

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE  
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

January 23, 1991

Ralph N. Wharton, Physician  
1070 Park Avenue - Suite 1D  
New York, N.Y. 10128

Re: License No. 086027

Dear Dr. Wharton:

Enclosed please find Commissioner's Order No. 11065. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

*Gustave Martine*

MOIRA A. DORAN  
Supervisor

DJK/MAD/mn  
Enclosures

**CERTIFIED MAIL- RRR**

cc: Frederick I. Miller, Esq.  
Garfunkel, Wild & Travis, P.C.  
175 Great Neck Road  
Great Neck, N.Y. 11021

**RECEIVED**

FEB 05 1991

91036100455  
Office of Professional  
Medical Conduct

**REPORT OF THE  
REGENTS REVIEW COMMITTEE**

---

**RALPH N. WHARTON**

---

**CALENDAR NO. 11065**



# **The University of the State of New York**

IN THE MATTER  
of the  
Disciplinary Proceeding  
against

**RALPH N. WHARTON**

**No. 11065**

who is currently licensed to practice  
as a physician in the State of New York.

---

## **REPORT OF THE REGENTS REVIEW COMMITTEE**

RALPH N. WHARTON, hereinafter referred to as respondent, was licensed to practice as a physician in the State of New York by the New York State Education Department.

This disciplinary proceeding was properly commenced and on seven dates from October 25, 1988 to June 20, 1989 a hearing was held before a hearing committee of the State Board for Professional Medical Conduct. A copy of the statement of charges, with the exception of the appendix, is annexed hereto, made a part hereof, and marked as Exhibit "A".

The hearing committee rendered a report of its findings, conclusions, and recommendation, a copy of which is annexed hereto, made a part hereof, and marked as Exhibit "B".

The hearing committee unanimously concluded that respondent was guilty of the first and second specifications of the charges,

**RALPH N. WHARTON (11065)**

to the extent indicated in its report, and recommended that respondent's license to practice medicine be suspended for a period of six months and that the suspension be stayed.

The Commissioner of Health recommended to the Board of Regents that the findings of fact of the hearing committee be accepted in full, that its conclusions be accepted in part, as indicated in his recommendation, that the penalty recommended be rejected, and that respondent receive a Censure and Reprimand. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On December 3, 1990 respondent appeared before us in person and was represented by his attorney, Fredrick I. Miller, Esq. who presented oral argument on behalf of respondent. Claudia M. Bloch, Esq. presented oral argument on behalf of the Department of Health.

Petitioner's written recommendation as to the measure of discipline to be imposed, should respondent be found guilty was a Censure and Reprimand.

Respondent's written recommendation as to the measure of discipline to be imposed was no recommended penalty - charges should be dismissed.

The parties were advised that this matter would be expeditiously processed for review at the next Board of Regents meeting.

We have considered the record as transferred by the Commissioner of Health in this matter, as well as respondent's July 27, 1990 memorandum.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's findings of fact and the Commissioner of Health's recommendation as to those findings be accepted, except that finding of fact numbered 14, with respect to the introductory paragraph, be deemed corrected as to the dates and deemed modified as to what was evident to respondent, to read as follows:

14. During the months from December, 1986 to the end of treatment in June, 1987, Patient A's erotic transference was escalating, as evident to respondent from the following events:

and that as so corrected and modified finding of fact numbered 14 (a) through (d) be accepted;

2. The conclusions of the hearing committee be accepted, and the conclusions of the Commissioner of Health be accepted, except that his conclusion as to guilt of the first and second specifications based on paragraph C (iii) of the statement of charges not be accepted;
3. Respondent be found guilty, by a preponderance of the evidence, of the first and second specifications of the charges to the extent indicated by the hearing committee, with the understanding that the testimony of the private investigators be accepted solely to the extent reflected in findings of fact numbered 18 through 20;
4. That the recommendation of the hearing committee as to

RALPH N. WHARTON (11065)

