



STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

January 29, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph Milano, Esq.
Schwartz, Harmon, Levin & Milano
275 Madison Avenue
New York, New York 10016-1101

Robert S. Asher, Esq.
295 Madison Avenue
Suite 700
New York, New York 10017

Sylvia P. Finkelstein, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

RE: In the Matter of Steven Tames, M.D.

Dear Mr. Milano, Mr. Asher and Ms. Finkelstein:

Enclosed please find the Determination and Order (No. 97-28) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's
Determination and Order.

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

IN THE MATTER
OF
STEVEN TAMES, M.D.

DETERMINATION
AND
ORDER
BPMC-97-28

A Commissioner's Order and Notice of Hearing dated June 10, 1996 and a Statement of Charges, dated June 5, 1996, were served upon the Respondent, Steven Tames, M.D. JOHN A. D'ANNA, M.D. (Chair), WARREN R. BETTY, M.D. and NANCY J. MACINTYRE, R.N., Ph.D. duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. JEFFREY W. KIMMER, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Sylvia P. Finkelstein, Esq., Associate Counsel. The Respondent appeared by Robert S. Asher, Esq. and Joseph Milano, Cocounsel. Evidence was received and witnesses sworn and heard and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

PROCEDURAL HISTORY

Date of Service of Commissioner's
Order and Notice of Hearing
and Statement of Charges: June 11, 1996

Answer to Statement of Charges: None

Dates of Hearing:

July 2, 1996
July 11, 1996
July 12, 1996
July 31, 1996
August 20, 1996
September 4, 1996
September 11, 1996
October 1, 1996
October 7, 1996
October 8, 1996
October 17, 1996
October 24, 1996

Witnesses for Department of Health:

Patient A
Patient A's Mother
Patient B's Mother
Patient C
Patient C's Mother
Det. Dennis Zack
Alfred M. Markowitz, M.D.

Witness for Respondent:

Patient C.C.
Alfred M. Markowitz, M.D.
Mary McLeod

Patient K.B.
Ronnie Cyzner, M.D.
Faheem Abbaasi, M.D.
Patient J.G.
Stephen Weseley, M.D.
Diane Daniels
Ronald Kaitz, M.D.
Steven Jeffrey Meyerson, M.D.
Richard Berne, Esq.
James F. Johnson, M.D.
Israel Franco, M.D.
Steven Sivak, M.D.
Tomas Jose Silber, M.D.
Stanford Friedman, M.D.
Marcelle Lewis, R.N.
Steven Tames, M.D.
Frederick J. Matzner, M.D.

Deliberations Held:

December 2, 1996

STATEMENT OF CASE

The Statement of Charges alleged nine specifications of professional

misconduct, including allegations of willfully abusing a patient, engaging in conduct which evidences moral unfitness to practice the profession and the fraudulent practice of medicine.

A copy of the Statement of Charges is attached to this Determination and Order as Appendix I.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. Unless otherwise noted, all Findings and Conclusions herein are the unanimous determination of the Hearing Committee. Having heard testimony and considered evidence presented by the Department of Health and the Respondent respectively, the Hearing Committee hereby makes the following findings of fact. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited. Numbers in parentheses refer to transcript page numbers or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. All Findings of Fact made by the Hearing Committee were established by at least a preponderance of the evidence.

GENERAL FINDINGS

1. STEVEN M. TAMES, the Respondent, was authorized to practice

medicine in New York State on or about August 10, 1979, by the issuance of license number 139390 by the New York State Education Department. (Exhibit [hereinafter Ex.] 2).

2. The Respondent is currently registered with the New York State Education Department to practice medicine. (Ex. 2).

PATIENT A

3. At all times with respect to Patient A, Respondent was a pediatrician specializing in adolescent medicine and was affiliated with Our Lady of Mercy Medical Center, located at 600 East 233rd Street, Bronx, New York 10466. (Exs. 3 & U).

