn't always pay for  
11 this. But I do want to say that not once in his office was  
12 I ever asked to make a payment. There were even times when  
13 I wanted to go ahead and make a payment for a treatment or  
14 for other things and the girls would say, well, just wait  
15 for the insurance to come in and we will take care of it.  
16 And that really helped me, with all the other burdens that I  
17 was having.

18           Dr. Zekan is one of the most caring doctors,  
19 one of the most professional and, in my opinion, I am not in  
20 the medical profession, but I would say one of the most  
21 competent doctors that we have in the State of West  
22 Virginia.

23           Mother began chelation, I had here once a week,  
24 but because of her creatinine levels, she had to take it, I  
25 think it was every other week. And later she went once a

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1 week, but she took half a dose each time rather than the  
2 full dosage. That was in January, 1988. In March of 1988,  
3 she began to show improvements in walking. She was less  
4 hostile, she would look forward to going to the beauty shop.  
5 Our fights ceased about taking a bath and she really enjoyed  
6 looking good, and many of you have seen my mom at Dr.  
7 Zekan's office and she was -- I just can't say enough.

8 In June of 1988, mother began to recognize  
9 family members and call them by name. She enjoyed going to  
10 the mall, she began to look at things on the shelf. She  
11 never took initiative to want to buy it, but she would look  
12 at it and comment about it. She even showed interest in  
13 watching TV. Before, the TV could be on and she wouldn't  
14 even look at it, you know, it didn't matter. She made  
15 comments about it, she would sing along. If it was country  
16 music or religious shows, she would sing along with those.  
17 She would watch the news and make comments about the news,  
18 and conversational comments. And there was a program on one  
19 evening I was watching, it's Channel 24, the medical program  
20 about Alzheimer's, and she watched that and she said, well,  
21 I don't think I have that, which, to me, I thought that's  
22 great, because before, she never bothered, you know, she  
23 wouldn't listen to anything, until this time. Then she also  
24 began dressing herself. She never went to the closet or the  
25 drawers and got her clothing out, but when I would put it

1 out at night, put it beside her bed, she would put her  
2 clothing on as soon as she got up. Those shoes had to go  
3 on, and she was dressed before she would come into the  
4 kitchen.

5 Before, she may wear all day, it would be a  
6 fight to get her to change clothes.

7 July, 1988, until her death, December 28th,  
8 1990, at which mother was 82 years of age, she improved  
9 consistently in all behaviors, both mentally and physically.  
10 She would walk up to two miles a day unassisted. This  
11 didn't happen overnight, it's over a period of two years.  
12 She would walk up to two miles a day. Someone would have to  
13 be with her, because she wouldn't know how to get back, even  
14 though we may take the same route. She would recognize some  
15 things, but she wouldn't know how to get back.

16 She was pleasant, she had a good outlook on  
17 life, everything was good. Two years and a half prior to  
18 that, nothing was good, she loved ice cream but she couldn't  
19 tolerate it, you know, you get her ice cream, I can't stand  
20 this stuff, I don't know what's wrong with it, and this is  
21 one comment, I know it's insignificant, but it amazed me.  
22 She went to the bathroom, we were visiting someplace, and  
23 I'm not sure, and she said, honey, this toilet paper is so  
24 nice, you know, to even be concerned enough to make a  
25 comment about, that's how her personality turned around.

1 She was even -- and we did have toilet paper at home, by the  
2 way.

3 But her head quit shaking and many of you in  
4 here can witness that, too. Her head would just go this way  
5 (indicating), people could not understand her. But her head  
6 quit shaking. The only time she would have shaking like  
7 this, or her head, is if the grandchildren got into a fight  
8 and they had to be disciplined. She didn't want those  
9 grand-kids disciplined -- great grand-kids disciplined.

10 She did get to the point she couldn't write  
11 checks and she was never able to write checks after that.

12 She could sign her name later, but it was  
13 difficult to read because it was very shaky.

14 The conclusion that I have to say is our entire  
15 family and all of our friends thank God for doctors like  
16 Steve Zekan who, in my opinion, is a doctor of the future,  
17 who was able to give my mother a better quality of life  
18 through the use of chelation therapy and preventive  
19 medicine, and with the help of family and friends, we were  
20 able to keep my mother at home to give her the love that she  
21 so desperately needed.

22 And I trust, Dr. Mangus, that the Board members  
23 will be open-minded and carefully research the subject of  
24 chelation therapy and will allow us to make the choice as to  
25 whether we want to use it or not, just as we would in the

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1 use of experimental drugs to fight cancer. I think we  
2 deserve the right to make a choice to use chelation therapy.

3 I have had ten treatments myself because some  
4 of the metals showed up in my system on the plus level that  
5 mother had, and I am trying to prevent getting in the same  
6 condition she did, and I certainly feel like I should have  
7 that choice without having to go out of state to do it.  
8 Thank you very much.

9 HEARING EXAMINER MANGUS: Thank you, Ms.  
10 Stewart.

11 (Witness excused)

12 MR. HEDGES: Andrew Jones?

13 (Witness previously sworn)

14 THEREUPON came,

15 A N D R E W J O N E S,  
16 called as a witness in opposition to the rule, who, having  
17 been previously duly sworn according to law, testified as  
18 follows:

19 DIRECT EXAMINATION

20 BY MR. HEDGES:

21 Q Mr. Jones, could you give us your full name and  
22 your residence, please?

23 A Andrew T. Jones, 116 Litton Heights, Scott  
24 Depot, West Virginia.

25 Q All right, Mr. Jones, are you a patient of Dr.

A.C.R.

1 Zekan's?

2 A Have been.

3 Q Okay, when did you begin seeing Dr. Zekan and  
4 what for?

5 A First, if I may, I don't know how many were  
6 here last time, but I would like to apologize to Dr. Mangus.  
7 I was the fellow that made the outburst at the end of the  
8 meeting last week, or last time. I don't apologize for my  
9 comments, but for my behavior.

10 HEARING EXAMINER MANGUS: It's accepted, Mr.  
11 Jones.

12 THE WITNESS: First, I took my wife to Dr.  
13 Zekan. She had been diagnosed with Alzheimer's and just me  
14 and my wife, we have no children, we have no family. I  
15 became very anxious to find something to do for my wife. I  
16 contacted my regular physician, and he said, there is  
17 nothing you can do for it. And I finally called -- I read a  
18 book about chelation, it was given to me by a friend. In  
19 fact, that same friend told me, said, Andy, there's  
20 something they can do for your wife. And I said, no, I  
21 don't think so, nobody seems to know anything about anything  
22 they can do for her.

23 And his son had the book on chelation and he  
24 brought it to me and I read it. And there was mention in  
25 that book that it had been successful in some degrees for

1 people with Alzheimer's.

2 My wife was diagnosed in 1989, but signs of  
3 Alzheimer's had prevailed at least two years prior to that,  
4 but I nor no one else recognized the Alzheimer's.

5 When I read the book on chelation, I called my  
6 physician, asked him if he knew anything about it, and he  
7 said, no, he didn't, and I said, well, do you know anybody  
8 that can treat people with Alzheimer's, and he said, well,  
9 there's a doctor here in Huntington, that he just controls  
10 people's behavior, so I didn't want that. My wife is 86  
11 years old and she is a very petite woman and being alone, I  
12 was frantic for someone to help me.

13 So, I called the referral system here in  
14 Charleston for a doctor that treated patients with  
15 Alzheimer's. She gave me a name of a doctor, and I cannot  
16 recall his name. I called him and he said, yes, I've heard  
17 about it, but, he said, I don't believe in it. And I said,  
18 why, and he said, well, if it takes calcium out of our  
19 blood, it's bound to take it out of your bones. And I said,  
20 well, I don't know, I'm asking you for information, I can't  
21 explain things to you.

22 So, he did say, I do know a doctor, though,  
23 that treats Alzheimer's -- or gives chelation, and gave me  
24 Dr. Zekan's name.

25 So, I called for an appointment, it was about

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1 in March of '90, and I got an appointment for sometime  
2 around the 1st of May of '90 to take my wife up there. And  
3 he examined her and gave her tests and we talked and --  
4 longer than I had ever talked with most doctors and I told  
5 him about our situation of the two of us being alone. I  
6 have always been considered generally in very good health,  
7 and have high blood pressure, is the only thing that I know  
8 that is wrong with me. And in talking to Dr. Zekan, after  
9 the tests were completed and he suggested we take chelation,  
10 both of us, not that I had anything seriously wrong with me,  
11 but in our situation of being just the two of us, that it  
12 would be more of a preventive thing for me than it would be  
13 for anything to correct anything about me.

14 So, we took chelation in the latter part of  
15 '90. During the winter months, due to travel and  
16 temperatures, we quit chelation during the winter months and  
17 came back in the Spring of '91 and continued and took about  
18 -- my wife took about 36 treatments and I took 30.

19 I had talked to Dr. Zekan at this time and told  
20 him -- first, I was hopeful, as I think many people were,  
21 that back in those early '90's, that Medicare was going to  
22 pick up some of the bills on this. I think they did for a  
23 period of time and then it quit then around June of '90, if  
24 I am correct. However, all of my treatments were past the  
25 time that Medicare had ceased payments.

A.C.R.

1           And I told him, I said, I can't see right now a  
2 great difference in my wife, and due to the financial  
3 situation that we have, both on fixed incomes, that we  
4 probably are going to stop for a while, and I felt great.  
5 My wife, as I said, I couldn't see much difference. But  
6 after we have stopped, first, my experience, I was taking  
7 two Vasoretic 1025 pills a day for high blood pressure.  
8 That cut my blood pressure medicine in half. My two big  
9 toes had been white and numb for the last 15 or 16 years and  
10 today they are red and they've got feeling in them for the  
11 first time in those years. Those are the only things that  
12 it did for me, but I don't know, nor does any physician  
13 know, what condition my wife would have been in if she  
14 hadn't have taken chelation or what condition I would have  
15 been if I had not taken chelation.

16           After we ceased treatments, my wife started to  
17 have a sort of a little revival in a change in her habits.  
18 She had completely ceased all house activities. She was a  
19 great cook and a great housekeeper, but she ceased all that  
20 in the beginning.

21           Then here in the latter part of '91, or I would  
22 say the last half of '91, she began to get up and making the  
23 bed, wanting to wash dishes, iron, picking up habits that  
24 she had done all her life that she had ceased prior to the  
25 treatments. And people said, how is your wife, and I said,

1 well, she is just fine, it's unbelievable that she has  
2 ceased any progression that people tell me that Alzheimer's  
3 people normally do. And since this ceasing of the  
4 treatments, my wife has become more normal, not my wife as I  
5 first knew her, but a different wife from what she was  
6 before she took chelation.

7 As far as medical experiences -- my medical  
8 experiences with doctors, I have never had one that was any  
9 more thorough or any more honest and sincere in trying to  
10 help me, and I know from all the people here in the last  
11 meeting that they have the same feeling.

12 Now, I want to say one thing about the Medical  
13 Board of West Virginia and you may have picked it up when I  
14 spoke at the last meeting, that I know that West Virginia  
15 does not need to be the only state with a primitive  
16 practices of putting West Virginia to be the only one in the  
17 nation that doesn't do this or doesn't do that, and that the  
18 Medical Board look at this situation from the standpoint of  
19 human existence.

20 The medical profession, my sole belief is that  
21 it's strictly an economic fight, and I know if the  
22 politicians get involved in something that there is bound to  
23 be influence by certain groups that produces certain actions  
24 against the people, and I firmly believe and I say with all  
25 sincerity and honesty that I think if the Medical Board is

1 sincere in their profession of trying to be compassionate  
2 and to save people's lives that they will see that the  
3 Legislature of West Virginia reverses this law. Thank you  
4 very much.

5 MR. HEDGES: Thank you very much.

6 (Witness excused)

7 MR. HEDGES: Sophia Morris?

8 VOICE: She's not here today, but I will speak  
9 on her behalf.

10 MR. HEDGES: Okay.

11 (Witness previously sworn)

12 THEREUPON came,

13 P H I L L I P L E E M O R R I S,

14 called as a witness in opposition to the rule, who, having  
15 been previously duly sworn according to law, testified as  
16 follows:

17 DIRECT EXAMINATION

18 BY MR. HEDGES:

19 Q Would you state your full name and your  
20 residence, please?

21 A Phillip Lee Morris. I live at 717 Daverton  
22 Road in Charleston.

23 Q And you are here to speak on behalf of Sophia  
24 Morris, I take it. Is she your sister or --

25 A She's my wife, but her name is Sophronia.

A.C.R.

1 Q Sophronia?

2 A Yes, that's the correct spelling.

3 Q And was she a patient or is she a patient of  
4 Dr. Zekan's?

5 A Yes, sir.

6 Q Can you give us a brief history on her health  
7 and the reasons for seeing Dr. Zekan?

8 A Okay, I've got a prepared statement. I will be  
9 basically going off of it. This is the exact -- the Board  
10 already has a copy of this, but I thought it would be good  
11 for those present to hear it.

12 It says, on March the 7th of 1990, after  
13 several extensive blood tests, urine and hair analysis  
14 tests, and upon the recommendation of my physician, Dr.  
15 Stephen Zekan, I began chelation therapy, and these are the  
16 words of my wife. The symptoms which prompted my initial  
17 visit to Dr. Zekan ranged from aching joints, low grade  
18 temperatures, chills, intensive sensation of burning,  
19 fatigue, weakness, depression, and general incoherency. She  
20 couldn't hardly think sometimes. All of which hindered my  
21 ability from functioning normally.

22 After this initial visit and after sharing my  
23 case history with Dr. Zekan, he ordered a number of tests to  
24 verify my condition and his prognosis.

25 The test results revealed that there were

1 excessive and unacceptable levels of toxic minerals in her  
2 system, most notably lead, cadmium and aluminum. One study  
3 showed that there were even an increased amount of barium in  
4 my system.

5           Based on these findings, Dr. Zekan recommended  
6 immediate chelation therapy to reduce the toxic level over-  
7 burden.

8           After 29 chelation treatments, the symptoms  
9 mentioned previously gradually alleviated. Another battery  
10 of tests was submitted to the same laboratories used before  
11 in the initial tests. These tests revealed that the levels  
12 of lead that had ranged far beyond the standard deviation  
13 had dropped significantly below the normal range. The  
14 amounts of cadmium fell from levels exceeding more than two  
15 standard deviations than normal down to a level slightly  
16 above a standard -- one standard deviation. But the levels  
17 of aluminum, however, showed no significant change. The  
18 barium which also previously exceeded two standard  
19 deviations dropped completely out of the excessive range,  
20 and that's good.

21           Now, the most notable of all the test results  
22 following the 29th chelation treatment and prior to the  
23 prohibition of the chelation therapy in West Virginia was  
24 the encouraging results from my ANA, which is an anti-  
25 nuclear antibody, IFA test, it's a blood test, for the first

1 time in ten years after being diagnosed as having systemic  
2 Lupus Erythmotosis -- I can't even pronounce that word,  
3 verified annually because she had a test every year. And  
4 every year that she took this test, it said that she had  
5 Lupus, okay, with multiple antibodies present, speckled in  
6 nuclear pattern seen at tither over 160. She now saw a  
7 first significant change with a tither of one to 40.  
8 However, it was still -- it was a change that had a nuclear  
9 pattern instead of one that was not nuclear, so that was a  
10 miraculous change. Doctors know what this means. All I  
11 know is that the test said something different and it said  
12 she was getting better from Lupus, and I never heard anybody  
13 say that Lupus was something that chelation therapy could  
14 help. But, anyway, back to what she was saying.

15 While this change was a surprise to me, it  
16 served only to confirm Dr. Zekan's earlier hypothesis. His  
17 initial reason for implementing the chelation therapy was  
18 based on the premise that my condition would drastically  
19 improve, including the Lupus, if we were able to eliminate  
20 these high levels of toxic heavy metals which were in my  
21 system.

22 In conclusion, though my chelation therapy was  
23 by necessity administered at much lower levels than the  
24 standard protocol warrants, extremely positive results were  
25 realized. I am thankful for Dr. Zekan's insight in this

A.C.R.

1 area and I would certainly hope that this testimony, coming  
2 from a chelation patient, though a lay person, might cause  
3 you to reconsider and to reverse your decision regarding  
4 this medical procedure which I and others have benefitted  
5 from, and it could be continued and thus we can enjoy a  
6 better quality of life.

7 Now, that's -- I tried my best to read that,  
8 though I want to put an addendum on it personally. My wife  
9 elected not to come here today because she really doesn't  
10 feel too well today. The -- some of the symptoms that had  
11 been mentioned in this writing, they are starting to come  
12 back on her and they had been gone while she was being  
13 chelated. She didn't have the Lupus flare-ups that she had  
14 before and the burning and the aching in the joints and all  
15 that. Now, these things are starting to reoccur, and as a  
16 matter of fact, she can't even walk without a limp right now  
17 and I have to consider about taking her to a doctor to see  
18 what is wrong with her knee joints right now, but we believe  
19 we know what is wrong. We believe that because she hasn't  
20 been chelated in half a year that these symptoms are  
21 returning and now, if her other leg goes out, she will have  
22 to remain in bed, which will definitely be an inconvenience  
23 to our family.

24 And, personally, this is what I would like to  
25 say to everyone here. The man that was here before spoke to

1 my heart when he said why is it that West Virginia has to do  
2 things to live up to the stereotype that is often thrown at  
3 us, to deride and ridicule this state as being backwards,  
4 not with the latest information and the latest technology,  
5 why do we have to submit to ignorance and why do we have to  
6 play that role all the time? I really hope that -- I'm not  
7 ready to cast any dispersions, I am not ready to call names,  
8 but this state has suffered long enough from ignorance,  
9 isolationalism and just elitism. I don't know if it is  
10 political or otherwise, but I think it's time -- it's high  
11 time that it stopped, because people's lives are being  
12 affected. We are not just talking about dollars and cents.  
13 Because of this attitude, I have to pay all of this out of  
14 my pocket and, quite frankly, I work for the state, I am a  
15 servant, I work with the Department of Highways, and I don't  
16 have any kind of salary to brag on, I am not in the  
17 Commissioner's in-crowd, but I will tell you one thing, we  
18 need to see that this state rises above this negative  
19 attitude that has been projected upon us. But if we keep  
20 making decisions like the one that has been made which is  
21 hurting my wife, every day, we will live up to that old  
22 hillbilly image and I think that it needs to be put away. I  
23 think our governor is a man who wants progressiveness in  
24 this state. And if that be true, I think we all ought to  
25 have that same attitude and quit looking at small corners or

1 small groups and look at the general welfare of the entire  
2 state.

3 And I want to close by saying that I respect  
4 the Board, I believe they made a decision based on maybe  
5 what they understood. But now the truth has been revealed,  
6 and I am not a doctor, I had college chemistry and that's  
7 all I know, but I know one thing, my wife was getting better  
8 and now she's getting worse, and I think that that could be  
9 helped if a decision -- a right decision is made.

10 MR. HEDGES: Thank you.

11 (Witness excused)

12 MR. HEDGES: Ruth Weaver?

13 (Witness previously sworn)

14 THE WITNESS: Mother is here today, but she  
15 prefers not to speak, may I speak for her?

16 MR. HEDGES: Sure.

17 THE WITNESS: I am Jane Weaver, her daughter.

18 MR. HEDGES: Okay, and where are you from, Mrs.  
19 Weaver?

20 THE WITNESS: 949 Lexington Drive, St. Albans.

21 THEREUPON came,

22 J A N E W E A V E R,

23 called as a witness in opposition to the rule, who, having  
24 been previously duly sworn according to law, testified as  
25 follows:

DIRECT EXAMINATION

BY MR. HEDGES:

Q And your mother's name is Ruth Weaver?

A Right.

Q Is she a patient of Dr. Zekan's?

A Yes.

Q Do you want to just tell us about what her feelings and your feelings are about the Board's rule, then?

A Yes. We first came to find out about Dr. Zekan through mother's sister, Mrs. Mae Samples. She was a 30 or 40-year smoker and in the terminal stages of emphysema when she also had circulation reducing to the left leg.

She got -- her toe on that leg sustained an injury and the toe turned blue. She was not a good candidate for surgery given her deplorable lung condition. So, the surgeon -- the only alternative that the lung specialist had was to amputate the toe and, of course, he recommended Dr. Zekan as an alternative.

My aunt did have chelation therapy, the toe was -- the circulation to the toe was renewed, the entire toe before chelation had turned an awful purplish blue. All the circulation was returned to it, she did subsequently die from emphysema, but she died with the toe intact.

My mother -- since we had seen what chelation had done for my aunt, my sister and I considered it for my

1 mother because she was a diabetic with an extensive family  
2 history of arteriosclerosis, stroke, phlebitis,  
3 hypertension, and, of course, mother was a diabetic and she  
4 was beginning to exhibit the same symptoms. She was having  
5 short-term memory loss, she was extremely lethargic. She  
6 had very, very marked varicose veins, and, of course, she  
7 had one sister that had phlebitis and a subsequent stroke to  
8 the varicose veins.

9 So, for these reasons, my sister and I talked  
10 it over and we decided to encourage mother to go to Dr.  
11 Zekan to hear what he might be able to do for her to avert  
12 some of these things happening to her.

13 She -- we did, and, of course, he chelated her  
14 -- oh, to show how bad she was before the chelation, mother  
15 actually went out and bought a cloth pocket book because she  
16 said the leather pocket book was too heavy to carry, so we  
17 saw mother going downhill, oh, six months before the  
18 chelation. I mean, seriously, markedly.

19 So, Dr. Zekan chelated her. The first most  
20 remarkable thing was her short-term memory loss went away.  
21 We noticed that her insulin demands were reduced by half.  
22 Now, we saw this over a period of six months to a year. She  
23 was chelated, by the way, for five years without no adverse  
24 side effects. We did see a reduction in the insulation  
25 demands, the varicose veins are much improved, and the

1 lethargy that mother almost succumbed to went away. And in  
2 fact, you -- I couldn't get her out of the garden.

3 Now, she has not had chelation for six months.  
4 We are beginning to see the short-term memory loss rise  
5 again, her insulin demands have not gone back up but we  
6 definitely see her not as sharp as she was. We would like  
7 to reinstate the chelation as soon as possible. If it is  
8 not reinstated in this state, we feel so strongly because of  
9 what we have seen, we will take her out of state. And other  
10 than that, that's all that I wanted -- mother's was a  
11 preventative measure, we don't have any dramatic illnesses,  
12 thank God, because of the chelation, I feel, to testify to  
13 here today, but mother is 76 now and going strong. We do  
14 want chelation reinstated.

15 MR. HEDGES: Okay, thank you very much.

16 HEARING EXAMINER MANGUS: Thank you.

17 (Witness excused)

18 MR. HEDGES: Kathy Taylor?

19 VOICE: Kathleen.

20 (Witness previously sworn)

21 THEREUPON came,

22 KATHLEEN TAYLOR,  
23 called as a witness in opposition to the rule, who, having  
24 been previously duly sworn according to law, testified as  
25 follows:

DIRECT EXAMINATION

BY MR. HEDGES:

Q Ms. Taylor, could you just state your full name and where you are from?

A Kathleen I. Taylor, 6834 Sissonville Drive, Charleston.

Q All right, Ms. Taylor, are you a patient of Dr. Zekan's?

A Yes, I am.

Q And how long have you been a patient of Dr. Zekan's?

A Since April, 1988.

Q All right. Can you tell Dr. Mangus and the Board for what reasons you went to see Dr. Zekan and what you experienced through the chelation therapy?

A All right. I have written a statement here. I would like to read it.

I had a stroke in January, 1987, which affected my speech, my walking, and use of my arm, also, my thinking.

My doctor, Dr. Barbara Morgan, ordered numerous tests, including a CT Scan. My doctor said the stroke was caused by the plaque in my carotid arteries. It loosened and caused damage to my brain.

My improvement was slight even though I had eight weeks of physical therapy.

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1                   In March, 1988, a friend told me about Dr.  
2 Zekan and I made an appointment April, 1988. I was told  
3 that my walking would improve but my arm would stay about  
4 the same.

5                   I started Chelation June of 1988. After seven  
6 treatments, I could feel a difference. My leg was stronger,  
7 my balance was improving, and my mind was more clear.

8                   I have had three CT Scans, three ultrasounds,  
9 and three dye tests for angiograms which show improvement in  
10 the arteries.

11                   I have had a suggested number of chelation  
12 treatments, 35, and was on a maintenance program. I have  
13 had a total of 50 treatments, that the last was May, 1991.

14                   I do not feel as well now as I did taking  
15 chelation. My arthritis is worse now and I am afraid of  
16 having another stroke, especially if I'm not allowed the  
17 privilege of choosing my treatment.

18                   Q           Is there anything else you would like to say,  
19 Ms. Taylor?

20                   A           That's all.

21                   MR. HEDGES:   Okay, thank you very much.

22                   THE WITNESS:   I could say a lot, but --

23                   HEARING EXAMINER MANGUS: Thank you, Mrs.  
24 Taylor.

25                                   (Witness excused)

1 VOICE: Dr. Mangus, I would like to ask a  
2 question. How in the world are you going to be able to tell  
3 the Board the emotional -- the emotion that you see here and  
4 the remarkable recoveries of these people? How are you  
5 going to be able to tell them what you hear? I feel the  
6 Board should be here, or some of the Board anyway.

7 HEARING EXAMINER MANGUS: I will try to  
8 transmit the intensity and the feelings of the evidence here  
9 today as much as possible. It certainly is a very heartfelt  
10 expression on these people's part.

11 Do you have another?

12 MR. HEDGES: Oneida Kubach.

13 HEARING EXAMINER MANGUS: After this hearing  
14 here, or after this deposition, we would like to take a few  
15 minutes if we could, and maybe we can all get up and stretch  
16 and reconvene after about ten minutes.

17 (Witness previously sworn)

18 THEREUPON came,

19 O N E I D A K U B A C H,  
20 called as a witness in opposition to the rule, who, having  
21 been previously duly sworn according to law, testified as  
22 follows:

23 DIRECT EXAMINATION

24 BY MR. HEDGES:

25 Q Could you state your full name and where you

1 are from?

2 A Oneida Kubach, from 4414 Malden Drive in  
3 Charleston.

4 Q And are you a patient of Dr. Zekan's?

5 A Yes, I am.

6 Q And how long have you been a patient?

7 A I have been a chelation patient since the  
8 latter part of '85, or the first part of '86, I am not sure  
9 which.

10 Q Did you begin your chelation therapy with Dr.  
11 Zekan?

12 A Yes.

13 Q Okay, and what health problems were you having  
14 that led you to see Dr. Zekan then?

15 A I had been having many infections. I am a  
16 diabetic and I had gotten a bone infection in my right foot,  
17 I think, and after it was over, Dr. Zekan had given me the  
18 Bypassing Bypass plus some other literature to read.

19 He had made -- he did all of his blood tests  
20 and everything he does before he even considers chelation,  
21 and he felt that my circulation was in very poor shape, so  
22 he started me on chelation.

23 Before, I was very tired, I had no energy. I  
24 had just retired with all of these plans of what I was going  
25 to do after retirement, but I wasn't able to do them.

1                   After about three -- it could have been before  
2 three weeks, but I noticed standing at the kitchen window I  
3 didn't have any pain any more, I felt good, I was singing  
4 like I usually did, and I realized that I felt good, it was  
5 worth living, because I felt good, I could do the things  
6 that I wanted to do.

7                   I was taking care of my little newborn  
8 granddaughter, I would take her to Dr. Zekan's office when I  
9 would take chelation and lay her on the floor on a blanket  
10 and she would entertain everyone. But the more chelation I  
11 took, the better I felt.

12                   I got an infection in one of -- in my foot  
13 again, and took about six weeks to get healed up, but he  
14 did. Then I went to Kentucky to visit some of my children  
15 and was off of chelation for about two months, and I started  
16 becoming tired and irritable, so my children sent me back to  
17 Dr. Zekan to get my fix, as they called it.

18                   So, I would come back -- I would stay here for  
19 two or three months and get fine and then go back out there  
20 and they would make me come home about every month so I  
21 could get my fix, but I was fine.

22                   I have had many infections, many of them, but  
23 it was not due to circulation. I lost my left leg a year  
24 ago, but it wasn't due to lack of circulation. I had  
25 beautiful circulation, good pulses, everything, but I became

1 infected to the point where it was in my blood stream and it  
2 was necessary to do away with. We had been fighting this  
3 for years.

4           After -- but I will say this right now, if I  
5 had known then that in six months I was not going to be able  
6 to have chelation, I don't know whether I would have signed  
7 the permit to have my leg taken off, because I don't fear  
8 death half as much as it scares me to death to know that if  
9 I can't get chelation, I will become the child and my  
10 children will become the parent, and that is a horrible  
11 thing, horrible to even think about, but that is what is  
12 going to happen, because since I have not been able to take  
13 chelation, I can fall asleep sitting in the chair talking to  
14 you. I have absolutely no energy, I am very irritable, my  
15 circulation -- I am beginning to have pains in my leg, my  
16 fingers are becoming numb, my memory is terrible, even my  
17 balance, I mean, I had no problem with this leg, with  
18 learning to use it, I did beautifully, but because of the  
19 circulation, I suppose, to my brain, my balance is being  
20 undermined and I don't think any group of people should have  
21 the right to tell someone else that they cannot proceed with  
22 a medication that will help the quality of their life  
23 improve as much as mine did. And we are like a family, we  
24 see each other once a week, once a month, and we are like a  
25 family, and it hurts to see a member of your family in the

1 shape that some of ours are right now because of the Board's  
2 decision. And it was the Board's decision, because they  
3 were the ones that had to put it before the Legislature, and  
4 I don't think that they should have the right to deny us  
5 that. Thank you.

6 MR. HEDGES: Thank you very much.

7 (Witness excused)

8 HEARING EXAMINER MANGUS: Okay, let's take a  
9 ten-minute break. We'll reconvene at 20 minutes till 11:00.

10 (WHEREUPON, a brief recess was taken,  
11 after which the following proceedings  
12 were had.)

13 HEARING EXAMINER MANGUS: May I have your  
14 attention again. In order to give everyone an opportunity  
15 who wants to, I would like to get started now so that we can  
16 continue with the testimony. I realize ten minutes is not  
17 very long, but I would like to make this time as productive  
18 as possible.

19 Can we have the next witness, please?

20 MR. HEDGES: A. G. Fultz.

21 VOICE: He must not be back yet.

22 MR. HEDGES: Okay, Frank Walters.

23 (Witness previously sworn)

24 THEREUPON came,

25 F R A N K W A L T E R S,

1 called as a witness in opposition to the rule, who, having  
2 been previously duly sworn according to law, testified as  
3 follows:

4 DIRECT EXAMINATION

5 BY MR. HEDGES:

6 Q Would you state your full name and where you  
7 are from, Mr. Walters?

8 A Frank Walters, and P. O. Box 88, Alum Creek,  
9 West Virginia.

10 Q Are you a patient of Dr. Zekan's?

11 A Yes, sir, I am.

12 Q How long have you been a patient?

13 A I started -- well, it's sort of a long, drawn-  
14 out story. Bonnie Smith, her and her husband have been  
15 friends of mine for many years, and she seen the condition I  
16 was in, they have a camp out where I live, and she mentioned  
17 going to Dr. Zekan and maybe he could help me.

18 So, I made an appointment finally and was very  
19 skeptical, I mean, you know, it just didn't really enthuse  
20 me at all.

21 Q What were your health problems?

22 A Short-term memory, I'm a severe diabetic, and I  
23 just couldn't get around, I couldn't think, I couldn't work,  
24 I couldn't do nothing. I mean, I was just a drone, really,  
25 just sit there at the house and look ignorant is about all

1 you could do. And I started going to Dr. Zekan and he gave  
2 me a thorough examination, a blood test, hair samples, the  
3 whole nine yards, and, you know, I kind of chuckled about  
4 it, especially the hair samples, and my wife, she was a  
5 total non-believer, and I wouldn't even discuss it with Dr.  
6 Grubb, who is my diabetic doctor. I wouldn't discuss it  
7 with him. And so I -- Dr. Zekan recommended chelation  
8 therapy, so I went up and started taking the chelation, and  
9 believe it or not, the circulation such as my feet were so  
10 bad that I had no feeling whatsoever, I mean, they were just  
11 -- I had toes, but I couldn't feel them. I couldn't tell  
12 they were there.

13 My hands, all my extremities, and the first day  
14 that I took the chelation treatment, I could feel some kind  
15 of a like tingling feeling in my right foot, and I hadn't  
16 felt that foot in a couple or three years. I have been  
17 disabled since '84, and I couldn't do anything. I would  
18 just sit at home and more or less sit in a chair and drool.  
19 I couldn't think of anything. It just like to drove me  
20 crazy not to be able to do what I had normally been doing,  
21 you know, I could do anything I wanted to do when I wanted  
22 to and as I wanted to. I was a police officer, I was in  
23 security training, teaching security and the whole nine  
24 yards, security, I mean retired as second in charge of  
25 security at Cedar Coal Company, and I just got to the point

1 that I was just a zombie, just sat and stared at the wall,  
2 more or less, didn't even care to watch television or  
3 nothing, so depressed it was pathetic.

4 So, about the same time, Dr. -- well, about a  
5 year before that, Dr. Grubb started me on Prozac, which is  
6 an anti-depressant, and it helped quite a bit, but it still  
7 didn't help my extremities and stuff.

8 So, after I started taking chelation therapy, I  
9 could see the difference. Every time I would leave Dr.  
10 Zekan's office, I would go home and get into doing  
11 something. It just seemed like it charged me up or  
12 something, was like my battery was run down and when I took  
13 a chelation treatment, it just charged my body up, you know,  
14 I got to -- I was dreading it to begin with because of the  
15 needle, and after I started taking them, I started looking  
16 forward to going, you know, I felt so good after I took one.  
17 I could leave his office and just feel like a million  
18 dollars.

19 And I took 21 treatments and then they stopped  
20 -- the Legislature stopped him from giving them, and I have  
21 been going downhill ever since. I never had used a cane  
22 until up here the last, what, hon, about the last three  
23 months, and I've even had to use a cane to get around on. I  
24 can't -- I mean, I can walk, but my balance is so bad and my  
25 short-term memory is doing the same thing again. I mean, I

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1 could be sitting talking and bang, it's gone. I fool with  
2 radios and computers all the time and if you're not -- if  
3 you don't have a good short-term memory as far as computers  
4 goes to remember the commands and stuff like that and stuff  
5 you normally play with, then you are just in trouble. I  
6 mean, you are just -- you just might as well turn it off and  
7 leave it off.

8           And that's about all I do now, is just sit down  
9 in my room. I've got a room of my own and I sit down there,  
10 and most of the time I'm asleep. That's just about it.

11           They have had to double my -- Dr. Grubb doubled  
12 my Prozac because I got so depressed again. I'm getting  
13 back to the same way I was before. He has doubled my  
14 Prozac, that still hasn't helped, I just don't feel like  
15 doing anything. I didn't even feel like going over here  
16 today, but I feel that this is so important to so many  
17 people, including myself, that it was my duty to come over  
18 here and make some effort to help him.

19           Q           While you were on the therapy, the chelation  
20 therapy, were there any bad side effects or did you have any  
21 adverse effects?

22           A           Oh, no, sir, I had nothing but great effects.  
23 I had not run a weed eater or done anything in my yard as  
24 far as I may -- I love my yard, I love to be outside in the  
25 summer time, and I had not done anything in my yard. My

1 wife mowed the grass. For about three years, I have been  
2 unable to do the trimming or anything, and this past summer  
3 after I started taking chelation treatments, I would come  
4 home and fire up the weed eater and run a gasoline weed  
5 eater. I mean, that's how good I felt.

6 She usually mowed grass one day a week and  
7 usually that was the day I went to take my chelation  
8 treatment. And when I came back, well, I would fire up the  
9 weed eater and do the trimming. And I hadn't done that in  
10 three years. I hadn't touched a weed eater in three years,  
11 she had had to do it all. And it just blew my mind when I  
12 would go into Dr. Zekan's office all the people that were  
13 there, you know. We all talked among ourselves and  
14 everything. I was telling them it was the first time in  
15 three years that I had run a weed eater or anything. I was  
16 driving a car, I'm not driving now. I just don't want to  
17 drive, I don't feel like it. My eyesight is failing real  
18 bad now, so I just at night I don't drive at all. I just  
19 don't want to do things, do you know what I mean? I just  
20 have no desire. Without the chelation, I'm back to being a  
21 zombie, or worse. I've deteriorated. I had my last one, I  
22 think, in June, somewhere along in that area, and I have  
23 deteriorated now to the point where I am worse, way worse  
24 than I was before I started taking the chelation treatments  
25 now. I am back to the same old stuff.

1           There is a lot of things that I would like to  
2 mention, but I think of them while I'm talking and then they  
3 leave me, and that's one of my problems. But there's just  
4 so much to be said for the chelation treatment as far as I'm  
5 concerned. I can't speak for anybody else, but I sure can  
6 speak for myself, and it's just -- as far as I'm concerned,  
7 it's the greatest thing that was ever done, and believe me,  
8 I am a very skeptical person of anything. I was a police  
9 officer and policeman are skeptical of everything, and I am  
10 like the guy says, I'm from Missouri, you've got to prove it  
11 to me. Well, Dr. Zekan surely did that to me when he put me  
12 on chelation treatment. He proved to me that he's right, it  
13 works, and it did a wonderful job for me, and I would just  
14 love to see it put back into use so that -- I assure you  
15 that I would be one of the first to be chelated.

16           MR. HEDGES: Okay, thank you very much, Mr.  
17 Walters.

18           HEARING EXAMINER MANGUS: Thank you, Mr.  
19 Walters.

20           THE WITNESS: Thank you for letting me speak.

21                   (Witness excused)

22           MR. HEDGES: A. G. Fultz?

23                   (Witness previously sworn)

24           THEREUPON came,

25                   A.       G A I L       F U L T Z.

A.C.R.

1 called as a witness in opposition to the rule, who, having  
2 been previously duly sworn according to law, testified as  
3 follows:

4 DIRECT EXAMINATION

5 BY MR. HEDGES:

6 Q Could you please give us your name and where  
7 you are from?

8 A A. Gail Fultz, 2736 Daniels Avenue in South  
9 Charleston.

10 Q And are you a patient of Dr. Zekan's?

11 A Yes, sir.

12 Q Okay, do you want to give us a brief summary of  
13 your experience with chelation therapy?

14 A I would be glad to. I retired from Union  
15 Carbide after 36 years service in '82, February of '82. My  
16 doctor before that, of course, was Dr. Charles Staats at  
17 Staats Hospital, and in '83, the hospital closed and so I  
18 needed to find another doctor. And I called another doctor  
19 friend of mine, a real good friend, Dr. Carl Castle, and he  
20 recommended that I go see Dr. Steven Zekan.

21 About -- about ten years, I guess, nine or ten  
22 years before I retired from Carbide, I become a diabetic,  
23 and at that time, of course, I was doctoring with Dr.  
24 Charles Staats and he put me on Diabanese. I was on  
25 Diabanese and along about the same time I acquired high

1 blood pressure and he put me on high blood pressure  
2 medicine, and it was staying within the upper limits. But  
3 then when I visited Dr. Zekan, I think it was in the early  
4 part of '84, and I had really wanted a physical, I hadn't  
5 had a physical for a couple of years after retiring, and I  
6 needed a doctor for physicals and I had a -- during a  
7 physical, why, I -- he found that I had a hernia and he  
8 said, we will repair that, and otherwise, knowing my  
9 condition of high blood pressure, and I was on medication  
10 and diabetes, I was on medication for that. But he said,  
11 since you lost your wife recently, why don't you go home for  
12 a couple of months and call me and then we'll schedule a  
13 surgery.

14 So, in about March of that year, I called and  
15 made an appointment and he done my surgery. And after I  
16 went back after the surgery for checking is when he told me  
17 that my cholesterol was high and my blood pressure was on  
18 the upper limits, and even though I was on Diabanese, it was  
19 still high, higher than it should be.

20 So, he changed my diet somewhat. At that time,  
21 I was doing about 14 -- 12 or 14 miles a week running and  
22 walking and jogging together, but it still wasn't coming  
23 down.

24 So, I had seen and heard about chelation and  
25 one day I was in his office waiting to see him and I seen

1 the book on chelation there, and when I was called in, I  
2 said, Dr. Zekan, I see the book out there, what about  
3 chelation. And he says, well, I'm doing chelation, would  
4 you like to talk about it, and we did.

5 And, well, I wasn't too enthused about it right  
6 then because I'm not -- I'm kind of allergic to needles,  
7 too, so I just put it off a while. And I guess it must have  
8 been a year and a half or two years when I decided that I  
9 would try it, so I started chelation.

10 And I have had -- I had 41 or two chelation  
11 treatments when they stopped.

12 Now, the results that I got from it was that  
13 about, oh, probably within the first year that I was taking  
14 chelation, I took it over a period of four years, we phased  
15 out Diabinese, I am no longer a diabetic, and my blood  
16 pressure is -- took me off of the blood pressure medicine  
17 and I am no longer high blood pressure.

18 So, the blood pressure and the sugar and the  
19 cholesterol, I think my blood sugar last medical profile was  
20 my sugar was 91, my cholesterol was 143, and my blood  
21 pressure, I think, was around 137 or 72, or something like  
22 that. And that's my history.

23 Q So, you had a dramatic improvement?

24 A Very much.

25 Q Did you have any side effects from the

1 chelation?

2 A None whatsoever, everything was fine.

3 Q And did you continue the therapy up until the  
4 time it was stopped in West Virginia?

5 A Yes, I did.

6 Q And as far as anything in conclusion that you  
7 would like to tell the Board, is there anything you would  
8 like to say?