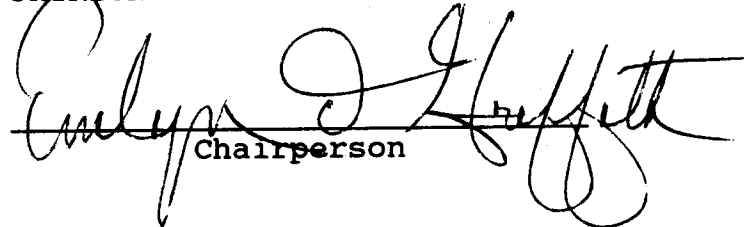
- the measure of discipline not be accepted;
5. That the recommendation of the Commissioner of Health as to the measure of discipline be accepted;
  6. That, in agreement with the rationale of the Commissioner of Health, the particular circumstances of this case, and it appearing that respondent's misconduct was an aberration of his lengthy and distinguished career and is not likely to recur, respondent be Censured and Reprimanded upon each specification of the charges of which respondent was found guilty, as aforesaid.

Respectfully submitted,

EMLYN I. GRIFFITH

JANE M. BOLIN

PATRICK J. PICARIELLO

  
Chairperson

Dated: December 6, 1990

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

X

IN THE MATTER : STATEMENT  
OF : OF  
RALPH N. WHARTON, M.D. : CHARGES

X

Ralph N. Wharton, M.D., the Respondent, was authorized to practice medicine in New York State on July 11, 1961 by the issuance of license number 086027 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1986 through December 31, 1988 at 1070 Park Avenue, New York, New York 10028.

FACTUAL ALLEGATION

A. Between on or about April, 1986 and June, 1987, Respondent rendered psychiatric treatment to Patient A (the identity of Patient A is set forth in an Appendix annexed hereto).

B. During the course of the therapy, Patient A developed a strong transference reaction to the Respondent which she acted upon by verbalizing her affection for the Respondent and relating transference dreams, sending the Respondent love letters, buying the Respondent expensive gifts, and initiating physical contact with the Respondent.

C. The Respondent failed to appropriately respond to and address Patient A's strong transference reaction in that he, on more than one occasion:

(i) accepted expensive gifts offered by Patient A,

(ii) had communications and contact of a personal nature with Patient A outside of the office setting,

(iii) during various office sessions, engaged in physical contact with Patient A which included hugging and kissing, and fondling of Patient A's breasts and genitalia. Respondent also allowed Patient A to carress him and fondle his genitals, and,

(iv) failed to appropriately terminate his professional relationship with Patient A and/or seek a consultation and outside intervention.



D. On or about June 29, 1987, Respondent accompanied Patient A to a restaurant and thereafter spent time with her in his office. During their time together on this occasion, Respondent again engaged in physical contact with Patient A as stated above in paragraph C (iii).

#### SPECIFICATION OF CHARGES

##### FIRST SPECIFICATION

##### IMMORAL CONDUCT BY A PSYCHIATRIST

The Respondent is charged with professional misconduct under N.Y. Educ. Law Section 6509(9) (McKinney 1985), in that, in the practice of psychiatry, he engaged in immoral conduct within the meaning of 8 N.Y.C.R.R. 29.4(5)(i) (1980) in the physical conduct of a sexual nature between a physician and a patient, in that Petitioner charges:

1. The facts in Paragraphs A, B, C(ii), C(iii), and D.


##### SECOND SPECIFICATION

##### NEGLIGENCE ON MORE THAN ONE OCCASION

The Respondent is charged with professional misconduct by reason of his having practiced the profession with negligence on more than one occasion within the meaning of N.Y. Educ. Law Section 6509(2) (McKinney 1985), in that Petitioner charges that Respondent has committed two or more of the following negligent acts:

2. The facts in Paragraphs A, B, C(i), C(ii), C(iii), C(iv) and D.

DATED: New York, New York  
*September 13, 1988*

  
Chris Stern Hyman  
Counsel  
Bureau of Professional  
Medical Conduct

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

-----X  
IN THE MATTER : REPORT BY  
OF : THE HEARING  
RALPH N. WHARTON, M.D. : COMMITTEE  
-----X

TO: The Honorable David Axelrod, M.D.  
Commissioner of Health of the State of New York

The undersigned Hearing Committee (the Committee) consisted of David T. Lyon, M.D., (Chairman), Richard D. Milone, M.D., Ms. Thea Graves Pellman. The Committee was duly designated, constituted and appointed by the State Board for Professional Medical Conduct (the Board). The Administrative Officer was Harry Shechtman, Administrative Law Judge.