4. Respondent treated Patient A at the Outpatient Adolescent Clinic of Our Lady Of Mercy Medical Center (OLM) and during a surgical hospitalization at St. Agnes Hospital, from in or about February, 1995 through in or about November, 1995. (Transcript [hereinafter T.] 1759, 1829; Ex. 3)

5. In or about February 1995, Patient A, a 14 year old male, was diagnosed as suffering from Marfan's Syndrome. Thereafter he was referred to the Outpatient Adolescent Clinic at OLM and came under the care of the Respondent. (T. 42 - 44 142-43, 1760-61, 1779; Ex. 3)

6. From in or about February 1995 through November 1995, on numerous occasions when Patient A came to the OLM for medical examinations, Respondent caused Patient A's mother to leave the examination room leaving the Respondent

and Patient A alone. Thereafter, on several occasions, Respondent touched Patient A's penis and testicles. (T.46-47, 49, 51, 57-63, 131, 146-48, 149-50)

7 On or about July 20, 1995, Patient A underwent a surgical procedure to repair a pectus excavatum. On or about November 7, 1995, Patient A was seen by Respondent at the Adolescent Clinic of OLM for a post-surgical follow-up visit. In the course of purportedly performing a physical examination, Respondent caused Patient A's mother to leave the examination room. Thereafter, Respondent fondled Patient A's testicles and told Patient A to masturbate in his presence. Patient A did not comply and Respondent stroked Patient A's penis until the Patient ejaculated. (T. 52, 63-65, 145-46).

8. Patient A reported this event to his mother immediately. Thereafter, this was reported to OLM , to the police and to Montefiore Medical Center Emergency Room on November 14, 1995. (T. 66, 67-70, 117-18, 123, 125, 152-54 ; Ex. 9).

PATIENT B

9. At all times with respect to Patient B, Respondent was a pediatrician specializing in adolescent medicine and was affiliated with the Westchester County Medical Center, Valhalla, New York. Respondent treated Patient B at said institution as an outpatient and during hospitalizations from in or about November 1986 through in or about January 1991. (T. 249, 251, 259, 1956; Exs. 8 & 12)

10. On or about January 7, 1991, during an outpatient visit, Patient B was seen by Respondent. Respondent caused Patient B's mother to leave the room. In the course of purportedly performing a physical examination, Respondent fondled Patient B's testicles and asked him to masturbate in his presence and to imagine that he was at the beach and there were girls there. Respondent told Patient B to "jerk off" until he was almost ready to ejaculate. Without wearing gloves, Respondent touched Patient B's penis while it was erect. (T. 261-264 Exs. 4, K &13).

11. On or about January 14, 1991, during an outpatient visit, Patient B was seen by Respondent. In the course of purportedly performing a physical examination, Respondent told Patient B to masturbate and left the room. Respondent came back into the room and Patient B had not complied. Respondent asked Patient B again to get an erection and to call him when he was ready to ejaculate. Respondent left the room. Patient B masturbated and called Respondent who returned and told the Patient to ejaculate in his presence. Patient B did so. Respondent touched Patient B's penis. (Exs. 4 & 13).

12. Patient B reported these incidents to hospital personnel, to his mother and to the police. (T. 264, 267, 270-272, 340, 348-353; Exs. 4 & 13)

PATIENT C

13. Respondent treated Patient C, at his office located at St. Agnes Hospital, 311 North Street, Suite 304B, White Plains, New York. Respondent treated Patient B from on or about June 6, 1990 through on or about December 5, 1995. (T. 381-

382, 389; Exs. 5 & 6).

14 Patient C came under the care of Dr. Tames following surgical repair of congenital abnormalities. Patient C suffered from Short-Gut Syndrome. Respondent treated Patient C to monitor his growth and nutritional needs. Respondent developed a personal and social relationship with Patient C. (T. 379-384, 396-401, 519-525).

15. Commencing in or about 1994, when Patient C 16 years old, in the course of outpatient visits, on more than one occasion, Respondent asked Patient C to masturbate in his presence. On many of these occasions, Respondent placed his hand on Patient C's penis and masturbated him. (T. 386-403, 431-33, 497-506).

16. Patient C reported these incidents to his mother. (T. 526, 529-31).

CONCLUSIONS

The following conclusions were made pursuant to the Findings of Fact listed above. The Hearing Committee concluded that the following Factual Allegations were proven by a preponderance of the evidence (the paragraphs noted refer to those set forth in the Statement of Charges, Factual Allegations). The citations in parentheses refer to the Findings of Fact (supra), which support each Factual Allegation:

Paragraph A: (3,4);

Paragraph A.1.a. (5,6);

Paragraph A.2.a. (7);

Paragraph B. (9);

Paragraph B.2.a. (10);

Paragraph B.2.b. (10);

Paragraph B.3.a. (11);

Paragraph B.3.b. (11);

Paragraph C. (13,14) except the Hearing Committee found that Patient C was born with Short-Gut Syndrome;

Paragraph C.1.a. (15) except the Hearing Committee found that it was "on more than one occasion."