9 A Yes, I would like to say I have written both  
10 our senators, Senator Rockefeller and Senator Byrd. Senator  
11 Byrd answered my letter and thanked me for my letters, which  
12 I write to them all the time. They've even got to the place  
13 where they call me by my first name when they answer my  
14 letters now. And he said, well, I don't know anything about  
15 -- this is Senator Byrd, I don't know anything about what  
16 you are talking about, but I'm on the Federal level and I  
17 don't deal too much with down in the State level, so I don't  
18 think I can give you much help.

19 Senator Rockefeller, he give me Dear Gail and  
20 all the proceedings, glad to hear from you, and keep writing  
21 to me about all your problems, a big long letter. In the  
22 last paragraph, he says, I don't know anything about this  
23 vitamins that helps your health so I don't think I can help  
24 you there. So, he calls it vitamins that I was talking to  
25 him about.

1           And all the House of Delegates, I wrote to all  
2 of those and no answers. And the Speaker of the House, and  
3 I wrote to all four Senators and the President of the  
4 Senate. The only answer I got was from Senator Mark  
5 Manchin, and he gave me -- he wrote me a letter and thanked  
6 me for the letter and all this, but he says, Gail, I don't  
7 know anything about what you are talking about, I am going  
8 to have to do some investigation. And these are the people  
9 who voted to do away with it in the beginning. And that's  
10 pretty much the story.

11           MR. HEDGES: Thank you very much.

12           HEARING EXAMINER MANGUS: Thank you, Mr. Fultz.

13                           (Witness excused)

14           MR. HEDGES: Jim Townsend.

15                           (Witness previously sworn)

16   THEREUPON came,

17           J A M E S       M A D I S O N       T O W N S E N D,  
18 called as a witness in opposition to the rule, who, having  
19 been previously duly sworn according to law, testified as  
20 follows:

21                           DIRECT EXAMINATION

22   BY MR. HEDGES:

23           Q       Mr. Townsend, could you state your full name  
24 and where you are from?

25           A       My name, my full name is James Madison

1 Townsend, and I am from Chelyan, West Virginia.

2 Q All right, Mr. Townsend, are you a patient of  
3 Dr. Zekan's?

4 A Yes, I am, he is my family doctor, and I am  
5 also a chelation patient, as long as he was able to give  
6 them.

7 Q How long have you been a patient of Dr.  
8 Zekan's?

9 A I started going to Dr. Zekan after he operated  
10 on my wife. It was through her that I accepted him as my  
11 family physician.

12 Q So, it wasn't solely --

13 A And that has been I guess since 1982, at least,  
14 anyway.

15 Q So, you didn't go to him in the beginning for  
16 the reason of chelation therapy?

17 A My wife was telling me about the chelation  
18 therapy and I became convinced that it was worthwhile for  
19 me. Now, believe me, I am not an easy person to convince,  
20 basically because I have always been an analyst, being an  
21 aircraft and an automotive mechanic, you have to be an  
22 analyst in order to run down problems.

23 Q Okay, what kind of health problems were you  
24 having that caused you to consider chelation therapy?

25 A Well, in 1985, I had two strokes, and while I

1 was in the hospital, my doctor told me that I had two  
2 choices. I could either lay in bed the rest of my life or I  
3 could go in a wheelchair. And I will be quite honest with  
4 you, that horse didn't run for me, because I am kind of  
5 hard-headed.

6 I made up my mind right then and there that I  
7 would walk again.

8 Q Just take your time.

9 A You'll have to forgive me for that.

10 Q That's all right.

11 A In fact, I was so stubborn, so hard-headed, I  
12 told my doctor, one word at a time, because that's all I  
13 could say, I want another doctor. I feel that didn't make  
14 him too happy, but I didn't care.

15 When you seek results, you've got to go a lot  
16 of different routes sometimes, so he turned me over to Dr.  
17 Barbara Morgan and I have nothing but high praise for her,  
18 because every time she caught me doing something, she would  
19 either tell me how I could do it a better way or how I could  
20 compensate for it. And you don't mind paying when you get  
21 results.

22 Normally, most people that has a stroke spends  
23 at least a month in the hospital, at least a month. Seven  
24 days from the day I went in there, I walked through the  
25 front door and I contribute that to my stubbornness, because

1 I was told if I wanted to bad enough I could learn to  
2 communicate with a motor nervous system, and I could walk  
3 and use the arm again, and that's the way I do it.

4 But I -- it was difficult for me to do  
5 anything, and to tell you the plain, honest truth about it,  
6 I didn't want to do anything. I had to make myself do  
7 everything I done. And for a grown man, I think that's  
8 terrible.

9 But my wife told me one evening about Dr. Zekan  
10 and I said, all right, I will go. He gave me some tests and  
11 I started taking chelation. And after about 15 of them, I  
12 felt great.

13 Q What kind of improvements did you have  
14 physically?

15 A I always had pain in my left side, especially  
16 in the joints. After I started taking the chelations, the  
17 pain started disappearing, gradually it started going away.  
18 I began to feel better. I wanted to do things. My vision  
19 even improved and, now, I'll be 63 years old next month and  
20 I don't need glasses to read, and not too many folks my age  
21 can say that.

22 I am very happy and delighted I was able to  
23 take as many of them as I did, because I feel -- I fully  
24 realize they are not a cure for everything, but I really  
25 believe that the basic ingredient in the bloodstream is the

1 blood platelets, and they have a tendency to be sticky, as I  
2 understand. As I also understand, there is calcium layers  
3 that build up inside the arterial walls, for I don't know of  
4 a better compound for blood platelets to try to stick to  
5 than calcium. And if you can increase the diameter of the  
6 arterial walls just one-tenth of an inch, speaking as a  
7 mechanic, and flow pressures and so forth, I feel that you  
8 could double the blood flow. And if the blood flow is  
9 properly in the body, I feel that it will deteriorate a lot  
10 of waste, move them out. I feel that it will carry more  
11 oxygen to the lungs and to the brain, to all other parts of  
12 the body. And as a net result, you really have to feel  
13 better. And after the Board made its ruling, I was forced  
14 to stop taking them because he couldn't give them to me, and  
15 now I am right back to the same place I was before. I've  
16 got to force myself to do everything. I've got to make  
17 myself, too, and I feel that it was quite unethical on the  
18 part of the Board to make a ruling like this on behalf of  
19 the people and myself that I am speaking, that it was  
20 detrimental to our health and well-being. And as far as Dr.  
21 Zekan is concerned, I do not believe that there is any more  
22 competent, any more caring, any more honest or any more  
23 professional man than he is. Thank you.

24 MR. HEDGES: Thank you very much.

25 HEARING EXAMINER MANGUS: Thank you, Mr.

1 Townsend.

2 (Witness excused)

3 MR. HEDGES: Robert Stewart.

4 (Witness previously sworn)

5 THEREUPON came,

6 R O B E R T S T E W A R T,

7 called as a witness in opposition to the rule, who, having  
8 been previously duly sworn according to law, testified as  
9 follows:

10 DIRECT EXAMINATION

11 BY MR. HEDGES:

12 Q Could you please give us your name and your  
13 residence, please?

14 A My name is Robert A. Stewart, I live at 126  
15 Burning Springs Road in Belle, West Virginia.

16 Q All right, Mr. Stewart, are you a patient of  
17 Dr. Zekan's?

18 A Yes, I am, and I have been since, I think,  
19 around 1986.

20 My story starts before that, and I would like  
21 to say that I am 63 years old. In 1983, May of '83, I had a  
22 heart bypass and, of course, it was extremely hard on me.  
23 It took me well over a year to get my full strength back,  
24 but my blood flow was real good after that, and along in  
25 '84, I am thinking around 14 months after my surgery,

A.C.R.

1     though, I had a second stress test and Dr. David Namey was  
2     my cardiologist, and he at that time informed me that after  
3     the second stress test that he was quite concerned because  
4     my blood flow had decreased considerably. And I thought,  
5     oh, my golly, I don't want to go through this bypass again.

6             And in the meantime, I had met a friend by the  
7     name of Paul Elswick who was telling me about chelation. He  
8     was telling me that they had him scheduled for bypass  
9     surgery but he refused to have it, but instead he was taking  
10    chelation. And I had never heard of it and I thought -- I  
11    was rather skeptical of it and I kind of felt sorry for the  
12    fellow, I thought, well, you had better get your surgery.

13            But, anyway, after this second stress test,  
14    when Dr. Namey told me that my arteries had started to clog  
15    again, I got in touch with my friend and asked him, Paul,  
16    how are you doing, and he said, I'm doing great, I'm back to  
17    work. I said, you must be kidding. No, he says, I'm back  
18    to work. I said, about this chelation, is this doing it,  
19    and he said, it sure is. I said, could you get me some  
20    information. He said, I can, and he did.

21            I read all the information that he could get  
22    me, and now this was -- this was the first part of '84,  
23    through '84 -- well, this was, I guess, that part of '84  
24    when I was talking to him, about this time, but he did get  
25    me the information, I read up on it, I went to the library

1 and I went to the book stores down in the mall and found  
2 everything that I could on chelation and I read it. And I  
3 thought, gosh, I'll give it a try. I sure don't want to go  
4 through that surgery again, it's terribly expensive, it's  
5 terribly painful to have your chest ripped open and both of  
6 your legs.

7 So, at this time, my friend was going to a  
8 doctor in Huntington, and I can't remember his name, but I  
9 contacted the doctor and he gave me a physical and so forth  
10 and I started taking chelation there.

11 I took 20 treatments, two treatments a week,  
12 and then from then on, he says, well, one every three months  
13 for a maintenance is plenty good.

14 So, I took those until up in '86, if I remember  
15 right, and then he informed me one day when I was there  
16 taking the treatment that he was going to retire, he would  
17 no longer be in business. I said, well, what about my  
18 chelation, I feel so good, and he says, well, there is a  
19 doctor in Charleston giving it now, and that was Dr. Steve  
20 Zekan. So, he referred me to Dr. Zekan.

21 In the meantime, I went back and had another  
22 stress test, this was in '85, after I had had this chelation  
23 in Huntington. Dr. Namey said -- he was asking me a lot of  
24 questions, are you staying on your diet, are you getting  
25 your walks in, and so forth, and I said, well, I'm doing the

1 best I can. I don't do it every day, but the best I can.  
2 And he said, well, I am amazed, he said, your blood flow has  
3 increased. And he says, I am amazed, and he said, I want to  
4 run some tests on you to find out why.

5 So, he up and leaves, you know, and then he  
6 comes back and he says, oh, by the way, he says, I will be  
7 leaving. He said, I am leaving Charleston, I am going to  
8 the Mayo Clinic for a while. But he says, another doctor  
9 will take my place and he will be in touch with you, and I  
10 said, all right.

11 Well, he left for the Mayo Clinic, I never  
12 heard from another doctor. I ran out of heart medicine. I  
13 felt so good, I quit taking it and I didn't get any more. I  
14 haven't taken any since, but I have continued to take  
15 chelation therapy once a month since then, and since Dr.  
16 Zekan has quit giving it, I have gone elsewhere to get it,  
17 and I feel so good that if I can't get it in this state, I  
18 will go to North Carolina, I will go to Virginia, I will go  
19 to Columbus, Ohio, or wherever I have to go to get it, I  
20 will. And right now, I work for TV Cable Company, I climb  
21 poles, carry ladders, crawl up under houses, cut my own  
22 firewood, I feel great and I give all the credit to  
23 chelation. And that's it.

24 MR. HEDGES: Thank you very much.

25 HEARING EXAMINER MANGUS: Thank you, Mr.

1 Stewart.

2 (Witness excused)

3 MR. HEDGES: Mr. Dever.

4 (Witness previously sworn)

5 THEREUPON, came,

6 W I L L I A M S. D E V E R,

7 called as a witness in opposition to the rule, who, having  
8 been previously duly sworn according to law, testified as  
9 follows:

10 DIRECT EXAMINATION

11 BY MR. HEDGES:

12 Q Mr. Dever, could you state your full name and  
13 where you are from?

14 A My name is William S. Dever, my address is 310  
15 Windwood Drive, Charleston.

16 Q Can you tell us the reason you are here today,  
17 Mr. Dever?

18 A Well, I'm here because of chelation. I have  
19 been reading the articles in the paper and I was a little  
20 bit, you might say perturbed about the fact that chelation  
21 had been ceased in this state.

22 Q Have you ever been a patient of Dr. Zekan's?

23 A I have never been a patient of Dr. Zekan. I  
24 didn't know Dr. Zekan, I have never spoken to him. I know  
25 him now by face, that's all.

1 Q Okay, have you had some experience with  
2 chelation therapy that caused you to draw your attention to  
3 what is going on now in West Virginia?

4 A Well, I have always maintained a residence  
5 here, but since I love fishing, I spend a lot of time  
6 fishing and I come back and hole up here in the winter time,  
7 as might be said, and like a good wood fire, I enjoy a wood  
8 fire and wood heat, so I come here and hole up in the winter  
9 time when I can't fish, and I noticed the articles in the  
10 paper, but I have had experience with chelation. My problem  
11 starts back when I was about 32 or three years old, which is  
12 back in the late '50's or early '60's, when I was diagnosed  
13 with coronary insufficiency in a hospital in Kingsport,  
14 Tennessee, and from there, over the years, it progressed to  
15 a place that, oh, I don't know, about somewhere around 1980,  
16 I had a severe myocardial infarction when I was working here  
17 in Charleston, and spent about, I think, 30 days bedfast  
18 back at that time.

19 And following that, then, later on, I began  
20 having more difficulty and then along about 1982 or '83, the  
21 only way I could continue to work was to wear a mask over my  
22 face in cold weather so I could get to work, and then it got  
23 so bad that I couldn't walk. I worked at 1106 Quarrier  
24 Street here in Charleston and I couldn't walk to the  
25 Charleston Post Office without sitting down on the curb and

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1 resting one or two times in the process.

2           And so, in -- it might seem funny, but I had  
3 been having difficulty with kidney stones and I was sent to  
4 the Cleveland Clinic because of a kidney stone lodged. And  
5 when I got to Cleveland Clinic, they said, well, there  
6 wasn't no use to worry about that kidney stone, it would  
7 pass, but if I didn't do something cardiac-wise, that, well,  
8 I think they gave me three to five years to live at that  
9 time, and that was in 19 -- the early part of 1975, but I'm  
10 still alive and I feel good.

11           Q           All right, and at that time, did you learn  
12 anything about chelation therapy?

13           A           Not at that time, no. I had the bypass surgery  
14 at that time, came back, and went back to work, and was  
15 relatively pain free. After a period of recuperation, I  
16 felt pretty good and I went back to work and I worked for, I  
17 don't know, two or three years after that. And then the  
18 pain came back. And I was back to the place again that I  
19 couldn't walk a city block without resting, and a friend  
20 told me about chelation.

21                       Well, at that time, there was no one here in  
22 Charleston giving chelation, back in 1983 and '84, there was  
23 no one here. There was, I believe, it was a psychologist or  
24 a psychiatrist over in Huntington giving it, and there was  
25 one in -- up in the peninsula, up above Wheeling, and I

1 didn't want to go up there, so after I had read all the  
2 material I could find on chelation, I started looking for  
3 someone to give me chelation.

4 And as a result, I had to go out of state. I  
5 went out of state, and in the Spring of 1984, I started  
6 taking chelation, and he must have thought after all the  
7 tests he gave me and the hair analysis, and I didn't have  
8 any hair to spare, he must have thought I was in pretty bad  
9 shape because he started me off three treatments a week,  
10 Monday, Wednesday and Friday.

11 Now, at that time, I was taking, am I permitted  
12 to mention the types of medicine?

13 Q Sure.

14 A All right. At that time, I was taking 40  
15 milligrams of Inderal and 40 milligrams of Isordil four  
16 times a day. I was also taking eight Procardia, two at a  
17 time, four times a day. And I was on patches, either up  
18 here or down here (indicating) when needed.

19 So, after I had taken six chelation treatments,  
20 the patches came off because I had headaches and the doctor  
21 told me, he said, you are over-medicated. So, I took off  
22 the patches. Well, that took care of it for a little while,  
23 and after I had another treatment or two, the second week of  
24 treatment, second or third week of treatment, I began to  
25 notice that I was having headaches again. So, he said, you

1 are over-medicated. And, as a result, I stopped the eight  
2 Procardia a day.

3 Now, the other medication has dwindled off to  
4 practically nothing at the present time. And this has been  
5 -- well, that was along about 1985 or '86, I guess, that all  
6 this was occurring, and I had -- I'll tell you, I just got  
7 to feeling fine. I mean, feeling fine.

8 As the gentleman here said, I am able to handle  
9 a chain saw, I can climb a tree, I can prune trees, I have  
10 the summer, I can lay blocks, I can pour concrete, I can dig  
11 a hole in the ground if I want to, I can do about anything I  
12 want to and I am as near pain free as any cardiac case is  
13 going to get.

14 Now, I can, by extreme exertion, and if you  
15 don't believe it, just take a hold of my hand here, I could  
16 show you a good hand grip, and I mean, good muscle, I mean,  
17 good muscle tone and I feel fine, and this has been -- had  
18 it not been for chelation, I would have been either -- I  
19 would have either had to submit to surgery a second time or  
20 I would have been a cardiac invalid by 1985. And I am not  
21 today, I am still able to fish, I laugh every month all the  
22 way to the bank when I deposit my checks. I just laugh all  
23 the way to the bank, I'm happy, I'm in good shape, I'm in  
24 good spirits, I feel fine. As the song goes, I feel fine,  
25 and I'm a little bit like the boy in the Bible when he was

1 asked, well, who healed you, and he says, I don't know who  
2 healed me, but I can see and I can walk, and that's the way  
3 I feel today. I can see and I can walk.

4 Q Okay, and you continue -- do you continue the  
5 chelation therapy today?

6 A I continue chelation. I continue chelation  
7 today, yes.

8 Q On a maintenance level?

9 A On a maintenance level.

10 Q And you continue to have good reports from your  
11 cardiologist or your physician about not needing any bypass  
12 surgery?

13 A To tell you the truth, I haven't been back to  
14 that cardiologist. I haven't been back to that cardiologist  
15 since 19 -- about 1984. I don't need him, so why, why  
16 should I go back to a cardiologist and let them do an EKG  
17 on me and say, well, Mr. Dever, you've got a right bundle  
18 branch block. I've known that for years, and that's all  
19 that they ever tell me, so I feel fine, I don't need to go  
20 back. The thing that really sticks in my craw is why in the  
21 world not only the medical profession can't see this, but  
22 why in the world -- well, I know one reason they can't see  
23 it, but why in the world the insurance companies, these  
24 people who pay all these bills, why in the world they can't  
25 see through chelation and see how much it saves.

1           If you've read the article I sent to the paper  
2 the other day, my treatment over seven years has cost me  
3 approximately \$5,000 and I got some of that back. But if I  
4 had submitted myself back in 1984 to a second bypass, your  
5 books today says it costs \$32,465, I believe it is, and now,  
6 that's a big difference, \$5,000 and \$32,000, that's a big  
7 difference.

8           So, why the people who insure us can't  
9 understand the value of chelation and why they can't say,  
10 well, we are going to pay for that chelation when it keep so  
11 many people out of the hospital.

12           I had had no kidney stones since. I passed two  
13 stones, but they were soft, they weren't formed stones. I  
14 have been diagnosed as having chronic lymphatic leukemia,  
15 that's fine. My blood pressure yesterday was 122 over 62,  
16 122 over 62 and, buddy, I feel good.

17           MR. HEDGES: Okay, well, thank you very much.

18           HEARING EXAMINER MANGUS: Thank you, Mr. Dever.

19                           (Witness excused)

20           MR. HEDGES: Dr. Robert Bock.

21                           (Witness previously sworn)

22           THEREUPON came,

23                           R O B E R T       B O C K,     M. D.,  
24 called as a witness in opposition to the rule, who, having  
25 been previously duly sworn according to law, testified as

A.C.R.

1 follows:

2 DIRECT EXAMINATION

3 BY MR. HEDGES:

4 Q Okay, would you please give us your name and  
5 where you are from?

6 A Dr. Robert Bock, Charleston, West Virginia,  
7 born and raised here.

8 Q All right, Dr. Bock, have you had any  
9 experience with chelation therapy that you wanted to relate  
10 today?

11 A Yes, I have. I have known Dr. Zekan for many  
12 years, have operated on many patients with him, and he is an  
13 excellent doctor. He has, in spite of being a surgeon,  
14 vascular and general, he does everything he can, I think, to  
15 keep from operating on patients and trying to study all the  
16 effects of nutrition and everything else in order to help  
17 patients in a way that they can improve their health.

18 In 1984, I had a cardiac arrest that required  
19 everything, the CPR, the paddles, and everything else to  
20 bring me back, and a week later, I had cardiac surgery, five  
21 bypasses.

22 Following that, of course, Dr. Zekan and I were  
23 well-acquainted, he talked to me about chelation and gave me  
24 literature to read on the subject and I visited his office  
25 several times to understand it a little bit more.

A.C.R.

1           At that time, Dr. Kenneth McDonald was taking  
2 chelation from Dr. Zekan.

3           Dr. McDonald had marked circulation impairment  
4 and he was a diabetic with having trouble maintaining his  
5 blood sugar level, and through chelation, he showed marked  
6 improvement. And I know several times that I talked to him,  
7 especially while trying to find a vein for him, that he told  
8 me how much improved he was with chelation.

9           I think because of finances and because of the  
10 fact that he worked three small jobs at that time trying to  
11 make ends meet, he quit taking chelation, and it seemed like  
12 it was a rather short period of time after that he went  
13 downhill and died.

14           I started taking chelation in late '84, and  
15 have had some 90 or more treatments from Dr. Zekan. I have  
16 never experienced any bad effects from the chelation.

17           As far as improvement and things like that,  
18 it's a little difficult to tell without having further  
19 angiograms and things like that done that I haven't had  
20 done, but the ophthalmologist that looked in my eyes  
21 recently said that the vessels look very good.

22           I don't have particular problems with  
23 circulation. I haven't had angina or trouble like that  
24 until recently it seems I have had some peculiar chest pain  
25 that I have noticed since I stopped chelation, but I think

1 it definitely has been a benefit to me.

2 I have read, oh, volumes of literature sitting  
3 in Dr. Zekan's office on the subject, and there seems to be  
4 such a fantastic amount of literature that shows good  
5 results from this type of treatment that apparently it is  
6 well worthwhile.

7 Q Okay, is there anything you would like to say  
8 to the Board to conclude what your opinion on the  
9 effectiveness of chelation therapy is and what you would  
10 like to see done by the Board?

11 A I feel that their lack of understanding of the  
12 treatment and what it means is the reason that they made  
13 their decision, and I think that a little more study into  
14 this on their part would help a whole lot and that they  
15 probably would change their mind if they had the look at it  
16 that I have had.

17 MR. HEDGES: Okay, well, thank you very much,  
18 Dr. Bock.

19 HEARING EXAMINER MANGUS: Thank you, Dr. Bock.

20 (Witness excused)

21 MR. HEDGES: Tom Andrick.

22 (Witness previously sworn)

23 THEREUPON came,

24 T H O M A S B. A N D R I C K,  
25 called as a witness in opposition to the rule, who, having

1 been previously duly sworn according to law, testified as  
2 follows:

3 DIRECT EXAMINATION

4 BY MR. HEDGES:

5 Q Could you please state your name and your  
6 residence?

7 A Thomas B. Andrick, Philippi, West Virginia.

8 Q Okay, Mr. Andrick, are you a patient of Dr.  
9 Zekan's?

10 A Yes, sir.

11 Q And for how long?

12 A I started back in '85 going to Dr. Zekan.

13 Q For what reason?

14 A Well, I had another problem, but I found out  
15 later on. My wife had had open heart, you know, this big  
16 thing opened up and putting in bypasses. Well, I took her  
17 there and he suggested I take it because I had had 18 or 19  
18 feet of my small intestine taken out and I lost my natural  
19 immunity, I was taking heart medicine, I was taking this  
20 kind of medicine, that kind of medicine, and so he said, it  
21 may help you, try it, and so I tried it, and it helped me.  
22 I got off my heart medicine and got off all this medicine  
23 and my wife got a lot better. And now, she is not going to  
24 be here today because she has got this flu going around, but  
25 I'm saying people are a little bit on the dull side. The

1 Bible tells us, healeth knoweth doeth goodeth, goodeth not,  
2 is a sin. I think we've got to learn what to do good and  
3 where the evil is, you know, and not throw any rocks.

4 I taught school for 40 years, I have a Master's  
5 Degree and 45 hours towards a Ph.D., or whatever you want to  
6 call it, and now, I've learned a few things by working with  
7 kids, and we learned with opium.

8 Now, I've had two solutions, we can go back to  
9 Hitler and then we could kill all the old people, do away  
10 with us and that would solve the problem, or we can continue  
11 chelation and let us live in peace and harmony and enjoy our  
12 last few years healing God's footstool.

13 Q So, both you and your wife took the chelation  
14 therapy?

15 A Yes, sir.

16 Q And what kind of improvements did you have in  
17 your health?

18 A Well, I can tell you the truth, buddy, I can  
19 climb the biggest tree, and I'm 70 years old. I mow lawns,  
20 I've raised 150 gallons of raspberries and I've got 20 boxes  
21 of bees, I hunt, I run, and I feel good. But now, I have  
22 been kind of getting a little sluggish, I've been out of it  
23 six months, and I don't know why, I'm going to go somewhere.  
24 I haven't been. I may have to drive up to Pennsylvania or  
25 down over in Virginia somewhere, but I'm going to have to go

1 back on it, and my wife, too, because she has been, and you  
2 kind of get dull sometimes.

3 Q Okay, what kind of improvements did she have  
4 from the chelation therapy?

5 A My lands, she was sitting around like an old  
6 drone, so to speak, and the doctor can tell you, you can  
7 look at her records, and went over there to the cardiologist  
8 and went back and he said, ma'am, what are you doing. And  
9 she never told him. He told us before, he said, that  
10 chelation didn't amount to a hill of beans, and I'm not  
11 going to mention no names, but she took the stress test and  
12 she had the best stress test that she had ever had from the  
13 time that she had the open heart, and that was back in '85.  
14 So, there's records here and I can get the records for you  
15 and the medical people, and I think we need to do a little  
16 homework. You know, in school we had to do a little  
17 homework. You had to prepare to teach a class, and I think  
18 we've got to prepare in this life to make a final decision.  
19 Out of the blue don't work, you know. I do a little  
20 preaching, too, you might know that. I read the Bible a  
21 lot, I believe in the Lord and Saviour, Jesus Christ, and I  
22 believe that you showed things that is on the up and up, not  
23 on the down and down, not on the political realm, but a  
24 straightforward gospel preaching or teaching and doing  
25 things that's right, and I believe Dr. Zekan is the most

1 sincere doctor I have been -- I had 22 specialists in  
2 Methodist Hospital in Indianapolis, Indiana, and I got ready  
3 to leave and they said, don't thank me, thank that man  
4 upstairs, called God Almighty, the man upstairs, said don't  
5 thank me, and they told me, they told the family twice that,  
6 he isn't going to make it, you know. I had this -- oh, this  
7 problem, you know, the kidneys went bad and everything went  
8 bad and I wasn't going to make it, but the Good Lord and the  
9 doctors and now, I'm not throwing no rocks at the doctors,  
10 but the old doctor, one doctor member come in and he said, I  
11 saved the best for last. Come in at 11:00 or 12:00 at night  
12 to see me, because they had this Legionnaire's Disease in  
13 there and they was dying all around me and she was checking  
14 me out, she was a doctor in communicable diseases, she said.  
15 Dr. Israel was her name, Methodist Hospital, a nice old  
16 lady, but she said she saved the best for last, and I hope  
17 this is the last speech I make, will be the best for last,  
18 because I believe we need to get our ears open and listen  
19 and study that show thyself approved unto God Almighty. You  
20 know, we are all educated people, just act like it, just  
21 don't do like Hitler and take it out and kill the people or  
22 throw the old people aside and tell them what they have to  
23 do. Let them have a choice. This is good ole' United States  
24 of America and I appreciate it, I thank God for it, and  
25 that's all I have to say.

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MR. HEDGES: Thank you very much.

(Witness excused)

MRS. ANDRICK: May I add one thing? This is my brother-in-law, and this is my husband, Will Andrick.

HEARING EXAMINER MANGUS: All right.

MRS. ANDRICK: I think that the West Virginia Medical Board made a big mistake because they are driving people out of state for these treatments and losing business that they could have right here in Charleston or Huntington or Beckley, or anywhere else, and we've done those things, like it was mentioned earlier, we have done those things for so many years, it's time that we woke up and had the treatment right here for the people. And my husband and I are going to Pennsylvania for our treatments. We go once a month now, we are on maintenance. We have had 35 or 36 treatments together.

HEARING EXAMINER MANGUS: And so you all are going out of state?

MRS. ANDRICK: We're going out of state, and some other people have mentioned they are going out of state.

VOICE: We are, too.

MRS. ANDRICK: So, I don't know how many are going out of state, but, yes, we are.

HEARING EXAMINER MANGUS: Just for a show of

A.C.R.

1 hands, how many are going out of state?

2 VOICE: I will go out of state if I have to.

3 HEARING EXAMINER MANGUS: Thank you very much.

4 MR. HEDGES: Bob Dawson.

5 (Witness previously sworn)

6 THEREUPON came,

7 R O B E R T T. D A W S O N,

8 called as a witness in opposition to the rule, who, having  
9 been previously duly sworn according to law, testified as  
10 follows:

11 DIRECT EXAMINATION

12 BY MR. HEDGES:

13 Q Mr. Dawson, could you state your name and where  
14 you are from?

15 A Robert T. Dawson, I'm from Charleston, West  
16 Virginia.

17 Q All right, Mr. Dawson, are you a patient of Dr.  
18 Zekan's?

19 A Yes, sir.

20 Q Okay, and how long have you been a patient?

21 A Since the 28th of July, 1983.

22 Q Okay. What was the reason or the reasons that  
23 you went to Dr. Zekan?

24 A Sir?

25 Q What were the reasons you went to Dr. Zekan?

A.C.R.

1           A           Well, the first time I met Dr. Zekan, I was in  
2 the emergency room and I had a, what do you call it,  
3 gangrene of the colon, and my doctor at the time, Dr.  
4 O'Dell, said he could do the work for me but he had somebody  
5 else that he thought could do it better, and so he brought  
6 Dr. Zekan in and he's the one that operated on me. And I've  
7 been going to him ever since.

8                   And when I was in the hospital, after I come  
9 out from that operation, I was in awful bad shape. I've  
10 been sickly most of my life anyway, but one of the things  
11 that I got out of that operation, I had a colostomy and the  
12 thought of having that thing for the rest of my life just  
13 tore me all to pieces.

14                   Well, he told me if I would do what he said and  
15 take care of myself, probably in nine or ten months he might  
16 be able to put my colon back like it was supposed to be.

17                   Well, I started walking and he started giving  
18 me the chelation treatments, and instead of nine or ten  
19 months, it was six months. He put me back in the hospital  
20 and put it all back.

21                   And my only trouble is, I am afraid I will go  
22 off and die and leave somebody a big bill and I run my bill  
23 up so high that I wouldn't take more until I could get it  
24 paid. Well, I've been on and off and on and off and the  
25 last time I went to go on, well, of course, you all put a

1 stop to it, somebody put a stop to it.

2 But like the gentleman said down here a while  
3 ago, my blood pressure used to run, oh, 190 over 100, or  
4 I've had it go as high as 225 over 125. I went to the  
5 doctor in Dunbar before I met Dr. Zekan, and he said, you  
6 had better go home and rest or you're going to explode.

7 Well, like the gentleman said a while ago, my  
8 blood pressure now runs normally between 110 to 130 and 155  
9 and 170, and if it wasn't for that, I wouldn't even be here.

10 I have had 27 operations, I think, since 1976 -- or  
11 '66, and I had a massive heart attack in 1976 on the 20th of  
12 July, by the way.

13 And my problem is I can't have a bypass  
14 surgery, even if I wanted to, because they told me if they  
15 ever put me to sleep, I might not wake up again. So, I took  
16 the chelation instead and I am much better off -- I am here  
17 because of the chelation, that's the only reason I am here.  
18 I should have been dead ten years ago, but through taking  
19 that and listening to my doctor, why, I'm much better off  
20 than I was.

21 And, see, not only am I doing this for me, but  
22 are you interested in something I know about personally? I  
23 had a friend that worked down at the rubber plant with me,  
24 his name was Bill Gordon, and the last time I seen him about  
25 a year and a half or two years ago, he was in awful poor

A.C.R.

1 shape. He has got -- I think he's three years older than me,  
2 he's 72 or 73, something like that, and I didn't recommend  
3 him to Dr. Zekan but somebody else did, and the last time I  
4 seen him, he was pulling out of the lot over there and he  
5 lost about 60 pounds, he was jumping up and down like a  
6 young man and said, Bob, you wouldn't believe it, and I  
7 said, yes, I would, I've already taken it.

8 And another one that I can remember was when I  
9 first started taking that chelation. There was an elderly  
10 gentleman and he was, oh, I guess early 70's, and when they  
11 first brought him in there, they had to carry him in most of  
12 the time and sit him in the chair. And he would start his  
13 treatment and, of course, he would stay for four hours. I  
14 used to envy him. And the last time I seen him was about  
15 three or four months ago, was down to the pharmacy in Big  
16 Bear and he was walking around in there like a young man,  
17 with one cane. I think he is about 88 right now or  
18 something like that, 89, so there must be something to it.

19 Q And did you ever have any ill effects from it?

20 A Not nothing in the world.

21 Q So, are you now going out of state or just  
22 hoping it will be brought back in West Virginia?

23 A No, I'm waiting to see if it gets back with Dr.  
24 Zekan. Well, in the first place, I ain't able to go out of  
25 state, and I can't afford to go out of state, but I was

1 hoping that this thing here would get the chelation back  
2 like it was.

3 I was very, very upset when I read that letter  
4 where the Medical Board said he was, what was it,  
5 untrustworthy, dishonest, or something. I thought that was  
6 very bad taste, because the man has done nothing in the  
7 world but save lives as long as I have known him.

8 Q So, you don't want to chose another doctor and  
9 have to go out of state, you want your choice to be here in  
10 Charleston?

11 A I would rather be here. I mean, if it gets  
12 bad, I might have to, but I don't want to if I don't have  
13 to.

14 Q Okay, was there anything else, Mr. Dawson, you  
15 would like to conclude with?

16 A No, that's all I can think of, everything I  
17 know -- everything I can tell you about it has been good,  
18 but I can't tell you nothing bad about it. I have had no  
19 side effects whatever and my blood pressure went down. I  
20 used to take three Visitex a day, each one was 40  
21 milligrams, and that's six or eight months ago, and just  
22 keep coming down, coming down, coming down, and now I don't  
23 have to take anything. I haven't taken anything for two  
24 months.

25 I had other medicines that I had to take at the

A.C.R.

1 time. I've -- well, I used to have a whole page full and  
2 now I only take about four or five. So, there's that  
3 difference.

4 MR. HEDGES: Okay. Well, thank you very much,  
5 Mr. Dawson.

6 HEARING EXAMINER MANGUS: Thank you, Mr.  
7 Dawson.

8 (Witness excused)

9 HEARING MR. HEDGES: Irene Haynes.

10 (Witness previously sworn)

11 THEREUPON came,

12 I R E N E H A Y N E S,  
13 called as a witness in opposition to the rule, who, having  
14 been previously duly sworn according to law, testified as  
15 follows:

16 DIRECT EXAMINATION

17 BY MR. HEDGES:

18 Q Could you just state your name and where you  
19 are from, Ms. Haynes?

20 A Irene Haynes, 32 Sunset Drive, Charleston, West  
21 Virginia.

22 Q And are you a patient of Dr. Zekan's?

23 A Yes.

24 Q For how long?

25 A I started going to him in '86.

A.C.R.

1 Q And can you briefly summarize for us what  
2 experience you have had with chelation therapy?

3 A Well, I had open heart surgery and two years  
4 later, they said I needed it again. And I wouldn't -- I  
5 didn't agree with that, I mean, I wouldn't hold still for  
6 it, so I went along until I had a severe gall bladder attack  
7 and I was in the hospital and they couldn't stabilize my  
8 heart to do surgery.

9 So, for nine days, I had nothing but chipped  
10 ice. I lost 17 pounds, which was good, but not that way.  
11 But, anyway, when I got out, well, my family doctor, Dr.  
12 Cavendar, told me -- and Dr. Selinger was my cardiologist,  
13 and they said, well, you are going to have to have that gall  
14 bladder, but don't wait until you have another attack.

15 So, I went along for about a year and Dr.  
16 Cavendar kept telling me to get someone, so I said, who  
17 would you suggest, and he said, well, get one of these young  
18 doctors, he said, Dr. Hamrick or Dr. Zekan are very good.

19 So, I went over to Dr. Zekan's office and told  
20 him what he would be against, that I had this heart problem,  
21 and he gave me the book to read, and after he did a lot of  
22 tests and things. So, I called him after I read the book  
23 and said, start me out.

24 So, I took 20 treatments and he said, it's  
25 about time for us to do your surgery before you have another

1 attack, and I went in the hospital, had my gall bladder  
2 taken out, and in four days, I was home.

3 So, I had been taking one and two a month ever  
4 since, until it stopped, and I can feel the effects of not  
5 having it.

6 Q Okay, and did you have any effects while you  
7 were on the therapy as far as ill effects?

8 A None..

9 Q And what kind of effects are you having now,  
10 now that you are off?

11 A Well, I have had two minor angina attacks.

12 Q Okay, so you are still seeing Dr. Zekan, but  
13 you are unable to get the treatment that you want?

14 A That's right.

15 Q Is there anything else you would like to add?

16 A Nothing except I hope they do something before  
17 it is too late for all these people. I would love to see  
18 them all in months and years to come.

19 MR. HEDGES: Okay, well, thank you very much.

20 HEARING EXAMINER MANGUS: Thank you, Ms.

21 Haynes.

22 (Witness excused)

23 MR. HEDGES: Bea Burgess.

24 (Witness previously sworn)

25 THEREUPON came,

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B E A T R I C E B U R G E S S,

called as a witness in opposition to the rule, who, having been previously duly sworn according to law, testified as follows:

DIRECT EXAMINATION

BY MR. HEDGES:

Q Could you state your full name, please, and where you are from?

A Beatrice Burgess, and I am from 117 Lock Street, Nitro.

Q Ms. Burgess, you spoke briefly at the end of the last hearing in this matter, but there were a couple of things that you didn't have an opportunity to talk to since we ran out of time, and I just would like to give you an opportunity now to add what you were talking about at the last meeting.

A All right, thank you. I went to a meeting on women and health down in Virginia in the early '70's and I heard Dr. Elmer Cranton speak. There was also a young woman doctor and she was outstanding, she was just simply outstanding. She ordered special diets for her patients when they were in the hospital, good diets, and I was very interested in finding a preventive health doctor and there weren't any around that I knew about. I kept listening for it but I couldn't find any.

A.C.R.

1           I had moved from where I was and come to the  
2 Charleston Area in '86, and I needed a doctor to write my  
3 prescriptions for me, arthritis and allergies and things,  
4 and I went to Dr. Popescue and he did a work-up on me and he  
5 said, I don't like what I'm hearing. And he did a stress  
6 test and I just flunked it flatter than a flitter. I didn't  
7 do anything. And he said, have you ever had any heart pains  
8 and I said, no. And no pains of any kind, and I said, no.  
9 He said, you have had a massive heart attack, and it was a  
10 silent one, and most people don't recover from them, they  
11 just die in their sleep, and you will take care of your  
12 heart first and your arthritis and allergies and etc. later.

13           So, I started with him in '86, and then in '87,  
14 he died, and I was without a doctor again.

15           After I retired from church and community  
16 ministry, I took three little churches and so now I am  
17 serving three churches, and the clergy had a seminar, they  
18 have a CAPS program over at St. Francis Clergy Association  
19 for pastoral counseling, and one of the programs was, "A  
20 Surgeon Looks at Preventive Health."

21           So, I went and I heard Dr. Zekan talking about  
22 free radicals. I understood that, I had chemistry in  
23 college. And I heard him talking about oxidation, several  
24 other things, and so I found my preventive health doctor,  
25 and he has been my doctor since then.

A.C.R.

1           And as I went to him and got the test results  
2 after he had done all the tests, I have never in my life had  
3 heard of anyone who gives the tests that he does. And he  
4 was looking at all this string of all these elements in our  
5 bodies -- in my body, and he said, you are the first patient  
6 I ever had that didn't eat too much bread. And I said, I am  
7 allergic to white bread. But that really puzzles me, you  
8 know, I look at all the chemistry and I don't know what he  
9 was looking at, but I really did appreciate that.

10           So, he told me -- I come from a family that has  
11 a lot of strokes, heart trouble and so on, and he said I  
12 should be on chelation, and so I started immediately.

13           And I have been on it for a long time, because  
14 he has never put me on maintenance. I come twice a month,  
15 or every other week, and I fear Alzheimer's, my mother had  
16 Alzheimer's. We had five really bad years with her at the  
17 last of her life and I fear this greatly. And so it was  
18 really interesting after I had taken a lot of these, and I  
19 go like crazy, I am busy, and so I didn't notice for a  
20 while, but after a while I found out my memory was better,  
21 it was much better. I found out my diabetes was better, my  
22 heart problems were -- there was no problem, and my  
23 arthritis was far less in pain.

24           And so, I was feeling really, really good about  
25 that.

A.C.R.