The hearing was conducted pursuant to the provisions of New York Public Health Law Section 230 and New York State Administrative Procedure Act Sections 301-307 to receive evidence concerning the charges that the Respondent has violated provisions of New York Education Law Section 6509. Witnesses were sworn or affirmed and examined. A stenographic record of the hearing was made. Exhibits were received in evidence and made part of the record.

The Committee has considered the entire record herein and makes this Report of its Findings of Fact, Conclusions and Recommendations to the New York State Commissioner of Health.

PROCEDURAL HISTORY

Statement of Charges dated:	September 13, 1988
Notice of Hearing and Statement of Charges served upon Respondent:	September 28, 1988
Notice of Hearing returnable:	October 25, 1988
Places of Hearing:	8 East 40th Street and 270 Broadway New York, New York
Answer:	None filed
Bureau of Professional Medical Conduct appeared by:	Claudia Morales Bloch, Esq. Associate Counsel
Respondent appeared by:	Kenneth Harfenist, Esq.
Pre-hearing Conference held on:	October 25, 1988
Hearings held on:	October 25, 1988 December 14, 1988 January 6, 1989 February 22, 1989 March 15, 1989 April 19, 1989 June 20, 1989
Record closed on:	June 20, 1989

Petitioner's proposed Findings of  
Fact received on:

July 17, 1989

Respondent's proposed Findings of  
Fact received on:

July 25, 1989

Deliberations held on:

August 9, 1989 and  
December 1, 1989

#### STATEMENT OF THE CASE

The Respondent, a psychiatrist, is charged with professional misconduct pursuant to §6509 of the Education Law and Part 29.4(5)(i) of 8 NYCRR, in that he engaged in immoral conduct and committed two or more negligent acts in connection with his treatment of one patient.

The factual allegations are:

A. Between on or about April, 1986 and June, 1987, Respondent rendered psychiatric treatment to Patient A (the identity of Patient A is set forth in an Appendix annexed hereto).

B. During the course of the therapy, Patient A developed a strong transference reaction to the Respondent which she acted upon by verbalizing her affection for the Respondent and relating transference dreams, sending the Respondent love letters,

buying the Respondent expensive gifts, and initiating physical contact with the Respondent.

C. The Respondent failed to appropriately respond to and address Patient A's strong transference reaction in that he, on more than one occasion:

- i. accepted expensive gifts offered by Patient A;
- ii. had communications and contact of a personal nature with Patient A outside of the office setting;
- iii. during various office sessions, engaged in physical contact with Patient A which included hugging and kissing, and fondling of Patient A's breasts and genitalia. Respondent also allowed Patient A to caress him and fondle his genitals; and
- iv. failed to appropriately terminate his professional relationship with Patient A and/or seek a consultation and outside intervention.

D. On or about June 29, 1987, Respondent accompanied Patient A to a restaurant and thereafter spent time with her in his office. During their time together on this occasion, Respondent again engaged in physical contact with Patient A as stated above in Paragraph C (iii).

WITNESSES ON BEHALF OF THE PETITIONER

Patient A

Sylvia Wybert Olarte, M.D. -- psychiatrist, expert witness.

Albert Palocsik -- private investigator

Joel Holiber -- private investigator

WITNESSES ON BEHALF OF THE RESPONDENT

Clarice Kestenbaum, M.D. -- psychiatrist, expert witness

William Frosch, M.D. -- psychiatrist, expert witness

Donald S. Kornfeld, M.D. -- psychiatrist, expert witness

Ralph N. Wharton, M.D. -- Respondent

FINDINGS OF FACT

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. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. The Hearing Committee unanimously reached each of the following findings of fact unless otherwise noted.

1. Ralph N. Wharton, M.D., the Respondent, was authorized to practice medicine in New York State on July 11, 1961 by the issuance of license number 086027 by the New York State Education Department. The Respondent was registered with the New York State Education Department to practice medicine for the period January 1, 1986 through December 31, 1988 at 1070 Park Avenue, New York, New York 10028.

2. Between on or about April, 1986 and June, 1987, Respondent rendered psychiatric treatment to Patient A.

3. Between 1977 and 1984, Rafael Levi, M.D. provided psychiatric services to Patient A and initially diagnosed Patient A as borderline schizophrenia and depressed. (Ex. 13)

4. While under Dr. Levi's care, Patient A repeatedly acted out sexually and otherwise, drank excessively, and had an erotic transfer which continued throughout treatment. Patient A's condition did not improve during treatment nor as a result of treatment. (T. 541-543; Ex. 13)

5. Although Patient A, in fact, was under treatment by Dr. Levi for 7 years she advised Dr. Wharton that she saw Dr. Levi for 3 years, (T. 769) and testified that she saw Dr. Levi only 1 year. (T. 11)



6. During early April 1986, Bruce Barron, M.D., an obstetrician-gynecologist and Myron Roberts, M.D., a urologist, both members of the medical staff of the Presbyterian Hospital, referred Patient A to Dr. Wharton for psychiatric care as a result of the persistence of abdominal pain and insomnia, despite negative findings. (T. 766-767)

7. In Patient A's initial session with Dr. Wharton, Patient A complained about abdominal pain, discussed depression, talked about divorcing her husband and indicated that she had had prior psychiatric treatment with Dr. Levi. Dr. Wharton, requested permission from Patient A to contact Dr. Levi in order to obtain Patient A's psychiatric history; however, Patient A refused to consent and stated to Dr. Wharton that Dr. Levi was no longer in practice and unavailable. (T. 591, 604, 766-767)

8. During the third session with Patient A, Dr. Wharton recommended a six month trial of treatment. Dr. Wharton decided to attempt in-depth psychotherapy. Dr. Wharton insisted on a consultation and that Patient A schedule an appointment with Wayne Myers, M.D., for marriage consultation. (T. 775-777)

9. From April 1986 through June 1986, as a result of Dr. Wharton's treatment, Patient A stopped complaining of

abdominal pains, began to look into work and schooling and stopped taking most medications. (T. 780)

10. In late August 1986, Patient A went to Europe and upon her return in September, expressed some doubts with respect to continuing treatment. Dr. Wharton recommended verbally and in writing to Patient A that Patient A continue treatment. (T. 783-784; Pet. Ex. 3)

11. From July 1986 through December 1986, Patient A progressed. Through Dr. Wharton's encouragement and insistence, Patient A worked in a series of jobs culminating in full-time work in November 1986. By December 1986, Patient A had reduced the use of cigarettes and alcohol, had less anxious dreams and was sleeping regularly. During this period, Patient A had several positive transference dreams and several erotic dreams. (T. 785-787)

12. Upon completion of the six month trial of therapy, Dr. Wharton was optimistic with respect to continued treatment since the initial goals of treatment had been achieved. (T. 787-788)

13. During Christmas 1986, Patient A sent flowers to Dr. Wharton's office (T. 108). Dr. Wharton indicated that he did

not accept gifts from patients and asked Patient A why they were sent. Patient A responded that she thought that flowers that she had recently observed in the office were sent by another woman and Dr. Wharton explained that he had resumed a contract with a florist for weekly delivery of flowers to brighten up the office. Dr. Wharton did not return the flowers because he believed that Patient A would interpret the return as rejection.

14. During the months of February, March, April and May, 1987, Patient A's erotic transference was escalating as indicated by the following events:

- a) Patient A told Respondent at therapy sessions in February 1987 that she was always thinking of him. (T. 20, 30, and 236)
- b) Patient A wrote Respondent numerous "love letters" which she identified as having been sent to Respondent. (Exs. 4K, 4L)
- c) Patient A gave Respondent gifts, namely, flowers, an 18K gold pen, an antique music box and tickets to a Broadway play. Respondent kept all gifts except the tickets to the play, which he returned. (Exs. 6, 9, 10, 16, and B; T. 14, 16, 35, 36, 183, 790, 797, 798, 818, 855, 861, 912, 974-975)
- d) Patient A on April 30, 1987 experienced a panic attack at a therapy session, during which she sought to be hugged and kissed by Respondent. (T. 799-800).