The Hearing Committee concluded that Factual Allegation Paragraph B.1.a. was not proven by a preponderance of the evidence.

The Hearing Committee further concluded that the following Specifications should **be sustained**. The citations in parentheses refer to the Factual Allegations from the Statement of Charges, which support each specification:

**WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT
EITHER PHYSICALLY OR VERBALLY**

First Specification: (Paragraphs A., A.1.a., A.2.a.);

Second Specification: (Paragraphs B., B.2.a., B.2.b., B.3.a., B.3.b.);

Third Specification: (Paragraphs C., C.1.a.);

**ENGAGING IN CONDUCT IN THE PRACTICE OF MEDICINE
WHICH EVIDENCES MORAL UNFITNESS TO PRACTICE MEDICINE**

Fourth Specification: (Paragraphs A., A.1.a., A.2.a.);

Fifth Specification: (Paragraphs B., B.2.a., B.2.b., B.3.a., B.3.b.);

Sixth Specification: (Paragraphs C., C.1.a.);

PRACTICING THE PROFESSION FRAUDULENTLY

Seventh Specification: (Paragraphs A., A.1.a., A.2.a.);

Eighth Specification: (Paragraphs B., B.2.a., B.2.b., B.3.a., B.3.b.);

Ninth Specification: (Paragraphs C., C.1.a.).

DISCUSSION

The Hearing Committee found the testimony of Patient A completely credible. Patient A's recounting of events was consistent and corroborated by the medical record and the testimony of his mother. His testimony was unequivocal and remained so during detailed direct and cross-examination. He was relatively calm

with reactions that appeared to be appropriate to the situation. His mother's testimony was equally consistent with respect to her recounting of the substance of the allegations, the sequence of events she witnessed and the facts related to her by her son. The Committee found both witnesses to be credible.

The Respondent did not put forth any compelling reason why Patient A would lie. The Respondent testified that the patient's mother was angry about his refusal to sign on an application for Patient A to qualify for SSI benefits. The Hearing Committee did not find it credible that the patient's mother would fabricate such an intricate story of misconduct and then either force or convince her son to lie.

The Respondent testified about an incident of spontaneous ejaculation by Patient A during an examination. The Respondent alleged that during the examination the patient had an erection, at which time someone walked into the examining room embarrassing the patient. The Respondent then locked the door at the patient's request, continued the examination, a part of which involved touching the patient's scrotum which led to the ejaculation. The Respondent put forth this incident as a possible explanation of Patient A's misinterpretation of what occurred. The Hearing Committee does not find that credible. Given the Respondent's recital of the sequence of events it found it unbelievable that after someone walked in on the examination causing the patient to be "very embarrassed" he would then ejaculate when the Respondent touched his scrotum.

Patient B's mother testified as to the events she witnessed and as to incidents reported to her by her son. Her testimony was consistent with other evidence corroborating Patient B's experiences with the Respondent. The substance of his allegations remained unequivocal as reported by him to hospital personnel, the police and his mother. In addition, the substance of the allegations reported by Patient B to the hospital, the police and his mother, are consistent with his own handwritten statement describing the events prepared by him for the police on

January 27, 1991. There was no compelling evidence offered to conclude that she was lying. The Respondent offered as an explanation of why Patient B was lying was that he was angry about a breach of confidence on the part of the Respondent. The Hearing Committee found this explanation unconvincing given the complexity and degree of detail of the patient's account of the incidents. This patient in his written statement also noted that the Respondent checked his genitalia because of the possibility of the diabetes leading to problems with respect to this physiological area of the body. The Hearing Committee found this to lend credibility to the patient's account of events.