1 I gave to this Board a copy of the tomato  
2 effect that one of our experts talked about. As I talk with  
3 people, it's amazing how that tomato effect takes effect,  
4 you know, we just cannot go against the prevailing medical  
5 opinions. And as I sat in his office and read articles  
6 here, there and yonder, and all the books that he has, I  
7 read one on nutritional factors in cardiovascular disease by  
8 Dr. Gabey. And the latter pointed out how the small  
9 deficiencies in our body cause heart problems, and I am  
10 really impressed with this. And so that's the reason I made  
11 it available to the Board.

12 But I want to read the last little bit here  
13 because I have said what I wanted to say. "I look forward  
14 to the day all Americans will be required to have 20  
15 chelation therapies before having bypass surgery, as some in  
16 other countries now do. I look forward to the day the  
17 medical profession puts great effort into keeping us healthy  
18 instead of patching us up by surgery after our illnesses  
19 have become unmanageable. I look forward to the day the  
20 mothers and schools of the land know how to feed our  
21 children to keep them healthy and do it." And I am just  
22 appalled at how much white wheat, and sugar we continue to  
23 get.

24 In the six months we have been denied treatment  
25 by chelation, my short-term memory has deteriorated greatly.

A.C.R.

1 I am suffering pains in my left arm from my heart problems,  
2 and that was the pain that I had that I finally remembered  
3 from my first heart attack, and my arthritis is out of  
4 control. I was talking to Dr. Zekan and he said that he had  
5 come before the State Board of Medicine about a year ago to  
6 tell them about chelation therapy and this just made me  
7 wild.

8           Since I believe this Board has been derelict in  
9 its duty to inform Dr. Zekan of the public hearing on  
10 chelation after he presented the Board with information on  
11 chelation a year ago, I have instructed my nephew to sue the  
12 Board of Medicine if I suffer a debilitating stroke or heart  
13 attack before you correct your error and allow us to again  
14 receive chelation therapy. And I plan to go to the doctor  
15 who is the expert on Alzheimer's and have him check me out,  
16 because right now, my mind is not what it was in June when  
17 we were still taking chelation, and I know that.

18           I asked Dr. Carter, I was very impressed with  
19 Dr. Carter, particularly, if they knew anything about  
20 Alzheimer's with chelation therapy and he says, yes, we know  
21 that it greatly prolongs the onset of Alzheimer's, and so I  
22 want to be back on chelation therapy. Forty percent of the  
23 children of Alzheimer's patients will have Alzheimer's. My  
24 family and I studied it when mama was going through, and if  
25 there is any way I can avoid it, I want that, and I know

A.C.R.

1 this chelation therapy is helping in this point.

2 I want to say that I heard Dr. Bsharah as he  
3 was taking therapy one day, he had a young friend come in,  
4 and he said, Dr. Bsharah, what are you doing here, and he  
5 said, I have very poor circulation in my lower limbs and I  
6 went to 10 or 12 doctors and none of them helped me, but  
7 this helps me.

8 And I have a 93-year old friend up in one of my  
9 churches who has diabetes very badly and she got so she  
10 couldn't walk, her right leg wasn't moving. She had talked  
11 and complained about her hands tingling and her feet hurting  
12 for a long time and I told her about Dr. Zekan and  
13 chelation, but she wasn't ready.

14 Well, the day she couldn't get on the bus to go  
15 to the senior center, she called me and she said, Bea, I  
16 think it's time for me to go to your doctor. And so I  
17 brought her down and he suggested she have ten treatments.  
18 And after the first treatment, she never again drug that  
19 leg. And she loves apples and she was complaining because  
20 she couldn't peel apples, and after the third treatment,  
21 even though it wasn't easy, she went back to peeling apples.

22 Every treatment, I would ask her, are your  
23 hands any better, and she said, no. And after the tenth  
24 one, I asked her on the way home, are your hands any better,  
25 no. And the next morning, she gave me a call and she said,

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1     Bea, my hands are better.  So, this is something special for  
2     diabetics.  I have worked with older adults for 34 years, I  
3     have been on the Health Systems Agency, I will be on the new  
4     Health Cost Planning Commission, and I think this is one of  
5     the finest all-around treatments for the many, many chronic  
6     diseases that the older adults get, and so I say this from  
7     somebody who has felt for many, many years that we had a  
8     missing link in the medical profession.  And I believe the  
9     problem is in the medical schools because some doctors get a  
10    half to one course in nutrition, and we have neglected what  
11    goes into our mouths that affects our body or what doesn't.  
12    And so I really -- I admire Dr. Zekan, I enjoy Dr. Zekan.  
13    Nobody said this, so I want to say how much I enjoy Dr.  
14    Zekan.  I think he has a photographic memory.  If you ask  
15    him a question, you may get about a chapter, you know, when  
16    you really wanted just an answer.  And I also think he is an  
17    outstanding chemist.  I think he is one of the finest  
18    chemists I have ever seen in my life.  He knows his  
19    chemistry and he speaks his chemistry in terms of food and  
20    chemicals and medicines.  He talks in all various languages  
21    that have to do with your body, and I think he is a genius  
22    when it comes to this chemistry bit, so I really salute him  
23    on that.

24                   The first time I saw him, I said to him, you  
25    know, you are not very bright, and he looked at me, and I

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1 said, you will make a lot more money doing surgery than you  
2 will doing preventive health, and he waited a minute and  
3 then he said, but this needs to be done.

4 My last statement, I salute those medical  
5 schools which have remained faithful to basic nutritional  
6 research and I deplore the closed-minded stance of the  
7 medical profession in opposing so strenuously this emerging  
8 branch of medicine. Thank you very much.

9 HEARING EXAMINER MANGUS: Thank you, Ms.  
10 Burgess. Does that conclude your testimony?

11 MR. HEDGES: That concludes the testimony, yes.

12 (Witness excused)

13 HEARING EXAMINER MANGUS: Is there anyone here  
14 who wants to speak in favor of the Board's ruling?

15 (No Response)

16 HEARING EXAMINER MANGUS: Hearing none, we will  
17 declare this hearing concluded. And let me say, because  
18 there has been a number of you who have mentioned to me your  
19 concern about the usual bureaucratic delays that seems to be  
20 characteristic of anything connected with government, I have  
21 heard your message, and particularly as it relates to trying  
22 to expedite this information to the Board.

23 I have to again point out to you, however, that  
24 the Board has certain procedural processes that it has to  
25 follow in order to make these things legal and to keep the

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1 other lawyers from hassling them.

2           So, we will try to get this information to the  
3 Board for their recommendations just as quickly as possible.  
4 I would like to be able to tell you when this would happen,  
5 I can't. I do understand, though, that we have had special  
6 efforts to get our transcriptions done so that the Board is  
7 doing everything it can to expedite this matter, and I  
8 certainly appreciate your all's patience and your  
9 considerations. Thank you.

10           VOICE: May I say something?

11           HEARING EXAMINER MANGUS: Yes, sir.

12                           (WHEREUPON, the hearing in the above  
13 matter was closed.)  
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REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,  
BOARD OF MEDICINE, to-wit:

I, M. K. Comer, Certified Court Reporter, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of proceedings had and testimony adduced in the above-styled case, taken pursuant to notice before the West Virginia Board of medicine, commencing at 9:00 a.m., on January 7, 1992, in the Cultural Center Conference Room, State Capitol Complex, Charleston, West Virginia.

M. K. Comer

M. K. Comer, Certified Court Reporter

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE: Board of Medicine Legislative Rule  
11 CSR 1A 12.2 (g), effective July 1, 1991,  
pertaining to dishonorable, unethical  
or unprofessional conduct of a character  
likely to deceive, defraud or harm the  
public or any member thereof as including  
the use of chelation therapy for diseases  
and conditions other than acute  
hypercalcemia, lead poisoning and  
intoxications caused by some other heavy  
metals.

TRANSCRIPT OF PROCEEDINGS had and testimony  
adduced in the above-styled case, taken pursuant to  
notice before Jimmie Mangus, M.D., Hearing Examiner,  
on December 18, 1991, commencing at 9:00, in the West  
Virginia Cultural Center, State Capitol Complex,  
Charleston, Kanawha County, West Virginia.

*Action Court Reporting*

*Mary K. Comer*

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COPY

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23 I N D E X

24	<u>Expert Witnesses in Opposition</u>	<u>Direct</u>	<u>Exam.</u>
25	Martin Rubin, D.S.C.	21	
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11	No. 1 (July 10, 1991, letter to The Honorable Keith Burdette from Ronald D. Walton)	18
12		
13	No. 2 (June 26, 1989, letter and Attachment from Dr. T. C. Wilson)	19
14		
15	No. 3 (August 18, 1989, letter to Dr. Shawn Chillag from Ronald D. Walton, August 23, 1989, letter to Ronald D. Walton from Dr. Shawn Chillag, August 18, 1989, letter to Dr. Theodore Kotchen from Ronald D. Walton and November 20, 1989, letter to Ronald D. Walton from Dr. Theodore Kotchen)	19
16		
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19		
20	No. 4 (December 2-5, 1984, 38th Interim Meeting of the American Medical Association	19
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22	No. 5 (W. Va. Board of Medicine Public Session Minutes of November 13, 1989)	20
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24	No. 6 (CV of Martin Rubin, Ph.D.)	21
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4	No. 8 (Article, "The Treatment of Lead	
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11	Vitamin E in Hyperlipoproteinemias:	
12	Effects on Plasma Lipid Peroxides,	
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14	Generation and Platelet Aggregability")	34
15	No. 11 (Article, "Invited Paper: The Antioxidants	
16	of Human Extracellular Fluids")	34
17	No. 12 (United States Patent Office, 2,846,317,	
18	Patented August 5, 1958)	35
19	No. 13 (Article, "Chelation and Iron Metabolism	
20	I. Relative Iron Binding of Chelating	
21	Agents and Siderophilin in Serum")	36
22	No. 14 (Article, Monday, July 23, 0930-1230,	
23	Clinical Chemistry, Vol. 36, No. 6, 1990)	37
24	No. 15 (Article, "Exercise as Prevention: Do the	
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2	No. 20 (Article, "Role of Magnesium and Potassium in the Pathogenesis of Arteriosclerosis")	44
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8	No. 28 (Article, "Cyclic AMP and the vascular action of parathyroid hormone")	49
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11	No. 30 (Article, "Calf and forearm blood flow in patients with primary hyperparathyroidism and in control subjects")	50
13	No. 31 (CV of George Kindness, Ph.D.)	59
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18	No. 34 (CV of James Puckette Carter, M.D.)	86
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21	No. 36 (Article, "A Pilot Double-Blind Study of Sodium-Magnesium EDTA in Peripheral Vascular Disease")	95
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4	Ralph A. Miranda, M.D.)	109
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1 HEARING EXAMINER MANGUS: Good morning.

2 My name is Jim Mangus, and I am from  
3 Charleston, West Virginia. I am a physician in private  
4 practice, and I am here to be a hearing officer today for a  
5 petition from Dr. Steven Zekan.

6 I would like to start off by asking two things.  
7 First of all, any of you who want to present some scientific  
8 evidence this morning, I would ask that you sign up here.

9 Also, for those of you who would like to make a  
10 personal testimony, I would like to try to delay that until  
11 this afternoon, and we would like for you to sign up on a  
12 different sheet of paper, if that is okay.

13 There are still a few people outside, so, we  
14 will try to take care of some of the mundane details. I  
15 have found out two things, we do have rest room facilities  
16 out here on this floor, and, secondly, there is no coffee.

17 I would like to try to conduct this in a fair,  
18 equitable and pleasant manner and so that we all feel like  
19 your trip was worthwhile today.

20 I would ask that any time you have a question  
21 or feel that something is not going the way you think it  
22 should, then if you can raise your hand, then, I will try to  
23 recognize and let's get it right at that point rather than  
24 having to go back and redo it later on.

25 Let me just do a couple of things to start

AOR

1 with. In looking over the issues here, my understanding of  
2 the problem is as follows: There is within the Board of  
3 Medicine's Rules and Regulations a section that states,  
4 "acts declared to constitute dishonorable, unethical or  
5 unprofessional conduct, as used in these regulations in  
6 Section 12.1(e), dishonorable, unethical includes but is not  
7 limited to the use of chelation therapy for diseases and  
8 conditions other than acute hypercalcemia, blood poisoning  
9 and intoxications caused by some other heavy metals."

10 VOICE: Pardon me, sir.

11 HEARING EXAMINER MANGUS: Yes, sir.

12 VOICE: When did they make those rules on that?

13 HEARING EXAMINER MANGUS: Okay, this rule  
14 became effective, my understanding, and I will stand  
15 corrected, and at this point let me recognize Ms. Deborah  
16 Rodecker who is an attorney with the Board of Medicine who I  
17 asked to come today to keep this thing as legal as possible,  
18 if I could use that term.

19 I am not an attorney, I am a physician, and I  
20 am here to try to take the testimony to make a  
21 recommendation to the Board based upon the evidence  
22 presented here today for their consideration and action as  
23 it relates to this particular rule in the Board of Medicine.

24 And, Ms. Rodecker, my understanding is that the  
25 rule became effective July 1, 1991, and, however, the

1 information that was developed prior to this, of course,  
2 the hearings and so forth were held before that.

3 Does that answer your question, sir?

4 VOICE: No, sir, I don't remember seeing it in  
5 the paper about any hearings or anything about this.

6 VOICE: Was the public notified about hearings  
7 in chelation therapy?

8 HEARING EXAMINER MANGUS: I have no copy of any  
9 published public hearing on it.

10 VOICE: Isn't that a little unfair?

11 HEARING EXAMINER MANGUS: I am not here to rule  
12 on that.

13 Sir?

14 VOICE: My House member and Senate member in  
15 Preston County, I talked with them about chelation therapy,  
16 and the first thing he said to me, what is it? And I said,  
17 do you mean you passed a law down there that cuts me out of  
18 taking chelation without knowing what it was? And he said,  
19 I must have, he said, let me check on it.

20 So, he went back and he checked, and he was man  
21 enough to come back and tell me, he said, we evidently  
22 passed it, and I said, you know, this, I can't believe. I  
23 have known you people to go down there and do a lot of  
24 things, but, I said, I spent \$32,000 for my wife, and I will  
25 get this this afternoon, but I spent \$32,000, had two

1 angioplasties within six weeks, and I just -- well, I have  
2 tossed \$32,000 out here, I spent \$12,000 on chelation, and  
3 my wife, sir, is living proof of it. She hasn't -- this has  
4 been two years, and she hasn't had to go back for any more  
5 angioplasties or bypasses.

6 Thank you.

7 HEARING EXAMINER MANGUS: Thank you, sir.

8 I think there are two things, then, that are in  
9 question, and the first is what was the nature of public  
10 notice for the hearing on this rule change, and, secondly,  
11 the fact that some of the legislators may rule and pass laws  
12 for which they have no understanding.

13 Yes, sir?

14 MR. SEELEY: Maybe counsel for the Board could  
15 relate the conversation that we just had this morning about  
16 the fact that there really was -- there was no public  
17 hearing.

18 MS. RODECKER: I will be glad to talk about  
19 that, and I will be glad to state that to you, but I would  
20 like to say one thing, and that is that Dr. Mangus has given  
21 up his day to come here and listen to what you all have to  
22 say about why you may or may not like the rule, and the  
23 forum that is here is for that reason.

24 And if you want to spend a lot of time talking  
25 about the process beforehand, I have been asked to do that,

1 and I will be glad to do that, but that really was not the  
2 purpose of today.

3 Now, what the Board did was to go through the  
4 legal process that the Legislature told the Board it had to  
5 go through in adopting this rule. The Board used the same  
6 procedure in this case that it uses in the case of any rule  
7 adoption.

8 What it did was it filed with the Secretary of  
9 State, which is a public office, its proposed rule, and it  
10 sent that proposed rule to the professional associations,  
11 and that is what it is required to do, that is what the law  
12 says that the Board must do.

13 Then the Board went on from there, and the  
14 Board proceeded to file all the forms that the Legislature  
15 requires it to file, and the Board went through the process  
16 of the Committee, the Legislative Rule Making and Review  
17 Committee, where the Board is asked questions.

18 No one filed any comments, and the Legislators  
19 did not ask any questions about chelation therapy.

20 In fact, the Board was not aware at any point  
21 in the process that there was any consumer that did not like  
22 this rule.

23 Now, the Board did everything it was required  
24 to do; the Board did everything that it always does when it  
25 adopts rules. The Board has learned since the rule became

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1 law that even though it went through the lawful process that  
2 some people were upset about the rule, and, so, the Board  
3 has given you this day to hear what it is you have to say.

4 And, again, I would say to you, if you are not  
5 happy about the process, this today is not the forum to  
6 spend a great amount of time complaining. Dr. Mangus is  
7 here to listen to what it is you have to say about the rule,  
8 and I think you will find him a fair and open person, and he  
9 is going to submit to the Board his recommendation, and the  
10 Board members will receive a transcript of what you have to  
11 say today. The Board members will receive all the evidence  
12 that you submit today.

13 So, please, before you get all upset and start  
14 accusing the Board of doing something that you didn't know  
15 about, try to remember why you are here and make this into a  
16 productive day. Okay, thank you.

17 HEARING EXAMINER MANGUS: Yes, sir?

18 MR. SEELEY: What I would like to do is maybe  
19 help the Hearing Officer in developing that type of  
20 testimony and would like an opportunity to make a brief  
21 opening statement and to introduce the first witness, if I  
22 may.

23 HEARING EXAMINER MANGUS: Yes, indeed, again,  
24 just to reiterate, what I was hoping we could do today is  
25 open up with the scientific presentations and evidence, take

1 a break and then come back and follow this up with your  
2 personal testimonies.

3           Again, as Ms. Rodecker has pointed out, I am  
4 here to listen to what you have to say, not to correct the  
5 process of the Board, but to make a recommendation to the  
6 Board of Medicine based on the evidence that we hear and see  
7 today as to whether or not this rule should be changed, and  
8 with that, then, let's move into the first scientific  
9 presentation.

10           MR. SEELEY: Well, let me make an overview of  
11 the circumstances, and I apologize for making some reference  
12 to the rule making, but let me say that in many cases, and I  
13 think that everyone would agree, there is a procedure for a  
14 public hearing, but this particular rule did not have that  
15 forum, it was a common period instead of a public hearing.

16           Number two, the professional associations that  
17 were contacted did not include the two associations who have  
18 the clearest picture of chelation therapy, the Academy for  
19 the -- the American Academy for the Advancement of Medicine  
20 and the American Board of Chelation Therapy, the two  
21 organizations, I might add, national organizations, were  
22 never contacted for any type of comments.

23           Instead -- well, let me end it at that point  
24 and let me sort of review where we are in this particular  
25 type of process.

1 Dr. Benjamin Rush, who was one of the signers  
2 to the Declaration of Independence, wrote, "Unless we put  
3 medical freedom into the Constitution, the time will come  
4 when medicine will organize into an undercover dictatorship  
5 to restrict the art of healing to one class of men and deny  
6 equal privileges to others."

7 Well, that freedom of choice has been protected  
8 in the Constitution for some time, no one would deny that.

9 Today, we need to explain how this particular  
10 rule attacks that fundamental right, how it is an abuse of  
11 the state's police powers, why the ban is wrong, why it is  
12 wrong from a legal standpoint, why it is wrong from a  
13 scientific standpoint and why it is wrong from a medical  
14 standpoint.

15 Now, the question is why was the Board misled  
16 into passing this rule? Well, some would have you believe  
17 that that -- that the opposition to chelation therapy comes  
18 from an economic or anti-competitive nature, that there are  
19 those within the medical arena who are opposed to it because  
20 it would take away their economic well being.

21 I might suggest to you that bypass operations  
22 have been confirmed by the U. S. Government in 1978 by the  
23 Office of Technology Assessment not to be -- not to lengthen  
24 life.

25 I might point out that the cost of bypass, as

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1 mentioned by the gentleman in the back, versus other  
2 surgical procedures, a sharp contrast, in that in this day  
3 and age within states where Medicaid and Medicare pressures  
4 are becoming more and more intensified, that these cost  
5 containment measures should be addressed and encouraged by  
6 medical boards because this is a much more economic approach  
7 to the solution of a problem that this country has  
8 overwhelmingly.

9           The other thing that is important is that this  
10 Board was misled because they weren't given the information  
11 on the scientific basis nor the medical basis. They weren't  
12 told, and the record, and I think the doctor will be able to  
13 show what was presented previously and what the Board had to  
14 look at, the evidence that they had, and it will show that  
15 it was outdated, it will show that they did not review any  
16 of the medical literature, it will show that they weren't  
17 even aware that there is an IND filed with the FDA today to  
18 actually expand the package insert.

19           They won't have in the record anything about  
20 the fact that Alaska and Washington have passed laws to  
21 ensure the public's right to seek alternatives methods as  
22 long as that patient isn't subject to harm, and that is a  
23 very important concept to the State of West Virginia.

24           The leading case, Best versus Cobb, talks about  
25 the appropriateness of having the state impose restrictions

A.C.R.

1 on the practice of medicine. There has got to be a public  
2 harm, there has got to be a public health issue involved.

3 Do you know of anybody dying of chelation  
4 therapy? Has anybody -- has anyone heard of a public danger  
5 to your neighbors because of chelation therapy?

6 I would suggest that the law in the State of  
7 West Virginia mandates that the Board not use its police  
8 powers or its rule making powers unless there is a public  
9 danger, where there is a public health problem, and that is  
10 not what we have here.

11 There was a suggestion -- some of the material  
12 submitted to the Board was submitted by a doctor who said  
13 that the State should take the same type of approach as the  
14 state of Virginia. The Executive Director of the Board  
15 asked for inquiry from other physicians, sent out three  
16 letters, got two responses, and both of the responses were,  
17 we ought to have the same resolution as the state of  
18 Virginia.

19 What did Virginia do? They said that nobody  
20 should practice chelation therapy until there was a clinical  
21 controlled study.

22 Today, you are going to hear that testimony,  
23 those studies exist, have existed, and they proved the  
24 efficacy of chelation therapy.

25 Virginia has not prohibited the use of

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1 chelation therapy. There are doctors today practicing  
2 chelation therapy; there are doctors practicing chelation  
3 therapy in virtually every state of the union except West  
4 Virginia.

5 I might point out the Executive Director, in  
6 his letter of inquiry, or I should say in his letter to the  
7 Senator, to Senator Burdette, indicates that they are aware,  
8 meaning the State Medical Board, is aware that the state of  
9 Virginia also prohibits chelation therapy. That is not  
10 true.

11 I might point out that the letters that were  
12 received in response to the Executive Director's inquiry  
13 suggest that they agree, that the State of West Virginia  
14 should have a resolution just like Virginia. I don't have a  
15 problem with that resolution.

16 What they say is this is a procedure that isn't  
17 placebo, it suggests -- and it is not a benign procedure.  
18 Well, if it is a placebo, then I would assume it would be  
19 benign, but we all know it is therapeutic.

20 The responses don't suggest support for a rule  
21 prohibiting, it says, yeah, we ought to have a resolution  
22 like Virginia's.

23 I would suggest to you that the only other  
24 piece of information that was on the record is the  
25 proceedings of the House of Delegates of the American

A.C.R.

1 Medical Association, the 38th Interim Meeting, dated  
2 December, 1984, and attached to that resolution are eight  
3 references, not a single scientific study in the lot. They  
4 are articles, they are opinions, but there is no scientific  
5 or medical evidence. Today, we are going to have that.

6 What I would like to do at this particular  
7 time, is I am assuming, Doctor, that you are going to submit  
8 for the record all of the items I have just referred to, the  
9 letter of July 10th, addressed to The Honorable Keith  
10 Burdette by Ronald Walton, that included then the Dr. -- Dr.  
11 Wilson's letter.

12 HEARING EXAMINER MANGUS: I do not have a copy  
13 of that, I do have a copy of Dr. Wilson's letter.

14 MR. SEELEY: Okay, I would like to have marked  
15 as an exhibit then the letter to President Burdette, dated  
16 July 10, 1991.

17 (WHEREUPON, the document referred to  
18 was marked as Exhibit No. 1 for  
19 purposes of identification and was  
20 received into evidence.)

21 MR. SEELEY: Then the Dr. Wilson's letter and  
22 the Resolution of the state of Virginia.

23 HEARING EXAMINER MANGUS: Yes, I have that.

24 MR. SEELEY: Okay, I would like to introduce  
25 that as an Exhibit No. 2, and it is two pages.

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(WHEREUPON, the documents referred to were marked as Exhibit No. 2 for purposes of identification and were received into evidence.)

MR. SEELEY: Then, I have Ronald Walton's letter to Shawn Chillag, and then Mr. Chillag's response -- or Dr. Chillag's response. I also have Ron Walton's letter to Theodore -- Dr. Theodore Kotchen and that doctor's response to Mr. Walton, and I would -- those are four pages, four separate letters that we could mark together as Exhibit No. 3.

(WHEREUPON, the documents referred to were marked as Exhibit No. 3 for purposes of identification and were received into evidence.)

MR. SEELEY: Then, I would -- I assume you are going to introduce the American Medical Association Proceeding of the House of Delegates.

HEARING EXAMINER MANGUS: Yes, that has been included for evidence.

MR. SEELEY: Okay, and what we will do is include those items, including the references, I don't know how many pages that is, I think those are five pages.

(WHEREUPON, the document referred to was marked as Exhibit No. 4 for

1 purposes of identification and was  
2 received into evidence.)

3 MR. SEELEY: And then I would like to introduce  
4 the copy of the November 13, 1989, Public Session Minutes  
5 where the issue was discussed to the Board of Medicine as  
6 Exhibit No. 5.

7 (WHEREUPON, the document referred to  
8 was marked as Exhibit No. 5 for  
9 purposes of identification and was  
10 received into evidence.)

11 MR. SEELEY: Before calling the first witness,  
12 I would like some clarification on the rule, if known, as to  
13 what chelating agent is meant by chelation therapy.

14 HEARING EXAMINER MANGUS: The -- as a matter of  
15 fact, I am not sure that that is addressed in the rule,  
16 whether it is sodium or calcium or which one of the  
17 chelating agents as being identified.

18 MR. SEELEY: Well, I would submit that that is  
19 one of a number of concerns that many of the witnesses will  
20 address in that the rule itself is vague and very broad  
21 because it also excludes various acceptable forms of  
22 treatment totally unrelated to, I think, what was the  
23 intended purpose.

24 So, at this time, what I would like to do is  
25 call Dr. Martin Rubin. Would you swear the witness, please?

A.O.R.

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(Witness sworn)

THEREUPON came,

M A R T I N R U B I N, D. S. C.,

called as a witness in opposition to the rule, who, having been first duly sworn according to law, testified as follows:

DIRECT EXAMINATION

BY MR. SEELEY:

Q Dr. Rubin, do you have a packet of materials that we may submit for the record which will encompass your academic and industrial background, your government and organization appointments, major research activities and various awards that you have received?

A Yes, I have prepared a brief summary, and I will turn it over.

MR. SEELEY: Okay, may we mark that as Exhibit No. 6, which will be Dr. Rubin's Curriculum Vitae, and may I show the Hearing Office that, please?

HEARING EXAMINER MANGUS: Thank you.

(WHEREUPON, the document referred to was marked as Exhibit No. 6 for purposes of the record and was received into evidence.)

BY MR. SEELEY:

Q Dr. Rubin, could you illustrate for the Hearing

1 Officer today what, in your CV, illustrates your preeminence  
2 in the field of chelation therapy?

3 A I must say I am rather humbled by this  
4 appearance, and I would like to thank Dr. Mangus for the  
5 privilege of being here. It is my first appearance before  
6 this kind of a body.

7 I have to say that I started the subject of  
8 chelation research and chelation therapy in the United  
9 States, and I did that starting in 1948, when I was a  
10 professor -- Associate Professor of Pathology at Georgetown  
11 University Medical School, and I have continued from then  
12 until now.

13 I retired in '81, and in my CV, I have listed  
14 some of the things I have done in connection with chelation.  
15 I have been awarded an honorary Doctorate from the  
16 University of Louis Pasteur because I invented the use of  
17 chelation for the treatment of lead poisoning in the United  
18 States. We treated the first patient at Georgetown.

19 I invented it for use as an anticoagulant, when  
20 you get your blood drawn, it is in a tube containing EDTA.

21 I invented it as an antioxidant, and I will be  
22 talking about these things in connection with  
23 atherosclerosis, and if you pick up your bottle of  
24 mayonnaise, you will see that on the label it says, added to  
25 this to protect it is something called vercenate, that is

1 EDTA, and I will talk a bit about that along the way.

2 So, I have been involved in this for all of my  
3 professional life, as I said, I have never really seen  
4 people as I have here now who have been using this  
5 treatment.

6 What else have I done? Oh, I have been on  
7 study sections of the National Institute of Health, I have  
8 been on the National Academy of Sciences, I have been  
9 president of an international organization in laboratory  
10 chemistry, I have edited a journal -- journals, actually, I  
11 have been a consultant for the Pan American Health  
12 Organization, and I have done a lot of things in the  
13 chelation field from the beginning until now. I am an  
14 honorary member of the American Medical Association, and I  
15 guess that is about enough in answering your question.

16 Q Sure, I think so.

17 Well, you have, if I am right, nearly 50 years  
18 of experience in this particular field?

19 A Forty. Professors are very careful.

20 Q Based upon those 40 years, will you summarize  
21 the history of EDTA in relation to the treatment of  
22 atherosclerosis, and in so doing, include the history, the  
23 scientific rationale, a discussion concerning the mechanism  
24 of action, the IND, and then also discuss briefly the rule  
25 that presently exists in West Virginia? Doctor.

1           A           Ouch. Let me start with the atherosclerosis  
2 problem and chelation related to it. Atherosclerosis is a  
3 very complicated disease. It has a very complicated  
4 pathophysiology, the steps that take place in the course of  
5 the disease.

6                       And as a result, the usual approach to  
7 developing drugs isn't very effective because while you can  
8 develop a drug for one step in this disease, the disease  
9 keeps going through a series of progressions, and as a  
10 result, there is no drug at the present time other than what  
11 we are talking about which handles each step in the process  
12 of the development and progress of atherosclerosis.

13                      So, what I am going to talk about very briefly  
14 is how it came about that this got started altogether for  
15 atherosclerosis, and then I am going to go into, after that,  
16 some of the scientific basis since I am a scientist,  
17 scientific basis of why it handles each step in the  
18 progression of this disease, and I will try to do my best to  
19 make it clear and concise.

20                      The start of the use of this material, which I  
21 started with back in 1948, '49, and developed for a number  
22 of uses that got accepted in medicine, for example, in those  
23 early years, we treated patients who had calcium problems,  
24 and EDTA became accepted as a therapeutic modality to treat  
25 elevations in calcium in the blood.

1           As I said, we developed it to treat lead  
2 poisoning. There was no other treatment for lead poisoning  
3 at that time.

4           Because of the kind of audience here, perhaps I  
5 will digress for a moment and tell you that when I first  
6 presented the first case to the World's Authority in  
7 Cleveland on lead poisoning in front of a large group, he  
8 said, well, professor, are you sure your analytical data is  
9 correct, because we were analyzing urine for lead and so on,  
10 and I said, yes, I am sure, and he said, well, we will see,  
11 because there had been no treatment, but it is now  
12 universally accepted.

13           Let's get to atherosclerosis. It was started  
14 because a doctor in the fifties, in the late fifties, a very  
15 eminent professor, was treating patients for the elevated  
16 calcium problem with EDTA, some of those patients happened  
17 to have atherosclerosis, and he noted that those patients  
18 improved in terms of their atherosclerosis, and he reported  
19 this in the literature.

20           That was really the beginning of this whole  
21 treatment of atherosclerosis. I will have to tell you, I  
22 got into this in '48 because I was teaching at Georgetown in  
23 the Chemistry Department as well as everything else, and in  
24 the Graduate Department, and had a call one morning from one  
25 of my students, Peter Weiss, who was with the Food and Drug

1 Administration, and he said, Professor -- I had been talking  
2 about calcium metabolism, and, as a matter of fact, the work  
3 we did on calcium metabolism I am going to submit because it  
4 leads into the EDTA atherosclerosis problem. It was a study  
5 using isotopic calcium, and they showed, and you gave the  
6 radioactive material and put it in the body where it came  
7 out under normal conditions, and we pinpointed it came out  
8 of various places in the body, and that is what this first  
9 paper I gave here leads to in terms of EDTA therapy.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 7 for  
12 purposes of identification  
13 and was received into evidence.)

14 MR. SEELEY: Would you identify the Exhibit No.

15 7?

16 THE WITNESS: Exhibit No. 7 is the one that I  
17 am submitting for this background.

18 But the atherosclerosis problem, as I said  
19 before, is a very difficult one, and even though doctors by  
20 anecdotal data, looking at patients, say this stuff is  
21 pretty good.

22 There was no real science involved, and in '48  
23 when the man who invented EDTA was sent to me from the FDA  
24 and sat at my desk at Georgetown Hospital, he said,  
25 Professor, this material of mine dissolves rocks; it is

1 remarkably able to dissolve calcium. There is calcium in  
2 the arteries in atherosclerosis, why don't you give it to  
3 patients for atherosclerosis, and I knew he was crazy  
4 because there is calcium in the blood, and I knew very well  
5 that it would take the calcium in the blood before it ever  
6 got to the arteries. I was young, I was bright, and I was  
7 stupid because I was wrong, but it took me a long time to  
8 find out.

9 At any rate, in terms of history, I will just  
10 jump a little bit, and then I will come back. After I  
11 retired in '81, I went to a meeting of chelation physicians,  
12 and I listened to them, and I talked to them about the early  
13 years of chelation, and I then followed up the literature,  
14 and I saw some things in the literature which I just could  
15 not explain. These were not anecdotal data but solid  
16 scientific things, and I will be talking about some of these  
17 as I go along.

18 And based on that, I became president of an  
19 international nonprofit foundation which decided to carry  
20 out the studies that the FDA requires which are called  
21 placebo controlled studies on EDTA in the treatment of  
22 atherosclerotic disease, and I will talk about those at the  
23 end of my comments.

24 But let me now get back to this progression of  
25 steps in the atherosclerotic process and what happens with

1 EDTA at each particular step.

2 Today, in 1991, we know what those steps are,  
3 and we know how they work in the body, and we know what is  
4 wrong with them in terms of the atherosclerotic disease  
5 process. We didn't know that in the '48's, and as a matter  
6 of fact, it continues to grow in knowledge, and I will be  
7 talking about what we do know and how remarkable it is that  
8 this particular drug handles all the steps in the process.

9 Let's start in. The steps we are talking about  
10 in terms of the development of atherosclerosis are the  
11 following. In the first place, as you know, the fats that  
12 are in the blood get oxidized, they get oxidized, and the  
13 oxidation products are dangerous and difficult for the body  
14 to handle, and I will talk about that and the involvement of  
15 EDTA in that process.

16 The oxidation products then attack and attack  
17 the little circulating cells in the blood like platelets,  
18 for example, and cause them to coagulate, get together, that  
19 is a problem in atherosclerosis.

20 The oxidized fats in the body, as they move on  
21 down, get picked up selectively by the vessel, blood vessel  
22 wall, that is fairly new knowledge. A man got a Nobel Price  
23 for that some years ago recently, seven or eight years.

24 And when they get in that vessel wall, of the  
25 arterial wall, they damage it, and when they damage it,

1 those damaged cells, and Dr., my colleague, Kindness, is  
2 going to talk about in more detail, and I will, therefore,  
3 when I come to it go over it just gently, that those cells  
4 when they hit the wall -- when the oxidized fats hit the  
5 wall and when the injured areas in the wall get them as they  
6 do selectively, then you begin to get the buildup of plaque,  
7 and plaque consists of fat, and beginning plaque has calcium  
8 in it, and then later on, the plaque gets calcified, and as  
9 it gets calcified, the cells in that arterial wall begin to  
10 die, and as they die, the calcium sets down there and the  
11 dead cells, as they die, lose their magnesium which comes  
12 out, and I will talk about that.

13           And then as the blood vessels become occluded  
14 throughout the body, you get poor circulation, and when you  
15 get poor circulation in the legs, you can't walk very well,  
16 it hurts, and if it goes to the end of the line, you get  
17 gangrene and then they cut your leg off because you have no  
18 alternative.

19           And I am going to leave with the court, is it,  
20 with the Hearing Examiner, I am going to leave one or two  
21 pictures of people with gangrene, who have developing  
22 gangrene, who have been treated successfully this way.

23           So, let's go back to step no. 1, the oxidation  
24 step, this is an interesting problem because, you know,  
25 professors love to give lectures, and you've got me, and

1 since you are all here, I am going to give a lecture,  
2 especially when you are retired, you need a good excuse.

3 For millions of years, life lived in the ocean.  
4 If you know the Old Testament and Genesis, you know that  
5 there came a time at which life moved onto the earth out of  
6 the ocean.

7 In order to do that, it had a real problem. It  
8 wanted to do it, life had to get onto the land because the  
9 air that we breath has oxygen, and the energy levels in the  
10 conversion of oxygen to water and carbon dioxide are very  
11 great and so much greater that things living on earth had a  
12 heck of a lot more energy possibly than the fishes down deep  
13 in the ocean that were there for millions of years before we  
14 came out upon the earth.

15 But there is a major problem with oxygen, and  
16 in order for it to get useful and life could tolerate it up  
17 on top of the earth outside the water, it developed some  
18 very ingenious, protective mechanisms, and let me tell you  
19 what they are and why they are.

20 For example, the oxygen you breathe in through  
21 your nose has got to get into your blood and then it has to  
22 get across the blood vessel into the red cell where it gets  
23 grabbed by a chelate, and that chelate is called hemoglobin,  
24 and the hemoglobin is made up of iron and a big combination  
25 structure which is a chelate, a ring structure, and that

1 iron in the hemoglobin holds the oxygen; it holds it outside  
2 of the blood, the liquid blood, it holds it inside the red  
3 cell and carries it around in the body and then releases it.

4 But nature had the second problem, and that  
5 problem was that it had to get the iron in there for the red  
6 cell to make the hemoglobin, and iron, like oxygen, is a  
7 very bad oxidant; it causes the oxidation of those fats that  
8 I talked about, that cause arteriosclerosis, and, so, nature  
9 had to invent in the blood a protective system to keep the  
10 oxygen from being an oxidant and to keep the iron combined  
11 with the oxygen in the blood plasma outside the cells from  
12 oxidizing all the fats so fast that you could never have  
13 life existing.

14 And the way it did it was to have a cascade of  
15 protective systems in the blood; you all have it, and the  
16 first step is that when the oxygen gets a little bit damaged  
17 and you have what is called a free radical, which my  
18 colleague, Dr. Kindness, will talk about a lot, when you  
19 have a free radical of oxygen in that blood, now you then  
20 oxidize the fats, and as a result, the protective sequence  
21 that the body has built over the millions of years is to  
22 first take that oxygen radical when it ends, and we call it  
23 superoxide dismutase, and we combine it together, and then  
24 another enzyme takes the peroxide that is formed and the  
25 enzyme is called catalase, and it converts it back again to

1 oxygen and water. So, this is a protective system as the  
2 first line of defense.

3 But then there are other problems because in  
4 the wall of the cells, if that oxygen radical attacks there,  
5 it will damage the cells, as you will hear from my  
6 colleague, and that free radical will cause those cells to  
7 agglomerate on the wall and cause atherosclerosis.

8 So, nature in its wisdom has put something else  
9 in the walls of those cells and that stuff is called Vitamin  
10 E. Tocopherol, Vitamin E, is an antioxidant, it is the  
11 second line of defense, and if that fails, nature has  
12 invented a third material which floats around in your blood,  
13 and you eat it all the time, and it is a vitamin, you need  
14 it like Vitamin E, because it is an antioxidant, it is  
15 called ascorbic acid, Vitamin C, and it is in your blood  
16 when you eat enough good food and take some occasional  
17 vitamin pills.

18 So, there is a three-tiered level of defense  
19 against the oxygen radical, however, there is another  
20 problem, the body has to get that iron from what you eat  
21 into your gut, across your gut, across the blood vessel  
22 wall, where it now has a chance to be in the liquid of the  
23 blood and, remember, it is combining with oxygen, and it is  
24 an antioxidant, and it, therefore, causes a lot of  
25 oxidation, so, nature has invented something in the blood

1 which grabs that iron as soon as it gets in there and  
2 carries it around to storage areas until it is needed for  
3 that red cell hemoglobin, and that material is called  
4 transferrin. Transferrin is just what the name says, it is  
5 a transport material for the iron that is coming into the  
6 blood, to keep it away from anything else.

7           What about EDTA in this whole system? And,  
8 incidentally, I have here a summary of these comments about  
9 the oxidation theory as it was written, and it just  
10 summarizes the points, and it may be helpful to you.

11           MR. SEELEY: Okay, doctor, you have been --

12           THE WITNESS: Right, yes, I also left the first  
13 paper of the first child treated with lead poisoning in  
14 Georgetown in 1950, I think it was, that wasn't believed.  
15 We published it in a local journal, and then, finally, we  
16 got it into a national journal, The Journal of Pediatrics.

17           MR. SEELEY: And let's mark that Exhibit No. 8.

18           THE WITNESS: Exhibit No. 8 is the lead  
19 poisoning article.

20                           (WHEREUPON, the document referred to  
21 was marked as Exhibit No. 8 for  
22 purposes of identification and was  
23 received into evidence.)

24           MR. SEELEY: And then the American Tribune  
25 article is Exhibit No. 9.

1 (WHEREUPON, the document referred to  
2 was marked as Exhibit No. 9 for  
3 purposes of identification and was  
4 received into evidence.)