15. From January, 1987 through mid-June 1987, Patient A had 44 therapy sessions with Dr. Wharton.

16. On June 22, 1987, Dr. Wharton terminated treatment with Patient A and suggested that Patient A continue treatment with Dr. Kestenbaum or Dr. Person. Patient A reacted angrily by stating, "I can't do without you. I will never let you go. Don't marry anybody. Wait for me." Patient A also stated that Dr. Wharton had not helped her, that he deceived her and that he was playing mental games with her. (T. 822)

17. After June 22, 1987, Dr. Wharton received numerous telephone calls from Patient A requesting a meeting to talk about termination of treatment. Dr. Wharton agreed to meet Patient A at a public place, the Diva Restaurant, on June 29, 1987 for the purpose of reviewing termination of treatment. (T. 823-824).

18. Patient A hired a private investigator to follow her and Respondent on the evening of June 29, 1987 and to take photographs, if possible, because she wanted to have proof that her relationship with Respondent was true in the event anyone said it was her imagination. (T. 65, 168).

19. On the evening of June 29, 1987 at 7:45 Patient A and Respondent met at his office and took a taxi to the Diva

Restaurant at 81st Street and Second Avenue. (T. 244) At the Restaurant Respondent and Patient A sat at a table holding hands. (T. 681) They left the restaurant at 9:30 and walked back to Respondent's office at 1070 Park Avenue. During the walk back, Patient and Respondent kissed, held hands and walked arm in arm. (T. 250-254, 679-686; Exs. 7 and 8)

20. Upon arriving at Respondent's office building, Patient A and Respondent entered his office and remained there from 10 p.m. to 11:05 p.m. (T. 253, 717; Ex. 7)

#### CONCLUSION

The Petitioner relies on Paragraphs A, B, C ii, C iii and D in making its charges. There is no dispute that as alleged in Paragraph A that Respondent rendered psychiatric treatment to Patient A.

With reference to Paragraph B, there is no dispute that Patient A developed a strong transference reaction to the Respondent, verbalizing her affection for him and sending him love letters and initiating physical contact with him. The Petitioner has failed to prove by a preponderance of the evidence that the Respondent was guilty of any immoral conduct within the purview

of Section 29.4(5)(i) of 8 NYCRR for any period during the treatment of Patient A up to and until the evening of June 29, 1987.

The committee unanimously concludes that the actions by the Respondent at the dinner on that evening together with his actions upon leaving the restaurant and spending approximately one hour in his office with Patient A does constitute immoral conduct under the above mentioned section. The Committee therefore sustains the charges set forth in the First Specification.

The Committee is however of the unanimous opinion and concludes that the second specification, namely that the Respondent practiced the profession with negligence on more than one occasion is sustained. The Committee concludes that there came a time early in 1987 when the actions of the Patient were such that required termination of the Respondent's treatment of the Patient or a referral to another psychiatrist. There were enough indications of the direction in which the relationship between doctor and patient were going during that period to trigger a need for such termination before June 22, 1987 when treatment was in

fact terminated. There were enough visits during that period for the Respondent to have taken the necessary steps.

#### RECOMMENDATION

The Committee has carefully considered the sanction to be imposed upon the Respondent and in view of all the circumstances unanimously recommends that the Respondent's license to practice medicine be suspended for a period of six months but that the suspension be stayed.

DATED: New York, New York  
March 19, 1990

Respectfully submitted,



DAVID T. LYON, M.D.,  
CHAIRPERSON

Richard D. Milone, M.D.  
Thea Graves Pellman

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

-----X

IN THE MATTER :

OF :

RALPH N. WHARTON, M.D. :

COMMISSIONER'S

RECOMMENDATION

-----X

TO: Board of Regents  
New York State Education Department  
State Education Building  
Albany, New York

A hearing in the above-entitled proceeding was held on October 25, 1988, December 14, 1988, January 6, 1989, February 22, 1989, March 15, 1989, April 19, 1989 and June 20, 1989. Respondent, Ralph N. Wharton, M.D., appeared by Kenneth Harfenist, Esq. The evidence in support of the charges against the Respondent was presented by Claudia Morales Bloch, Esq.