The Hearing Committee finds the testimony of Dr. Ronald Kaitz to be unpersuasive with respect to Patient B's alleged psychiatric condition. Dr. Kaitz's assessment was based on one interview. Dr. Kaitz did not participate in the care rendered to Patient B during his January 1991 hospitalization, he admitted that other mental health practitioners were in fact involved in his care and he had no ongoing relationship with the patient. Dr. Kaitz testified that Fran Negrillo, the director of risk management asked him to perform an evaluation, on the date of discharge, in his capacity as head of the committee that investigated "unusual occurrences" for risk management purposes. Dr. Kaitz also admitted that he performed his mental status evaluation in the midst of a police investigation of the Patient's allegations of sexual abuse. Dr. Kaitz further admitted that he did not review Patient B's medical records prior to interviewing him, nor did he speak to any member of his treatment team, because his "consult" was not part of the Patient's medical treatment. The Hearing Committee gave little weight to Dr. Kaitz's testimony.

Patient C and his mother also testified before the Committee. Patient C's testimony was equally supported by the medical record. His recounting of the events was corroborated by other evidence, including admissions by Respondent regarding the social aspects of their relationship and the buying of gifts. The

testimony of Patient C and Mrs. C remained consistent during extensive direct and cross-examination. The Committee finds both witnesses to be credible. The hearing Committee found no compelling evidence that Patient C or his mother were consciously or subconsciously given details of the other allegations pending against the Respondent by the Department's investigators. There was no persuasive evidence that he was coached in his testimony. This is of particular importance in light of the fact that both Patients B and C described the Respondent as asking them to imagine pretty girls on a beach to aid them in obtaining an erection and masturbating.

Each of the witnesses testified in a manner that was internally consistent and supported by other evidence. Their testimony remained consistent and credible during detailed direct and cross-examination. Each of the witnesses was straightforward and their reactions appeared to be appropriate to the situation.

The record demonstrated a pattern with respect to Respondent's misconduct. All three patients were similar in age, background, appearance and ethnicity. Their contact with Respondent occurred at separate institutions in different geographic locations, at different points in time, each of them was vulnerable, suffered from a chronic illness which rendered them dependent upon continuing medical care. The patients do not know each other, yet, their independent description of Respondent's conduct with respect to each of them is similar. Their separate account of the abuse confirm a pattern of misconduct.

The Hearing Committee found the testimony of the Department's investigator with respect to the investigation into these Patients' allegations to be consistent and corroborated by other evidence. The Hearing Committee found no evidence that they influenced the statements made or the testimony of any of the witnesses.

The Hearing Committee finds the testimony of Patients K. B. and J. G. to be largely collateral to the issues set forth in the statement of charges.

However, the testimony of these patients with respect to the personal/social aspects of their doctor-patient relationship with Respondent shows a pattern of inappropriate behavior by Respondent with respect to these young male patients (e.g. giving personal gifts, taking them to restaurants and entertainment events). Their testimony indicates Respondent's inability to maintain appropriate boundaries in his relationships with young male patients .

The Hearing Committee finds the testimony of Dr. Cyzner, Dr. Abbasi and Dr Meyerson each of whom testified to having participated in a month-long rotation under Respondent's tutelage, to be collateral to the issues set forth in the statement of charges. These former residents did not remember Patient C or any other patient. Although they testified to being generally present in Respondent's office during their month-long assigned rotation, they were unable to testify with certainty as to their presence on any specific date relevant to Patient C's allegations. Furthermore, these residents testified they were absent at least one afternoon a week during their rotation when they were at a continuity clinic or otherwise engaged.

Respondent presented expert testimony from Drs. Stanford Friedman, James Johnson, Israel Franco, Jose Silber and Frederick Matzner. The allegations set forth in the statement of charges are factual in nature. The clinical/medical care rendered by Respondent is not an issue before us. No expert medical evidence was presented by the Department other than to narrowly define the medical conditions each of the Patients suffered from. None of these witnesses had any direct knowledge or information directly related to the facts alleged by the Patients against Respondent. None of these witnesses had examined any of the patients whose allegations were the basis for the charges. Although credible they in no way altered the case as set forth by the testimony of the Patients and the Respondent. Their testimony was largely collateral to the charges.

Ultimately the Hearing Committee found no compelling reason to not believe

the allegations as set forth by the Patients.

Based on a preponderance of the evidence the Hearing Committee concluded that Respondent engaged in the conduct set forth in detail above with respect to Patients A, B and C. The Committee finds that Respondent, while purportedly rendering medical care, willfully abused these Patients by inappropriately touching their genitalia.