5 THE WITNESS: And now here we have one of the  
6 papers about Vitamin E that I talked about as an  
7 antioxidant, there is a long literature, I just picked one  
8 or two as we went along.

9 MR. SEELEY: Okay, that is Exhibit No. 10.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 10 for  
12 purposes of identification and was  
13 received into evidence.)

14 THE WITNESS: And this is another one which is  
15 a little better review of all of the systems in the blood  
16 that nature has invented to protect against that oxygen that  
17 is passing through.

18 MR. SEELEY: And that will be Exhibit No. 11.

19 (WHEREUPON, the document referred to  
20 was marked as Exhibit No. 11 for  
21 purposes of identification and was  
22 received into evidence.)

23 THE WITNESS: And now we are ready to talk  
24 about EDTA as an antioxidant. I mentioned that it was used  
25 to preserve your foods, your vitamins, many drugs have it

1 in, liquid drugs. We did that work back in the early  
2 fifties; we used it to show the protection of Vitamin C  
3 against oxidation.

4 The company that supported the work in  
5 Georgetown applied for patents on it, and this is the  
6 original patent -- second patent, there was an earlier one  
7 on the preservation of foods with this material against  
8 oxidation.

9 MR. SEELEY: This will be Exhibit No. 12.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 12 for  
12 purposes of identification and was  
13 received into evidence.)

14 THE WITNESS: And I must tell you that today in  
15 the United States, they use -- it may surprise you -- they  
16 use 89 tons of EDTA in the food supply of the United States  
17 to protect it against oxidation, as a mechanism as I  
18 described it of protection.

19 We were very interested in the second step of  
20 the body's protection of the iron moving into the blood that  
21 I mentioned, and, so, we studied the effect of EDTA on the  
22 iron in the blood as it moved into the blood, and we studied  
23 its competition with that protein that grabs the iron that I  
24 talked about defensively, and, we, therefore, published in  
25 1960, which was pretty late in the process, we published a

1 paper on the competition of EDTA with that natural protein  
2 for iron, and that report is here, and the gist of the story  
3 is that when you use EDTA in the right amounts, it is able  
4 to help grab the iron and then carry it out into the urine  
5 before it can do any oxidation.

6 MR. SEELEY: And that has been marked as  
7 Exhibit No. 13.

8 THE WITNESS: Exhibit 13 is the study on the  
9 competition of iron between EDTA and transferrin.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 13 for  
12 purposes of identification and was  
13 received into evidence.)

14 THE WITNESS: Things take a lot of time. We  
15 did this work way back, and I was kind of amused the other  
16 day to pick up a paper, an abstract of a paper published a  
17 year ago, which specifically talks in this abstract about  
18 the oxidized products in the blood that cause  
19 atherosclerosis and the role of transferrin in cutting down  
20 the oxidation of the fats, and it says as you get older, you  
21 get less transferrin available and more iron, and as a  
22 result, you oxidize those fats more readily, and, therefore,  
23 you are more inclined to get atherosclerosis in the older  
24 years of your life, which is the way the disease progresses.

25 So, this is just a brief abstract which shows

1 the consequences of not enough transferrin on the oxidation  
2 of fats in the blood.

3 MR. SEELEY: Marked as Exhibit No. 14.

4 (WHEREUPON, the document referred to  
5 was marked as Exhibit No. 14 for  
6 purposes of identification and was  
7 received into evidence.)

8 THE WITNESS: There are a lot of other  
9 interesting things, side lights, I talked about the iron as  
10 a problem, and just the other day, I picked up a paper, and  
11 this was published in 1991, on why exercise is good for the  
12 treatment of atherosclerosis, and I will read you the title,  
13 the title says, "Exercise as prevention: Do the Health  
14 Benefits Derive in Part from Lower Iron Levels?"

15 And, so, finally it has taken a long time, but  
16 the medical profession is catching up with the basic science  
17 in terms of what EDTA may be doing in terms of antioxidant  
18 activity.

19 MR. SEELEY: And that is the Medical Hypotheses  
20 article, Exhibit No. 15.

21 (WHEREUPON, the document referred to  
22 was marked as Exhibit No. 15 for  
23 purposes of identification and was  
24 received into evidence.)

25 THE WITNESS: That is a brief summary, really,

1 of the antioxidant activity of EDTA and its role in the  
2 atherosclerotic problem.

3 I want to talk about the second step, the  
4 second step is the point at which the injury, either by  
5 oxidation or by the involvement of calcium causes the  
6 platelets, those preventative coagulating cells in the  
7 blood, to lay down on top of the injured area, and I am  
8 going to be very brief in that because, as I said, it will  
9 continue with my colleague here.

10 What we did do early on was to show that when  
11 you added EDTA to a tube of blood, it stopped the  
12 coagulation, and then we published that back in 1951, and in  
13 a paper that is called "Sodium", I will abbreviate, EDTA,  
14 "as an Anticoagulant for Routine Laboratory Procedures", and  
15 this is a procedure that is used all through the world today  
16 to help in inhibiting that platelet coagulation that we will  
17 be talking about.

18 MR. SEELEY: The article you just mentioned is  
19 Exhibit No. 16.

20 (WHEREUPON, the document referred to  
21 was marked as Exhibit No. 16 for  
22 purposes of identification and was  
23 received into evidence.)

24 THE WITNESS: Let me move then to the next step  
25 in the process, which is the accumulation of calcium on that

1 injured area and the formation of the plaque.

2 We started our first work with EDTA in the late  
3 forties or early fifties. Looking at its chemistry from  
4 what I could determine as a chemist, I realized because it  
5 grabs metals in a different priority sequence, that when it  
6 hit the blood, it would grab calcium, and, so, I developed  
7 these anticoagulant uses.

8 But inasmuch as I was working in a Pathology  
9 Department and running a hospital laboratory, and inasmuch  
10 as I was going once a week to the Grand Rounds and once a  
11 week to the Clinical Pathological Conferences, and I was  
12 teaching medical students, I also knew about the fact that  
13 occasionally you get hypercalcemia, elevated levels of  
14 calcium in the blood, so, we studied EDTA as a means of  
15 controlling the calcium in the blood.

16 And we did that work early on and published it  
17 in 1950, which was 40 years ago, and it is called  
18 Experimental Control of Serum Calcium Levels in Vivo, and we  
19 showed in this publication that when you gave EDTA, and I  
20 say we, because I did it with my colleagues, medical  
21 colleagues and one or two students, we showed when you gave  
22 EDTA by administration to an animal that it grabbed the  
23 calcium in the blood, and the animal, depending on how you  
24 gave it, whether you gave too much of it or too fast, you  
25 could kill the animal with too sharp a decrease in the

1 calcium in the blood, and people who are given chelation  
2 therapy now are given it in very controlled doses and  
3 slowly, and that doesn't happen.

4 But at the same time we did this work which I  
5 published, we did one other thing, which I will come back in  
6 the next comments I have, and that is we reported in this  
7 paper about what happened when you gave magnesium along with  
8 the EDTA to the animal.

9 I did this because I knew about magnesium, and  
10 I knew that as far back as the turn of the 1900's, there  
11 were papers then reported on the value of magnesium and its  
12 interaction with calcium, how it was competitive, and I knew  
13 that in your body magnesium sets inside your cells in large  
14 quantities, and I knew that there was more -- much more  
15 calcium in the blood and very little inside the cells, and I  
16 knew that when the cells died, as I mentioned before, the  
17 magnesium came out and the calcium went in.

18 And, so, we studied the effect of adding  
19 magnesium to the EDTA, and lo and behold, we found -- and  
20 didn't understand it really -- and reported here that when  
21 we added magnesium to the EDTA, someplace or other, calcium  
22 showed up to replace the calcium that we were taking away  
23 with the EDTA. It is Figure 4 in this publication, and it  
24 is rather remarkable.

25 You give the same dose that killed the animal,

1 but now when you give magnesium in it, enough calcium comes  
2 out of the body, wherever it is coming from, and we thought  
3 it was the bone, but we were wrong as I will tell you in a  
4 moment, when it replaces what you take out.

5 But we reported it like good scientists, that  
6 is what we saw, and it was real, and it wasn't until -- it  
7 wasn't until 1969 that a paper was published that explained  
8 what we had reported, and now that's 19 years later.

9 MR. SEELEY: The article you were referring to  
10 previously has been marked as Exhibit No. 17, and the one  
11 you are referring to now will be marked as No. 18.

12 (WHEREUPON, the documents referred to  
13 were marked as Exhibit Nos. 17 and 18  
14 for purposes of identification and  
15 were received into evidence.)

16 THE WITNESS: This is a very important paper,  
17 and I picked it out of the thousand papers on EDTA that have  
18 been published since we first started in 1949.

19 This paper is important for two reasons; it  
20 discusses lowering calcium by EDTA as I have described it,  
21 and it tells what happens. It tells that the parathyroid  
22 gland up in your neck releases the hormone called  
23 parathyroid hormone, when you use EDTA in a human being,  
24 lowering the calcium that causes this gland to push out the  
25 parathyroid hormone.

1                   And the question that this man answered, and,  
2                   incidentally, EDTA is used to test parathyroid function all  
3                   over the world just for that reason, and I am referring to  
4                   it for two reasons because it shows up again in the last  
5                   step in this process that I will talk about, the parathyroid  
6                   hormone that you release with EDTA, and it shows up in this  
7                   article, because what the man -- and it was published in  
8                   Australia, and the year was 1969, and it is in The Journal  
9                   of Clinical Endocrinology, all of these papers are in  
10                  really good clinical journals, and what this man did was to  
11                  correct us. He shows unambiguously that when you give EDTA,  
12                  the calcium that replaces what you take out doesn't come out  
13                  of the bone. He shows that it comes out of the soft tissue,  
14                  the soft tissue is the tissue around your arteries, all the  
15                  other issues in the body in which there is some calcium, and  
16                  he shows here and gives the mathematical analysis that that  
17                  is where the calcium comes from first.

18                  The second place later on in the cause is by  
19                  the parathyroid gland which influences the bone which now  
20                  begins to cause some calcium to come out again, but the  
21                  first step is calcium out of the soft tissue and that is  
22                  where you have got to give it out in the treatment of  
23                  atherosclerosis in its initial stages because it begins to  
24                  accumulate there.

25                  And, so, I am going to submit this paper for

1 the purpose of showing where the calcium is coming from, and  
2 the data is beautifully clear. He analyzed it as we did  
3 mathematically in dog, man, rat and cows; all had the same  
4 response, the same sources of the calcium that we are  
5 replacing, and it is unambiguous at first, comes out of the  
6 soft tissue where you need to get it out in atherosclerosis,  
7 and that one --

8 MR. SEELEY: That is Exhibit No. 18.

9 THE WITNESS: All right. I talked about the  
10 fact that in the development of the disease process, calcium  
11 begins to accumulate at the cell and kill it and magnesium  
12 then begins to come out with the death of your cells.

13 There is a lot of evidence for that, and I am  
14 going to submit for consideration of the hearing folks just  
15 a couple of papers on that; one relates to the role of both  
16 calcium and magnesium in the development of atherosclerosis  
17 and relates to the point I just made, so, I will just put it  
18 in for you.

19 MR. SEELEY: Okay, and that will be Exhibit No.  
20 19.

21 (WHEREUPON, the document referred to  
22 was marked as Exhibit No. 19 for  
23 purposes of identification and was  
24 received into evidence.)

25 THE WITNESS: I have talked then about removing

1 calcium, I will now talk about the magnesium problem and the  
2 loss of magnesium from the cells that I talked about and the  
3 development of the disease.

4 This is relatively new information. The role  
5 of magnesium in atherosclerotic disease is quite recent, and  
6 when I say recent, I mean within the last 10 years of any  
7 significance.

8 And this is a paper, for example, that I  
9 selected again for the review of the Board which talks about  
10 the role of magnesium in the pathogenesis of  
11 atherosclerosis, the cause of it, and it says, when you lose  
12 the magnesium, you help the development of atherosclerotic  
13 disease, when it comes out of the cells, you are in trouble.  
14 That is what this paper talks about.

15 But then another paper --

16 MR. SEELEY: And this will be Exhibit 20.

17 (WHEREUPON, the document referred to  
18 was marked as Exhibit No. 20 for  
19 purposes of identification and was  
20 received into evidence.)

21 THE WITNESS: Another paper that is even more  
22 interesting on magnesium relates to a new development, a  
23 drug development. I talked about how the companies try to  
24 develop drugs to attack each individual problem of the  
25 atherosclerosis development.

1                   One of the problems we talked about was the  
2 accumulation of calcium in the cells, and a lot of drug  
3 companies are now developing calcium channel blockers.  
4 Those are drugs which keep the calcium from going into the  
5 cell. They are being tested for atherosclerosis in many  
6 places.

7                   And I thought it would be interesting to you to  
8 have at hand also a paper, an editorial published recently--  
9 well, not so recently, in 1984, when the magnesium story  
10 started, it is entitled "Magnesium: Nature's Physiologic  
11 Calcium Blocker", and what the article says is that the  
12 drugs that we are developing to stop calcium from going in  
13 are also the same processes done by the magnesium you eat in  
14 your food.

15                   So, we are really on the same wave length of  
16 drug development and inhibiting calcium moving into cells,  
17 and that is what EDTA does but in a different way.

18                   MR. SEELEY: The article you have just referred  
19 to has now been marked as Exhibit 21.

20                   (WHEREUPON, the document referred to  
21 was marked as Exhibit No. 21 for  
22 purposes of identification and was  
23 received into evidence.)

24                   THE WITNESS: And, as I said before, EDTA takes  
25 calcium out of the body and keeps it from going out into the

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1 cells and sets up a sequence which makes it easier for the  
2 magnesium to go in, so it works hand in hand in this  
3 process.

4 Finally, I would like to talk then about  
5 another even more recent development which is the subject of  
6 parathyroid hormone. You remember, perhaps, that I talked  
7 about how parathyroid hormone is a release for the  
8 parathyroid gland when you give EDTA.

9 Well, the reason I got started in this process  
10 of trying to do something that I will talk about in a moment  
11 with official studies for EDTA was because I visited one  
12 time in Czechoslovakia, and then I met a professor there who  
13 gave me a paper on the treatment with EDTA and its effect on  
14 the circulation of blood, and I would like to leave it with  
15 the court because it has the kind of data which I as a  
16 scientist am happy and willing to accept.

17 She has data which she showed pictures of of  
18 the circulation around a blocked area in patients; this is  
19 now people who have blocked leg circulating blood inhibition  
20 and have trouble walking, and she treated those kinds of  
21 patients with EDTA, and lo and behold, she found and took  
22 pictures of the fact that the circulation of blood in the  
23 lower legs suddenly began to increase with treatment, and  
24 for the sake of the Board, I have given a copy of the paper  
25 which is in Czech regrettably but it has an English summary,

1 but I also made copies of the pictures that she has there,  
2 and the pictures are fairly interesting.

3 This is a patient who has total blockage --  
4 almost total blockage of the circulation in the legs, and  
5 this is a picture which will show how the circulation blood  
6 vessels increase.

7 MR. SEELEY: Can we identify that article that  
8 you are just referring to as Exhibit No. 22.

9 (WHEREUPON, the document referred to  
10 was marked as Exhibit No. 22 for  
11 purposes of identification and was  
12 received into evidence.)

13 MR. SEELEY: And each of the pictures as  
14 Exhibits 23 and 24.

15 (WHEREUPON, the documents referred to  
16 were marked as Exhibit Nos. 23 and 24  
17 for purposes of identification and  
18 were received into evidence.)

19 THE WITNESS: Another bit of anecdotal  
20 evidence, evidence that a smart physician observes and talks  
21 about, is the fact that people who knew about this  
22 circulation increase started to treat patients who have  
23 gangrene in the legs, amputation, requiring amputation,  
24 because they thought if they could treat them along the way  
25 before the leg had to be cut off, perhaps this increased

1 circulation would help the gangrene.

2 And, again, I have brought a couple of pictures  
3 along to leave because there are many such patients over the  
4 world who have been treated this way, and the astonishing  
5 thing is that when you treat them long enough with EDTA, the  
6 circulation increases and lo and behold, the gangrene heals.

7 This, again, is the kind of scientific evidence  
8 which impressed me and led me to --

9 MR. SEELEY: Doctor, I assume that the three  
10 pictures that you have just referred to, they are remarkably  
11 different, and I would assume that the one with the  
12 ulceration is the most severe prior to the treatment, and  
13 the last or the third picture which shows the ulceration  
14 being healed is after the treatment.

15 THE WITNESS: That is correct, and I just  
16 brought these pictures, I have a lot of them if the court  
17 needs them or wants them.

18 MR. SEELEY: And they are also marked on the  
19 back, showing treated and pre-treatment.

20 (WHEREUPON, the documents referred to  
21 were marked as Exhibit Nos. 25, 26 and  
22 27 for purposes of identification and  
23 were received into evidence.)

24 THE WITNESS: Next, I want to talk about two  
25 other things, one about parathyroid hormone and talk about

1 again some recent work which may not be widely known which  
2 proves that when the body releases parathyroid hormone from  
3 the gland, it causes an increase in the circulation of the  
4 blood so that when you treat with EDTA and you release  
5 parathyroid hormone and you get the kind of responses I was  
6 talking about now, this year and last year, and it begins to  
7 be the kind of solid scientific evidence showing that the  
8 parathyroid hormone, aside from working on the bone which it  
9 has always been known to do and we assume also has the  
10 capability of increasing as a separate activity, increasing  
11 the blood flow in the vessels, the blood vessels.

12 I would like to submit these among many papers  
13 with the guidance of the court.

14 MR. SEELEY: These are three separate articles.  
15 Would you like to identify each of those three?

16 THE WITNESS: Yeah, this is an article by Pang  
17 on the vascular action of parathyroid hormone.

18 MR. SEELEY: Okay, that will be Exhibit No. 28.

19 (WHEREUPON, the document referred to  
20 was marked as Exhibit No. 28 for  
21 purposes of identification and was  
22 received into evidence.)

23 THE WITNESS: And this is a document by Tenner  
24 on the vasorelaxant action of parathyroid hormone.

25 MR. SEELEY: Exhibit No. 29.

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(WHEREUPON, the document referred to was marked as Exhibit No. 29 for purposes of identification and was received into evidence.)

THE WITNESS: This is a paper, incidentally, from Copenhagen, 1991, I see, by Broulik on patients who have too much parathyroid hormone.

MR. SEELEY: And that is marked as Exhibit 30.

(WHEREUPON, the document referred to was marked as Exhibit No. 30 for purposes of identification and was received into evidence.)

THE WITNESS: And what happens to blood flow, it goes on very vigorously in these patients.

Finally, I would like to conclude by talking very briefly about what happened to me when I ran into all these things, I became president of a nonprofit foundation; it is called The International Chelation Research Foundation, and with another nonprofit foundation, beginning in 1986, the two of us started talking with the FDA about setting up what the FDA really wants, which is a placebo controlled blind clinical study of EDTA in the treatment of atherosclerosis.

And after a year and a half of discussions with the FDA in which they set up very rigid requirements, and,

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1 incidentally, I have to tell you, it was a very pleasant  
2 discussion because no one can stop the use of EDTA, it is an  
3 accepted drug, and no one can stop the use of dumping  
4 magnesium chloride to kill the pain of EDTA which was done  
5 because magnesium chloride is an accepted drug for the  
6 treatment of eclampsia pregnancy for a long, long time, and  
7 when you dump the two together and infuse it into a patient,  
8 you are using two drugs, both accepted for particular  
9 purposes, now for a different purpose, and that is allowed,  
10 I am told.

11           So, we decided to do this as an FDA controlled  
12 blind placebo controlled trial, which means some of the  
13 patients get nothing except a little magnesium. The FDA  
14 said give us another group that has just the marginal dose  
15 and give us another group with a therapeutic dose, and we  
16 did that. We made them up. We had a company make them, the  
17 bottles are coded only by number. We distributed them by  
18 agreement with two Army hospitals because -- well, I used to  
19 be a consultant at Walter Reed for many years, I am in  
20 Washington, so I had arrangements and contacts I could talk  
21 to there.

22           We went to Walter Reed Hospital Department of  
23 Medicine, the Army hospital, we got the Chief of Cardiology  
24 to agree to run this controlled trial, and the overhead was  
25 very low, and our quarter of a million dollars that we

1 raised we knew would be no -- wouldn't go much further than  
2 doing some preliminary work.

3 And we went out to California to another Army  
4 hospital where we had some friends, talked to them, and they  
5 agreed to run the second site for this unknown study --  
6 unknown drug study.

7 Then I arranged for the Jackson Foundation to  
8 take the money from us that we had raised and distribute it  
9 to the nurses at these places, and we weren't paying any  
10 overhead to any doctors or institutions, so, for a quarter  
11 of a million dollars, we could get this study underway.

12 It has been going on there; we got interrupted  
13 by the Gulf War a little bit, but the study has been going  
14 on there now since late 1988 when we set it up.

15 When we were about to run out of money, I went  
16 to a major pharmaceutical company. Shall I name names here?

17 BY MR. SEELEY:

18 Q Well, the product parent, isn't that American  
19 Home Products?

20 A The parent company that owns the drug company  
21 we went to, the parent company is American Home Products;  
22 the drug company we went to is the Wyeth-Ayerst Company,  
23 which is a well-known drug company, and I went up there and  
24 gave them a lecture, a real technical lecture to their staff  
25 about what we are talking about here, and then they sent

1 someone down to see me at The Foundation and looked over  
2 these thousands of references we have, and this is a very  
3 unusual day, and that is the reason I am happy to be here  
4 because Monday of this week I sent the formal notice to the  
5 FDA, telling them that this company is taking over from us  
6 and is now going to continue and expand this study.

7           They went back to the FDA and said, that, well,  
8 instead of the 120 study people that are in this study that  
9 these folks have been running, we will finish that for them  
10 based on what we see here blind, and I will tell you about  
11 that in a moment, and based upon what we have learned on  
12 this drug, we will take over and run that 120, but we will  
13 also run another 120, that is 240 patients.

14           It costs six to eight million dollars to do  
15 that kind of a study, and that is what this company has  
16 decided to invest and what they are now going to do.

17           And the reason they are doing this is that if  
18 it works, it is cheap because it takes a couple of hundred  
19 million dollars to develop a new drug these days for a drug  
20 company, so, they said -- the president said, cheap stuff,  
21 sure, we will run it for you, it looks good.

22           One of the reasons they took it over was  
23 because they wanted to know even blind results and blind  
24 meaning no one knows what has happened to the patients, but  
25 we give them just a list of the blind results of the

1 patients which FDA said put them on a treadmill, let them  
2 walk on the treadmill. Have any of you been on a treadmill?  
3 It is an incline. Put them on a treadmill, you show us what  
4 -- how they walk before they go into the study, you show us  
5 how they walk during the study and when they finish.

6 And FDA said, we will consider that as a part  
7 of the data when you finally end the blind.

8 We haven't ended the blind, but the interesting  
9 thing is in this study that we have been running blind, the  
10 data breaks into three groups; one group has had a  
11 remarkable improvement, another group has had a modest  
12 improvement, and one group has had no improvement or they  
13 are worse.

14 Now, you have got to be careful. That does not  
15 mean that this is a drug effect, you have got to be very  
16 careful about that, but it is interesting enough so that the  
17 drug company said this, with all the other stuff, means that  
18 we will be happy to take it over.

19 So, as of today, there will be 240 people  
20 treated blind; it will take another year and a half. The  
21 results, if it is positive, will immediately make this an  
22 approved drug by the FDA, meets all their criteria, and we  
23 will see what the outcome is.

24 Q Now, when you say approved drug by the FDA, you  
25 mean that they will expand the approved indications?

1           A           That is correct.

2           Q           When you submitted the IND and worked with the  
3           FDA to have an acceptable protocol for this, did they  
4           require various tests or studies to prove the safety of the  
5           drug?

6           A           That is an interesting question, and the answer  
7           is, no, they said this has been around so long, go right  
8           ahead.

9           Q           So, they -- would it be fair to say that they  
10          did not have any concern to the public about the safety of  
11          EDTA?

12          A           None at all.

13          Q           None at all?

14          A           None at all.

15          Q           Okay.

16          A           I say this very advisably, because we met with  
17          the Cardiorenal Division, which is a group in the FDA, with  
18          the head of the division and all of his people, and that was  
19          the upshot of several conferences.

20          Q           Because isn't that one of the popular  
21          criticisms that there is some monumental danger to renal  
22          failure?

23          A           Yeah, and it depends how you use it and what  
24          patients you use it on, sure. Every drug has some points at  
25          which you don't use it.

1 Q You are familiar with the protocol that is  
2 presently being used by many practicing physicians?

3 A Yes.

4 Q Do you see a particular risk in that protocol  
5 regarding renal failure?

6 A No, as a matter of fact, the highest dose that  
7 we are studying is the dose that is being used today.

8 Q Now, one of the other common criticisms of the  
9 therapy is that it pulls the calcium out of the bones and  
10 causes the bones to be fragile. Is there any truth to that?

11 A Well, you see, I entered in the record the  
12 paper by Parfit which shows that it comes from soft tissue;  
13 it is unambiguous as a first point of exit.

14 Q You have had an opportunity to take a look at  
15 the rule as it exists today in West Virginia. Would you  
16 suggest, based upon your scientific expertise, is that rule  
17 clear and unambiguous to you?

18 A Oh, I understand it very clearly. I saw it for  
19 the first time last night. The trouble with the rule is  
20 that when they say chelation, they are automatically  
21 excluding some other chelation drugs which are accepted in  
22 medical practice, and I am talking particularly about  
23 Deferoxamine, for example, that's a chelate, so, when that  
24 rule says that you can't use it for chelation other than for  
25 the three things they enumerate, they are automatically

1 cutting out an accepted drug all over the world which is  
2 used to treat iron overload in patients with hemochromatosis  
3 or related diseases, so that I think it is a bit unclear.

4 Q So, you believe that it is flawed in that  
5 context?

6 A Yes, I think so.

7 Q And apart from that flaw, I assume that based  
8 upon your 40 years of experience that you would also  
9 disagree with what its original intent was?

10 A I think it is premature.

11 MR. SEELEY: Okay, on that basis, does the  
12 Hearing Officer have any questions of Dr. Rubin?

13 HEARING EXAMINER MANGUS: No, not at this  
14 point, I think Dr. Rubin has given us a rather graphic  
15 process and description of the atherosclerotic process and  
16 how various components play a part in that, and we  
17 appreciate your information.

18 THE WITNESS: Thank you.

19 MR. SEELEY: And you do understand that he was  
20 the inventor of EDTA and there is no one else in the world  
21 that has a greater expertise with reference to its effect in  
22 the human system again from a scientific standpoint.

23 HEARING EXAMINER MANGUS: I certainly can  
24 appreciate his experience and knowledge of this based on his  
25 CV.

1 MR. SEELEY: Thank you, Dr. Rubin, thank you  
2 for coming.

3 (Witness excused)

4 MR. SEELEY: Would you like to take a break at  
5 this moment before calling --

6 HEARING EXAMINER MANGUS: It is 10:30, and I  
7 think we can stop for about at least 10 minutes and then  
8 reconvene here about 20 minutes of 11.

9 (WHEREUPON, a short recess was  
10 taken, after which the following  
11 proceedings were had.)

12 HEARING EXAMINER MANGUS: If I can have your  
13 attention, I would now move into the next portion of the  
14 presentation here.

15 Mr. Seeley will introduce the next discussion.

16 MR. SEELEY: Thank you, if I may, I would like  
17 to introduce Dr. George Kindness.

18 Doctor, I have what I would like to submit is  
19 your Curriculum Vitae -- I am sorry, I apologize, I need to  
20 have you sworn.

21 (Witness sworn)

22 THEREUPON came,

23 G E O R G E K I N D N E S S, P h. D.,  
24 called as a witness in opposition to the rule, who, having  
25 been first duly sworn according to law, testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MR. SEELEY:

4 Q Now, I would submit your CV and have that  
5 marked as Exhibit No. 31, and, Doctor, I see that you are a  
6 Ph.D., and in what field is that?

7 A In Clinical Chemistry, Clinical Immunology.

8 (WHEREUPON, the document referred to  
9 was marked as Exhibit No. 31 for  
10 purposes of identification and was  
11 received in evidence.)

12 BY MR. SEELEY:

13 Q And has your experience been in Clinical  
14 Chemistry?

15 A My experience has been in Clinical Chemistry  
16 and Clinical Pathology.

17 Q I see that you have been a lecturer and an  
18 author of many publications and the like.

19 Could you point out on this CV what areas  
20 directly impact our discussion today on chelation therapy?

21 A If I could briefly review my CV. I initially  
22 did an Honor's Degree in Biomedical Science plus a second  
23 degree in Ecology and Behavior, followed by a Master's  
24 Degree in Forensic Science and a Ph.D. in Clinical Medicine,  
25 which was Clinical Biochemistry Immunology.

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1           During the course of my studies, I was  
2 introduced to the field of hematology at the University of  
3 Aberdeen in Scotland, and I apologize for speaking to you in  
4 this very funny Cincinnati accent.

5           During the course of my studies, I was working  
6 in the Department of Medicine, and within the Department of  
7 Medicine, we had a large number of patients who had cardio-  
8 vascular disease, peripheral vascular disease, and I was  
9 given the task of evaluating the effects of Heparin which is  
10 used as an anticoagulant in the treatment of vascular  
11 disease.

12           At that time, I was studying a cell called the  
13 blood platelet, and I will be alluding to this later on, and  
14 the role of platelets in vascular disease.

15           I then went on to do research which is not  
16 relevant to this hearing in leukemia and interferon followed  
17 by being invited by the United States to work in  
18 inflammatory disease.

19           I came to the United States as a Fulbright  
20 Fellow, that is very similar to the Rhodes Scholarship.

21           I chose to work -- I was given a choice of  
22 anyplace in the United States, and I chose the University of  
23 Cincinnati Medical School at Children's Hospital,  
24 specifically to work in the area of inflammatory mechanisms.

25           And during the course of my research there on

1 compliment proteins, I realized the close relationship  
2 between compliment and coagulation inflammatory mechanisms,  
3 vascular disease.

4 This was followed by a two-year fellowship in  
5 Clinical Pathology at the University of Cincinnati Medical  
6 School.

7 While at the University of Cincinnati Medical  
8 School, I was fortunate or unfortunate enough to work in the  
9 Mavendolin Study, Mevacor Study, which examined the use of  
10 HMG CoA reductive inhibitors to lower cholesterol, and when  
11 you are a research scientist, you learn a lot; you also find  
12 out that there is a lot that is discarded, pushed to the  
13 side, ignored because it is not relevant to a new drug  
14 application, that has got me somewhat disillusioned.

15 During that period of time, I was introduced to  
16 an organization called The American College of Advancement  
17 in Medicine, previously The American College of Medical  
18 Preventics, and through its auspices, I was fortunate enough  
19 to enter into the field of preventive medicine.

20 In working primarily with the physician, Dr.  
21 James Frackelton, M.D., in Cleveland, Ohio, it struck me  
22 that while he was using EDTA chelation therapy and having  
23 researched the literature very thoroughly, that there was  
24 not a lot of biochemical physiological evidence to support  
25 this therapy. In other words, the physicians were giving

1 the EDTA, the patients got better, we said, this is great,  
2 we don't need bypass surgery and after that we went to the  
3 races.

4 As a scientist, that was unacceptable to me.  
5 There has to be a reason why this substance was working.

6 So, with the help of Dr. Frackelton and Dr.  
7 Derrick Longsdale, I designed a whole protocol to evaluate  
8 scientifically the effects of EDTA on both the humeral and  
9 cellular responses.

10 Now, I am very fortunate and feel honored to  
11 follow someone like Dr. Martin Rubin, and as you are now  
12 aware, Dr. Rubin is the person who has led this field. When  
13 I was one and a half years old -- he actually worked in it  
14 for 43 1/2 years -- Dr. Rubin was starting. I was still  
15 back in Europe trying to speak English.

16 With respect to chelation, what are you going  
17 to look at? How are you possibly going to evaluate this?

18 Now, historically, you look at animal models,  
19 you do your toxicity testing, well, that is good and well,  
20 but if you are a physician such as Dr. Zekan in his office,  
21 you can't do animal experiments in an office; one, you will  
22 have a bunch of protestors outside; secondly, you are  
23 working on humans, so, you already have the material  
24 available, blood.

25 What I would like to do with the Hearing

1 Examiner's indulgence, is present some slides to you to show  
2 you what led me to the findings that I have come up with.

3 As Dr. Rubin alluded to, EDTA was approved in  
4 the use of heavy metal toxicity; it was approved in the use  
5 of hypercalcemia.

6 What I am going to show you today is that the  
7 administration of up to three grams of EDTA has an effect on  
8 the intrinsic and extrinsic pathways of blood coagulation  
9 and has a direct effect on the blood platelet.

10 The blood platelet is the single reason you  
11 will either have a stroke or an MI, if platelets aggregate,  
12 you have a clot; if you have restricted vascular flow, the  
13 clot eventually blocks that vessel and you will either have  
14 your MI or stroke.

15 I want to present to you today evidence that  
16 shows that EDTA will have a direct effect on the blood  
17 platelet. EDTA will have a direct effect on the intrinsic  
18 pathway of coagulation. EDTA will have no effect or minimal  
19 effect on the final stages of the clotting cascade. EDTA  
20 will not interfere with the Collagen induced aggregation  
21 response. Now, this response is particularly significant  
22 because if EDTA is as wonderful as is being claimed, in the  
23 event that EDTA inhibits the coagulation induced aggregation  
24 and inhibits thrombin induced aggregation and inhibits ADP  
25 induced coagulation and inhibits Epinephrine induced

1 coagulation and you go out and meet a big Mack truck, it is  
2 going to ruin your day, you will bleed all over the highway,  
3 and your estate will sue the physician.

4            Seriously, I will show that EDTA in fact in its  
5 antioxidant role promotes the action of Collagen so that in  
6 the event of trauma, the Collagen response is left intact.

7            Similarly, I will show the effects of EDTA on  
8 the release mechanism. Example, Mr. Smith is a healthy, 44-  
9 year old, he has been jogging all his life; he is not  
10 overweight, he eats a very good diet, and he drops stone  
11 dead. Mr. Smith wasn't too healthy if he dropped stone  
12 dead.

13            We will show the effects of EDTA on the release  
14 of Epinephrine in stress induced responses.

15            EDTA has been used historically in the field of  
16 immunology, primarily to calm down cells and stop cellular  
17 movement.

18            I don't know of any immunologist anywhere in  
19 the world that does not use a solution with 50 millimoles of  
20 EDTA in it. Why is he doing it? Because he doesn't want  
21 the cells to aggregate; he wants to be able to examine the  
22 molecular mechanisms as to what is going on.

23            If we could go the slides, please. What we  
24 have here is very typical. If you have vascular injury and  
25 the exposure of Collagen, you will have adhesion of the

1 blood platelet.

2 Now, this response will take place before there  
3 is ever an involvement of the intrinsic pathway of  
4 coagulation or the extrinsic pathway.

5 During this release reaction, there is an  
6 involvement of calcium which for those of you who are not  
7 familiar, this represents calcium (indicating) ADP, which is  
8 Adenosine Diphosphate. Epinephrine and substances called  
9 prostoglandins and bioactive amines.

10 Professor Rubin alluded to free radical  
11 pathology. In free radical pathology, you have the  
12 destabilization of a cell membrane. That destabilization of  
13 the cell membrane will result in the release reaction taking  
14 place which at some stages may be reversible aggregation  
15 followed by irreversible aggregation and the formation of a  
16 thrombus.

17 Similarly, if you are under stress, if you have  
18 ADP released, excess of calcium, the generation of iron  
19 produced free radicals and then a word of note here, if you  
20 have a high level of ferritin and some of you lay people  
21 decide to go on to a Vitamin C kick, Vitamin C will  
22 destabilize that ferritin and will produce a free radical.

23 Epinephrine and also drug therapy can induce  
24 platelet aggregation which will result in this response of  
25 reversible aggregation, followed by irreversible aggregation

1 to thrombus.

2           The bottom reverse pyramids of triangle shows  
3 that some of the things that are involved in the aggregation  
4 process, we have inflammation, we have arthritis, we have  
5 allergy and we have coronary artery disease.

6           EDTA will have an effect on all of these  
7 disease processes.

8           I am not for one minute saying that EDTA will  
9 cure those diseases, I am saying, it will have a biological,  
10 biochemical, physiologic effect at the concentration as  
11 administered by Dr. Zekan.

12           The next slide, please. What you see here,  
13 and the light person, can someone down there flip a light  
14 switch and see if something happens?

15           Now, what you see here are two blood platelets.  
16 This slide was one by Leonard Nielson at the Catalysent  
17 Institute in Stockholm. The Catalysent Institute is similar  
18 to the National Institute of Health. Blood platelets are  
19 normally oval in shape; they are very similar to footballs.  
20 When the blood platelet undergoes insult or attack, it will  
21 undergo a process called a viscous metamorphosis, which means  
22 that the blood platelet will become sticky, it will change  
23 shape.

24           And in this example here, we see the formation  
25 of two blood platelets forming pseudopodia, false feet.

1 That is an abnormal response. This is what we do not want  
2 to see happening unless there is trauma.

3 The next slide, please. What you see here are  
4 many thousands of blood platelets forming a clot. This  
5 represents a red blood cell.

6 Now, if you would go back to the first one,  
7 please, there is your blood platelet, two individual  
8 platelets, go back again, please, here are the micro thrombi  
9 that are forming and that is very significant.

10 That is one single red cell. These are the  
11 micro thrombi, there is no involvement of a red blood cell  
12 in this process. This is all the blood's platelet.

13 The next one, please. What you see here now  
14 are the platelets interlacing with fibrin and this forms a  
15 net which starts to trap the red blood cells. In that net,  
16 you will then form the clot of the irreversible formed  
17 thrombus.

18 With Kodak safe in mind, here are typical  
19 thrombi that have formed, trapping blood platelets. Now,  
20 these can easily move around the circulation. If there is  
21 occlusion of the blood vessel, it doesn't take very long for  
22 that blood vessel to become plugged up and that is what we  
23 are dealing with primarily in EDTA chelation therapy is in  
24 preventing this process from taking place in the systemic  
25 circulation.

1           This for you who have suffered MIs or strokes  
2 is primarily what it looks like. That is a large blood clot,  
3 and this, as Dr. Rubin was alluding to, is the vessel wall,  
4 that should be smooth. As you can see, it is not smooth.  
5 It is filled with atherosclerotic plaque.

6           When you perturb the flow of blood through a  
7 vessel, the flow of blood should be lamina, it should be  
8 smooth. When that flow is perturbed, when you add stress,  
9 then you get this type of response.

10          Next one, please. There is a very large  
11 thrombus in a major vessel.

12          Next one. And, again, this is looking down one  
13 of the main vessels.

14          Now, we have heard a lot about calcium and what  
15 calcium does. What you are dealing with are cell membranes,  
16 and cell membranes will be affected. Calcium channel  
17 blockers block the action of calcium at the membrane level.

18          What I will attempt to discuss today in  
19 relation to chelation is the role that EDTA will play in the  
20 stabilization of that phospholipid bi-layer.

21          Remember, anything that you are going to put  
22 into the human body is going to have an effect.

23          The next one, please. Now, this is from The  
24 Journal of the American Medical Association, 1988, February  
25 17, Volume 259, Issue No. 7.

1                   What happens when you generate an oxygen  
2 radical which Professor Rubin alluded to is that you  
3 destabilize the membrane. When that destabilization takes  
4 place, then you are faced with the difficulty that you will  
5 trigger a platelet aggregation response. That aggregation  
6 response through destabilization results in the clot  
7 formation.

8                   Next one, please. Now, blood can clot without  
9 the involvement of the platelet of the red cells, and what I  
10 want to show you here, there are a number of safety  
11 mechanisms within the human body that will control clot  
12 formation.

13                   In the intrinsic pathway of coagulation, you  
14 have the involvement of what are called zymogens. These are  
15 always circulating in the blood in an inactive form, they  
16 are not doing anything until something happens and then they  
17 respond.

18                   The blood platelets, if you take Factor XII is  
19 activated to XIIA, and this is called a clotting cascade, it  
20 is very similar to a waterfall.

21                   The XII then activates an XI and XIA and now I  
22 have simplified this.

23                   The platelet are involved at the Factor XII  
24 level; platelet and phospholipids are involved where you  
25 have IX, VIII and X, and again at what is called the Swiss

1 where Factor X is activated, the platelet and lipid  
2 interact.

3 This material here, antithrombin II, is  
4 traditionally what was used to interact with the drug  
5 Heparin to prevent clotting forming.

6 Heparin will not prevent blood platelets from  
7 clotting. From '79 onwards, I published a number of  
8 articles in the use of Heparin as an anticoagulant and its  
9 use in the treatment of vascular disease.

10 Heparin, given post-operatively to bypass and  
11 transplant patients can in a number of instances promote  
12 clot formation. The Heparin will actually trigger the blood  
13 clot that you are actually trying to prevent.

14 This does not happen with EDTA. We will show  
15 that EDTA will have a direct effect on this pathway. We  
16 will show that EDTA has a direct effect in the blood  
17 platelet. As I have stated, and I must emphasize, Heparin  
18 will not affect the blood platelet.

19 The final stages of clotting involve this  
20 enzyme here, Thrombin. This will break up fibrinogen to  
21 form a fibrin clot.

22 If EDTA depletes calcium from the human body,  
23 by definition, this cascade should be affected and the final  
24 stages of clotting should not be able to take place. In  
25 other words, you won't form a blood clot.

1 I will show you today that that is not the  
2 case. We will show that EDTA does have an effect on the  
3 intrinsic pathway of coagulation but has no effect on the  
4 final stages of the clotting mechanism and this is  
5 clinically significant.

6 The next one, please. Now, taking the  
7 extrinsic pathway of coagulation, you cut yourself, how does  
8 the blood clot? Well, you have this factor, Factor VII,  
9 with calcium coming through Factor X, with more calcium  
10 phospholipids and a conversion of Prothrombins to Thrombins  
11 to fibrinogen to the fibrin clots.

12 So, throughout this cascade, calcium is  
13 actively involved.

14 The next slide, please. Now, here is the final  
15 stages of the clotting cascade. You have fibrinogen which  
16 is soluble, being acted upon by the enzyme Thrombin which  
17 will produce a fibrin monomer which is soluble and fibrino-  
18 peptides.

19 The Thrombin plus a fibrin stabilizing factor  
20 known as Factor XIII will then form a fibrin polymer which  
21 is insoluble.

22 In the event that EDTA totally depletes the  
23 body's reserve of calcium, this is in the circulation, this  
24 reaction cannot take place. You will see today that this  
25 reaction does take place.

1                   Next slide, please. So, summarizing again the  
2 free radical pathology, platelet membrane destabilization,  
3 the involvement of calcium, ADP, Epinephrine, the  
4 prostaglandins, the bioactive amines, you may have a  
5 reversible response, irreversible aggregation, the thrombus  
6 formation.

7                   I will in the course of what I am going to  
8 present also make reference to a drug called aspirin and  
9 platelets. Aspirin has been bandied for a number of years  
10 to be efficacious in the treatment of coronary artery  
11 disease, and aspirin certainly has a role to play, a very  
12 important role.

13                   We will see that not everyone responds to the  
14 use of aspirin. There are many people that it has no effect  
15 on. There are many people who have an aspirin allergy, and,  
16 again, Dr. Rubin referred to essential fatty acids and to  
17 platelet membranes.

18                   Aspirin has a profound effect on inflammatory  
19 reactions in the prostaglandin pathway. We are not going to  
20 get into that today.

21                   Next one, please. Now, what you are looking at  
22 here between A and B, if this is a platelet response, and  
23 what we are attempting to measure over the period of two  
24 minutes is the rate at which a blood clot will form.

25                   On the left side under A, you see that within a

1 period of 15 seconds when the blood's platelets are  
2 challenged with the enzyme Thrombin, a very large solid  
3 thrombus forms.

4           Following the administration of either disodium  
5 or magnesium EDTA in the majority but not in all cases, the  
6 Thrombin response is inhibited.

7           I have examined some 20,000 aggregation  
8 responses over the last five years involving a number of  
9 physicians in different states. I have found that over the  
10 course of 26 treatments and patients being maintained on  
11 EDTA therapy as a maintenance and also its use as, for want  
12 of a better word, a rustproofer, that this response holds  
13 true.

14           There are several things that the Board must  
15 consider, one, the anti-platelet effect; the life span of  
16 the platelet is seven to eleven days, so, the platelet are  
17 going to turn over.

18           Does that mean to say that you have to use EDTA  
19 every seven to eleven days? The answer to that is no.

20           Dr. Rubin, again, mentioned the fact that you  
21 have the removal of soft tissue calcium. One of the things  
22 that we attempt to do in our studies is that we will look at  
23 the platelet responses, the ADP, the Epinephrine, the  
24 Collagen and the Thrombin. Similarly, we will look at the  
25 calcium level before and after treatment. We will look at

1 the parathyroid hormone level. We will look at the  
2 fibrinogen level, we will look at the Prothrombin Time, the  
3 activated partial Thromboplastin Time. We also examine very  
4 closely all of the potential parameters that EDTA could  
5 affect, and we examine them through the course of the  
6 therapy.

7 We are specifically looking for change pre- and  
8 post-therapy.

9 We look at the circulating levels of ferritin;  
10 we look at transferrin, all of those agents that are  
11 involved in free radical pathology, in other words, the  
12 materials that can generate the radicals which will result  
13 in your death.

14 Everyone here agrees that the infusion of  
15 calcium into a cell will result in the death of that cell.  
16 Everyone agrees with the efficacy of channel blockers, never  
17 been in dispute.

18 I would submit to you today that EDTA is, in  
19 fact, a very effective calcium channel blocker and that that  
20 EDTA and the effects that it is having on a platelet  
21 membrane as well as its effects on the intrinsic pathway of  
22 coagulation merit its use therapeutically. It is both  
23 efficacious and safe, and the testing that has been done  
24 supports 100 percent the use of this material.

25 Now, I am a scientist, I only deal with facts.

A.C.R.

1 I don't deal with fiction, I don't deal with anecdotal  
2 evidence.

3           When I examine these things, I want to see  
4 whether they work or whether they do not work, and the  
5 prevention of Thrombin induced aggregation, EDTA inhibits  
6 Thrombin induced aggregation of the blood's platelet.

7           The next slide, please. This slide here  
8 represents Epinephrine. Epinephrine is stress, it is a  
9 biphasic response, the reaction time is zero to three  
10 minutes.

11           We are using what are essentially physiologic  
12 concentrations to induce the stimulation; we are not using  
13 excessive amounts. So, here you have a stress reaction.

14           Now, within the blood platelet you have storage  
15 granules. If, as we have claimed, the EDTA has an effect on  
16 the platelet and the platelet membrane, it must effect the  
17 release reaction.

18           Next slide, please. This example here is where  
19 EDTA has had an effect on the Epinephrine response. Now, it  
20 did not have a profound effect on the ADP response, but it  
21 did reduce the release of Epinephrine from the storage  
22 granules.

23           Similarly, I have found that in many of the  
24 cases that I have looked at, that pre-treatment the ADP  
25 response and the Epinephrine response may be elevated such

1 as is shown here, but that post-treatment it is suppressed,  
2 the platelet seem, and I use that in parenthesis, to be  
3 calmed down.

4 Now, that's interesting because I don't know of  
5 anyone who can sit with an IV in their arm and say that they  
6 are not under stress. So, this is definitely having an  
7 effect.

8 The next slide, please. Now, I mentioned the  
9 use of aspirin, and what you will actually see here -- what  
10 you see here is the use of aspirin in inhibiting the  
11 Epinephrine induced aggregation response. Aspirin has a  
12 beneficial effect.

13 What you will see in a lot of patients is that  
14 aspirin has absolutely no effect on this response, but EDTA  
15 can have an effect.

16 Next slide, please. And, again, to re-  
17 emphasize, pre-chelation, post-chelation.

18 Next one, please. Now, what is going on?  
19 Well, if it is having an effect in the membrane, what it has  
20 to do is cause an alteration in the membrane fluidity. It  
21 must affect the destabilization of that cell membrane, and  
22 by doing that, you are going to effect the release reaction.

23 Now, in a chelation mix, one uses the substance  
24 magnesium, and I would like to at this point draw the  
25 Board's attention to an article which appeared in

1 Atherosclerosis and Thrombosis, September, October of 1991,  
2 on the use of magnesium and its important role in preventing  
3 cardiovascular disease.

4 MR. SEELEY: Excuse me, Doctor, may we mark  
5 that as Exhibit No. 32, please?

6 (WHEREUPON, the document referred to  
7 was marked as Exhibit No. 32 for  
8 purposes of identification and was  
9 received into evidence.)

10 THE WITNESS: Now, similarly, in one of the  
11 major British journals last week, something happened. It  
12 was announced that magnesium had a very profound effect on  
13 reducing myocardial infarction in patients admitted to the  
14 emergency room.

15 Magnesium is important, magnesium used in  
16 concert with EDTA has a significant role in the prevention  
17 of coronary artery disease and cell death.

18 Very briefly, Professor Rubin mentioned Vitamin  
19 E and diet modification, fatty acids. While they are  
20 pertinent, they are not relevant to this particular  
21 discussion, but I wish to have certain articles included for  
22 the record.

23 HEARING EXAMINER MANGUS: May I ask at this  
24 time.

25 THE WITNESS: Yes, sir.

A.C.R.

1 HEARING EXAMINER MANGUS: All of these articles  
2 have the reference, the source, the date and the source  
3 article so that we can track it?

4 MR. SEELEY: They do.

5 THE WITNESS: They do, and they have the  
6 author's address.

7 HEARING EXAMINER MANGUS: Very good.

8 THE WITNESS: The next slide, please. And,  
9 again, this is bringing home the point of free radical  
10 pathology.

11 The next one. Okay, turn the projector off,  
12 please.

13 Now, what we have seen is the use of EDTA  
14 having a direct effect on the ability of the blood platelet  
15 to form a clot. We have seen the effects of EDTA on the  
16 release reaction and on the cell membrane.

17 What I have shown categorically in all of the  
18 cases that I have looked at, EDTA had absolutely no effect  
19 in the inhibition of Collagen induced aggregation.

20 Now, this is vital to the use of EDTA as a  
21 physiologic agent because if it inhibits Collagen induced  
22 aggregation as stated, it will accelerate blood loss.

23 In many cases because of its antioxidant  
24 effect, EDTA in concert with Vitamin C or magnesium promoted  
25 the cross linking of Collagen.

A.C.R.

1 I would like to turn my attention for a few  
2 minutes to the intrinsic pathway of coagulation, and I would  
3 like this article here included as an exhibit.

4 MR. SEELEY: May we mark this then as Exhibit  
5 No. 33.

6 (WHEREUPON, the document referred to  
7 was marked as Exhibit No. 33 for  
8 purposes of identification.)

9 THE WITNESS: And this article is the  
10 "Influence of Ethylene Diamine Tetraacetic Acid on Activated  
11 Partial Thromboplastin Time and Prothrombin Time in Human  
12 Plasma", by George Kindness, Ph.D., James Frackelton, M.D.,  
13 and Susan Wenger, M.T.

14 What the article describes is some 20 patients,  
15 and we looked at the Prothrombin Time and the activated  
16 partial Thromboplastin Time of those patients. We looked at  
17 them pre- and-post infusion, over the 1st, the 10th, the  
18 20th and 26th treatment.

19 What we were trying to do was to establish  
20 whether or not there was both a short-term and long-term  
21 effect on the clotting mechanism. What the article shows is  
22 that there is an effect on the activated partial  
23 Thromboplastin Time of plasma, but there is no effect on the  
24 Prothrombin Time of plasma.

25 Now, this can have significance because you can

A.C.R.

1 use this to then regulate the amount of EDTA that you are  
2 going to administer, that is the stripe in the article.

3 Similarly, it makes reference to the effects of  
4 Ethylene Diamine Tetraacetic Acid on platelet aggregation in  
5 human blood, and that is duly marked in the exhibit.

6 What we see here is a substance which has an  
7 effect on various stages of a clotting mechanism. What I  
8 believe it does is it effects an interaction between  
9 phospholipid micelles and calcium.

10 In our measurements of calcium pre- and post-  
11 infusion, we have noted in many subjects a depletion of the  
12 calcium post-infusion, but we have not observed a  
13 deleterious effect on the Prothrombin Time which one would  
14 expect.

15 We have observed an elevation of parathyroid  
16 hormone. We have observed effects on soliplasm and  
17 transferrin as well as ferritin, we have similarly measured  
18 by ion coupled plasma emission spectroscopy every element  
19 imaginable in the human body.

20 We have found that the EDTA administered will  
21 selectively bind into calcium; similarly it will bind to  
22 zinc; it will bind to some magnesium; it will bind to iron;  
23 it will bind to lead, mercury, arsenic, mainly the divalent  
24 cations, that binding is dependent on the cause of the  
25 binding coefficient of the particular element in question.

1           So, physicians routinely monitor pre- and post-  
2 treatment, those elements and those elements that are  
3 beneficial are obviously supplemented because you can't take  
4 something out and leave it out.

5           We have also looked, as many of you are aware,  
6 at cholesterol, the triglycerides, the HDL, the LDL and,  
7 more importantly, the apolipoprotein B, apolipoprotein B  
8 protein B is 98 percent LDL cholesterol.

9           Cholesterol is a risk factor in coronary artery  
10 diseases, 56 percent specific, it is not very good, and,  
11 also, the methods of assay a degree of unreliability.

12           We have chosen apolipoprotein B as an  
13 indicator of coronary risk assessment. That is done similar  
14 to the Cleveland Clinic and the Mayo Clinic.

15           We find that over a period of time that as the  
16 vascular flow improves, obviously, the patient is off of the  
17 diet, the patient has exercised, that there are changes in  
18 the lipid concentrations within the blood, and we have  
19 documentation to support that.

20           The oxidation of fats and free radicals causing  
21 membrane damage which I showed you from The Journal of the  
22 American Medical Association, anything that is going to bind  
23 out the calcium in excess, anything that is going to bind  
24 out iron generated free radicals, is going to have a  
25 protective effect.

1           EDTA has that effect. We have the means to  
2 monitor the therapy effectively, and we can scientifically  
3 document what the treatment is doing.

4           Thank you.

5           MR. SEELEY: Thank you, Dr. Kindness.

6 BY MR. SEELEY:

7           Q       Just one other question. Are you here as a  
8 paid expert?

9           A       No. I am receiving no remuneration for this.

10          Q       Thank you. Have you had a chance to review the  
11 rule as it exists in West Virginia?

12          A       I have been told of the rules that exist in  
13 West Virginia; I have not reviewed it personally.

14          Q       I assume that you are here because you disagree  
15 with its existence?

16          A       One hundred percent.

17          MR. SEELEY: Thank you, Dr. Kindness. Doctor,  
18 do you have any questions of Dr. Kindness?

19          HEARING EXAMINER MANGUS: Yes.

20                   EXAMINATION

21 BY HEARING EXAMINER MANGUS:

22          Q       Dr. Kindness, in your presentation and  
23 particularly with the effect on the calcium metabolism and  
24 the platelet adhesiveness as it is commonly referred to, you  
25 mentioned that aspirin has an effect on platelet

1 adhesiveness, too?

2 A That is correct.

3 Q Do these work through the same enzyme system?

4 A No, the aspirin is a psycho-oxygenase  
5 inhibitor.

6 Q Right.

7 A And that effect in the release of the  
8 prostaglandins which I indicated can trigger an aggregation  
9 response, is the main mechanism of aspirin action.

10 Q So, EDTA does not tie up that enzyme in a  
11 quantitative way?

12 A No, no. We have looked at prostaglandin  
13 levels, we have also looked at calcium channels through the  
14 actions of calmodulin, and EDTA, per se, does not have that  
15 effect on the prostaglandin pathway.

16 Q And one final question, are you proposing this  
17 platelet activity has a preventative or a "therapeutic"  
18 effect?

19 A I would say that the use of EDTA and its  
20 effects on platelet is both preventive and therapeutic.

21 Now, as I indicated, the life span of the  
22 platelet is seven to eleven days, and I am certainly not  
23 advocating that every eleven days you go and get an  
24 intravenous infusion of EDTA, I am not advocating that at  
25 all.

A.C.R.

1                   But what EDTA will do is by having its effect  
2 on the platelet membrane, it immediately improves the  
3 rheological properties of the blood. If you couple that out  
4 with the effects on the parathyroid and vasodilation and the  
5 effects on the intrinsic pathway of coagulation, for that  
6 period of time, coupled with the removal of soft tissue  
7 calcium, then you are going to enhance the peripheral  
8 circulation.

9                   Will it work in all cases? No, I do not  
10 believe so, but one thing that I would add that I didn't  
11 mention is that when you have those effects on the  
12 coagulation cascade, you similarly have an effect by virtue  
13 of the interplay of pathways, an effect on the Kalleikinin  
14 pathways, which is one of the pathways of inflammation, you  
15 have a direct effect on the compliment pathway, you have a  
16 direct effect on the fibrinolytic pathway, so, all -- as Dr.  
17 Rubin again referred to it, it is a very complex picture  
18 that one is dealing with. It is not just simply the  
19 administration of EDTA.

20                   Q           And I guess maybe that is what led to the  
21 question exactly where in the coagulation process then does  
22 EDTA act other than the calcium role, is there any other  
23 level of action?

24                   A           Well, what I am proposing is the interaction  
25 between calcium EDTA and the phospholipid at those stages of

1 the coagulation cascade, what the EDTA is primarily doing is  
2 causing a change in the orientation between the bridging of  
3 the calcium and the phospholipid.

4 As you are aware, for the clotting mechanism to  
5 take place and proceed, one requires a template on which  
6 desimogens can act, so, what the EDTA is probably doing is  
7 interfering with the calcium which stops the formation of  
8 the tertiary phospholipid structures forming to allow that  
9 part to proceed.

10 What is very interesting and why I chose  
11 phospholipid is that at the final stages of the clotting  
12 cascade, there is no interference in terms of Prothrombin,  
13 Thrombin conversion in Factor XIII, so, it has to be -- and  
14 Factor XIII, as you know, is dependent on calcium to  
15 interact with it as a stabilizing factor.

16 So, were it a simple depletion of circulating  
17 and available calcium, then, one would expect to see a  
18 prolongation of the Prothrombin Time, whereas you see this  
19 alteration in the activated partial Thromboplastin Time.

20 HEARING EXAMINER MANGUS: Okay, thank you.

21 MR. SEELEY: Thank you, Dr. Kindness.

22 (Witness excused)

23 MR. SEELEY: At this time, we would like to  
24 call Dr. James Carter.

25 (Witness sworn)

A.O.R.

1 THEREUPON came,

2 J A M E S C A R T E R, M. D.,  
3 called as a witness in opposition to the rule, who, having  
4 been first duly sworn according to law, testified as  
5 follows:

6 DIRECT EXAMINATION

7 BY MR. SEELEY:

8 Q Dr. Carter, I have a Curriculum Vitae on -- for  
9 you, and I would like to have that marked as Exhibit No. 34.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 34 for  
12 purposes of identification.)

13 BY MR. SEELEY:

14 Q And I would like you to tell me, if you will,  
15 what particular areas of that CV are relevant to the issues  
16 that are before us today.

17 A Okay, my colleague, Dr. Miranda, gave me a note  
18 that said, "Clarify at the outset that you are not the  
19 former president of the United States."

20 I first became involved with EDTA in 1983. I  
21 met a physician, Dr. Roy Montombano, who was suffering from  
22 unstable angina, who had a cholesterol of 900, who had had  
23 several heart attacks and who had to close down his practice  
24 in Mandaville, Louisiana, which is on the other side of the  
25 lake from New Orleans, and he had a very large family

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1 practice there.

2           And I watched Dr. -- at that time, the surgeons  
3 were not doing tripe quadruple bypasses, and they, after  
4 doing several angiograms, they decided that his disease was  
5 so extensive that they refused to operate on him.

6           And I watched this doctor who had had to close  
7 down his office, and he was just working a few hours a day  
8 in the morning in the emergency room of a local hospital. I  
9 watched him go off to Alabama where he spent three weeks  
10 undergoing chelation treatments with disodium magnesium  
11 EDTA, I believe with Dr. Ray Evers.

12           And then I saw him come back almost completely  
13 rehabilitated, free of chest pain, and he reopened his  
14 office, and he incorporated chelation therapy in his  
15 practice.

16           And I just felt it was an insult to his  
17 intelligence to tell him that this was a placebo effect, it  
18 was all in his mind, and being an academic clinician as well  
19 as a clinical nutritionist as well as a clinical professor  
20 of pediatrics, I had had some experience in using scientific  
21 methods to evaluate various types of treatments.

22           So, I -- you know, fools rush in where wise men  
23 fear to tread. I said, well, this is easy, we can just  
24 write a research proposal and try and evaluate what is going  
25 on here, which is what I did. I wrote a proposal for a

1 retrospective study of patients who had had heart attacks  
2 and then had certain criteria which indicated a very bad  
3 prognosis beyond two years.

4 I suggested that we take those patients, we use  
5 those criteria, and we identify one group of patients who  
6 underwent standard medical therapy for myocardial infarction  
7 and then we also identified a second group who underwent  
8 standard medical therapy, but, also, received a minimum of  
9 at least 20 treatments with disodium magnesium EDTA.

10 Well, I had difficulty trying to get the  
11 proposal funded. There wasn't much interest in a  
12 retrospective study, and the one organization that I knew  
13 about at the time, we made a presentation to them, this is  
14 The American Academy of Medical Preventics; they met in New  
15 Orleans, and we made a presentation of the study to them,  
16 and it was apparent that they were more interested in a  
17 prospective study and not a retrospective study.

18 Now, at that meeting, I did meet a young  
19 Israeli cardiologist who is living and practicing in Brazil,  
20 Dr. Efrain Olszewer, and Dr. Olszewer told me that he had  
21 good records on nearly 3,000 patients that he had treated  
22 with chelation therapy.

23 So, we decided to work with Dr. Olszewer and  
24 try and classify his patients and try and establish some  
25 criteria that we could use to evaluate whether or not they

1 responded to the therapy.

2 We ended up with a series of 2,870 patients,  
3 and the patients were classified into those that had  
4 ischemic heart disease or coronary artery disease, some also  
5 had heart attacks, some also had heart failure.

6 The second group was patients who had  
7 peripheral vascular disease to the lower extremities.

8 The third group was those -- were patients who  
9 had cerebral vascular disease, they had cerebral vascular  
10 accidents or strokes.

11 And the fourth group was a group that had -- we  
12 called it geriatric symptomatology, most likely of vascular  
13 origin.

14 We established definite criteria to evaluate  
15 the patient's functional status before and after treatment,  
16 and the results of that particular retrospective study of  
17 these 2,870 patients, the results were published in a  
18 Canadian based journal called Medico Hypotheses.

19 Briefly, the results were in those with  
20 ischemic heart disease, 76 percent had a marked improvement,  
21 and the definition of a marked improvement, one, a patient  
22 whose stress test was previously positive and became  
23 negative, and who was previously symptomatic and became  
24 asymptomatic while off all drugs after a course of 20 to 30  
25 treatments, that was classified as a marked improvement.

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1           Two, a patient who had an improved stress test  
2 with a normal ST segment and who became asymptomatic off all  
3 drugs but who still had evidence of arrhythmia or  
4 hypertension was classified as good improvement.

5           A patient who had an improved stress test but  
6 whose ST segment remained abnormal but improved who had  
7 hypertension or arrhythmias and who became asymptomatic  
8 without or with drugs was classified as showing a moderate  
9 improvement.

10           And then we had a category for those that were  
11 unchanged and for any patients who became worse.

12           We had similar criteria for the other groups,  
13 for the cerebral vascular disease group and for the  
14 peripheral vascular disease group and for the group that had  
15 symptoms of -- geriatric symptoms referable to the vascular  
16 system.

17           The peripheral vascular disease group, 91  
18 percent of the patients got a marked improvement. The least  
19 responsive group was the patients who had had strokes, only  
20 24 percent of them had marked improvement.

21           And the group, geriatric symptomatology of  
22 vascular origin, that was the terminology that we used, 75  
23 percent of them had marked improvement.

24           The reason we felt that those who had had  
25 strokes, only 24 percent had a marked improvement, was

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1 because there was considerable variability between the time  
2 the stroke occurred and the time the patient came in for  
3 chelation therapy.

4 If several weeks had elapsed, then -- or  
5 longer, those patients could be presumed to be less likely  
6 to respond.

7 After this retrospective study, Dr. Olszewer  
8 and I decided to reach into our own pockets and to try and  
9 do a classical double-blind placebo controlled study, and I  
10 have a --

11 MR. SEELEY: Excuse me, Doctor, this particular  
12 copy of your article or of the study, the Medical  
13 Hypotheses?

14 THE WITNESS: Yes.

15 MR. SEELEY: May we submit that for the record,  
16 please, and we will mark that as Exhibit No. 35.

17 (WHEREUPON, the document referred to  
18 was marked as Exhibit No. 35 for  
19 purposes of identification and was  
20 received into evidence.)

21 HEARING EXAMINER MANGUS: Could I ask the date  
22 of that article, too, please?

23 THE WITNESS: That was published in 1988,  
24 Volume 27, pages 41 to 49.

25 HEARING EXAMINER MANGUS: Was that article

1 submitted to any other journals, do you know?

2 THE WITNESS: No, we sent it to the Medical  
3 Hypotheses and they accepted it.

4 HEARING EXAMINER MANGUS: And that was the only  
5 journal you submitted it to?

6 THE WITNESS: Correct.

7 The -- we decided to go ahead and do a double-  
8 blind -- a pilot double-blind study, and we picked patients  
9 with peripheral vascular disease. We picked patients who --  
10 ten patients who -- to control for the effect of smoking, we  
11 selected -- we were able to get eight out of ten patients  
12 who had given up smoking prior to being treated with  
13 chelation therapy.

14 This was a double-blind study, we didn't know  
15 who was getting the sodium magnesium EDTA and who was  
16 getting the placebo.

17 And this study -- the patients were evaluated  
18 before and after in terms of the distance walked, all of  
19 these patients were what they call Class 2 in the Lafontaine  
20 Classification, meaning they could walk less than 200  
21 meters, and they had intermittent claudication.

22 None of them had pain just on rest, and none of  
23 them had gangrene.

24 They were evaluated by the distance walked  
25 before treatment and after treatment, by the blood pressure

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1 index, the ankle systolic blood pressure divided by the  
2 brachial systolic blood pressure. They were also put on a -  
3 - the step test was used, Harvard Step Test, as well as the  
4 length of time that they could go on a bicycle, plus they  
5 also had the -- in addition to clinical examination, they  
6 had non-invasive Doppler evaluation of the circulation in  
7 the lower extremities.

8 After ten treatments with EDTA, disodium  
9 magnesium EDTA, it was apparent that -- like Dr. Rubin had  
10 said, in the currently being conducted FDA approved study,  
11 it was apparent that there was one -- half of them were  
12 improving, and the other half was not.

13 The code was broken, and the group that showed  
14 substantial improvement, that could walk twice as far, was  
15 the group which had indeed been receiving disodium magnesium  
16 EDTA.

17 At that point, we crossed over, and the group  
18 which had received the placebo was then given disodium  
19 magnesium EDTA, plus the group that had originally started  
20 with disodium magnesium EDTA was continued for another ten  
21 treatments.

22 Now, the group that had been -- had received  
23 the placebo then showed remarkable improvement after the ten  
24 treatments with EDTA.

25 The group which had received EDTA from the

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1 beginning showed some additional improvement but not as  
2 marked as the improvement they showed after the first ten  
3 treatments.

4 Now, this study was published in The Journal of  
5 the National Medical Association, which is a peer review  
6 journal. The -- both studies, the retrospective study and  
7 the pilot double-blind study, were reviewed by independent  
8 investigators in Sweden, statisticians, and the  
9 retrospective study has been reproduced in the Swedish  
10 Journal of Biological Medicine.

11 We felt, and this was confirmed by the -- that  
12 the -- well, here is the opinion of the independent  
13 statistician in Stockholm. The statistical treatment, he is  
14 talking about the pilot double-blind study, "The statistical  
15 treatment of the material was totally understandable for our  
16 statisticians. They made a new estimation on the original  
17 material using a co-variation analysis, and that showed a  
18 significant difference, P Value less than 0.01 on the first  
19 half, which was really double-blind. The rest of the test  
20 is very convincing but not useful the same way. There is a  
21 significant change in both groups between 10 and 20  
22 treatments, and in the real group, between 0 and 20  
23 treatments, the results are indeed very good and convincing.  
24 A small sample which gives rise to such a good significance  
25 is more convincing because to get such a significance in the

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1 small sample, the difference must be very big indeed."

2 BY MR. SEELEY:

3 Q Doctor, do you have a copy of that pilot  
4 project?

5 A Yes.

6 Q The double-blind?

7 A Yes.

8 Q And what you are handing me then is that which  
9 was published in The National Medical Association, and this  
10 was published -- what year was that?

11 A March, 1990.

12 MR. SEELEY: Can I have that marked as Exhibit  
13 No. 36?

14 (WHEREUPON, the document referred to  
15 was marked as Exhibit No. 36 for  
16 ~~purposes of identification and was~~  
17 received into evidence.)

18 BY MR. SEELEY:

19 Q To clarify, you have been speaking about the  
20 double-blind study which is a particular standard that is  
21 oftentimes used in criticizing the proponents of chelation  
22 therapy, however, can you describe a little bit about  
23 whether or not all of the other prior studies that Dr. Rubin  
24 testified to, Dr. Kindness testified to, and I am sure the  
25 same studies that you have also reviewed, whether or not

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1 those support not only the double-blind study of yours but  
2 that the double-blind study supports those other studies,  
3 even though they may not be double-blind?

4 A Well, the pilot double-blind study supports the  
5 anecdotal evidence that patients treated with disodium  
6 magnesium EDTA for atherosclerosis and its complications do,  
7 indeed, clinically respond.

8 Q Okay, the double-blind study itself, are many  
9 therapies subject to such a rigid test prior to acceptance?

10 A Well, only about 20 percent of all of the  
11 treatments we use in medicine today have ever been subjected  
12 to any kind of control study, 20 percent, and, so, that  
13 means an even smaller percentage have been subjected to a  
14 double-blind control study.

15 The double-blind technique was developed by  
16 some Canadian agriculturalists, and they were looking at, if  
17 you put fertilizer on this crop and you don't put  
18 fertilizer, or you put a blank placebo type of substance on  
19 this plot, they wanted to control for bias on the part of  
20 the observers when it came to estimating the crop yield.

21 And, so, it was a means of controlling -- the  
22 investigator -- controlling for the investigators' bias and  
23 for the bias on the part of the research assistants.

24 Now, it found its way into clinical medicine  
25 primarily in the conduct of various drug trials to control

1 for the placebo effect.

2 The placebo effect is when a patient believes  
3 strongly that this medicine is going to help him or her, and  
4 they tend to get better because of that belief itself, that  
5 belief itself influences physiology, so they tend to feel  
6 better.

7 And the opposite of a placebo effect may indeed  
8 be the problem we are dealing with with EDTA, that is called  
9 the tomato effect.

10 And the tomato effect is when a drug works but  
11 the doctor doesn't think that it works.

12 Q Right, isn't the tomato effect -- that  
13 particular article on the tomato effect was published in  
14 JAMA, was it not?

15 A Yes, by a husband and wife team, Goodwin &  
16 Goodwin. There have been many examples for tomato effects.  
17 colchicine for the treatment of gout was for many years, the  
18 doctors said it didn't work, and now it is a standard  
19 treatment.

20 Q In simply terms, wasn't the tomato effect,  
21 wasn't the medical community convinced that the tomatoes  
22 were poisonous?

23 A No, the general population was convinced that  
24 tomatoes were poisonous because they come from the  
25 nightshade family.

1 Q And it wasn't until someone actually ate a  
2 tomato on the courthouse steps that people were convinced  
3 that you could eat tomatoes?

4 A Correct.

5 Q There was -- the Hearing Officer made a  
6 reference to your retrospective study being published in  
7 Medical Hypotheses and asked if that was the only journal.

8 I think that what was being suggested is that  
9 that may or may not -- that particular journal may or may  
10 not be in Index Medicus?

11 A Well, that journal is in Index Medicus.

12 Q Now, is your double-blind study, has that been  
13 included into the Index Medicus?

14 A That is also in the Index Medicus.

15 Q Is it fair to say, however, that very few of  
16 the world's publications are in the Index Medicus?

17 A I don't know the answer to that. My guess  
18 would be yes.

19 Q And what I was really suggesting was that just  
20 because it may not be in the Index Medicus doesn't  
21 necessarily mean that it is not of significant value?

22 A I think that is the case. There are many  
23 articles that are in journals that are not in the Index  
24 which are of value.

25 We just happened to feel that in both the

1 retrospective study and in the pilot double-blind study, we  
2 did not want to send the data to a journal that was not  
3 listed in the Index Medicus.

4 The chelation therapy for arteriosclerosis is  
5 international. We have the therapy being offered in New  
6 Zealand; we have the therapy being offered in Germany, in  
7 Denmark, in the United Kingdom, in the Netherlands, and, of  
8 course, those countries have different economic  
9 circumstances and different kinds of health services, and in  
10 New Zealand, they had, last year, 400 people on a waiting  
11 list for coronary artery bypass graft, so, they are now  
12 doing a -- their own double-blind study in peripheral  
13 vascular disease, and if that study turns out the way our  
14 pilot double-blind study did or the way it looks like,  
15 although we can't say for sure because the Walter Reed  
16 study, the code has not been broken.

17 Q You are referring to the Federal IND?

18 A The Federal IND, if that study turns out -- the  
19 New Zealand study turns out positive, then, I am sure that  
20 they will be willing to randomize the patients who are  
21 waiting for bypass surgery while they are waiting, and some  
22 of them be treated with chelation therapy.

23 This has already happened in Denmark, and at  
24 the last meeting of the American College of Advancement of  
25 Medicine, the Danes presented data, they had 36 people who

1 had been recommended to have coronary artery bypass graft,  
2 all of those 36 received chelation therapy with disodium  
3 magnesium EDTA.

4 After 30 chelation treatments and some  
5 additional time elapsed, only three actually ended up going  
6 for coronary artery bypass graft.

7 They also had a group of patients for  
8 amputation of a portion of the lower extremity having been  
9 recommended, 25, and they were all treated with chelation  
10 therapy, and after 30 treatments, only five eventually had  
11 amputation of that toe or of the foot or of the lower  
12 extremity.

13 Now, these are very preliminary, but it does  
14 mean that we may be able to save a lot of money by bringing  
15 chelation therapy into the main stream where it belongs.

16 Q What you are suggesting is that the alternative  
17 to bypass and various surgical procedures are vastly more  
18 expensive than EDTA chelation therapy?

19 A There is no doubt about that.

20 Q Now, as part of your Curriculum Vitae, there is  
21 a reference here to public health, and I assume that that  
22 means that you have had direct experience in public health  
23 and would have an expertise regarding certain circumstances  
24 within this country as to whether or not there is dangers to  
25 the public health?

1           A           I -- my primary appointment is in the School of  
2 Public Health and Tropical Medicine.

3           Q           And, as a result of that education and  
4 experience and your research with EDTA, is there any  
5 question that the public is in danger as a result of this  
6 particular therapy?

7           A           I think quite the opposite. If the ACAM  
8 protocol is followed, the public is in no danger at all from  
9 being harmed by being treated with disodium magnesium EDTA.

10                    On the other hand, as long as chelation therapy  
11 is kept out of the main stream, there probably is a lot of  
12 unnecessary pain and suffering.

13                    We have 800,000 people a year that die from the  
14 complications of atherosclerosis.

15           Q           Do you have any experience or knowledge  
16 concerning the safety of the administration of this  
17 particular therapy versus the safety with reference to  
18 various surgical procedures?

19           A           Oh, I don't think there is any comparison, and  
20 Dr. Rubin mentioned that safety was not an issue when it  
21 came down to their discussions with the people in the  
22 Cardiorenal Division at the Food and Drug Administration,  
23 safety was not an issue, efficacy was the issue, and at what  
24 dosage level.

25           Q           And with your particular experience, is there

1 any question in your mind regarding the efficacy of this  
2 particular therapy?

3 A I think the efficacy has been established first  
4 with the many anecdotal case reports, I mean, after all,  
5 there have been some very dramatic case reports. People  
6 that -- one man in Kansas who was ready for a temporary  
7 assist device until he could have -- until he could find a  
8 donor for a transplant, and he is almost like a Lazarus  
9 case, if you are talking about a Lazarus type case, I mean,  
10 when Jesus raised Lazarus, nobody asked for a double-blind  
11 study.

12 So, I think with all that anecdotal evidence  
13 and then we have now done a definitive double-blind study  
14 with a placebo and with a cross-over design, which is  
15 convincing to me that this is an efficacious therapy.

16 Q But if we didn't have your double-blind study,  
17 and based upon the research that you have done, at some  
18 point it would seem to me that anecdotal studies are just as  
19 good as any type of double-blind?

20 A Well, they are generally -- they should not be  
21 discounted, and I think you have to look at this in an  
22 historical sense. After the Flexnor Report in the earlier  
23 part of this century, there was reform in the patient's  
24 medical views, and the role of the drug companies in  
25 conducting drug trials became a source of funds for research

1 in clinical pharmacology.

2 To many pharmacologists and to many  
3 practitioners, the best method of evaluating whether or not  
4 a drug works is a double-blind controlled study. There is  
5 not much doubt about that, but it is wrong to say that  
6 unless you have the study, your results are invalid. The  
7 double-blind study was never meant to be a substitute for  
8 careful clinical observation and common sense.

9 And then later on with the development of  
10 molecular biology, it is very clear that to equate a double-  
11 blind study with science, science is much broader than that,  
12 it is much more fundamental than just giving one group a  
13 placebo and another one a pill and seeing who does better.  
14 That is not science.

15 MR. SEELEY: Doctor, thank you, does -- Doctor,  
16 do you have any questions of Dr. Carter?

17 EXAMINATION

18 BY HEARING EXAMINER MANGUS:

19 Q No, not except that I think there is some  
20 question about his feeling on what do you consider, Dr.  
21 Carter, the gold standard for medical research today?

22 A Are you talking about medical research, or are  
23 you talking about research in evaluating the efficacy of a  
24 particular drug, clinical pharmacology research or medical  
25 research?

A.C.R.

1           Q           I think that we would have to broaden that  
2 application across the surgical procedures as well as drug.  
3 Those who receive surgical treatment versus those who  
4 receive non-surgical treatment, you know, a variety of  
5 those, I am just wondering what you really think is the best  
6 methodology for scientific research in the medical field,  
7 that is what my question is?

8           A           Well, I don't think there is any one, single  
9 methodology, but I think if you are talking about clinical  
10 drug trials, the double-blind placebo controlled study is  
11 the best method.

12                    It is also -- but I think it is not realistic  
13 for us to think that every new promising substance that  
14 comes on the market has to be subjected to this double-blind  
15 control trial, because we don't have the resources to do  
16 that, and the cost is already out of control.

17                    And surgical procedures are never subjected --  
18 bypass surgery has never been subjected to a double-blind  
19 controlled trial. Now, they tried it with the internal  
20 mammary artery ligation that was actually -- there was a  
21 sham operation.

22           Q           That's right.

23           A           But so I think there is a double standard here,  
24 that the surgeons get away with not conducting so-called  
25 double-blind controlled trials.

1           Also, I think we are getting into circumstances  
2 where it is -- just like with the recent AIDS AZT trial  
3 where the question of whether or not it was ethical to give  
4 somebody a placebo if they have an illness which is going to  
5 be fatal without any kind of -- with or without any kind of  
6 intervention.

7           So, I think that we need to rethink this whole  
8 area and come up with a more practical strategy, rather than  
9 to say it has got to be this way and it has got to fit into  
10 this model, or, otherwise, it is untrue.

11           HEARING EXAMINER MANGUS: Thank you.

12           MR. SEELEY: Thank you, Dr. Carter.

13                           (Witness excused)

14           HEARING EXAMINER MANGUS: Does that complete  
15 your portion?

16           MR. SEELEY: No, we have two more witnesses, I  
17 don't know if you want to --

18           HEARING EXAMINER MANGUS: Does this go to the  
19 scientific element of your presentation?

20           MR. SEELEY: The next two witnesses are both  
21 practicing physicians.

22           HEARING EXAMINER MANGUS: Well, I don't want to  
23 get accused of malnutrition here by anybody, so, let's go  
24 ahead and break until one o'clock and reconvene here at one  
25 o'clock.

A.C.R.

1 (WHEREUPON, lunch recess was taken,  
2 after which the following proceedings  
3 were had.)

4 HEARING EXAMINER MANGUS: We will reconvene  
5 the meeting for the afternoon session, and we still have two  
6 more scientific presentations, and then we would like for  
7 those of you who would like to make some statements to do  
8 so.

9 We have asked that even if you are not going to  
10 do that, that you please put your name on the list, has  
11 everyone done that?

12 VOICE: Is that the list that is outside the  
13 door?

14 HEARING EXAMINER MANGUS: Yes, there is a list  
15 outside the front door which we would appreciate it if you  
16 would please put your name on that list.

17 VOICE: Do you mean that for both sessions or  
18 just for all day?

19 HEARING EXAMINER MANGUS: Just for all day for  
20 those of you who did it this morning.

21 VOICE: Is that the one the lady had at the  
22 table, or is there another list?

23 HEARING EXAMINER MANGUS: Not the one we had  
24 out here, I think that is the one we have to sign to get in.

25 VOICE: No, there was a lady just outside this

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1 place writing a list and everybody signing in. Is that the  
2 same list?

3 HEARING EXAMINER MANGUS: I thought you all  
4 were going to get the people who were going to --

5 MR. SEELEY: There was another piece of paper  
6 out there.

7 VOICE: There were two lists, one for people  
8 who wanted to say something and one to just sign in.

9 HEARING EXAMINER MANGUS: Okay, well, I hope  
10 you signed one of them.

11 Could I get some idea about how many people who  
12 would like to say something, could I see your hands, please?  
13 Okay, based on that and based on our first two  
14 presentations, I would like to try to limit those, if we  
15 could, then, to about somewhere between seven and eight  
16 minutes, if it is possible. We want to have this session  
17 over by four o'clock, and that way, we -- at least everyone  
18 will have a chance to say something based on that,  
19 otherwise, some of you might get cheated, so we don't want  
20 that to happen. So, try to condense what you have to say to  
21 about eight minutes, seven to eight minutes.

22 VOICE: Doctor, I won't be able to attend the  
23 full meeting, all day, so I just gave the recorder the  
24 statement that I was going to read.

25 HEARING EXAMINER MANGUS; You are Mr. Payne?

A.C.R.

1 MR. PAYNE: Yes.

2 HEARING EXAMINER MANGUS: Okay, why don't we  
3 just enter that in as an exhibit, is that all right?

4 MR. PAYNE: Appreciate it.

5 HEARING EXAMINER MANGUS: We will go ahead and  
6 put your full comments in.

7 (WHEREUPON, the document referred to  
8 was marked as Exhibit No. 37 for  
9 purposes of identification and was  
10 received into evidence.)

11 HEARING EXAMINER MANGUS: Yes, ma'am.

12 VOICE: My husband and I have written out a  
13 statement, could we just present these, too, and save time?

14 HEARING EXAMINER MANGUS: Yes, that would be  
15 very helpful, if you would.

16 (WHEREUPON, the documents referred to  
17 were marked as Exhibit Nos. 38 and 39  
18 for purposes of identification and were  
19 received into evidence.)

20 MR. SEELEY: Ms. Andrick was No. 38 and Mr.  
21 Andrick was No. 39.

22 HEARING EXAMINER MANGUS: Okay, then, if that  
23 is agreeable with everyone, we will start with the afternoon  
24 session, and if Mr. Seeley is prepared.

25 MR. SEELEY: Yes, we are all set, Doctor, I

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1 would like to call at this time Dr. Ralph Miranda.

2 (Witness sworn)

3 THE WITNESS: My apologies to the Board, I left  
4 Pennsylvania without bringing with me a copy of my CV, and I  
5 tried to put together in handwritten form what I believe is  
6 probably the information that they would most likely need,  
7 so, I would like to submit that at this point.

8 MR. SEELEY: All right, I would like to have  
9 that marked as Exhibit No. 40.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 40 for  
12 purposes of identification and was  
13 received into evidence.)

14 THEREUPON came,

15 R A L P H M I R A N D A, M. D.,  
16 called as a witness in opposition to the rule, who, having  
17 been first duly sworn according to law, testified as  
18 follows:

19 DIRECT EXAMINATION

20 BY MR. SEELEY:

21 Q Doctor, could you point out in this Curriculum  
22 Vitae whether or not there are any particular items of  
23 particular significance to our discussion today concerning  
24 EDTA chelation therapy?

25 A Yes, the items of significance would be the

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1 fact that I have been using EDTA chelation therapy intra-  
2 venously in my practice for the last nine years; that I am a  
3 member of the American College of Advancement of Medicine; I  
4 am certified a Diplomat of the American Board of Chelation  
5 Therapy, I am involved actively with the American College of  
6 Advancement of Medicine in several capacities, previously on  
7 the Board of Directors until November of this year, a vice-  
8 president of that organization as well as program director  
9 responsible for the Continuing Medical Education activities  
10 of the organization.

11 I would like to point out that the American  
12 College of Advancement of Medicine is accredited by the  
13 ACCME which is for providing Continuing Medical Education  
14 credits. And the main purpose of the organization is to  
15 handle the educational requirements.

16 Now, that is my bias because I served on the  
17 CMA Committee and also as program chairman until November of  
18 this year.

19 As of November, I am currently president elect  
20 of the American College of Advancement of Medicine.

21 I am also educated as a Medical Doctor,  
22 Allopathic Medical Doctor, and trained as a family  
23 practitioner with Board Certification in Family Practice and  
24 renewed certification in Family Practice as well.

25 Q For clarification purposes, the type of CME

1 that is obtained by attending these seminars by the ACAM  
2 national organization, is that category -- what category is  
3 that?

4 A That is Category I, it satisfies the  
5 requirements for required Continuing Medical Education  
6 credits.

7 Q You also made reference to the fact that you  
8 are a Diplomat for the American Board of Chelation Therapy.  
9 Can you explain what that group is?

10 A That group is also a teaching arm and is  
11 separate and distinct from the American College of  
12 Advancement of Medicine, and that group is responsible for  
13 teaching the safe application of the technique of  
14 intravenous chelation therapy to physicians who are  
15 interested in learning that technique.

16 There is also a certification program that this  
17 American Board of Chelation Therapy utilizes in order to  
18 assure that training has been adequate and that the  
19 technique is being applied appropriately.

20 Now, there is certification status with written  
21 examinations with chart auditing and ongoing chart  
22 examinations, with oral examination, as well as  
23 documentation of sufficient administration of the  
24 intravenous chelation therapy infusions to qualify immediate  
25 requirements of the Board.

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1 I believe that is still at 1,000 infusions are  
2 what that are necessary in order for a candidate to be able  
3 to apply for Diplomat status.

4 Q As part of this group's activities, has it been  
5 instrumental in the development of a protocol?

6 A Absolutely. When I first joined the  
7 organization a little over nine years ago, there was, in  
8 fact, a protocol available, and the protocol is, or at that  
9 time was the result of the clinical observation and the  
10 culling of the scientific data that was performed by the  
11 proponents and users of chelation therapy.

12 I am not sure if it was clear from the  
13 preceding witnesses, but intravenous EDTA chelation therapy  
14 had been applied and accepted and used in atherosclerotic  
15 disease in the early 1960's, up until about 1963.

16 It was discovered almost serendipitously during  
17 treatment for advanced heavy metal intoxication that  
18 patients with peripheral vascular disease and coronary  
19 artery disease seemed to improve clinically while they were  
20 getting the treatment for the lead and other heavy metal  
21 toxicities.

22 And there was research initiated on a clinical  
23 basis in several areas of the country which documented the  
24 effectiveness clinically of the EDTA chelation therapy.

25 Now, this goes back to the late fifties when a

1 double-blind prospective placebo controlled trial was  
2 essentially unheard of.

3 We were clinicians in medicine making  
4 observations and trying to find explanations for why we were  
5 seeing what we were seeing. It was then applied, and at  
6 some point in the early sixties was touted as a potential  
7 miracle treatment and that time in the early sixties in an  
8 historical perspective in medicine seemed to coincide with  
9 our developing -- how shall I say this -- lust for  
10 technology. It was when techno medicine was gaining a  
11 tremendous momentum, and the simpler -- the therapies some-  
12 times just got lost in that shuffle.

13 Now, that is just my perspective in trying to  
14 explain why my teachers in med school had no idea what  
15 chelation therapy was or why it was useful and why I hadn't  
16 been alerted to the existence of this therapy through my  
17 entire training process, though I had been to one of the  
18 most innovative medical schools in the United States, and,  
19 though I had been through a three-year training program in  
20 Family Practice, and I had seen first-hand evidence of the  
21 progression of atherosclerotic and arteriosclerotic disease,  
22 and during this whole process felt quite handcuffed at being  
23 unable to offer much in the way of assistance to my  
24 patients.

25 By way of putting this into some perspective,

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1 when I went to medical school, this was at Hershey Medical  
2 Center at the Pennsylvania State University, and at that  
3 time, coronary artery bypass surgery was gaining a  
4 tremendous amount of momentum in this country.

5 And, again, by way of perspective, my rotation  
6 on this surgical rotation consisted of 12 weeks, and of  
7 those 12 weeks, nine weeks was spent on the cardiovascular  
8 service.

9 During those nine weeks, I was involved in no  
10 fewer than two coronary artery bypass graft surgeries per  
11 day, and during my entire rotation on surgery and a  
12 subsequent elective time on obstetric and gynecologic  
13 surgery, I had never witnessed hemorrhoid surgery or gall  
14 bladder surgery, that that would be probably the most  
15 frequent kind of surgery I would be a senior recommending  
16 once I got into the practice.

17 And I just took this as an inherent flaw in the  
18 system, and the luck of the draw, but now that I look back,  
19 it is just the timing of the event that my training occurred  
20 at a time when the coronary artery bypass surgery was  
21 gaining a tremendous amount of momentum and snowballing in  
22 this country.

23 Does that clarify it?

24 Q Yes. Now, as part of that, you have indicated  
25 that in the last nine years, you have had the opportunity

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1 to, I assume, study the literature, work with other  
2 physicians in being trained in the use of EDTA chelation  
3 therapy, that you have examined the protocol that was  
4 developed, that you have utilized that particular protocol,  
5 and as a result of that training research, you have applied  
6 it to your own practice?

7 A Yes, indeed. To back up a bit, this was a  
8 tremendous decision in my life, early on in my professional  
9 career, because this therapy was not something that I had  
10 learned in medical school or in the residency training, it  
11 was something that I had to learn on my own after I was into  
12 practice.

13 Now, the first exposure I had was when I had  
14 given up my teaching position at Forbes Family Practice  
15 Residency where I had been Assistant Director and went into  
16 private practice. Strangely enough, I was renting space for  
17 my office and met a man who, to me, appeared to be in his  
18 early sixties, and he asked me if I had ever heard of  
19 chelation therapy.

20 And I thought for a minute, and I thought,  
21 well, isn't that something that has to do with heavy metal  
22 toxicity, and I wasn't quite sure.

23 And he said, no, it is a treatment that they  
24 use for hardening of the arteries, and this was a robust man  
25 with a hammer at his side who was doing carpentry work in

1 the building that we were thinking of renting. He was alive  
2 in every sense of the word and physically active, and when  
3 he told me that he was 74 years old, I was astounded.

4 He then told me that he had been receiving  
5 chelation therapy for a number of years in Florida where he  
6 lived part of the year.

7 It made me curious, and at the same time a bit  
8 doubtful. I haven't always been conservative and cautious  
9 in my approach, but I have also tried to be honest in my  
10 approach to my patients and my approach to my learning in  
11 the field of medicine.

12 At that point, I decided it was worth looking  
13 into, and on my own time, I looked into doing some reading,  
14 and most of what I was able to read were anecdotal types of  
15 stories, and they began to accumulate, and they were not  
16 repetitive, although the pattern seemed to be repetitive of  
17 improvement after the application of this intravenous EDTA  
18 chelation therapy.

19 I became aware that there was such an organiza-  
20 tion at that time called the American Academy of Medical  
21 Preventics, or AAMP, and I contacted this organization,  
22 again with some trepidation because it seemed to me that if  
23 this were available and it worked, it flew in the face of  
24 what I had learned, that arteriosclerosis and  
25 atherosclerosis was a progressive disease for which we could

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1 do little but supply palliative drug treatment.

2           When I contacted the organization, I found out  
3 that they did, indeed, conduct training seminars, that there  
4 was literature available that I could find for myself or  
5 that I could purchase at nominal fees, just to be able to  
6 get myself up to speed, and I did.

7           And the literature that I read suggested to me  
8 that there was a significant amount of clinical information,  
9 observations by physicians who were taking honest looks at  
10 their patients and seeing results that were indisputable.

11           Being raised in the generation of the double-  
12 blind placebo controlled study, I was not quite convinced,  
13 and I needed to find out more.

14           I managed to find a doctor in the area who was  
15 doing the chelation therapy, and I talked to him at length,  
16 and, once again, stories of successes, not 100 percent  
17 success rate, but stories of successes and patients of his  
18 that I was able to talk to and find out that, indeed, they  
19 were getting benefit from this treatment.

20           What was more astounding was these patients  
21 were not getting the treatment covered by any insurance.  
22 They were all paying out of their own pockets for something  
23 that they believed in. They were all more educated on the  
24 advantages on the existence and on the benefits of this  
25 chelation therapy, that any of the professors that I asked

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1 about it from my own training and my own background.

2 Evidently, they had done some reading which I  
3 had not previously been privy to and which my professors  
4 also had not seen.

5 I proceeded even further and finally decided to  
6 go to one of the training seminars and a workshop sponsored  
7 by the American Board of Chelation Therapy. I didn't mean  
8 to, but by the time I finished the seminar, I decided that I  
9 was going to incorporate this therapy in my practice, if for  
10 no other reason, to treat the loved ones in my family who  
11 could potentially benefit from it.

12 I come from a family where coronary artery  
13 disease and arteriosclerotic disease is rampant, and the  
14 first reason was a very selfish reason for wanting to do it.  
15 I had my parents around and wanted them to be around longer.

16 So, I learned the technique, I took the  
17 examination, the written examination, at the end of the  
18 workshop. This was early in -- at the beginning of my  
19 practice, and it was even a very -- it was a financial  
20 constraint for me to even want to go through with taking the  
21 test, and then I went back to my practice, and it was scary,  
22 again, I was not getting any support from the physicians in  
23 the area. There was only one oriental physician who had  
24 heard of the therapy who happened to be a cardiovascular  
25 surgeon who was convinced from the patients that he had seen

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1 in the past from three doctors in the Pittsburgh area who  
2 had been administering the chelation therapy, that it had  
3 saved legs, and it had saved major chest surgery.

4 That was the only physician that offered me any  
5 support of the ones in the hospitals where I had privileges,  
6 but I intended to proceed, gathered up the materials  
7 necessary, studied the protocol that was then in a much  
8 different form and integrated the chelation therapy into my  
9 practice very slowly, starting with just a few patients at  
10 the beginning with some trepidation and watching the  
11 results.

12 It must be understood that this is not a quick  
13 process, although one of the examples cited earlier was that  
14 of a physician in Alabama, Dr. Ray Evers, who routinely  
15 administered the intravenous infusions on an in-patient  
16 basis very frequently, or what I would consider frequently,  
17 which would be on a daily basis, over a period of three to  
18 four weeks.

19 Most physicians don't administer the chelation  
20 therapy in that fashion. Dr. Evers had experience with tens  
21 of thousands of infusions and thousands of patients; that  
22 doesn't parallel my experience, I certainly don't have that  
23 much to date.

24 I have treated between 400 and 500 patients  
25 with somewhere between 6,000 and 8,000 infusions, and I am

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1 sorry I didn't take the time to count them all before I came  
2 here, but that is over a period of nine years.

3 I have been convinced and impressed that the  
4 protocol is the right way to go, the right technique to use  
5 for the chelation therapy.

6 I am in agreement with the American College of  
7 Advancement of Medicine that unless there is a protocol that  
8 is followed, then there will be numerous possibilities of  
9 injuring patients or getting ineffective therapy delivered.  
10 So, I am a proponent of using that protocol.

11 Again, that protocol developed from the  
12 experience of hundreds of clinicians with literally hundreds  
13 of thousands of patients and over a period of 25 years.

14 The protocol has been refined and is now  
15 contained in the textbook of The Journal of Advancement in  
16 Medicine, it is available to any physician who is licensed  
17 and who is willing to learn the protocol and agree to abide  
18 by it for the safe administration of the chelation  
19 intravenous therapy.

20 Q Doctor, is this the reference that you just  
21 made?

22 A Yes, the reference that I just made is a  
23 special issue of The Journal of Advancement in Medicine.  
24 Now, The Journal of Advancement in Medicine is the  
25 publication of the American College of Advancement in

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1 Medicine.

2           This special issue was from the Spring and  
3 Summer of 1989, and is titled A Textbook on EDTA Chelation  
4 Therapy, edited by Elmer N. Cranton, M.D., with a forward by  
5 Linus Pauling, Ph.D. In it, there is a collection of  
6 scientific articles as well as clinical studies which  
7 demonstrate the effectiveness and the utility of intravenous  
8 EDTA chelation therapy as well as supporting the protocol in  
9 the sense that most physicians need to understand why the  
10 components of the protocol are within that protocol.

11           And now shall we submit this --

12           Q       What I will so is that will be a part of the  
13 brief that we will be submitting to the Board. It is one of  
14 our Appendixes to the brief so that we won't mark it at this  
15 time.

16           A       Okay, the protocol itself is not that complex,  
17 however, it is in the true sense of the word holistic, and  
18 by that I mean it is a comprehensive approach to a multi-  
19 factorial problem which incorporates as its cornerstone or  
20 its keystone the intravenous infusions.

21           Now, I mentioned earlier that Dr. Evers on an  
22 in-patient basis, while he was able to monitor patients  
23 constantly had given the therapy frequently over that period  
24 of three to four weeks.

25           Our suggestions for physicians who do this on

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1 an out-patient basis and this varies with the individual, is  
2 that the treatment not be administered that frequently. The  
3 body needs time to recover from the changes that take place  
4 in physiology. The changes are beneficial, but we need a  
5 time in between for the homeostasis to recur, for the  
6 effects of especially the drug part of the therapy to wear  
7 off.

8 Now, the protocol then advises that the  
9 treatments or the infusions be given on a weekly basis or a  
10 twice weekly basis. There are occasions in individual cases  
11 where a situation is urgent, the loss of limb is imminent,  
12 where the physicians very often increase the frequency of  
13 infusions, so that there may be as many as three times in a  
14 week. My personal preference is not to go over three times  
15 a week unless it can be done on an in-patient basis.

16 You can see from this that a series of  
17 recommended treatments, about 30 treatments, would last  
18 about 30 weeks, so, this is not a quick process or a quick  
19 fix. It is a slow and tedious process. It is combined with  
20 lifestyle changes to include changes in the diet which over  
21 time we have recognized as extremely important in giving the  
22 body the ability to counteract the effects of progressive  
23 atherosclerosis and arteriosclerotic disease, as well as  
24 most any other degenerative disease process.

25 It includes recommendations for cardiovascular

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1 fitness exercises, aerobic conditioning exercises, it also  
2 includes a regimen of supplementation which in the protocol  
3 outlines in the minimums, but most physicians will adjust  
4 according to their own experience and to the individual  
5 needs of the patient.

6 The basic underlying philosophy is that it is  
7 possible to accomplish adjustments or improvements in  
8 physiologic function by nudging or shaping the biochemical  
9 processes underlying them, in other words, by a tentative  
10 biochemistry and enzymatic reaction is that you can drive  
11 the enzymatic reaction by providing the cofactors necessary  
12 for that reaction. And that is applied in the biochemistry  
13 within the body and in achieving a return toward a more  
14 normal physiology.

15 The protocol outlines some precautions because  
16 there is no agent that can be introduced into the vein or  
17 into the human body without some degree of toxicity.

18 Now, the proponents of Vitamin C might argue  
19 with that, and I even have a quote among my papers saying  
20 that there is no known toxicity to Vitamin C. However, in  
21 the case of EDTA, there is a potential for toxicity and that  
22 has to be respected and it has to be respected just like any  
23 other pharmacologic agent.

24 The safety of EDTA is quite impressive,  
25 especially when used within the guidelines of the protocol.

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1 That is to keep the dose administered and the time or the  
2 rate of the infusion in line with the patient's physical  
3 condition and the patient's renal capacity.

4 Some of the precautions have to do with  
5 hypocalcemia. If you are using an agent that can induce a  
6 hypocalcemia, obviously, some people are going to be more  
7 sensitive to that agent than others and have a more profound  
8 hypercalcemia than others and, therefore, this potential of  
9 the drug has to be respected, and the physician  
10 administering the therapy has to be aware of the subtle  
11 changes such as neuromuscular irritability that may indicate  
12 that there is an impending hypocalcemic state, and,  
13 consequently, adjust the rate of the infusion or take  
14 measures to counteract that statement during infusion.

15 Probably the most well-known or the most touted  
16 of the cautions of potential side effects of nephrotoxicity.  
17 My experience is that in general the patients who are  
18 receiving chelation therapy are not doing it  
19 prophylactically. In my practice, fewer than three percent  
20 of the patients I have done over the years have come to me  
21 when they were healthy saying that they wanted to use the  
22 intravenous chelation therapy in order to maintain their  
23 health longer.

24 The vast majority of patients come when the  
25 disease states have already got in, and probably at least 50

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1 percent are there as a last resort, having expended all  
2 avenues of care.

3           Therefore, their kidneys are not in the best of  
4 shape, and we are introducing an agent into the vein that  
5 does have a potential reported in the literature for  
6 nephrotoxicity.

7           From my research, my understanding is that  
8 there are two types of toxicity to the kidneys. One is the  
9 idiosyncratic kind that can happen with just about any  
10 agent, because one of the tenants of medicine would be that  
11 anybody could react to anything for any reason, and I think  
12 that we have all experienced that.

13           The other is related to the actual action of  
14 the EDTA.

15           Now, EDTA or Ethylene Diamine Tetraacetic Acid,  
16 is similar and handled in a similar fashion to amino acids,  
17 its structure is such that it enables the molecule to bind  
18 to and cover or chelate a metal ion.

19           As we heard earlier today, the main metal ion  
20 that is chelated as far as the volume or total amount is  
21 calcium, but as we also heard, any divalent metal cation  
22 that is available will be chelated by this agent.

23           Now, there are affinity constants that have  
24 been pretty well established for physiologic pH's, and, so,  
25 we have a pretty good idea of what the preferences of the

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1 molecule are within the human body.

2 Now, this is not belief; these are based on  
3 physical chemical properties of molecules. This molecule  
4 has these physical chemical properties; it will bind to  
5 these metals if they are available to be bound.

6 It may be appropriate at this time to show a  
7 list.

8 Q That is fine.

9 A Let me just show you a list of the preferred  
10 molecules. Unfortunately, I tried to take 11 hours of  
11 information and put it into an hour here, so, I beg your  
12 indulgence.

13 What you see there are the affinity of EDTA for  
14 various metals and physiologic pH in order of decreasing  
15 stability, meaning the one on top is the one to which it  
16 binds most avidly, and you will see chromium 2+, iron 3+,  
17 mercury 2+, you can read those, copper, lead, zinc, cadmium,  
18 cobalt, aluminum, iron, manganese calcium, magnesium, and  
19 some of these are pretty bad actors like lead or mercury,  
20 but some of these are absolutely essential to our own  
21 biochemistry, our own physiologic function.

22 In order -- the role that these elements, these  
23 minerals and metals perform in the body is variable.  
24 Magnesium as you see at the bottom is absolutely essential  
25 for well over 400 enzyme systems within the body, absolutely

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1 essential. What this means is that if you don't have the  
2 magnesium, you don't run the chemical reactions.

3 As human beings, we function pretty much at a  
4 very stable pH. Our acid base doesn't fluctuate very much,  
5 it stays around 7.4. If it varies much from that, we are  
6 really sick. 7.6 and 7.2 doesn't sound like much of a  
7 change in the pH, but it is enough to mean the difference  
8 between life and death for somebody who is ill, and people  
9 become very symptomatic with those kinds of shifts.

10 So, within this physiologic pH range, all of  
11 our chemical reactions happen, and when I think back to my  
12 high school chemistry and to make very simple compounds, I  
13 had to use hundreds of degrees of heat with a Bunsen burner  
14 and very powerful acids to make everything happen, and it is  
15 mind boggling to think that the human body stays at about  
16 98.6 degrees and a pH of 7.4, yet we produce such an array  
17 of chemical compounds within the body in order to facilitate  
18 all of our complex function that, to me, it is absolutely  
19 astonishing.

20 The way that this happens is because we have  
21 constructed enzyme systems, these enzyme systems will make  
22 very minor changes on molecules as necessary, and they do  
23 this in a very orderly fashion as long as we don't gum up  
24 the works by not having enough of the necessary minerals to  
25 activate the enzyme systems or the minerals that are

1 necessary to turn on or turn off the systems. This will get  
2 to be more important later.

3 Let me just put this up so you can see that  
4 there are physiologic roles for these minerals within the  
5 body, and this is just out of a textbook that was in the  
6 office, and it just shows some of the function of the  
7 elements that are listed on the left, the zinc, the copper,  
8 the magnesium, the chromium, etc., and what it doesn't list  
9 are some of the more toxic compounds.

10 Now, the basic point here is that the EDTA when  
11 it enters the body will bind to these metals. The metal  
12 ions perform catalytic and structural roles in over one-  
13 fourth of all known enzymes. They also fill regulatory  
14 roles, particular for reactions where ADP is a substrate.

15 That is a big statement. That encompasses the  
16 entire realm of the biochemistry within the body, and this  
17 is from a standard text in biochemistry Rodwell Harper made  
18 in Harper's Review of Biochemistry and catalytic reactions  
19 have to be under-stood because catalysis is the capacity of  
20 a metal ion with some other molecule to accelerate the rate  
21 of a chemical reaction.

22 If you have one pound of substrate and it takes  
23 one hour to produce one pound of product, there is a certain  
24 rate that that chemical reaction is proceeding. If you  
25 should throw in a catalyst such as lead or cadmium, and the

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1 chemists know this, that catalyst will accelerate the rate  
2 of that chemical reaction, sometimes a million-fold.

3 Now, a million-fold difference in the rate of a  
4 chemical reaction is something that I can't comprehend. I  
5 am still working on trying to figure out how high a stack of  
6 dollar bills would be to make a million, but that's a big  
7 change, that is a lot faster.

8 Now, this becomes significant when we think  
9 about it.

10 Here is an example of just one of the enzymes  
11 in the body, it is called magnesium ATPase ATP is Adenine  
12 Triphosphate. This is the currency of energy in the body,  
13 it is the way we take electrons, it is the way we take free  
14 radicals, it is the way we take substrate and burn it,  
15 oxidize it, in order to create the energy that is necessary  
16 for us to think, for us to move our muscles, for us to have  
17 our heart pump, all of that is based on this particular  
18 compound, magnesium ATPase.

19 The reason I say it is magnesium ATPase is  
20 because that is its formal name, and the magnesium is the  
21 operational part because without the magnesium, a single  
22 metal divalent cation without the magnesium, the system just  
23 does not run. Without the magnesium, there is no energy  
24 production by this pathway.

25 Now, there are some alternative pathways within

1 the body, but none of them is of the magnitude of the  
2 magnesium ATPase system.

3 Now, in essentially all reactions where  
4 magnesium ATPase gets used up or is a substrate, the true  
5 substrate is the magnesium, and this -- I draw your  
6 attention to the second line there where it says, the  
7 synthesis of all proteins, nucleic acids, nucleotides,  
8 lipids and carbohydrates, and the activation of muscle  
9 contracture require magnesium. These reactions have to be  
10 carried out or we don't exist on the planet. We don't take  
11 oxygen out of the atmosphere and give back carbon dioxide if  
12 we do not have this simple process going on.

13 Now, I hope that I have given you a quick  
14 understanding of the role of minerals in general, and this  
15 is only one, and this happens to be my favorite one,  
16 magnesium. The role of catalysis, which could be magnesium  
17 catalyzing a reaction and/or turning on an enzyme system,  
18 and let me digress for a minute to explain calcium here, as  
19 well.

20 Earlier, we heard about another divalent cation  
21 called calcium and its role within the body. Calcium is  
22 absolutely essential, and it has some very ubiquitous roles,  
23 but in order to understand why that role is so important, we  
24 need to understand a little bit about what keeps a cell  
25 alive and what makes it dead.

1           Now, I told you that energy needs to be  
2 produced all the time, and in well over 80 percent of the  
3 cells, energy is used for one singular purpose, and that is  
4 to maintain membrane function. You are going to hear that  
5 term membrane over and over again, and it is very  
6 significant because to put it very simply, and I used to  
7 have a simple term or a simple idea of membranes when I was  
8 in college, that it was sort of like a Baggie, and all of  
9 the internal components of the cell were inside that Baggie,  
10 and outside of the Baggie was the rest of the environment,  
11 but it is much more complex than that.

12           There are societies around the world of  
13 scientists who dedicate entire careers to studying membranes  
14 and membrane functions.

15           When I refer to membranes, I am talking about  
16 cellular membranes and sub-cellular membranes, and when I  
17 talk about a cell, that is a basic unit of life, and it is  
18 definitely covered with a membrane, but it is not a Baggie,  
19 it is a very complex structure with some very interesting  
20 physical properties. It is a fluid, which means it can  
21 change shape and move and bend without breaking; it is self-  
22 repairing, which means when bullet holes get shot in it or  
23 it gets damaged by oxidation or the sparks of life, it  
24 repairs itself, again through enzyme functions and enzyme  
25 systems, and it is constantly in a state of producing

1 energy.

2           What this energy is produced for is one basis  
3 purpose and that is to maintain a gradient across that  
4 membrane. Now, gradients mean that there is more on one  
5 side and less on the other, and that gradient can be a  
6 number of things. There is an electrical gradient across  
7 this membrane; there are gradients of molecules of whatever  
8 kind of mineral we are discussing across this membrane, and  
9 I would like to take your attention to calcium and  
10 magnesium.

11           Magnesium is predominantly an intra-cellular  
12 molecule, it lives inside the cell, predominantly, most of  
13 it is inside the cell, all right, on the inside of the  
14 membranes.

15           Calcium, on the other hand, is predominantly  
16 extra-cellular. The vast majority of calcium is outside the  
17 cell. Why is that? Because calcium is a very active  
18 molecule, and in order for us to contract a muscle, we have  
19 to have a huge influx of calcium inside the cell to activate  
20 all those enzymatic processes necessary for the very simple  
21 act of shortening the muscle filaments to make a  
22 contraction. That happens with every heartbeat, every time  
23 you flick your finger, the calcium is necessary to make  
24 those interactions.

25           But calcium is so active that it has to be held

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1 in check, and there is so much of a gradient of calcium,  
2 10,000 times as much outside the cell as inside the cell,  
3 for most cells. Some cells, 1,000 times as many cells  
4 outside as inside, and there is so much of a gradient that  
5 has to be maintained that this membrane in essence acts like  
6 a dike, pushing back this highly active, electrically active  
7 molecule, this highly energized -- highly concentrated  
8 molecule, to keep it on the right side of the membrane.

9 One of the main functions of magnesium inside  
10 the cell is to ride herd on the calcium that does make it in  
11 and make sure that it is sent back out to where it is not  
12 activating those processes in order to permit the opposite  
13 reaction or the relaxation of the muscle in the example of  
14 the muscle cell.

15 Now, the reason I have got this diagram here is  
16 showing -- this is basically what they call the ischemic  
17 cascade which means that when there is not oxygen around to  
18 supply the pumping mechanism to keep this energy flowing  
19 within this cell, there is a function failure, and the  
20 function failure is the function of the membrane that is  
21 failing.

22 Now, what is this function keeping the calcium  
23 out, right there, the circle in the center where it says  
24 "increased calcium influx", that means the calcium is unable  
25 to be ejected, it is rushing into the cell, it is sticking

1 to the components of the interior part of the cell, gumming  
2 up the biochemical machinery so that the cell becomes  
3 incapable of sustaining the same kind of energy production,  
4 incapable of sustaining the membrane which leads to more  
5 membrane failure, more calcium influx, and that last word  
6 over there is necrosis. Necrosis is the word for death of a  
7 cell, and by definition, the death of a cell is enough  
8 calcium in the cell that the cell no longer performs the  
9 function of life or pumping energy.

10 Now, I could never understand why when my son  
11 was 12 years old he wrote a paper for his biology class and  
12 outlining the mechanisms of cell death, yet, I had trouble  
13 teaching this to the residents at the time I was teaching  
14 residents in Family Practice, for them to understand that  
15 that was important to them.

16 Let me back up and say that in training, what  
17 we are trained is how to memorize information about  
18 diseases, and there is an unwritten law in medicine that  
19 says, once you get through those basic science years, put it  
20 aside, because the real business is trying to remember  
21 disease symptoms and disease treatments and drugs for  
22 diseases, and that is kind of a sad commentary on what our  
23 educational system is like in medicine because we take some  
24 students who show a great deal of promise, and we pound that  
25 promise out of them and tell them to -- or ask them to

1 overload themselves with some information that prevents them  
2 from seeing some of the basic, underlying causes of disease.

3 Now, I call this a basic, underlying cause of a  
4 disease because when you think about it, the difference  
5 between a damaged cell and a dead cell is just a matter of  
6 degree, how damaged is it. Is the damage such that the  
7 repair is unable to be carried out?

8 We have also had much mention of something  
9 called free radical pathology. Free radical pathology is  
10 again, by volume, one of the biggest ways that in nature  
11 those membranes get damaged.

12 Now, here is an example from Harry Demopoulos,  
13 this is a very dynamic man who was a pathologist at New York  
14 University, who has done an enormous amount of research in  
15 the field of free radical pathology, and I apologize for the  
16 age of these transparencies, you will see that some -- most  
17 of these references are pre-1984, but the truth of what has  
18 happened here and what he discovered has not changed since  
19 then.

20 Free radicals have kind of become a buzz word  
21 within medicine, as we try and understand more about the  
22 damage that they can do, but it wasn't until the late  
23 seventies that we actually had the technology, the equipment  
24 in laboratories, to be able to demonstrate that these things  
25 exist, that they hurt the cell, and it was Harry Demopoulos

1 who had demonstrated the mechanisms, the chemical and  
2 pathologic mechanisms, by which this occurs.

3 Now, it just basically says that if you smash a  
4 cat's spinal cord, you are going to get regional ischemia or  
5 regional damage to the cell -- or to the cells within the  
6 spinal cord, and we don't do this anymore, by the way, and  
7 there is a consumption of the major central nervous system  
8 and oxidant ascorbic acid in the ischemic or traumatized  
9 tissue.

10 Now, what does that mean? It means that the  
11 oxidative process, the burning process, because of the  
12 trauma, because of the ischemia, got accelerated, and Harry  
13 Demopoulos even went further, and he found out that the  
14 reasons why these processes get accelerated, it happens so  
15 fast, and it takes us right back to what we said before  
16 about catalysis, catalytic reactions.

17 Iron and copper released in tissue are  
18 catalytic; they accelerate the damaging free radical  
19 reactions, the damaging oxidative reactions, up to a  
20 million-fold, by their mere presence.

21 If you control the iron like the body tries so  
22 desperately to do, if you control the copper as the body  
23 does, and by the way, this is done with the process of  
24 chelation, a natural process of chelation where the iron and  
25 copper molecules are essentially guarded or held in check so

1 that they don't create this kind of damage, if you control  
2 that, then there is less damage.

3 The antioxidants are nature's way of protecting  
4 the body; these are the compounds that we either manufacture  
5 or take in in our diets that quench the fires created by  
6 this oxidative free radical pathology.

7 Now, we have had clinical explanations of what  
8 that is, but it is no different than rust. It is no  
9 different than the rust on your shovel, and that rusting is  
10 a slow, oxidative process.

11 When we are looking through a microscope, an  
12 electron microscope, at ever smaller areas, what we are  
13 seeing is the rust or oxidative damage to components of the  
14 cell and especially components of the cell membrane.

15 Now, I just want to show you what a membrane  
16 looks like so you get an idea of cross-sections and that  
17 this is not a vague concept to you, and then I will talk  
18 briefly about membrane components and where the target is  
19 for this oxidative pathology.

20 Now, I need to point here a little bit. Start  
21 with the circles here in the center, these circles represent  
22 the heads -- these circles here and these circles here  
23 (indicating), represent the heads of the molecules, the  
24 chemical molecules that form membranes, all right, and this  
25 is universal, whether it is a membrane of the mitochondria

1 or inside the cell what changes are some of the bells and  
2 whistles of the membrane, but what is a fact is that they  
3 all have polar and non-polar components, they have lipid  
4 tails, which are these squiggles, and it is a bi-layer, that  
5 means it is a two-layer sandwich, and there is something  
6 holding these two layers together, and most of that  
7 something happens to be cholesterol. It is the peanut  
8 butter that holds the sandwich together.

9           These lipids are not just decorative  
10 components, they are structural components of the cell  
11 membrane, and they compose a wall that is fluid and mobile.

12           Embedded in that wall are certain specific  
13 protein structures, transport proteins here schematically  
14 are represented channels, although we are not sure if that  
15 is a structural item or just a concept, but we have had to  
16 learn about calcium channels with relation to the cell  
17 membrane.

18           These lipid, and lipid means fatty, fatty  
19 components hanging into the cells, are very specific lipids  
20 with very specific structures with very specific bends at  
21 very specific places in the molecule because they will  
22 modify very specific functions on the carrier proteins, on  
23 the transport proteins, and on the membrane itself.

24           These lipids, where you see the zig-zag bends  
25 also happen to be the most vulnerable component of the cell

1 membranes to the oxidative damage.

2 Now, let me just back up a second, and if you  
3 remember what we said about free radical species, these are  
4 molecules that have an unpaired electron in the outer orbit.

5 My wife has a description for them, but I don't  
6 think I am going to bring that description up, because  
7 suffice it to say that that unpaired electron wants to be  
8 paired in the worst way, think back to puberty, and maybe  
9 you will get an idea of how much of a driving force this is  
10 to be paired, and that electron has to find something to  
11 glom onto, to take hold of, but all of these things are  
12 intricate structures in here that have very specific  
13 purposes, and if you take something that is disruptive like  
14 a free radical and attack one of those bonds, what you have  
15 done is you have distorted this molecule, you have broken  
16 it.

17 Let's take a closer look at what that lipid  
18 structure looks like. These are called phospholipids  
19 because the head part usually has some phosphorous  
20 containing compound like lecithin but the point is these  
21 have very nice structures, well, there you can see up there  
22 (indicating), but there are certain places where they are  
23 subject to attack, and these little dots or circles with the  
24 negative charge represent the free radicals, when they are  
25 attacked, you end up with broken fragments of molecules.

1 This is molecular debris, it is not structural anymore, it  
2 is not a functional structural component of the cell  
3 membrane, it is debris, and, of course, we have mechanisms  
4 to correct that.

5 All of these mechanisms are overwhelmable or  
6 saturable. I said this is a self-repairing process or we  
7 could only repair so much damage, and in a sense, the  
8 accumulation of damage that is unrepaired, more damage than  
9 the repair is one of the crueller or crux issues in aging,  
10 the entire aging process, the accumulation of this  
11 unrepaired damage.

12 What is even worse is these species where  
13 every-thing had been balanced before with paired electrons,  
14 when you damage one of these components, you create another  
15 free radical species, so, there is a process that is called  
16 propagation, it doesn't stop until there is a molecule  
17 available to sacrifice itself and take up that species.

18 So, the damage continues until such time as the  
19 fire is put out, as the molecule is quenched, and we have  
20 quenchers, and as Dr. Martin Rubin pointed out, that when we  
21 moved onto the dry land, we had to face the solar radiation  
22 and oxidative processes, and we had to find ways to quench  
23 them where we have a number of enzyme systems that are  
24 specifically designed to control those oxidative processes,  
25 and it is probably best that I don't take the time to go

1 into those right now.

2           But we have defense mechanisms that are such  
3 things as the ascorbates, Vitamin C, carotenoid compounds,  
4 the betacarotines and even to some extent Vitamin A, we have  
5 compounds with sulfur content that seem to be very good as  
6 both chelators and also as mopping up of free radicals like  
7 the glutathione and glutathione oxidase systems, selenium,  
8 as itself, stochieochemically, and also as a component of  
9 glutethimide peroxidates seems to be very good at mopping up  
10 certain types of species of free radicals, the tocopherol  
11 family of compounds, Vitamin E, and very recently as  
12 published in The American Journal of Clinical Metrician, we  
13 found that the level of Vitamin E that we measure in a  
14 person's plasma is a much better indicator of the risk of  
15 coronary artery disease than is cholesterol.

16           We are in a time of we where hyper  
17 cholesterolemia has given way to hypercholesterol media,  
18 where you saw it published in the press so predominantly  
19 into hypercholesterol mania. I can't go to a cocktail party  
20 without hearing people asking or comparing cholesterol  
21 levels.

22           But the point is that is not even a very good  
23 indicator, as Dr. Kindness said, about 52 percent specific,  
24 that is slightly better than a coin flip. Not that I want  
25 to discourage anybody from knowing what their cholesterol

1 levels are and the risks, but we have information available  
2 that allows us to perform a different profile now of  
3 assessing disease risk as well as health potential.

4 Now, the reason this becomes significant is  
5 these membrane components are in every membrane of the body,  
6 including the membranes that line the endothelial cells,  
7 that are the interlining of the blood vessels, and in order  
8 to get atherosclerosis, in order to get arteriosclerosis,  
9 you have to damage that endothelial cell, and we do it all  
10 the time. We do it with stress, we do it when we walk, when  
11 we run, life is a series of damages to those cells.

12 However, we are capable of repairing the  
13 damage, and it is only when we are doing more damage than we  
14 are are capable of repairing that we accelerate the disease  
15 process and have it go through that whole series of events,  
16 starting with oxidation of the membrane lipids and then  
17 lipoxigenation or release of all these propagations species,  
18 the formation of foam cells on the surface of the  
19 endothelium and the progression to lipid accumulation within  
20 those cells and then hardening of that lipid accumulation  
21 and forming a hard plaque which grows, and worse yet, you  
22 form that plaque on the surface of that blood vessel, that  
23 cell is no longer capable of performing its function.

24 Now, I want to show you just a schematic of  
25 what the blood cell looks like on the inside, and you have

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1 seen the pictures of the platelet function, and we have  
2 talked about the flux or the flow of various ions throughout  
3 the cell, and I think Dr. Zekan is probably going to touch  
4 upon this a little bit later, but -- I think in the interest  
5 of saving time, I will just try and explain this the best I  
6 can with words.

7           And that is that those lining cells on the  
8 inside of the artery are responsible for a task, and that  
9 task is to facilitate the flow of blood through that cell,  
10 whether it is the tiniest capillary or whether it is the  
11 major blood vessel, it still has that same task, it does  
12 that in a number of ways, by creating negative charges that  
13 repel the blood and keep it from sticking to the level or to  
14 the cells themselves, because you need a stiff lining on the  
15 inside of those blood vessels, and when you have a group or  
16 an area of cells that are covered by plaque or which some  
17 consider to be essentially a benign tumor that build up on  
18 the surface, when you have those cells covered with plaque,  
19 you change the physiology there.

20           Now, the physiology is this, the cell secretes  
21 stuff that keeps the blood vessel from clamping down, most  
22 of these are of the prostaglandin and leukotrienes family,  
23 and the components of the blood are capable of secreting  
24 substances of the same family but different in activity or  
25 opposite in activity that make the blood vessel want to

1 clamp down or clot, and there is always a dynamic balance  
2 between free flow and clotting.

3           It is not that we want to have either a clot or  
4 not a clot, we want to have the capacity to clot, and yet we  
5 want to have the capacity not to clot. When you have  
6 plaque, two things happen, you irritate the components of  
7 the blood that is flowing through and put them into a state  
8 where they want to clot, like the pictures that you have  
9 seen, with the platelet, among other components of the  
10 blood, and at the same time, the opposing action of the  
11 cells is diminished, so, you have an area of unopposed  
12 constriction or unopposed tendency toward constriction or  
13 spasm in the blood vessels, and at the same time, a tendency  
14 toward unopposed clotting.

15           That is a dangerous situation, especially if  
16 you are talking about an artery that is leading to a section  
17 of the brain or an artery that is leading to a section of  
18 the myocardium or heart muscle that is being fed. If there  
19 is a sudden change because of a change in diet, a change in  
20 stress factors, anything that can precipitate this cascade,  
21 that puts the patient at risk for having an occlusive event,  
22 instead of just obstruction, there is now occlusion, and the  
23 only difference between a heart attack and ischemia is the  
24 difference between obstruction and occlusion.

25           Ischemia is a lack of blood supply; occlusion

1 is a total absence of blood supply to the area and the  
2 tissue cannot survive without the oxygen in the blood  
3 supply. Without the oxygen in the blood supply, that same  
4 diagram that I showed you with ischemia, sets into motion  
5 the same chain of events, releasing catalysts or free  
6 radical activity deny the tissue oxygen which is so  
7 essential for controlling that oxidative or free radical  
8 activity, and, instead, you have an immediate progression  
9 toward accelerated damage to the tissue and eventually death  
10 of that tissue, and we call that a myocardial infarction on  
11 a clinical sense.

12 But at a molecular level, that is what is going  
13 on and at a molecular level that is exactly what we are  
14 dealing with with the chelation therapy, both on a  
15 preventive basis and on an ameliorated basis in that you can  
16 diminish -- if you catch somebody with a heart attack, you  
17 can diminish the area of infarct.

18 Now, that has been demonstrated, it has been  
19 demonstrated on dogs, it has been demonstrated on pigs, it  
20 has been demonstrated repeatedly.

21 What is even better is that even by doing some  
22 very simple things like getting enough magnesium into the  
23 area to be able to ride herd like a sheep dog on the sheep  
24 of calcium, if you get enough magnesium into that area, you  
25 will spare myocardium, that is the study that the doctor was

1 referring to earlier, that if you just give people magnesium  
2 when they come into the -- five dollars worth of magnesium  
3 when they come into the emergency room, the odds are better  
4 that you are going to survive that heart attack, and that  
5 has been shown, and it has even been shown to be better than  
6 some of our current two to three thousand dollar therapies  
7 to break up the clot buster kinds of therapies.

8 This is dealing with the molecular events  
9 because we have been forced to recognize what the molecular  
10 events are. I think of the 1980's as the time when doctors  
11 were forced to look at molecules in medicine because we came  
12 out with a series of drugs that are called calcium  
13 antagonists; we also call them calcium channel blockers, and  
14 I showed you the membrane, and I told you that this channel  
15 is kind of a contrivance that we have made up to explain the  
16 fact that the calcium flows in and out of certain  
17 compartments of the cell.

18 However, the fact is that calcium is active and  
19 it can be antagonized, antagonized by magnesium, antagonized  
20 by EDTA, and antagonized by a host of drugs that we have  
21 come up with in the 1980's called the calcium antagonists or  
22 calcium channel blockers.

23 What it has forced us to do it understand the  
24 role of calcium in spasm of the arteries, in the role of  
25 calcium in death of the cell, and it has forced us -- well,

1 it hasn't forced us, but it has caused us to manufacture a  
2 lot of drugs that cost a lot of money in order to prevent  
3 some of these processes.

4 We are even at the point with the calcium  
5 antagonists that are sold throughout this country and  
6 prescribed very readily, and I am not knocking them, I think  
7 they are very often excellent forms of therapy, but we are  
8 even at the point of discovering that people survive better  
9 compared to not using the calcium antagonists when they  
10 already have some cardiovascular disease.

11 The same process is going on with EDTA  
12 chelation therapy, it is getting to more places, it is  
13 getting in in higher concentrations, and it is quenching  
14 some of the damaging reactions. It is kind of like giving  
15 the cells a breather and allowing them to catch up. It is  
16 removing some of the metals that act as the catalysts, and,  
17 again, this has been shown over and over in scientific  
18 studies that if you take the catalyst out of the picture,  
19 you pull the fuse on the process of accelerated oxidative  
20 pathology, and instead of having extensive damage, you have  
21 limited damage and that is another role of the chelation  
22 therapy, that is another reason why we see some of the  
23 clinical benefit, and if for no other reason, for removing  
24 the catalytic processes that would justify use of it,  
25 especially considering the safety record, but also for

1 dilating the blood vessels for those people who have been in  
2 pain because of renauds and discover that they don't have to  
3 be in pain anymore because this process has been turned  
4 around, it can be like a God send for them.

5 Q What we need to do is leave some areas for Dr.  
6 Zekan to comment upon as well.

7 A Okay.

8 Q And if I could, Dr. Miranda, let me ask you I  
9 suppose the crowning question and that is is the use of  
10 chelation therapy dishonorable, unethical or unprofessional  
11 conduct of a character likely to deceive, defraud or harm  
12 the public or any member thereof?

13 A Absolutely not, I would think the opposite. I  
14 would think that the elimination of this therapy as an  
15 option for patients is both dishonorable and unprofessional.

16 MR. SEELEY: Thank you.

17 Do you have any questions of Dr. Miranda?

18 HEARING EXAMINER MANGUS: No, I think not.

19 (Witness excused)

20 MR. SEELEY: At this point, we call Dr. Zekan.

21 (Witness sworn)

22 THEREUPON came,

23 S T E V E N Z E K A N, M. D.,

24 called as a witness in opposition to the rule, who, having  
25 been first duly sworn according to law, testified as

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1 follows:

2 DIRECT EXAMINATION

3 BY MR. SEELEY:

4 Q Doctor, could you state your name and address  
5 for the record?

6 A Steve Zekan, 1208 Kanawha Boulevard, East,  
7 Charleston, West Virginia.

8 Q Could you briefly give us your educational  
9 background?

10 A I went to Wheeling Jesuit College and then with  
11 a B. S. in Biology, then went to medical school at WVU in  
12 Morgantown, followed by a surgical residency here in  
13 Charleston, and then was an instructor in surgery for two  
14 years at CAMC and subsequently then a member of ACAM as well  
15 as a Fellow of the American College of Surgery which  
16 requires Board Certification, and have been in practice here  
17 in Charleston since then.

18 Q Have you been able to hear all of the testimony  
19 today that has been presented?

20 A I have.

21 Q With reference to the support for EDTA  
22 chelation therapy, have you utilized this particular therapy  
23 in your own practice?

24 A I became interested in chelation in 1984 and  
25 '85 after several patients had asked me about it and had an

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1 interest in surgically and trace mineral metabolism for a  
2 number of years, since as a general surgeon we deal with  
3 gastric and small intestine surgery and developed an  
4 interest in trace mineral metabolism and became interested  
5 in chelates.

6 I also had an interest in parathyroid disease,  
7 and when I heard about chelation therapy, it immediately  
8 struck me that this was a process that was being vastly  
9 influenced by parathyroid metabolism.

10 Q And as a result of being introduced to this  
11 particular therapy, I assume you then began doing some  
12 research of your own?

13 A Right. I inquired -- I heard about the ACAM  
14 group and acquired some information from them and was  
15 invited to attend one of their meetings. I was extremely  
16 reluctant at first to do this because I had heard of the  
17 negative connotation about chelation in the past and went to  
18 the meeting and was astounded by the character of the  
19 presenters and the physicians.

20 I would say that the people that presented  
21 today are characteristic of the members as well as the  
22 participants lecturing at the ACAM meetings, and I looked  
23 forward to going to those meetings yearly. The meetings are  
24 twice a year, and I try to go at least once a year and  
25 listen to the tapes that they provide on the other meeting

1 that I can't get to.

2 Q Up until the time that the State passed the  
3 rule prohibiting the use of chelation for vascular disease,  
4 did you have the occasion to actually prescribe such  
5 therapy?

6 A I started in 1985, and several of the persons I  
7 first chelated were physicians here in Charleston, the first  
8 patient actually in the Kanawha Valley was Dr. Kenny  
9 McDonald, I had talked to him before his death, and he said  
10 that any -- he would be a guinea pig, as far as he was  
11 concerned, I could use his case history in any way. He was  
12 the first patient who was diabetic and had had a coronary  
13 bypass and was extremely debilitated as far as his legs were  
14 concerned with walking, and he was having angina, post-chest  
15 discomfort after his bypass.

16 And I treated him, he was my first patient, and  
17 after three treatments, his leg pains paresthesia was  
18 completely gone, then he recorded what he felt throughout  
19 the process of the chelation.

20 Q Let me ask the question, you have in front of  
21 you there is a notebook that is called the ACAM Compilation  
22 of EDTA Abstracts and References. Could you tell us what  
23 that is?

24 A That is a voluminous amount of data on EDTA and  
25 its multiple roles in medicine. It's very inter-related,

1 the different functions that the EDTA carries out. It was  
2 compiled, I believe, by Martin Rubin; it was computer  
3 generated, and I am sure part of it is computer generated,  
4 but it is, I believe, how many thousand, I don't know, but  
5 it is three thousand and some odd references regarding EDTA,  
6 and it has got to be one of the most studied pharmacological  
7 agents in the history of the world.

8 MR. SEELEY: I would like to have that marked  
9 as Exhibit No. 41.

10 (WHEREUPON, the document referred to  
11 was marked as Exhibit No. 41 for  
12 purposes of identification and was  
13 received into evidence.)

14 BY MR. SEELEY:

15 Q In addition, Doctor, you have another notebook  
16 in front of you. Could you identify what that is?

17 A This is a compilation of a review of the story  
18 of chelation therapy in West Virginia and the literature to  
19 support it. This is a series of articles that I have  
20 collected over the last seven years; it also contains  
21 history, results of some of my patients, and it has a study  
22 that examined approximately a hundred and ten -- it is the  
23 results of a questionnaire that I sent out to all of my  
24 patients, and it summates that, and if you would like, I  
25 would like to go through some of the aspects of this.

1 Q Please, Doctor.

2 A I will give you this and then I will go to the  
3 projector because I want to go through --

4 MR. SEELEY: If we may, we will have this  
5 marked as Exhibit No. 42.

6 (WHEREUPON, the document referred to  
7 was marked as Exhibit No. 42 for  
8 purposes of identification and was  
9 received into evidence.)

10 THE WITNESS: This is the notebook on the  
11 questionnaires of the data that was obtained in the summary  
12 there was achieved, and I would like to give you the  
13 questionnaires because it also contains a tremendous amount  
14 of information about the patient responses towards their  
15 improvements and the degrees of improvements and conditions.

16 MR. SEELEY: And we will have this marked as  
17 Exhibit No. 43.

18 (WHEREUPON, the document referred to  
19 was marked as Exhibit No. 43 for  
20 purposes of identification and was  
21 received into evidence.)

22 THE WITNESS: The basic contents of this  
23 includes correspondence, FDA regulations, EDTA users other  
24 than hypercalcemia and toxic metals, other chelates banned,  
25 EDTA demonstrated calcium and iron chelation, calcium

1 overload as an initiation of free radicals -- as an  
2 initiator, a free radical initiator, calcium antagonisms,  
3 talking about the types of calcium antagonisms, calcium  
4 chelators as a group, non-EDTA, and their effects, EDTA as  
5 an iron chelator, decreasing free radicals, induced  
6 parathyroid benefits from EDTA, EDTA removal -- all the  
7 processes that support EDTA and finally some conclusions.

8 I am going to try -- I am going to try  
9 extremely hard to not be repetitive, and I know that the  
10 time is of essence here.

11 BY MR. SEELEY:

12 Q Let me just say, was there anything said by Dr.  
13 Rubin or Dr. Carter or Dr. Kindness or Dr. Miranda which you  
14 oppose or are in opposition of any of their testimony?

15 A Absolutely not.

16 Q Would you support the substance of their  
17 testimony?

18 A One hundred percent.

19 This is from the PDR, and it says that, "The  
20 FDA has also announced that the FD&C ACT does not, however,  
21 limit the manner in which a physician may use an approved  
22 drug. Once a product has been approved for marketing, a  
23 physician may prescribe it for uses or in treatment regimens  
24 or patient populations that are not included in approved  
25 labeling", blah, blah, blah. It is a good definition in the

1 PDR.

2 From the FDA Bulletin in 1982, "The FD&C Act  
3 does not, however, limit the manner in which a physician may  
4 use an approved drug. Once a produce has been approved for  
5 marketing, a physician may prescribe it for uses or in  
6 treatment regimens or patient populations that are not  
7 included in approved labeling. Such "unapproved" or, more  
8 precisely, "unlabeled" uses may be appropriate and rational  
9 in certain circumstances, and may, in fact, reflect  
10 approaches to drug therapy that have been extensively  
11 reported in medical literature."

12 Q Doctor, the first overhead, that was the  
13 Forward out of the Physicians' Desk Reference?

14 A 1991.

15 Q Okay, and doesn't that -- basically, that same  
16 forward appears and has appeared in every PDR for every  
17 edition, reassuring the fact that the doctor has the right  
18 to practice medicine, that the indications so enumerated are  
19 for manufacturers to limit what areas they can advertise the  
20 use of the drug?

21 A To the best of my knowledge, that is true.

22 This is the letter that triggered the Board's  
23 looking into the medicine, and it says, "I am enclosing a  
24 copy of a memorandum of the Va. State Board condemning, or  
25 at least discouraging chelation therapy.

1 "I understand that this therapy is being used  
2 in W. Va. and I feel that our Board of Medicine should take  
3 a similar stand. Would you at least consider it." Dr.  
4 Wilson.

5 Q Doctor, that has already been introduced as an  
6 exhibit.

7 Do you have knowledge of whether or not the  
8 State of Virginia has banned chelation?

9 A I have the document from the Board of Virginia,  
10 this is the Code of Virginia, Section blah, blah, blah, and  
11 do you need the section number?

12 Q Well, I think the key -- this has already been  
13 introduced as an exhibit, Doctor, I think the key element  
14 that you want to mention is that this is a resolution, not a  
15 rule.

16 A Right, this is a resolution and it says that  
17 some objective evidence of its benefit will allow it to be  
18 used if there was -- until clinical efficacy is established  
19 by formal controlled trials or by some objective evidence of  
20 its benefits.

21 Q Would you say today that there have been  
22 clinical controlled studies or some objective evidence?

23 A We have heard innumerable studies presented  
24 here today.

25 Q And would you suggest that the exhibits we have

1 just introduced, that you have identified and introduced,  
2 would provide that objective evidence?

3 A It would contribute to that, absolutely.

4 This is the meeting note from the Board, and  
5 this is recording where there is discussion of this issue at  
6 our Board meeting, and it states "that chelation therapy  
7 should not be used outside of a research center under  
8 controlled study guidelines. The Legislative Committee  
9 recommended to the Board that no regulation be specifically  
10 adopted that chelation therapy should be reserved for and  
11 restricted to research centers only because of the  
12 likelihood that under the Board's current Medical Practice  
13 Act and Regulations a person using chelation therapy outside  
14 of a research center under controlled study guidelines would  
15 be in violation of the Practice Act, to be established by  
16 expert testimony in a hearing." And it was moved and  
17 seconded, and this was passed.

18 Q Doctor, when it says used appropriately, would  
19 you suggest that adhering to the ACAM protocol would in fact  
20 be using chelation therapy appropriately?

21 A I entirely endorse, I have had no complications  
22 from this from its proper use based on their protocol, and  
23 that is the one I endorse and I endorse fully.

24 It is interesting that from this discussion and  
25 in the final law that was passed, that it appears to me, the

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1 interpretation is that even as a researcher, if I was in  
2 West Virginia, that I would be outlawed from using EDTA  
3 chelation even in a research setting.

4 I mean, that is what is discussed, and they  
5 even said you can't research it, and this has ramifications  
6 that are astounding to me, but that is the intent of the  
7 discussion.

8 Here is the actual law, and I will just read it  
9 briefly, and it just says, "The use of chelation therapy for  
10 diseases and conditions other than acute hypercalcemia, lead  
11 poisoning, and intoxications caused by some other heavy  
12 metals is considered dishonorable, unethical or  
13 unprofessional."

14 The first thing then is other -- the banning of  
15 EDTA as a chelator and what are some other uses other than  
16 hypercalcemia and lead toxicity, and this is a review  
17 article by Dr. Kitchell, and he states, if you will look  
18 here, "There have been recent reports to indicate a  
19 potential usefulness of chelation", and we are talking about  
20 EDTA here, too, if you will look at the top, in Wilson's, in  
21 scleroderma, in heavy metal intoxications, and these are all  
22 references on it, sarcoidosis, iron storage, porphyria,  
23 metastatic calcinosis, myositis ossificans, coronary artery  
24 disease, calcareous valvular disease, cerebral and  
25 peripheral arteriosclerosis, as well as the treatment of

1 digitalis toxicity and other cardiac arrhythmias.

2           And this is a series of references that I think  
3 that are important other than the heavy metal indication.

4           Here is an example of patients treated with  
5 rheumatoid arthritis, 32 patients with rheumatoid arthritis;  
6 27 of those 32 had significant marked improvement of  
7 rheumatoid arthritis.

8           Of the 32, 27 responded perfectly to EDTA  
9 treatment, and at least 23, it was possible to maintain an  
10 improvement when necessary by additional EDTA infusion over  
11 the time the patient was studied.

12           This is from The Standard Textbook of  
13 Pharmacology, talking about EDTA used topically or in the  
14 treatment of corneal calcifications and for the eyes, so,  
15 that is essentially outlined in this point.

16           Here is a Textbook of Ophthalmology which shows  
17 for the emergency treatment of zinc chloride injury after  
18 flushing with water, the eye may be irrigated with a 1.7  
19 percent solution for 15 minutes. It should be noted that  
20 EDTA is a potent zinc chelator and that is why it is  
21 absolutely mandatory that people being chelated need to be  
22 on a zinc supplement.

23           Here is a very recent article, the "Combined  
24 Treatment of Medullary Sponge Kidney by EDTA Potassium  
25 Citrate and Extracorporeal Shock Wave Lithotripsy." It

1 shows the effect, and I am not going to summarize that  
2 because of the time, that article is present.

3 Other chelates that are banned because they are  
4 not chelating heavy metals are Deferoxamine which is the  
5 iron chelator, is used in the management of chronic iron  
6 overload, and this is from The Standard Textbook of  
7 Pharmacology, and it says on the bottom there --

8 Q What do you mean by outlawed?

9 A It is effectively outlawed because a physician  
10 who would use it would jeopardize his license.

11 Q You mean by this rule?

12 A By this rule.

13 Q Because the definition of chelation therapy is  
14 very broad, and it is not clear as to what chelating agent  
15 is included?

16 A That was not specified in there.

17 Q Right, even though what you are showing us are  
18 not outlawed treatments, these are accepted?

19 A These are well accepted, this is a classic  
20 indication, for example, of dimercaprol in the treatment of  
21 Wilson's disease and chromium dermatitis, those are  
22 essentially when a physician could be challenged by the laws  
23 of the state.

24 Q By the current rule?

25 A By the current rule.

1 I am going to just go over these quickly, not  
2 to belabor the point, but penicillamine is banned from use,  
3 and the main use of penicillamine is copper.

4 "Penicillamine is useful in the treatment of  
5 lead poisoning, however, this use is not included in the  
6 labeling approved by the USF&D. Penicillamine may be  
7 particularly useful as follow-up therapy after lead  
8 poisoning has been initially treated with edetate calcium  
9 disodium and/or dimercaprol. Many investigators consider  
10 penicillamine to be the drug of choice for moderate  
11 asymptomatic lead intoxication", but the FDA here hasn't  
12 approved it.

13 Yet, this is what the standard is.

14 Q The accepted treatment among the medical  
15 community?

16 A Yes. This has bearing. "The Long-term  
17 Efficacy of Deferoxamine Iron Chelation Therapy in Adults  
18 with Acquired Transfusional Iron Overload", we conclude that  
19 long-term Deferoxamine iron chelation is effective not only  
20 in retarding, but, in some cases, actually reversing organ  
21 damage caused by transfusional iron overload."

22 I am going to present some data showing that  
23 the EDTA is an extremely potent iron chelator. This goes  
24 along with previous testimony regarding iron, and it is one  
25 of the major effects that EDTA chelation has

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1 physiologically.

2 But Deferoxamine here for iron overload is  
3 banned, too.

4 In this case, you would say, well, why not  
5 phlebotomize the people and get rid of the iron load, and  
6 phlebotomy therapy is precluded in patients with  
7 transfusional iron overload and iron chelation is presently  
8 the only effective therapeutic option for those patients,  
9 so, this -- what kind of dilemma this type of a law, really,  
10 if you are conscientious, gives you an ulcer.

11 Our studies strongly suggest that long-term  
12 Deferoxamine iron chelation is effective not only in  
13 retarding but reversing organ damage, and that is the end of  
14 that article.

15 This is a landmark article here, and that is  
16 that "Deferoxamine Therapy in High-Ferritin Diabetes", this  
17 was the leading article on diabetes in October of '89. It  
18 is one of the reasons why chelation with EDTA is also very  
19 effective with people with diabetes, because it is removing  
20 this iron.

21 What Dr. Cutler did was treat people with  
22 ferritin levels that were elevated, being above 300, and he  
23 found out that there was a marked improvement of their  
24 glucose tolerance when their iron levels and their ferritin  
25 levels, which is the iron storage protein, was decreased so

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1 that people's iron decreased in the amount of generated free  
2 radicals from that iron was markedly -- that markedly  
3 decreased.

4 He found, and it is on the bottom part here,  
5 data showing that ferritin correlated well with the diabetes  
6 control, improved fasting glucose, triglycerides,  
7 hemoglobin, HbA<sub>1c</sub> in patients in high ferritins. If people  
8 had normal ferritins, it didn't affect the diabetes of  
9 significance.

10 Next, I want to demonstrate some of the effects  
11 of EDTA and demonstrated it as an iron and calcium chelate;  
12 this is the article from The Journal of Advancement in  
13 Medicine, "Urinary Trace and Toxic Elements and Minerals in  
14 Untimed Urine Specimens Relative to Urine Creatinine, Part  
15 II: Provoked Increase in Excretion Following Intravenous  
16 EDTA", so, we have got a EDTA chelation, what comes out, and  
17 this was addressed earlier, and it is important with regard  
18 to some minerals what I want to specifically address.

19 This is urine calcium before chelation is 117,  
20 that is in micrograms per milligram of urine creatinine.  
21 After the chelations, and they were checked, it was 443 and  
22 900 percent. If you had greater than 14 chelations, your  
23 calcium came out to be 1,655 times higher.

24 Look what iron does, iron goes from 20 to 517.  
25 a 7,281 percent increase of excretion of this iron. So,

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1 this really demonstrates that it is removing iron and  
2 calcium.

3           What are the things that it is taking out most?  
4 Well, look at manganese, manganese it is the central  
5 nutrient, and its percent increase is 12,600 percent, so, if  
6 you chronically give somebody EDTA and they are losing the  
7 essential trace mineral manganese, you may not be doing them  
8 good, so, it makes it mandatory for us to consider other  
9 trace minerals in these patients, and that is why any  
10 studies that don't give proper trace minerals or don't look  
11 at patients' trace minerals intermittently has the potential  
12 of doing the patient harm and requires some degree of  
13 expertise in the administration, safe administration of  
14 EDTA.

15           Q           Does the ACAM protocol call for these trace  
16 minerals to be supplemented?

17           A           Absolutely, absolutely, that is why they have a  
18 course and that is why -- you know, that course of therapy--  
19 that course of learning is highly recommended.

20                       Iron is increased, calcium is increased,  
21 copper, notice only has a 38 percent increase, so, this is  
22 going to be important later when we look at the amount of  
23 zinc excreted compared to copper, it is really dumping zinc  
24 with a little amount of copper.

25                       It is removing other stuff, too, look at the

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1 nickel, the 377 percent, some of these others are just  
2 increasing small amounts, but lead excretion, 665 percent.

3 A major benefit of EDTA results from the  
4 removal of irons as a potent free radical catalyst, that is  
5 in that same article.

6 Now, I want to talk about calcium overload, and  
7 it was first thought that excessive calcium was a final --  
8 was a final event and that there was not a progression of  
9 calcium overload in tissue, but after these free radicals  
10 occurred, after cells became senescent, then they finally  
11 calcified, their tissue finally calcified, and I want to  
12 present the data showing that there is a progressive  
13 accumulation of calcium and that calcium is an initiator of  
14 problems in the cell, as Dr. Miranda talked about. I want  
15 to give some literature and verification of that.

16 Here is "Effects of Agents Altering Vascular  
17 Calcium in Experimental Atherosclerosis", "It appears from  
18 the foregoing discussion that both normal aortic tissue and  
19 plaques are subject to diffuse calcification, and the  
20 development of the atherosclerotic process may begin as  
21 diffuse calcium deposition. Even though the change in  
22 aortic calcium which we observed in rabbits is small in  
23 relation to the magnitude of change which occurs  
24 spontaneously in human vessels, it appears that once the  
25 calcium content of the vessel has increased above a normal

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1 value then the development of the early atherosclerotic  
2 plaque takes place in several stages."

3 So, it is going to be an additional thing is  
4 that the tissue calcifies.

5 This is from Germany, this is Fleckenstein,  
6 Symposium in 1982, "Vascular calcium overload -- a  
7 pathogenic factor in arteriosclerosis and its neutralization  
8 by calcium antagonists".

9 "The highly deleterious influence of  
10 cytoplasmic and mitochondrial calcium overload on cellular  
11 function and structure was first elucidated by work done in  
12 our laboratory on heart muscle. Suitable calcium  
13 antagonists, by preventing calcium overload in these studies  
14 proved to be capable of protecting the myocardial tissue  
15 against a multitude of cardiotoxic noxae."

16 "This research report gives a survey of our  
17 pertinent observations and of the resulting therapeutic  
18 prospects."

19 What does it show? On the bottom thing here,  
20 we see a progressive, the calcium is the dotted stuff, the  
21 open one is magnesium, as a person ages up to the age of 90,  
22 you can see that the amount of magnesium in aortic -- in  
23 arterial tissue maintains the same, whereas, the calcium has  
24 a progressive increase.

25 You also see that there is a progressive

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1 increase of cholesterol in tissue that parallels the  
2 calcium.

3 "Our results suggest that the steady rise in  
4 arterial calcium content during the entire lifetime is not  
5 only a most characteristic criterion of age but also  
6 represents the decisive, inherent risk factor which  
7 predisposes senescent arteries to arteriosclerotic  
8 degeneration. Apart from augmentation of wall cholesterol,  
9 progressive calcium overload appears to be the most  
10 important latent precursor of overt arteriosclerosis of  
11 aging arteries."

12 So, that is potent, that is a pretty potent  
13 sentence, two sentences there, in my opinion.

14 Here we can't see it, this is the dogs that had  
15 to be sacrificed to look at the mesenteric artery, as their  
16 age increases, that increases there. "Beyond the age of 60  
17 years, calcium overload is speeded up dramatically in the  
18 mesenteric and aortic walls, and above 80 years, it reaches,  
19 in these arteries, the deleterious range, which is well-  
20 known from our animal experiments with dihydrotachysterol  
21 (DHT), or Vitamin D." "Only in the coronary arteries does  
22 progressive calcium uptake seem to be slowed down beyond the  
23 age of 60 years. However, this mysterious phenomenon is  
24 probably due to a statistical selection effect of coronary  
25 calcinosis in the population beyond 60 years. It seems that

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1 the coronary 'high-calcium carriers' are skimmed away from  
2 the advanced age groups by precipitous coronary death."

3 "The incidence of sclerotic lesions of the  
4 coronary stem arteries, among unselected autopsies, reached  
5 92% at an average age of 65 years. A number of sporadic  
6 observations at our laboratory indicate that the natural  
7 process of age-dependent arterial calcinosis proceeds faster  
8 than normal in heavy cigarette smokers and diabetics. We  
9 think this is the cause rather than the consequence of  
10 premature arteriosclerotic vascular damage."

11 "In the light of our present knowledge of  
12 calcium overload as a causative factor in cellular  
13 disintegration, it was reasonable to assume that, also in  
14 experimental Monckeberg's sclerosis, histological damage  
15 ensues from abundant calcium engulfment. It was, in fact,  
16 not difficult to show that the background of experimental  
17 Monckeberg's sclerosis is an enormous intensification of  
18 calcium uptake into the arterial walls."

19 In an opinion of these authors, the  
20 uncontrolled intake of Vitamin D in men might even  
21 constitute one of the most important pathogenic factors in  
22 human arteriosclerosis. This, evidently, raises the fact  
23 that putting excessive Vitamin D in our milk, if you are  
24 drinking a large amount of milk, you could actually be  
25 increasing calcium because of excessive Vitamin D. That was

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1 just an interesting observation.

2 Okay, I am not going to dwell further on this  
3 article because of the time.

4 HEARING EXAMINER MANGUS: Excuse me, Dr. Zekan,  
5 I think you have established the role of calcium in  
6 arteriosclerotic disease, and in the interest of some of the  
7 other testimony that we would like to see, if you have some  
8 additional information that has not been filed with us,  
9 could you please call that to our attention and advise us of  
10 that?

11 I would like to leave this last hour, if we  
12 could, for some comments.

13 BY MR. SEELEY:

14 Q Excuse me, Doctor, the materials that you are  
15 going through right now, are those the materials that have  
16 been submitted as a part of the exhibits?

17 A Yes.

18 Q So that everything is here. Any particular  
19 things that haven't been brought up that would be the first  
20 impression for the Hearing Officer?

21 A There is just one thing. I would like to  
22 present the data on my patients that I have treated, if I  
23 could just present that data.

24 Q Could I ask you, in going back in your  
25 testimony, West Virginia is the -- is it the only state that

1 you are aware of that has taken this particular step in  
2 prohibiting the use of chelation?

3 A To my knowledge. I know that there was a  
4 debate in Arizona that was not -- did not make it into law  
5 because of the -- as the Board was made aware of the  
6 existing literature concerning EDTA chelation.

7 Q So, the answer is you have no knowledge of any  
8 state that has prohibited this?

9 A That is right.

10 Q Let me ask you one other question, since you  
11 were responsible for obtaining all of these witnesses, did  
12 you pay them for their testimony?

13 A Absolutely not. I agreed to pay for their  
14 transportation here, but as far as them speaking, that was  
15 all done on a voluntary basis, their testimony, and,  
16 incidentally, I would like to thank all of them for their  
17 efforts and everyone was a voluntary basis.

18 Q Okay, would you like to then present your  
19 evidence on your patients?

20 VOICE: We would have taken up a collection to  
21 help him pay.

22 THE WITNESS: I have treated about 150 patients  
23 and sent out a questionnaire, and based on that, I got a  
24 response rate of 95 patients brought back -- returned their  
25 questionnaire, and this -- at this time, we see the number

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1 of chelation therapies, the number of therapies that they  
2 received and then the number of patients. The majority is  
3 26 to 50 treatments. This looks at marked improvement, and  
4 this was subjective improvement, what the patients felt  
5 themselves, marked, good, partial, no improvement or worse.

6 We can see the people who got more treatments  
7 had generally a higher improvement rate, overall, the 95  
8 patients, 58 of those or 61 percent had marked improvement;  
9 22 had good improvement; 11 partial improvement; 3 no  
10 improvement, and one stated that he was worse and he was  
11 with arthritis, and he said he didn't notice that his  
12 arthritis was better.

13 Overall, of 95.6 percent of the patients that I  
14 have treated have responded -- have demonstrated some degree  
15 of improvement.

16 I was concerned about the creatinine clearance  
17 in the patients, and I went through the files and looked at  
18 the creatinine clearance based upon the number of treatments  
19 to date that they have had. I could only get the data on 62  
20 patients because some -- in later years, I have been looking  
21 a lot at just the creatinine without looking at the  
22 creatinine clearance.

23 The net effect, when you look at the greater  
24 than 100 patients, was the average pre-chelation creatinine  
25 clearance was 110 and then it improved to 122 after their --

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1 that is their most creatinine should be -- creatinine  
2 clearance.

3           It should be noted that that second creatinine  
4 clearance is while they are actively being chelated, and,  
5 so, one would even expect that the creatinine clearance  
6 would then improve as they got further away from their  
7 bolus. I was doing creatinine clearance to make sure that  
8 there was no actual decline in creatinine clearance.

9           The raw net effect on the 62 patients that I  
10 could gather data on was an 87 percent increase in  
11 creatinine clearance.

12           I am going to present just some basic patients.  
13 Here we see a pre-chelation ekg on a patient with marked ST-  
14 T changes in the lateral leads and the interpretation of ST-  
15 T abnormalities were marked suppression, suggesting ischemic  
16 repolarization changes. You see Lead 1 and 2, this is after  
17 a course of chelation therapy, here is the official reading,  
18 it says T waves were somewhat flat throughout, and there is  
19 no mention of any ischemia, it obviously, to anybody with  
20 expertise, looks much better, and there is a lot of -- there  
21 is some movement, artifact, where the STE's are definitely  
22 visible.

23           Here is a leg Doppler on a patient.

24 BY MR. SEELEY:

25           Q           Is it possible, Doctor, that you might be able

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1 to at least summarize this rather than --

2           A           In summary, with the patient documentation that  
3 is present, I demonstrate a cardiac catheterization that  
4 shows improvement. I demonstrate ankle, arm index  
5 improvements. I demonstrate -- those are the only things I  
6 demonstrated improvement, and this is not unusual in the  
7 patient population.

8                       I have not done a lot of extra lab work in  
9 patients, primarily because of the cost. Cardiac  
10 catheterization, when people are feeling better, you cannot  
11 get them to have another repeat catheterization; it is not  
12 medically indicated, and it is not cost effective, and when  
13 they are feeling good, it is hard to get patients to do  
14 these invasive studies.

15                      My conclusions -- I would like to also mention  
16 that there is a chronology of the use of EDTA chelation that  
17 is presented here, and there is an addendum to it, and it  
18 demonstrates the fact that in 1990 and '91, the New Zealand  
19 Department of Health Ministers has endorsed the appropriate  
20 -- appropriation of the EDTA chelation for -- the  
21 appropriateness of using EDTA chelation for atherosclerosis  
22 and their socialized system is paying for it.

23                      In 1991, Ayerst Pharmaceutical Company has  
24 allotted 6.3 million dollars to do a parallel Magnesium EDTA  
25 study to the Walter-Reed and Letterman Army Hospital Studies

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1 that we are aware of.

2 Concluding remarks, for a treatment to be  
3 unethical, unprofessional and dishonorable, there has to be  
4 strong evidence of it being ineffective with no scientific  
5 base or theory supporting it.

6 Asking opinions from individuals who are not  
7 familiar with chelation therapy can be very one-sided,  
8 conservative and prejudicial. How often has one heard, "if  
9 you are not up on something, then you'll be down on it"?

10 Laws already exist regarding informed consent,  
11 drug control, classification from the FDA, physician  
12 liability, patients' rights, patients' complaints. Does the  
13 state Board have the means and expertise to be the regulator  
14 of controlled research studies? Was this the constitutional  
15 intention?

16 Existing evidence is enough for New Zealand to  
17 endorse and pay for EDTA chelation. Some insurance  
18 companies are paying for it in the United States. More  
19 physicians are learning of it and understand its rationale.

20 Chelation should be viewed as an adjunctive  
21 therapy and not as the total answer. I see it as an  
22 additional tool along with surgery, calcium channel  
23 blockers, angioplasty, beta blockers, etc. -- select beta  
24 blockers, I should say.

25 We are witnessing explosions in medical

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1 knowledge, information transfer and applied advances in  
2 therapies, including the explosion of calcium blockers in  
3 the late 1980's, and in fact the first oral calcium channel  
4 blocker was introduced in 1985. Having seen the dramatic  
5 results surgical procedures can offer patients, I have also  
6 enjoyed seeing the dramatic effect chelation can make.

7 We are all taught to be clinically observant in  
8 medical school with a large emphasis on history; when  
9 patients' problems are seen to resolve and they relate  
10 clinical improvements, we need to add this to our knowledge  
11 base. All knowledge is not based on controlled double blind  
12 studies.

13 Our country needs to look at ways of preventing  
14 degenerative disease and treating existing diseases more  
15 cost effectively. Calcium triggers and free radicals are  
16 important aspects of this vision.

17 EDTA administration at \$75.00 per treatment  
18 equate to \$1,500.00 for twenty (20) treatments. This is  
19 slightly more than one day's hospital stay. A Chronic  
20 administration at twenty (20) treatments per year in  
21 addition to the initial series of thirty (30) treatments,  
22 could be paid by the interest from the money saved from one  
23 coronary artery bypass case. Insurance companies and  
24 legislatures should look very closely at the chelation  
25 issue.

A.C.R.

1 I want to thank all the contributors to this  
2 hearing for taking their time and effort to be heard.

3 I would like to thank the Board of Medicine for  
4 reviewing this issue.

5 Finally, I would like to thank the physicians  
6 who have been challenged by their observations, peer  
7 pressure, lawmakers, boards and pharmaceutical interests to  
8 study the nature of chelators, government policies and  
9 financing and have kept the interests of their patients and  
10 their patients' problems as the number one priority.

11 (Witness excused)

12 MR. SEELEY: Doctor, that basically concludes  
13 our presentation.

14 Let me say, I would like to submit the brief  
15 that I mentioned before. This is the work of Andy Fusco,  
16 our local counsel, Pat McIntire from our office, and myself.  
17 Attached to that are various additional materials, including  
18 the Textbook on EDTA Chelation Therapy, as previously  
19 referenced.

20 HEARING EXAMINER MANGUS: You are going to put  
21 those in as an appendix, do you say?

22 MR. SEELEY: Yes, they are with the brief, they  
23 are referred to in the brief, those particular matters.

24 What we would hope is that you will have the  
25 opportunity to be able to present certain recommendations to

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1 the Board, I don't know if that is possible by the January  
2 12th meeting or not.

3 HEARING EXAMINER MANGUS: My understanding is  
4 that once we get the information back from the Court  
5 Reporter and this kind of thing, then I have asked them, I  
6 need a little time to go through it, too, so I -- but I can  
7 assure you, even if she would mail it to me tomorrow, by the  
8 12th of January, I couldn't make that. There is too much  
9 information here to go through, and I haven't had an  
10 opportunity to review.

11 But we certainly -- I think there is something  
12 in here about hearings, that we should respond within 45  
13 days, and I am not sure -- yes, so, we shall try to do that.

14 MR. SEELEY: I understand, too, that you have  
15 the option to request certain, maybe, recommended findings  
16 as well from the parties if you so desire.

17 HEARING EXAMINER MANGUS: Well, my  
18 understanding is that once we have the transcript, and this  
19 will be distributed to all the interested parties, then, you  
20 all will have another opportunity to send back some  
21 additional information, if I am understanding the process  
22 correctly.

23 MR. SEELEY: Okay.

24 HEARING EXAMINER MANGUS: So, once this is  
25 accumulated and put together, you will have a chance to

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1 review it and to make a summary or file another brief along  
2 with that.

3 Am I correct on that, Ms. Rodecker?

4 MS. RODECKER: Yes, I think if they wish to  
5 present proposed findings and conclusions, they will do that  
6 after they receive the transcript, under our rules, if you  
7 wish to do that.

8 MR. SEELEY: Well, we will be notified then?

9 MS. RODECKER: Well, if you get a copy of the  
10 transcript, it will arrive at your office.

11 MR. SEELEY: Well, I am assuming that the Board  
12 will receive a copy of the transcript.

13 MS. RODECKER: Yes, we will, but if you want  
14 your own, you have to make your arrangements with the Court  
15 Reporter and you would get it the same time that we would  
16 receive it.

17 MS. SEELEY: We will be notified when the  
18 transcript is prepared first, I assume?

19 MS. RODECKER: It will come to you at the same  
20 time it comes to the Board, provided you make the  
21 arrangement to get it. I don't know how to answer this any  
22 better.

23 MR. SEELEY: No, I know how that works, I  
24 would, in the interest of trying to save some money on the  
25 transcript, we probably won't order it until we know that it

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1 exists, then, we have an option to look at the Board's copy,  
2 I assume?

3 MS. RODECKER: You can come down to our office  
4 and review it, yes, sure.

5 MR. FUSCO: So, what we are asking is that the  
6 reporter give us notice that she has issued a transcript to  
7 the Board.

8 MR. SEELEY: That's right.

9 MS. RODECKER: Most people get their own, so, I  
10 thought you wanted your own, so, I didn't understand, I'm  
11 sorry.

12 MR. SEELEY: At this point, then, I would like  
13 to thank the Hearing Officer for the patience you have shown  
14 us, and we appreciate it, and at least Pat McIntire and  
15 myself, we are going to try to get back on the road before  
16 the snow flies.

17 HEARING EXAMINER MANGUS: I understand.

18 MR. SEELEY: So, I appreciate it, and I  
19 understand that John Hedges will be assisting in the  
20 testimony for the patient testimony at this point.

21 MR. HEDGES: That is correct, and just to get  
22 things underway, if Mr. Seeley is finished, I don't mean to  
23 interrupt then, I would like to just cut my remarks short  
24 and get to the patients' testimony, and by way of procedure  
25 and to save time, I would ask permission from the Hearing

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1 Examiner to have the Court Reporter swear in all the people  
2 that wish to testify at once rather than as they come  
3 forward, I think it would save some time.

