

**NEW YORK**  
state department of  
**HEALTH**

Public

Nirav R. Shah, M.D., M.P.H.  
Commissioner

Sue Kelly  
Executive Deputy Commissioner

November 17, 2011

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Richard A. Wilmot, M.D.  
Enthesis Medical Associates  
2 Executive Park Drive  
Albany, NY 12203

Re: License No. 182056

Dear Dr. Wilmot:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 11-274. This order and any penalty provided therein goes into effect November 24, 2011.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

REDACTED SIGNATURE

Katherine A. Hawkins, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Lia B. Mitchell, Esq.  
Maynard, O'Connor, Smith & Catalinotto, LLP  
6 Tower Place  
Albany, NY 12203

IN THE MATTER  
OF  
RICHARD WILMOT, M.D.

CONSENT  
ORDER

BPMC No. 11-274

Upon the application of (Respondent) RICHARD WILMOT, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Consent Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 11/17/11

REDACTED SIGNATURE

KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

**IN THE MATTER  
OF  
RICHARD WILMOT, M.D.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

RICHARD WILMOT, M.D., represents that all of the following statements are true:

That on or about May 10, 1990, I was licensed to practice as a physician in the State of New York, and issued License No. 182056 by the New York State Education Department.

My current address is 2 Executive Park Drive, Albany, New York 12203, and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct (Board) has charged me with Six Specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I do not contest the Third Specification (Negligence on more than one occasion) to the extent of Factual Allegations D.2 and E.1 therein; and I also admit the Sixth Specification (Failing to maintain an accurate record of evaluation and care) ,in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to New York Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for twenty four [24] months, with such suspension stayed pending my compliance with the terms of probation attached as Exhibit

"B". In addition, pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude my examination and/or treatment of any female patient other than in the presence of a chaperone, as further described in the Terms of Probation.

Finally, pursuant to New York Pub. Health Law § 230-a(9), I shall be placed on probation for 36 months, subject to the terms set forth in attached Exhibit "B."

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall remain in continuous compliance with all requirements of N.Y. Educ Law § 6502 including but not limited to the requirements that a licensee shall register and continue to be registered with the New York State Education Department (except during periods of actual suspension) and that a licensee shall pay all registration fees. Respondent shall not exercise the option provided in N.Y. Educ. Law § 6502(4) to avoid registration and payment of fees. This condition shall take effect 120 days after the Consent Order's effective date and will continue so long as Respondent remains a licensee in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Consent Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's

compliance with this Consent Order. Respondent shall meet with a person designated by the Director of OPMC, as directed.

Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Consent Order shall constitute misconduct as defined by N.Y. Educ. Law § 6530(29).

I agree that, if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to N.Y. Pub. Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Consent Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Consent Order, this

agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website. OPMC shall report this action to the National Practitioner Data Bank and the Federation of State Medical Boards, and any other entities that the Director of OPMC shall deem appropriate.

I stipulate that the proposed sanction and Consent Order are authorized by N.Y. Pub. Health Law §§ 230 and 230-a, and that the Board and OPMC have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and I ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either to enter into the proposed agreement and Consent Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 11-2-11

REDACTED SIGNATURE

RICHARD WILMOT, M.D.  
RESPONDENT

The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 11-2-2011

REDACTED SIGNATURE

\_\_\_\_\_  
LIA B. MITCHELL, ESQ.  
Attorney for Respondent

DATE: 11/7/11

REDACTED SIGNATURE

\_\_\_\_\_  
MICHAEL A. HISER, ESQ.  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 11/16/11

REDACTED SIGNATURE

\_\_\_\_\_  
KEITH W. SERVIS  
Director  
Office of Professional Medical Conduct

IN THE MATTER  
OF  
RICHARD WILMOT, M.D.

STATEMENT  
OF  
CHARGES

RICHARD WILMOT, M.D., the Respondent, was authorized to practice medicine in New York State on or about May 10, 1990, by the issuance of license number 182056 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided medical care to Patient A [all patients are identified in the attached Appendix], a female 35 years old when treatment began, at his office at 2 Executive Park Drive, Albany, New York, 12203 [hereafter, "Respondent's Office"], from on or about February 2007 to on or about June 2008. Respondent's care of Patient A was contrary to accepted standards of practice, in that:
1. Respondent, on or about February 14, 2008, following an examination with the patient, and while alone with her in the examination room, hugged the patient and kissed her on the cheek.
  2. Respondent, on or about February 21, 2008, while purporting to need to exam the patient's pubic bone/genital area as she was lying on the examination table, while her genitals were exposed, leaned against the table so that his genital area was touching the patient's arm.
  3. Respondent, on or about February 21, 2008, while purporting to need to exam the patient's pubic bone/genital area, had her stand up, and while she was facing away from him, pushed on the outside of her labia and vulva. During this time, Respondent was not wearing gloves.
  4. Respondent, on or about February 21, 2008, following the examination with the patient, and while alone with her in the examination room, hugged the patient and kissed her on the cheek.
  5. Respondent, on or about March 3, 2008, following an examination with



the patient by another health care provider in the Respondent's office, came into the examination room and again hugged the patient and kissed her on the cheek.

6. Respondent, on or about April 3, 2008, while purporting to examine the patient's buttocks and lower back by use of a so-called frequency specific "graphite glove", and while alone with her in the examination room, told the patient that she had a "nice little tooshy", or words to that effect.
7. Respondent, on or about April 3, 2008, while purporting to treat the patient's exposed buttocks by massage using a so-called frequency specific "graphite glove", and while alone with her in the examination room, spoke to the patient using words specifically or to the effect of: "you know what's good? I like working on you. If I didn't like working on you I wouldn't have you come back in. You're so uninhibited."
8. Respondent, between 2/21/08 and 6/5/08, performed or authorized the performance of "frequency specific stimulation" on the patient, without adequate medical indication, and/or without documenting such adequate medical indication.
9. Respondent, between approximately February 2, 2007, and June 5, 2008, despite a decrease of her TSH level below normal on three occasions, prescribed Levothyroxin and/or Synthroid for the patient, without adequate medical indication and/or without documenting such adequate medical indication.

B. Respondent provided medical care to Patient B, a female 58 years old when treatment began, at Respondent's Office, from on or about April 2007 to on or about January 2009. Respondent's care of Patient B was contrary to accepted standards of practice, in that:

1. Respondent, between approximately April 2007 and January 2009, despite a decrease of her TSH level below normal on one occasion, prescribed Levothyroxin and/or Synthroid for the patient without adequate medical indication and/or without documenting such adequate medical indication.

C. Respondent provided medical care to Patient C, a female 25 years old when treatment began, at Respondent's Office from on or about December 2008 to on or about June 2009. Respondent's care of Patient C was contrary to

accepted standards of practice, in that:

1. Respondent, between approximately December 2008 and June 2009, despite a decrease of her TSH level below normal on two occasions, prescribed Levothyroxin and/or Synthroid for the patient without adequate medical indication and/or without documenting such adequate medical indication.

D. Respondent provided medical care to Patient D, a female 58 years old when treatment began, at Respondent's Office from on or about June 2005 to on or about February 2008. Respondent's care of Patient D was contrary to accepted standards of practice, in that:

1. Respondent, between approximately June 2005 and February 2008, prescribed Levothyroxin and/or Synthroid for the patient, without adequate medical indication and/or without documenting such adequate medical indication.
2. Respondent, despite prescribing Levothyroxin and/or Synthroid to Patient D from approximately June 2005 to February 2008, failed to order a laboratory study to evaluate the patient's response to these medications, and/or without documenting that he ordered such laboratory studies.

E. Respondent provided medical care to Patient E, a female 44 years old when treatment began, at Respondent's Office from on or about March 2006 to on or about July 2009. Respondent's care of Patient E was contrary to accepted standards of practice, in that:

1. Respondent, between approximately March 2006 and July 2009, despite a decrease in her TSH level below normal on 4 occasions, prescribed Levothyroxin and/or Synthroid for the patient without adequate medical indication and/or without documenting such adequate medical indication.

F. Respondent provided medical care to Patient F, a female 44 years old when treatment began, at Respondent's Office from on or about September 2007 to on or about March 2009. Respondent's care of Patient F was contrary to accepted standards of practice, in that:

1. Respondent, between approximately September 2007 and March 2009, despite a decrease of her TSH level below normal on one occasion, prescribed Levothyroxin and/or Synthroid for the patient, without adequate medical indication and/or without documenting such adequate medical indication.

G. Respondent provided medical care to Patient G, a female 51 years old when treatment began, at Respondent's Office from on or about September 2008 to on or about April 2009. Respondent's care of Patient G was contrary to accepted standards of practice, in that:

1. Respondent, between approximately September 2008 and April 2009, despite a decrease of her TSH level below normal on one occasion, prescribed Levothyroxin and/or Synthroid for the patient without adequate medical indication and/or without documenting such adequate medical indication.

H. Respondent provided medical care to Patient H, a female 23 years old when treatment began, at Respondent's Office from on or about March 2006 to on or about May 2008. Respondent's care of Patient H was contrary to accepted standards of practice, in that:

1. Respondent, in May 2006, and again from approximately July 2007 to November 2007, prescribed Levothyroxin and/or Synthroid for the patient, without adequate medical indication, and/or without documenting such adequate medical indication.

## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

#### **WILFUL HARASSMENT OR ABUSE PHYSICALLY OR VERBALLY**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(31) by willfully harassing, abusing, or intimidating a patient either physically or verbally, as alleged in the facts of:

1. Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, and/or A and A.7.

### **SECOND SPECIFICATION**

#### **MORAL UNFITNESS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

2. Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5, A and A.6, and/or A and A.7.

### **THIRD SPECIFICATION**

#### **UNWARRANTED TESTS/TREATMENT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the

facts of:

3. Paragraphs A and A.8, A and A.9, B and B.1, C and C.1, D and D.1, E and E.1, F and F.1, G and G.1, and/or H and H.1.

#### **FOURTH SPECIFICATION**

##### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

4. Paragraphs A and A.8, A and A.9, B and B.1, C and C.1, D and D.1, D and D.2, E and E.1, F and F.1, G and G.1, and/or H and H.1.

#### **FIFTH SPECIFICATION**

##### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

5. Paragraphs A and A.8, A and A.9, B and B.1, C and C.1, D and D.1, D and D.2, E and E.1, F and F.1, G and G.1, and/or H and H.1.

**SIXTH SPECIFICATION**  
**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the care and treatment of the patient, as alleged in the facts of:

6. Paragraphs A and A.8, A and A.9, B and B.1, C and C.1, D and D.1, D and D.2, E and E.1, F and F.1, G and G.1, and/or H and H.1.

DATE:

*November 7*  
October 7, 2011  
Albany, New York

REDACTED SIGNATURE

\_\_\_\_\_  
Peter D. Van Buren  
Deputy Counsel  
Bureau of Professional Medical Conduct

## EXHIBIT "B"

### Terms of Probation

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to N.Y. Pub. Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that this information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Respondent shall notify OPMC, in writing, within 30 days of any additions to or changes in the required information.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of 30 consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive 30 day period. Respondent shall then notify the Director again at least 14 days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period shall resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.

7. The Director of OPMC may review Respondent's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.
8. Respondent shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Respondent shall ensure education, training and oversight of all office personnel involved in medical care, with respect to these practices.
9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

(CHAPERONE)

10. Respondent shall, in the course of practicing medicine in New York State, examine and/ treat any female patient only in the presence of a chaperone. The chaperone shall be a licensed or registered health care professional or other health care worker, shall not be a family member, personal friend, or be in a professional relationship with Respondent which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written the approval of the Director of OPMC.
11. Prior to the approval of any individual as chaperone, Respondent shall cause the proposed chaperone to execute and submit to the Director of OPMC an acknowledgment of the chaperone's agreement to undertake all of the responsibilities of the role of chaperone. Said acknowledgment shall be made upon a form provided by and acceptable to the Director. Respondent shall provide the chaperone with a copy of the Order and all of its attachments and shall, without fail, cause the approved chaperone to:
  - a. Report quarterly to OPMC regarding the chaperoning of Respondent's practice.
  - b. Report within 24 hours any failure of Respondent to comply with the Order, including, but not limited to, any failure by Respondent to have the chaperone present when required, any sexually suggestive or otherwise inappropriate comments by Respondent to any patient, and any actions of a sexual nature by Respondent in the presence of any patient.
  - c. Confirm the chaperone's presence at each and every examination and treatment of a female patient by Respondent, by placing the chaperone's name, title and date in the patient record for each and every visit, and by maintaining a separate log, kept in the chaperone's own possession, listing the patient name and date of visit for each and every patient visit chaperoned.
  - d. Provide copies of the log described in paragraph c, above, to OPMC at least quarterly and also immediately upon the Director's request.



(PRACTICE MONITOR)

12. Within thirty days of the Consent Order's effective date, Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.
  - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
13. Respondent shall enroll in and successfully complete a continuing education program in the areas of appropriate boundaries with patients, and in the use of thyroid hormone replacement therapy, for a minimum of 30 credit hours each. This continuing education program is subject to the Director of OPMC's prior written approval and shall be completed within the first 120 days of the probation period.
14. Respondent shall comply with this Consent Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or a violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.