Actions which show a moral unfitness can arise from conduct which violates a trust related to the practice of the profession or from activity which violates the moral standards of the professional community to which the Respondent belongs. The Committee found the Respondent's actions with respect to the three Patients constituted a violation of professional trust. These Patients all had serious medical conditions and went to the Respondent for treatment. Respondent severely abused the trust these Patients placed in him. As noted above no compelling evidence was presented or adduced that would detract from the credibility or contradict the testimony of Patients A, C and B's mother.

Therefore, The Committee found Respondent engaged in conduct which evidences moral unfitness to practice medicine in that the facts show Respondent to have violated his professional trust and the ethical standards of the medical community to which he belongs.

The Committee found that Respondent, while purportedly rendering medical care, willfully abused Patient A, B and C by engaging in inappropriate touching of their genitalia.

Respondent was also charged with practicing the profession fraudulently under Education Law §6530. This statute sets forth numerous forms of conduct which constitute professional misconduct, but does not provide definitions of the various types of misconduct. During the course of its deliberations on these charges, the Hearing Committee consulted a memorandum from the General

Counsel for the Department of Health. This document, entitled "Definitions of Professional Misconduct Under the New York Education Law," included a suggested definition of the fraudulent practice of medicine.

The following definition from the memorandum was used by the Hearing Committee during its deliberations:

Fraudulent Practice of the Profession is an intentional misrepresentation or concealment of a known fact. An individual's knowledge that he/she is making a misrepresentation or concealing a known fact with the intention to mislead may properly be inferred from certain facts.

Using the above-referenced definition as a framework for its deliberations with respect to the specification of practicing the profession fraudulently, , the Hearing Committee concluded that this specification was supported by the evidence in the record. The Hearing Committee determined that the Respondent's conduct did fit the definition as set out above and therefore the specification should be sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions set forth above, unanimously determined that Respondent's license to practice medicine in New York State **should be revoked**. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The record in this case clearly established that Respondent willfully abused

Patient A, B and C and exhibited conduct which indicates his moral unfitness to practice medicine.

Any individual who receives a license to practice medicine is placed into a position of public trust. Respondent essentially forfeited his right to that public trust by his actions with respect to these Patients.

The Hearing Committee unanimously determined that no sanction short of revocation would adequately protect the public.


ORDER

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First through Ninth Specifications of professional misconduct, as set forth in the Statement of Charges (Appendix I) are **SUSTAINED**;
2. Respondent's license to practice medicine in New York State be and hereby is **REVOKED**.

DATED: Staten Island, New York

January 27, 1997



JOHN A. D'ANNA, M.D. (Chair)
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APPENDIX I

IN THE MATTER
OF
STEVEN TAMES, M.D.

STATEMENT
OF
CHARGES

STEVEN TAMES, M.D., the Respondent, was authorized to practice medicine in New York State on or about August 10, 1979, by the issuance of license number 139390 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. At all times herein mentioned, Respondent was a pediatrician (adolescent medicine) and was affiliated with Our Lady of Mercy Medical Center, 600 East 233rd Street, Bronx, New York 10466. Respondent treated Patient A at the Outpatient Adolescent Clinic of said institution and during hospitalization from in or about February, 1995 through in or about November, 1995. (Patient A and all patients are identified in the annexed Appendix).
1. In or about February 1995, after a diagnosis of Marfan's Syndrome, Patient A, a 14 year old male, was referred to the Outpatient Adolescent Clinic for follow up and came under the care of Respondent. From in or about February 1995, through October 1995, on numerous occasions, in the course of purportedly performing a physical examination, but not for a legitimate medical purpose, Respondent engaged in conduct as follows:

- a. After conducting a physical examination of Patient A and causing Patient A's mother to leave the room, Respondent fondled Patient A's penis and touched his testicles.
2. On or about November 7, 1995, Patient A was seen by Respondent at the Adolescent Clinic, during a post-surgical follow-up visit, secondary to surgery performed on July 20, 1995 to repair a pectus excavatum. In the course of purportedly performing a physical examination, but not for a legitimate medical purpose, Respondent engaged in conduct as follows:
 - a. After conducting a physical examination of Patient A, and causing his mother to leave the room. Respondent fondled Patient A's testicles and told Patient A to masturbate in his presence. When Patient A did not comply. Respondent grabbed Patient A's penis with his hand and instructed him to close his eyes. Respondent stroked Patient A's penis until the Patient ejaculated.
- B. At all times herein mentioned, Respondent was a pediatrician (adolescent medicine) and was affiliated with Westchester County Medical Center, Valhalla, New York. Respondent treated Patient B at said institution as an outpatient and during hospitalizations from in or about November, 1986 through in or about January, 1991.