4 HEARING EXAMINER MANGUS: Well, I certainly  
5 have no objection to that, so, let's do that because I would  
6 like to have the opportunity to hear from as many of you as  
7 possible, and in that same vein, if you can, and maybe I am  
8 going to have to say even down to five minutes now, tell us  
9 what you think is most important and that is the message I  
10 will try to translate in my recommendations.

11 MR. HEDGES: If all of you who wish to testify  
12 could just raise your right hand, and she will swear you in.

13 (Witnesses sworn)

14 HEARING EXAMINER MANGUS: Do you have a list,  
15 Mr. Hedges, of the witnesses?

16 MR. HEDGES: Yes, and if it appears that we are  
17 running short of time, I would ask that I may call some of  
18 these people out of turn in order that some of those that  
19 are out of town could be assured that they will have an  
20 opportunity today, and then if necessary, maybe we could --

21 HEARING EXAMINER MANGUS: If I could have that  
22 list back when we are finished. This is an additional list  
23 of people who are here, and I presume you have the list of  
24 those who would like to say something?

25 MR. HEDGES: Yes, sir, after hearing from --

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1 VOICE: Of the people who are attending here.

2 MR. HEDGES: After hearing from the medical and  
3 scientific community this morning, the one aspect or  
4 perspective that we wanted to add was the perspective of the  
5 patients of Dr. Zekan, and what we intend to present right  
6 now is a cross-section of those patients, and certainly not  
7 all of them, although there has been a strong outpouring of  
8 information and support in favor of changing this rule from  
9 these patients, and, today, just as a summary, we would like  
10 to present a few of those people to indicate the broad  
11 support for a change in the rule and just to demonstrate the  
12 disenfranchisement that these people have felt by this ban  
13 of their right to choose the type of treatment that they can  
14 obtain from the physician of their choice.

15 And with that, I would like to call Mr. George  
16 Haddad.

17 (Witness previously sworn)

18 THEREUPON came,

19 G E O R G E H A D D A D,

20 called as a public witness in opposition to the rule, who,  
21 having been first duly sworn according to law, testified as  
22 follows:

23 DIRECT EXAMINATION

24 BY MR. HEDGES:

25 Q Could you please, Mr. Haddad, state your full

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1 name and where you live?

2 A My name is George A. Haddad, I reside at 5409  
3 1/2 Venable Avenue, Charleston, West Virginia.

4 Q All right, and have you been or are you now a  
5 patient of Dr. Zekan?

6 A I have been a patient, but I recently moved  
7 away, and, yes, I am still a patient.

8 Q Can you just give us a brief summary of the  
9 history of your medical problems that led you to see Dr.  
10 Zekan?

11 A I had had three back operations, and I have  
12 diabetes neuritis, my family doctor was Dr. Norman Bsharah  
13 in Charleston, West Virginia, here since 1965, and he had  
14 recommended me to Cleveland Clinic and several other places,  
15 and I had tried just everything to stop the deterioration of  
16 diabetes in my body, and I had a sympathectomy, and after I  
17 had the sympathectomy to -- it was explained to me to free  
18 the blood flow up in my legs, I had an undue amount of pain  
19 in both of my legs, and, anyway, I got to the point where I  
20 didn't have much use of either one of my legs. I had foot  
21 drops in both of them, and my left one now is numb up to  
22 right below the calf.

23 My fingers are almost numb, and my right leg, I  
24 have since this started, just this deterioration, I have had  
25 my right leg amputated up to below the knee, and I had foot

1 drops in both of them and was using braces to walk.

2           Anyway, to make it as short as I can, I went to  
3 Cleveland Clinic, and they did a spinal stenosis operation  
4 on my back, thinking that it would have some bearing; they  
5 ran a lot of tests, but the guy -- the doctor that did the  
6 operation on my back told me that he didn't know how much  
7 relief it was going to give me, and it gave me some relief  
8 for maybe a week to ten days, and then the pain started  
9 back, very severe pain in my legs, and I spent a month there  
10 in Cleveland Clinic.

11           The doctor that treated me and my doctor, that  
12 was Dr. Cheryl Winestine, who is the head of the Internal  
13 Medicine Department of Cleveland Clinic.

14           I then came home, taking a lot of pain medicine  
15 and stuff, and after laying in the bed every day and like --  
16 well, like most of you all don't know me, I was into sports  
17 and baseball and football, and I was -- I usually could  
18 stand a lot of pain, but it got to the point where I was --  
19 the pain was so bad that I was laying in the bed 24 hours a  
20 day and very depressed and crying a lot.

21           So, I got on the phone and called her and told  
22 her that I was coming back and I wasn't leaving until they--  
23 there had to be something that they could do for the pain.

24           So, I went back to Cleveland Clinic, and I  
25 spent three months, and when I left Cleveland Clinic, I was

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1 taking 12 grams of Methadone four times a day, and I came  
2 back to -- right before Christmas, I came back to Charleston  
3 in worse shape than I had when I went up there, and I use--  
4 Dr. Bsharah is a very personal friend of mine along with  
5 being my family physician, and the Methadone was making me  
6 so sick that I went to him and told him that I wanted to  
7 stop taking the Methadone because it was worse than the  
8 pain.

9           So, he said I had to go in the hospital -- he  
10 said I couldn't stop taking it, and I said, well, I am going  
11 to stop taking it because I can't -- it is unbearable, so,  
12 he said, well, you will have to go in the hospital. I  
13 didn't know he was going to put me in a care unit, but I  
14 went to the Charleston General, and they put me in a care  
15 unit, in a drug rehab unit, he said, you have to be watched  
16 because if you just stop taking it all of a sudden, it could  
17 have some effects on your heart or something.

18           Anyway, I was in there for sixteen days, and  
19 during the process time that I was in there, I kept  
20 complaining to the doctor, and the doctor who was head of  
21 the unit was Dr. Terhune, I don't know if she is still there  
22 or not, but she -- I kept complaining that I needed some  
23 medical help, more than I needed help because I have always  
24 been pretty strong willed, and I -- when I went in, she cut  
25 the dosage from 12 grams at a time to 8 grams right off the

1 bat, and then in a period of 16 days, I was completely off  
2 of it for three days, and it was just not a good experience.  
3 I didn't like it, I told her I had to leave.

4 So, about three or four days before I was to  
5 leave, they sent me to a Dr. Lilly who was the head of the  
6 x-ray -- anesthesiologists or X-ray Department in the  
7 General, to see if there was something he could do, and they  
8 -- I had acupuncture tried and I had saddle blocks done and  
9 other things done that would completely numb my legs and  
10 take away the pain, but then I couldn't walk because I  
11 couldn't feel my legs.

12 So, he told me there was nothing he could do  
13 for me, the only thing he could do for me was, as a last  
14 resort, he knew a guy that he would send to me to talk to  
15 me, he didn't even tell me Dr. Zekan's name, apparently, you  
16 can't do much talking about this in the hospital, and you  
17 are not allowed to get the treatments in the hospital or  
18 anything else.

19 So, one time Dr. Zekan called on me at the care  
20 unit; it was a Wednesday or Thursday because I know we  
21 discussed it, and he gave me some vitamins, four or five,  
22 six bottles of vitamins, of which I started taking, and I  
23 got out of the hospital on Friday, and my wife drove me to  
24 his office, and one of the nurses works there, Diane, I  
25 don't know her last name, and my wife and Dr. Zekan, carried

1 me in, I was unable to walk or to function, and took me in,  
2 and they put me in a chair, and I had a treatment on Friday.

3 And, of course, he went through this and gave  
4 me this gallon jug for a creatinine clearance and examined  
5 me, and we talked at length, and then this happened on  
6 Friday, and then on Tuesday, I went back for my second  
7 treatment, and the next -- and I found that it kind of rung  
8 me out a little bit, made me overly tired, but I didn't have  
9 much strength anyway at the time. I had spent -- I had been  
10 ill for like three years, and I had been deteriorating and  
11 getting worse.

12 And I went back the next Friday, and I felt a  
13 little improvement after the first one and then more  
14 improvement after the second one, but after I took the third  
15 treatment, it was like a -- I mean, it was like a light that  
16 hit me or something, because I, 75, 80 percent of my pain  
17 was gone, and I was at least able to think and to function  
18 mentally in every period. I have had almost 90 -- 89  
19 treatments, I think I have had, and I started at two a week,  
20 and I continually got better and got better to where I was  
21 feeling very good until about the last year, I haven't had  
22 any treatments, and to be very honest with you, I am -- my  
23 physical being is deteriorating at a very much more  
24 accelerated pace now than it was before.

25 I have lost my leg, in the meantime, I have

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1 lost most of the feeling in my hands, and I just was  
2 examined again, and I need, according to another doctor,  
3 another stenosis operation on my neck, and then, of course,  
4 I have all the problems that diabetics have and -- but my  
5 sugar was much better when I was taking the chelation; I  
6 would say that my sugar control was much, much better, and  
7 then he changed my -- the way I would take my insulin, I was  
8 taking just NPH insulin once in the morning, and then he  
9 changed it to where I was taking it -- taking Humalin R and  
10 Humalin H in the morning, and then in the afternoon, too,  
11 and he kept increasing the dosage, and there was a marked --  
12 a great marked improvement.

13 Q Okay.

14 A And my quality of life was much better.

15 Q All right, and other than the dramatic decrease  
16 in your pain and the improvement in your sugar, your blood  
17 sugar levels, were there any other effects that you noticed  
18 from that chelation therapy?

19 A Well, it seemed to me that my mental -- well,  
20 my mental aspect and my mental well being got to be a lot  
21 better, too, because the more of the treatments that I took,  
22 I began to feel mentally, I had faith in Steve, Dr. Zekan,  
23 and the staff, I liked all the girls and stuff, the nurses  
24 over there, and I met several people there, I mean, nice  
25 people, and just my general well being was better.

1 Q Okay, so, after the many months at Cleveland  
2 Clinic, you did find some relief from the pain through the  
3 chelation therapy?

4 A Yes, sir.

5 Q Well, I don't want to cut you short, but we  
6 have to give some of these other folks time, so, is there  
7 any concluding remark you would like to say to Dr. Mangus  
8 and to the Board on this?

9 A Well, I would very much like to see, and I  
10 don't know how to put this any way but to be very blunt,  
11 most of my life I have been pretty blunt, and I think it  
12 would be very unfair, and I think it is very unfair, for you  
13 all to take this treatment away. I mean, I can't speak for  
14 the other people, and I can't speak for their diseases, all  
15 I can speak for is me, and what it has done for me, and the  
16 help it has been for me, and it has been just a great, great  
17 improvement in my physical health and my mental health.

18 HEARING EXAMINER MANGUS: Thank you, Mr.  
19 Haddad.

20 MR. HEDGES: Thank you very much.

21 THE WITNESS: I appreciate it, thank you very  
22 much.

23 (Witness excused)

24 (Witness previously sworn)

25 THEREUPON came,

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B E N B O S T I C,

called as a public witness in opposition to the rule, who,  
having been first duly sworn according to law, testified as  
follows:

DIRECT EXAMINATION

BY MR. HEDGES:

Q Mr. Bostic, could you state your name and where  
you are from?

A Ben Bostic, and I am from here in the city.

Q All right, and could you give us just a brief  
history of your health problems prior to seeing Dr. Zekan?

A In 1987, I was admitted to CAMC with severe  
chest pains and arm pain. They took me in and did a  
catheterization and determined that I needed emergency  
bypass. They took me from the catheterization room to the  
operating room and did six bypasses.

After I got out, I recuperated, did a stress  
test, and passed it and went back to work.

After about -- that was in November of '87, I  
did pretty well until the summer of '89, one Saturday, while  
I was working in the yard, I had a sudden attack of chest  
pains and arm pains, similar to what I had had before the  
bypass.

So, I went to see my doctor, and he said, we  
had better put you in, do a thallium stress test and find

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1 out what is wrong.

2 He did that, and he said, we must do another  
3 catheterization because I think you have got a problem.

4 We wanted -- he put me back in CAMC and  
5 discovered that five of the six had closed off completely,  
6 and I only had one main artery supplying my heart.

7 He said, I have got three options, he said,  
8 option number 1 is to do a bypass again, the only problem  
9 with this, he said, you will probably die on the table  
10 because we will destroy the one good artery, and I am not  
11 sure we can do anything about the others, and I said, well,  
12 that's not a real good option, so, let's go to number two.

13 He said, number two is to do the balloon  
14 surgery, he said, the only problem there is if the balloon  
15 should rupture, and that happens, then you will die on the  
16 table, because the operation won't help, and I said, that is  
17 not a good option, what is the third.

18 He said, we will treat it with drugs until the  
19 pain becomes so unbearable that we have to do something  
20 else.

21 Well, we decided to do the drugs. I went along  
22 with the pain and the frustration until one day a lady in my  
23 office told me about chelation.

24 Now, I am a research specialist. After I heard  
25 about it, I began to research, I dug up information, I read

1 up on it, and I said, this is something I can look into.

2 I called Dr. Zekan, made an appointment, went  
3 down and talked to him, and as a consequence, I started  
4 chelation therapy.

5 I talked to a lot of his patients, a number of  
6 whom are here that sat in the room with me, taking  
7 treatment, and they said, you should begin to feel a  
8 difference, five, ten, fifteen treatments.

9 That didn't happen. I waited and I waited and  
10 I waited, but you have to remember, I am a very acute case.

11 After about 30 treatments, though, I began to  
12 notice a lessening of the symptoms, I began to be able to  
13 walk, before I hadn't been able to walk over 15, 20, 30  
14 yards without chest pains and severe pain here (indicating).

15 That all went away. I got to where I could  
16 work again, do physical activities, and do the things I  
17 normally had done after the bypass.

18 I kept getting better and better, I got up to  
19 75 treatments, and I was then on maintenance. I started  
20 twice a week, I got up to once a week, I was getting ready  
21 to go once a month, then, I walked in one Friday to take my  
22 treatment, and they told me, this was -- this was this past  
23 June, that Dr. Zekan no longer would do that, and they  
24 explained why.

25 The problem now is this. Since June I haven't

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1 had any treatment. I have been using the drugs I get from  
2 the heart specialist, and in the interim, by the way, I had  
3 a stroke which has affected my speech.

4 After I stopped taking the treatment, I am now  
5 regressing back to where I was. Now, when I walk 15, 30  
6 yards, I begin to have chest pains and arm pains. I can't  
7 do anything physical. I have difficulty breathing, which is  
8 why I have difficulty talking, and I attribute that directly  
9 to the lack of chelation therapy. I think that has set me  
10 back.

11 Q Okay. That was a very good summary, and you  
12 have handed me a paper, a two-page paper I believe you have  
13 written more elaboration on your opinion on this.

14 A Yes.

15 Q Would you like to submit this to the Board for  
16 their consideration?

17 A Yes, definitely.

18 MR. HEDGES: Okay, this will be submitted as  
19 Exhibit 44.

20 (WHEREUPON, the document referred to  
21 was marked as Exhibit No. 44 for  
22 purposes of identification and was  
23 received into evidence.)

24 BY MR. HEDGES:

25 Q And is there any concluding statement you would

1 like to make for the benefit of the Board?

2 A Yes, all the time I sat in Dr. Zekan's office,  
3 five hours a day, two days a week, I talked to all of the  
4 patients, I have yet -- I probably talked to at least 50, I  
5 have yet to find one who would say this isn't doing any  
6 good. I am wasting my money.

7 So, what I would like to say to the Board is  
8 this, I don't have a lot of time to wait for them to make a  
9 decision, if they are going to take a year or two. By the  
10 time they restart his ability to do the chelation, I will  
11 probably die, so, I would like to see them, if at all  
12 possible, do something to enable Dr. Zekan and other doctors  
13 to give us this in the interim, you know, it is for my  
14 benefit, and I should be able to say whether or not I should  
15 have it, not a doctor.

16 HEARING EXAMINER MANGUS: Thank you, Mr.  
17 Bostic. We will take your request to heart.

18 (Witness excused)

19 HEARING EXAMINER MANGUS: Next?

20 MR. HEDGES: Bertram Payne?

21 HEARING EXAMINER MANGUS: Mr. Payne filed his  
22 testimony.

23 MR. HEDGES: Bill Brown?

24 MR. BROWN: If someone else needs to leave  
25 early, I will relinquish my time to them now because I am

1 here in the city.

2 MR. HEDGES: Are there any folks from out of  
3 town who would really like to get on right now?

4 VOICE: Yes, I would, I have got 165 miles to  
5 go.

6 (Witness previously sworn)

7 THEREUPON came,

8 C L Y D E R I D E N O U R,

9 called as a public witness in opposition to the rule, who,  
10 having been first duly sworn according to law, testified as  
11 follows:

12 DIRECT EXAMINATION

13 BY MR. HEDGES:

14 Q Okay, Mr. Ridenour, please state your full name  
15 and where you are from?

16 A My name is Clyde Ridenour, and I am from  
17 Tunnelton, West Virginia, which is up in Preston County.

18 Q All right, can you give us just a brief summary  
19 of your health problems and what led you to see Dr. Zekan?

20 A Well, I would like to give you the reason we  
21 come to see Dr. Zekan. My wife had two angioplasties within  
22 six weeks, which cost \$32,000, of which I paid about  
23 \$18,000, and my son is a minister here in Charleston --  
24 South Charleston, he called up one evening and said he would  
25 like to -- for us to take chelation, and, of course, like

1 everybody else, I didn't know what chelation was, and she  
2 didn't either.

3           So, a friend of his in the church said he would  
4 come down and talk to him, and we came down and talked to  
5 him, and he got us an appointment with Dr. Zekan on Monday,  
6 and we came in and at that time, I had this hand in a brace  
7 (indicating), and he said, what is wrong with your hand, and  
8 I told him that I lost control of it, and that I had had two  
9 operations for cancer and a heart attack previously, and he  
10 said, well, you are a perfect candidate, and I said, we  
11 didn't come down for me, we came down for my wife.

12           And I said, why should I be, and he said, well,  
13 we have had good success with cancer and so on.

14           So, I said, what have I got to do to take  
15 chelation, and he told us, and he set us up for the blood  
16 work, and another -- and a treatment, and we started taking  
17 treatments January of 1990, and my hand came back within six  
18 months. It is not completely well, but the doctors say it  
19 never will be well, I have got a rare disease, brachial  
20 plexitis, and we took treatments until June when Dr. Zekan  
21 sent us a letter.

22           At that time, my wife was doing very well, she  
23 had no problem walking up hills or whatnot, and I am sure we  
24 would have spent another \$32,000 by now had we not have took  
25 chelation. We was more fortunate than a couple of the

1 gentlemen that has been here, we are now taking chelation in  
2 Pennsylvania, we started in September, we have had three  
3 treatments, and as far as I am concerned, as long as I can  
4 get it and I have got the dollars to do it, I am going to  
5 take chelation.

6 Q Have you ever -- you or your wife ever  
7 experienced any ill effects from the chelation therapy?

8 A None whatsoever.

9 Q Is there anything else you would like to add or  
10 conclude to the Board?

11 A The only thing I would like to say is I don't  
12 know how they checked, but I checked with my legislators and  
13 asked them why they banned chelation, and the first thing  
14 they said is, what is chelation, and I said, you mean you  
15 banned something that you know nothing about? And he said,  
16 I don't know nothing about chelation, he was man enough to  
17 tell me, he said, I will check on it, and he came back, and  
18 he said, I am guilty, I voted to ban chelation in the State  
19 of West Virginia, and I proceeded to tell him about what it  
20 had done for us and how many thousand dollars, which was  
21 about \$12,000 we spent in the last two years of our own  
22 money, and I am not in the habit of throwing my money away,  
23 so, if it wasn't doing any good, I wouldn't be throwing that  
24 money away, as I told him, and I said, I wish you fellows  
25 would either do one of the two things, go back to Charleston

1 and rescind the work that you have done and make it legal  
2 for the people that wish to take chelation, and I think we  
3 would all be a lot better off if you people read what you  
4 did before you did it and done things of this nature.

5 MR. HEDGES: Thank you very much.

6 HEARING EXAMINER MANGUS: Thank you, Mr.  
7 Ridenour.

8 (Witness excused)

9 (Witness previously sworn)

10 THEREUPON came,

11 P A U L H A W K I N S,

12 called as a public witness in opposition to the rule, who,  
13 having been first duly sworn according to law, testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MR. HEDGES:

17 Q Would you state your full name and your  
18 residence, please?

19 A I am Paul Hawkins from Vienna, West Virginia.

20 Q Okay, and could you give us your background as  
21 far as your health problems?

22 A Okay, I am a little different from most of the  
23 people in that I didn't have severe health problems before I  
24 got into chelation. I started chelation in '88, but about  
25 20 years before that, more than 20 years before that, I had

1 cold feet and cold hands.

2 I also noticed in about the late seventies some  
3 intermittent claudication. I read articles, and I read  
4 quite a lot and those kinds of things.

5 My wife also is very health conscious, and I  
6 have got a son that has got a natural food store, and we  
7 read in that area, and I was interested in preventing the  
8 things that we have been hearing about, and, so, therefore, I  
9 started looking into chelation, I read a book by Dr. Morton  
10 that explained chelation and what it was about, and I was  
11 interested in it, but I was so busy, I was in the National  
12 Guard, and I was also a -- I am a Professor at West Virginia  
13 University at Parkersburg, and, so, I just didn't have time  
14 to find a place to go to get chelated.

15 So, in '88, I resigned from the National Guard,  
16 and in fact, I retired from the National Guard, and we  
17 started chelation, but before that, in about '84, I think it  
18 was, or '83 or '84, my optometrist told me that I had  
19 hardening of the arteries, he was the first one that ever  
20 told me I had hardening of the arteries, he said he could  
21 see it in my eyes, and, so, therefore, I took that to heart  
22 and then the Army put me on a blood pressure medication, and  
23 I was taking Tenormin to just keep my blood pressure at a  
24 low enough range that I could stay in until I could retire,  
25 and I wanted to get that out of the way because I don't like

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1 to take medicine for any more than about 30 to 60 days, if  
2 it is not doing something in that length of time, I don't  
3 like to take it any longer, so, I decided to try the  
4 chelation.

5 My wife called a California number that was in  
6 the back of the book, Dr. Morton's book, and they gave her  
7 Dr. Zekan's name and address and telephone number in  
8 Charleston, and since I live in the Parkersburg area, the  
9 distance, I had to be careful how far I could go, and since  
10 I had the summer without having any commitments, I started  
11 taking the chelation treatment, that was in '88.

12 I took them up until last July, I took first  
13 11, 22 -- 22 treatments through the summer and took one a  
14 month. I have been taking one a month as a maintenance.

15 The important thing about it is that I am the--  
16 in approximately November after starting chelation in May,  
17 approximately in November, my blood pressure had begun to  
18 reduce to the point where I started cutting back on the  
19 Tenormin, and I finally ceased taking it the first of  
20 December, and I haven't taken any blood pressure medicine  
21 since.

22 The -- also, my optometrist in '90, in my  
23 regular examination, 1990, he uses fundus photography, and  
24 in the fundus photography, he could see a difference between  
25 1984 and 1990 that was significant, and it is very difficult

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1 to measure that because I couldn't make pictures of it. I  
2 tried to make pictures of that and everything, it was a very  
3 significant difference, you see, in the arterial condition  
4 of the eyes.

5 Q It was certainly an improvement?

6 A It was an improvement, so, therefore, I feel  
7 that I have been able to do what I wanted to do, but when  
8 the chelation stopped in July, the first of July, since the  
9 first of July, I have had no chelation, and, of course,  
10 since I wasn't in a serious condition, it doesn't show up  
11 yet, but I feel, and as soon as possible, I would like to  
12 continue the treatments, since I work five days a week at  
13 teaching college, I cannot get away to go out of state to  
14 get these treatments, and I would like Dr. Zekan, because of  
15 his emphasis is on vitamins and the other aspects of  
16 treatment, and, therefore, I would like to see as soon as  
17 possible this restored.

18 MR. HEDGES: Thank you very much.

19 HEARING EXAMINER MANGUS: Thank you, Mr.

20 Hawkins.

21 (Witness excused)

22 MR. HEDGES: Is there anyone else from out of  
23 town that would like to speak now?

24 (Witness previously sworn)

25 THEREUPON came,

A.C.R.

1                   H O W A R D   F I T Z S I M M O N S ,  
2 called as a public witness in opposition to the rule, who,  
3 having been previously sworn according to law, testified as  
4 follows:

5                                   DIRECT EXAMINATION

6 BY MR. HEDGES:

7           Q           Would you please state your full name and where  
8 you are from?

9           A           Howard Fitzsimmons.

10          Q           And where are you from, Mr. Fitzsimmons?

11          A           Parkersburg, West Virginia.

12          Q           What is your background as far as your health  
13 is concerned?

14          A           Well, in 1987, the year prior to that, we had a  
15 family doctor who said I had an ulcer in the upper back part  
16 of my stomach. I doctored for a year with him and finally  
17 one day I was coming up the street in my automobile, and the  
18 lady doctor there, I had to rush in there right fast, and I  
19 said, this thing is going to come out, and when she got  
20 through x-raying me, found out we had an aneurism, she said,  
21 it is supposed to be this size, but it was this size  
22 (indicating), and she said, where do you want to go, and I  
23 said, I ain't said I am going anywhere yet.

24                   So, finally, I said, well, it must be serious,  
25 I would go to the Cleveland Clinic, and she said, that is a

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1 fine choice.

2           Okay, I went to the Cleveland Clinic, and they  
3 would not take care of the aneurism because they an 80  
4 percent blockage in my heart, and they would have to do that  
5 first because it made too much pressure here, see.

6           I did that in August of '87, I believe it was,  
7 and it was done by Dr. Stewart who was the heart transfer  
8 man there, he seen me one time, okay, in the meantime, I  
9 come home and in October -- well, I am getting ahead of the  
10 story, I had to go into the hospital at home in Parkersburg,  
11 and I had about three quarts of fluid taken out of my lungs,  
12 okay, and in October, I went back for this aneurism, and I  
13 was on the operating table for about eight and a half hours,  
14 and, of course, I didn't know anything about it, they had  
15 everything out on the table, you know, and pretty well  
16 froze, but, anyway, come '89 or '90, I believe, the fellow  
17 who just talked here, Mr. Hawkins, I seen him up at David  
18 Weiss in Parkersburg, and my wife said, well, where are you  
19 going to the doctor, and he says, Charleston. Well, why?  
20 Because this is a holistic doctor, okay?

21           She had been looking for one, so, we came down  
22 to see Dr. Zekan. And, of course, the first thing he does,  
23 he examines you and whatever the cost is, and I don't know  
24 what it is now, but, anyway, it is pretty good, you know,  
25 so, we were examined, and I took 30 -- pert near 40

1 treatments, started out once a week and then went to I think  
2 twice a week or every two weeks and then I am on maintenance  
3 now about every month.

4 Okay, in June, I believe it was, when Dr. Zekan  
5 quit, then I had no treatments, okay. We started here two  
6 times ago, two treatments ago, going out of state.

7 Q Where do you go?

8 A To Columbus.

9 Q Okay

10 A Which is a pretty good drive, you know, it is  
11 120 miles from Parkersburg.

12 Okay, this seems to have -- my wife, she had  
13 pain up her arm, and she had high blood pressure, and that  
14 is all gone.

15 Q As far as the benefits to you, what --

16 A Okay, my benefits is when I came home from the  
17 Cleveland Clinic, I could not keep my feet warm, I would  
18 wrap them in a moist heat pad all night long, turned high,  
19 never would get them warm, and after I took several of these  
20 treatments here, you know where I sleep with them now? Most  
21 of the time, out from under the covers. That's right, and  
22 that is how it has affected me.

23 Another thing that I do notice is the fact that  
24 I am just a little -- when I take one of these treatments,  
25 it kind of makes you a little weak, a little bit, you know,

1 but other than that, I have no quarrel with it at all, it  
2 does me good.

3 Q And what is your opinion, then, of the rule  
4 that bans chelation therapy in West Virginia?

5 A Well, first of all, is it a rule or a law?

6 Q It is the rule with the effect of law, so, it  
7 is a law.

8 A A law?

9 Q Yes.

10 A Okay, it is a poor law as far as I am concerned  
11 because you really -- nobody should be able to tell anybody  
12 how they are going to take care of their own health, when  
13 they are going to do it. Nobody should -- that is Nazism,  
14 or whatever you want to call it, it is not right, it should  
15 not be done.

16 MR. HEDGES: Well, thank you very much.

17 HEARING EXAMINER MANGUS: Thank you, sir.

18 (Witness excused)

19 HEARING EXAMINER MANGUS: We have about eight  
20 more minutes.

21 MR. HEDGES: Okay, as far as getting in the  
22 rest of these folks' testimony, what would be your position  
23 on trying to get in the rest of these out-of-towners or at  
24 least a couple of more, and some time within the next week  
25 to ten days, briefly reconvening to conclude this public

1 comment? These folks have put in a long day, I know, as  
2 well as you have, and they are very interested in getting  
3 their opinions on the record for the benefit of you and the  
4 Board and would be very interested in it.

5 HEARING EXAMINER MANGUS: I think we have maybe  
6 two options here, and one is to take any additional written  
7 commentary that anyone would like to offer who has been here  
8 today and take it as a -- as testimony.

9 About convening another one, I don't have any  
10 real problem with that, provided that we can work something  
11 out with you.

12 You know, to ask people to come back again, I  
13 know is a real inconvenience. I would like to encourage  
14 them, these have been, you know, such graphic stories of  
15 what has happened to you, and, you know, we are not going to  
16 put these in the Encyclopedia Britannica, but they are going  
17 to go to some people who will read them with interest to see  
18 what you have to say about how it has been beneficial to you  
19 and what you would like to see done about it.

20 Yes, ma'am.

21 VOICE: Could we mail these in, possibly?

22 HEARING EXAMINER MANGUS: Yes, indeed, I don't  
23 see anything wrong with that, and I will tell you if we  
24 can't do that, so, if we can't do that, I will assure you we  
25 will come right back down here and sit right back down

1 together again.

2 VOICE: People can go to the Medical Board  
3 meeting and give testimony?

4 HEARING EXAMINER MANGUS: Now, that I don't  
5 know. Board meetings, I don't think that is part of the  
6 process.

7 VOICE: It is behind closed doors and you can't  
8 talk to the Board members?

9 HEARING EXAMINER MANGUS: Well, you know, the  
10 Board members are public, I mean, you know, we can send you  
11 a copy of them, they are right here in the book, all the  
12 people, and you are free to talk to these people any time,  
13 you know, ring their bell and tell them what you think about  
14 it.

15 There is nothing that says you can't do that.  
16 This is just a formal process that is provided for in the  
17 law that gives every physician and every individual the  
18 opportunity to question what rules and regulations and law  
19 until they are changed that you are living under and that is  
20 the purpose of this.

21 Now, I have been asked to listen and take your  
22 testimony and the evidence and so forth and make a  
23 recommendation to the Board. That doesn't mean they will  
24 have to listen to what I say at all, but I will try to  
25 incorporate all of the information that we have had

1 presented here today, and in addition to that, any that you  
2 want to send and send to the Board of Medicine, you can send  
3 it in care of myself, that is J. L. Mangus, M-a-n-g-u-s, or  
4 you can send it Hearing for Chelation, any way you want to  
5 address it so that we can make sure you get it there.

6 VOICE: Why do we have to quit at four o'clock?

7 HEARING EXAMINER MANGUS: Excuse me, sir?

8 VOICE: Why do we have to quit at four o'clock?

9 HEARING EXAMINER MANGUS: Because I have an  
10 obligation that is very demanding and compelling, and it was  
11 done before this was set up.

12 VOICE: Dr. Mangus, I wonder if I could -- I  
13 have been very moved by some of these stories today, as I  
14 suspect other people have. I wonder if there is any way the  
15 Board could allow people temporarily to re-institute their  
16 treatments until it could make a decision? In some cases, I  
17 personally, and I am a physician, and I would feel very  
18 uncomfortable if I knew that one of these people who came  
19 here today was somehow harmed by not being able to get a  
20 treatment that had been beneficial before.

21 Is there some way we could request that the  
22 Board suspend enforcement of this law at least until they  
23 could make a decision about it, for those people who have  
24 already gotten treatment?

25 HEARING EXAMINER MANGUS: I don't see that

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1 there is anything wrong with that. I am not sure that I can  
2 do it because the process that I am forced to go through,  
3 through the judicial process as outlined in the law, but  
4 there is nothing to stop each and every one of you from  
5 contacting any and all members of the Board of Medicine and  
6 telling them directly how you feel about your denial of  
7 proper care and that's perfectly -- that is the  
8 responsibility of anybody who represents the government.  
9 You have the right to that.

10 VOICE: Dr. Mangus, I wrote to each one of the  
11 individuals, and I didn't get an answer from any of them.

12 HEARING EXAMINER MANGUS: You mean they didn't  
13 even recognize you?

14 VOICE: We did, too.

15 VOICE: They didn't even call you on the phone.

16 VOICE: It is absolutely a waste of time to  
17 write those people.

18 HEARING EXAMINER MANGUS: Well, that is  
19 interesting, none of that has come out that anybody has  
20 written to the Board.

21 MR. JONES: When you get into the hands of  
22 politics, it is ruined, and I don't know how much the  
23 medical profession has paid the Legislature to pass a law  
24 like this, that is having people to die because they can't  
25 get a treatment from an honest, reliable source.

1 VOICE: And we are paying for it ourself.

2 MR. JONES: If there is anything dishonorable,  
3 unethical or unprofessional conduct, to deprive or harm the  
4 public or any member thereof, it is being done by the  
5 Medical Board of West Virginia.

6 HEARING EXAMINER MANGUS: Those comments will  
7 be carried into the record.

8 MR. JONES: My name is Andrew T. Jones, and if  
9 you would like to put it in the record, I would like to have  
10 it put in there.

11 HEARING EXAMINER MANGUS: It will be in the  
12 record because I want to continue this meeting for at least  
13 three more minutes, but I would like to, during that time,  
14 to try to arrive at something that is satisfactory with all  
15 of you about what our next step would be.

16 I think certainly one of these is any written  
17 testimony from anyone who has been here would certainly be  
18 given recognition.

19 MS. BURGESS: I would like to give to you  
20 written testimony from Mary Louise Somerville, she has sent  
21 a picture of an ulcer on her foot, it has gone from one  
22 centimeter to three since she has been denied the treatment.  
23 She was planning to come today, but she has gotten so bad  
24 that she can't.

25 HEARING EXAMINER MANGUS: I understand that.

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1 MS. BURGESS: Here is a statement from Naomi  
2 Persinger, 93 years old, had ten treatments, she is walking  
3 now without dragging her right leg, and it was even helping  
4 the pain in her hands.

5 And my statement, and in the last part of my  
6 statement is that since I am being denied this and since  
7 other things that had gotten better with me are now going  
8 downhill, if I have a severe stroke or a heart attack, I am  
9 asking my nephew to sue the Board of Medicine, and I am also  
10 giving you the article that one of the professors talked  
11 about, and then this is one of the articles that is in the  
12 book that was given to you, and this is about how we are  
13 affected by the slight trace deficiencies in various parts  
14 of things we are supposed to get in our food and we don't  
15 get today, and, so, that article means a lot to me because I  
16 think that we are all being abused by our food industry and  
17 it shows up in this way.

18 Thank you.

19 HEARING EXAMINER MANGUS: All right, thank you,  
20 Ms. Burgess, and we will enter these in as exhibits.

21 (WHEREUPON, the documents referred  
22 to were marked as Exhibit Nos. 45,  
23 46, 47 and 48 for purposes of  
24 identification and were received into  
25 evidence.)

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1 MR. HEDGES: Dr. Mangus, just to get a feel, I  
2 understand you are willing to reconvene, if we could ask  
3 these people here now just by a show of hands if there is a  
4 genuine interest in having a brief reconvening of this  
5 hearing some morning, possibly -- we are getting close to  
6 Christmas, but some morning in the near future, and can I  
7 see a show of hands, and that is as far as the interest in  
8 continuing this testimony until another day?

9 HEARING EXAMINER MANGUS: I am convinced but  
10 that still doesn't mean that we can't accept your written  
11 testimony. I think that is a very effective way because  
12 what we will have is a chance to go to the Board because  
13 they will have to listen to what we have to say.

14 VOICE: Sir, will you accept a --

15 HEARING EXAMINER MANGUS: No, I don't believe  
16 we can do that because she has to have this as a hard --  
17 something that is written, or at least that is my  
18 understanding.

19 VOICE: Sir, you are the only one here --

20 VOICE: How long is it going to be before we  
21 know what to do?

22 HEARING EXAMINER MANGUS: Well, as I have said,  
23 I have been told the process will run about 45 days because  
24 of the transcriptions, it is just -- I know the lawyers know  
25 more about that than I do, but that is just the way the

1 wheels grind, but I might suggest to you again, if you can't  
2 get the Board to listen, the Legislature is going to convene  
3 here within one month, and they did this, and they can  
4 change it.

5 VOICE: We wrote them a letter, too.

6 HEARING EXAMINER MANGUS: Well, I can't solve  
7 the problem, but I can only suggest.

8 VOICE: Just remember one thing, boys, they are  
9 coming up for election.

10 MR. HEDGES: Well, Dr. Mangus, Mary Johnson is  
11 here from out of town, and I realize we are out of time, but  
12 she says hers is very short. If we could just indulge your  
13 patience a couple of minutes.

14 HEARING EXAMINER MANGUS: All right. We've got  
15 20 seconds, go right ahead. We can stretch that just as  
16 long as you need to.

17 (Witness previously sworn)

18 THEREUPON came,

19 M A R Y J O H N S O N,  
20 called as a public witness in opposition to the rule, who,  
21 having been first duly sworn according to law, testified as  
22 follows:

23 DIRECT EXAMINATION

24 BY MR. HEDGES:

25 Q Please state your name and where you are from?

A.C.R.

1           A           My name is Mary Johnson, and I live in Mineral  
2 Wells, West Virginia, just south of Parkersburg.

3           Q           If you would just like to briefly state your  
4 health background and why you went to see Dr. Zekan and the  
5 results?

6           A           Okay, I am one of the very fortunate ones. I  
7 have a brother-in-law that was in chelation therapy when I  
8 started experiencing heart pains and high blood pressure. He  
9 said, I have checked into chelation, it works, he said, I  
10 think you ought to go and take some chelation treatments.

11                    So, he gave me a bypass -- BYPASSING BYPASS  
12 book to read -- but I am getting ahead of my story a little  
13 bit.

14                    Anyhow, we came down to Dr. Zekan, made the  
15 appointment, went through all the examinations for the heart  
16 catheterization, found out I had five blockages, they  
17 recommended bypass surgery, without exception, no balloon  
18 surgery, just the bypass surgery.

19                    Well, that scared me nearly to death because I  
20 had never been sick in my life, so, I was ready to go have  
21 the surgery right now, I wanted to get it over with so I  
22 could get on with my life.

23                    So, I cried all the way home, I read the book  
24 on bypassing bypass surgery, and my brother-in-law said, you  
25 read the book and then you make up your own mind.

1 I read the book, I went back to Dr. Zekan, and  
2 I said, I want the chelation treatments, I do not care to  
3 put my body through bypass surgery. That is not the answer.  
4 That is a solution at the time, but it is not a permanent  
5 answer.

6 My brother has been through two bypass  
7 surgeries in six years, he is in worse condition now than he  
8 ever was before he had the surgery done.

9 So, anyhow, I started taking the chelation  
10 therapy, I could not walk 100 yards to my mailbox without  
11 coming back and falling in a chair to sit down and get my  
12 breath. After taking 20 or 25 chelation treatments, I  
13 started walking in the city park, and I walked, started out  
14 with a mile and gradually increased it to walking three  
15 miles, which I had never done in my life.

16 I am 62 years of age now, and since the  
17 chelation treatments have been stopped, I have started  
18 gradually going down, not only because of my physical health  
19 but because of the depression, knowing that I -- the right  
20 was taken away from me to choose the kind of treatment that  
21 I wanted to take, and I feel like if I can get back in  
22 chelation therapy again and follow his instructions like he  
23 gave us, I know that I can come out of this again.

24 So, I firmly request that the Board reconsider  
25 this because I don't think you have the right to play God

A.C.R.

1 with our lives. This ought to be our decision to make, the  
2 kind of treatment that we want to have.

3 Thank you.

4 HEARING EXAMINER MANGUS: Thank you very much.

5 (Witness excused)

6 HEARING EXAMINER MANGUS: I would like to thank  
7 all of you again for taking the time to come down and help  
8 us with this problem.

9 Please mark this as Board Exhibit No. 1.

10 (WHEREUPON, the document referred to  
11 was marked as Board Exhibit No. 1 for  
12 purposes of identification and was  
13 received into evidence.)

14 HEARING EXAMINER MANGUS: And mark these as  
15 Exhibits 49, 50, 51 and 52.

16 (WHEREUPON, the documents referred to  
17 were marked as Exhibit Nos. 49, 50,  
18 51, and 52 for purposes of  
19 identification and were received  
20 into evidence.)

21 (WHEREUPON, the hearing in the  
22 above-styled case was continued to  
23 January 7, 1991, at 9:00 a.m.)  
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REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,  
WEST VIRGINIA BOARD OF MEDICINE, to-wit:

I, M. K. Comer, Certified Court Reporter, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of proceedings had and testimony adduced in the above-styled case, taken pursuant to notice before Hearing Examiner J. L. Mangus, commencing at 9:00 a.m., on December 18, 1991, in the Cultural Center, State Capitol Complex, Charleston, Kanawha County, West Virginia.

M. K. Comer

M. K. Comer, Certified Court Reporter