NOW, on reading and filing the transcript of the hearing, the exhibits and other evidence, and the findings, conclusions and recommendation of the Committee,

I hereby make the following recommendation to the Board of Regents:

- A. The Findings of Fact of the Committee should be accepted in full;
- B. The Conclusions of the Committee should be accepted in part. The Committee concluded that (a) the Respondent was guilty of immoral conduct on the evening of June 29, 1987 and (b) the Respondent negligently failed to terminate the



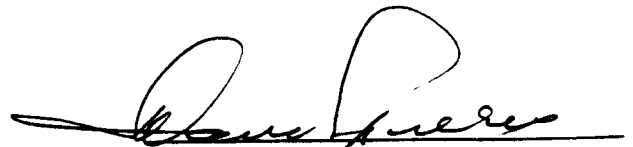
treatment of Patient A or refer her to another psychiatrist before June 22, 1987. I agree. The Committee does not articulate a conclusion with respect to the allegations that Respondent accepted expensive gifts from Patient A and had personal contact with Patient A outside of the office setting. The Committee implicitly does not sustain misconduct on these bases. The expert opinion is mixed on the propriety of accepting the gifts in question. Because of that conflict, the charge of negligence for accepting gifts should not be sustained. The record does not support the factual allegations of personal contact outside of office hours. Therefore, I would not sustain negligence on that basis. However, there is a preponderance of evidence in favor of the allegations that Respondent engaged in physical contact with Patient A during office sessions (See: Patient A's testimony, and Exhibits 16c and 16d). Therefore, I would also sustain that part of the First and Second Specifications which are based on the allegations in Paragraph C(iii) of the Statement of Charges.

- C. I recommend that the penalty recommended by the Committee be rejected and that in lieu thereof that Respondent be censured and reprimanded. While I believe Respondent acted negligently and immorally in his care of Patient A, there is nothing to suggest a pattern of poor care that might be controlled, reversed, or monitored through a six month stayed suspension.
- D. The Board of Regents should issue an order adopting and incorporating the Findings of Fact and Conclusions and further adopting as its determination the Recommendation as modified above.

The entire record of the within proceeding is transmitted with this Recommendation.

DATED: Albany, New York

June 13, 1990

  
DAVID AXELROD, M.D.  
Commissioner of Health  
State of New York

**ORDER OF THE COMMISSIONER OF  
EDUCATION OF THE STATE OF NEW YORK**

---

**RALPH N. WHARTON**

---

**CALENDAR NO. 11065**



# **The University of the State of New York**

IN THE MATTER

OF

**RALPH N. WHARTON**  
(Physician)

**DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 11065**

---

Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 11065, and in accordance with the provisions of Title VIII of the Education Law, it was

**VOTED**\* (December 21, 1990): That, in the matter of RALPH N. WHARTON, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's findings of fact and the Commissioner of Health's recommendation as to those findings be accepted, except that finding of fact numbered 14, with respect to the introductory paragraph, be deemed corrected as to the dates and deemed modified as to what was evident to respondent, to read as follows:
  14. During the months from December, 1986 to the end of treatment in June, 1987, Patient A's erotic transference was escalating, as evident to respondent from the following events:

and that as so corrected and modified finding of fact numbered 14 (a) through (d) be accepted;

---

\*Regent Jorge L. Batista recused himself

2. The conclusions of the hearing committee be accepted, and the conclusions of the Commissioner of Health be accepted, except that his conclusion as to guilt of the first and second specifications based on paragraph C (iii) of the statement of charges not be accepted;
  3. Respondent is guilty, by a preponderance of the evidence, of the first and second specifications of the charges to the extent indicated by the hearing committee, with the understanding that the testimony of the private investigators be accepted solely to the extent reflected in findings of fact numbered 18 through 20;
  4. That the recommendation of the hearing committee as to the measure of discipline not be accepted;
  5. That the recommendation of the Commissioner of Health as to the measure of discipline be accepted; and
  6. That, in agreement with the rationale of the Commissioner of Health, the particular circumstances of this case, and it appearing that respondent's misconduct was an aberration of his lengthy and distinguished career and is not likely to recur, respondent be Censured and Reprimanded upon each specification of the charges of which respondent was found guilty, as aforesaid;
- and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to

RALPH N. WHARTON (11065)

carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

IN WITNESS WHEREOF, I, Thomas Sobol,  
Commissioner of Education of the State of  
New York, for and on behalf of the State  
Education Department and the Board of  
Regents, do hereunto set my hand and affix  
the seal of the State Education Department,  
at the City of Albany, this 7<sup>th</sup> day of

January, 1991.

Thomas Sobol

Commissioner of Education