1. In or about November 1986, after a diagnosis of diabetes, Patient B, a 14 year old male, was hospitalized and came under the care of Respondent. In the course of purportedly performing a physical examination, but not for a legitimate medical purpose, Respondent engaged in conduct as follows:
 - a. Respondent fondled Patient B's testicles and rubbed the Patient's penis.

2. On or about January 7, 1991, during an outpatient visit, Patient B was seen by Respondent. In the course of purportedly performing a physical examination, but not for a legitimate medical purpose, Respondent engaged in conduct as follows:
 - a. After examining the upper part of Patient B's body, and causing Patient B's mother to leave the room, Respondent asked Patient B to masturbate in his presence and to imagine he was at the beach and there were girls there. Respondent told Patient B to "jerk off" until he was almost ready to ejaculate.
 - b. Without wearing gloves, Respondent touched Patient B's penis while it was erect.

3. On or about January 14, 1991, during an outpatient visit, Patient B was seen by Respondent. In the course of purportedly performing a physical examination, but not for a legitimate

medical purpose, Respondent engaged in conduct as follows:

- a. After examining Patient B's upper body, Respondent told Patient B to masturbate and left the room. Respondent came back into the room and Patient B had not complied. Respondent asked Patient B again to get an erection and to call him when he was ready to ejaculate. Respondent left the room. Patient B masturbated and called Respondent who returned and told the Patient to ejaculate in his presence. Patient B did so.
- b. Respondent touched Patient B's penis.

C. At all times herein mentioned, Respondent was a pediatrician (adolescent medicine) and maintained outpatient offices at New York Medical College, Valhalla, New York and at St. Agnes Hospital, 311 North Street, Suite 304B, White Plains, New York. Respondent treated Patient C from on or about June 6, 1990 through on or about December 5, 1995. Patient C came under the care of Dr. Tames following surgical repair of congenital abnormalities. Patient C was born without a colon. Respondent treated Patient C s to monitor his growth and nutritional needs. Respondent developed a personal and social relationship with Patient C.

1. Commencing in or about 1994, when Patient C was 16 years old, in the course of outpatient visits, but not for a legitimate medical purpose, Respondent engaged in conduct as follows:

- a. On numerous occasions Respondent asked Patient C to masturbate in his presence. On many of these occasions, Respondent placed his hand on Patient C's penis and masturbated him.

SPECIFICATION OF CHARGES

FIRST THROUGH THIRD SPECIFICATIONS

WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT EITHER PHYSICALLY OR VERBALLY

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 1996) by willfully harassing, abusing or intimidating a patient wither physically or verbally, as alleged in the facts of:

1. Paragraph A, A.1, A.1.a, A.2, and/or A.2.a.
2. Paragraph B, B.1, B.1.a, B.2, B.2.a, B.2.b, B.3, B.3.a and/or B.3.b.
3. Paragraph C, C.1, and/or C.1a.

FOURTH THROUGH SIXTH SPECIFICATIONS
MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1996) 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:

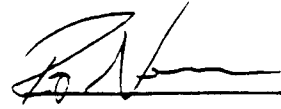
4. Paragraph A, A.1, A.1.a, A.2, and/or A.2.a.
5. Paragraph B, B.1, B.1.a, B.2, B.2.a, B.2.b, B.3, B.3.a and/or B.3.b.
6. Paragraph C, C.1, and/or C.1a.

SEVENTH THROUGH NINTH SPECIFICATIONS
FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1996) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

7. Paragraph A, A.1, A.1.a, A.2, and/or A.2.a.
8. Paragraph B, B.1, B.1.a, B.2, B.2.a, B.2.b, B.3, B.3.a and/or B.3.b.
9. Paragraph C, C.1, and/or C.1a.

DATED: June 5, 1996
New York, New York



ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct