



**New York State Board for Professional Medical Conduct**

433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863

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NYS Department of Health

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Executive Deputy Commissioner  
NYS Department of Health

Dennis J. Graziano, Director  
Office of Professional Medical Conduct

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Vice Chair

Ansel R. Marks, M.D., J.D.  
Executive Secretary

Public

February 17, 2006

**CERTIFIED MAIL-RETURN RECEIPT REQUESTED**

Richard Adams, D.O.  
56 Brinkerhoff Street  
Plattsburgh, NY 12901

Re: License No. 142256

Dear Dr. Adams:

Enclosed is a copy of Order #BPMC 06-29 of the New York State Board for Professional Medical Conduct. This order and any penalty provided therein goes into effect February 24, 2006.

**If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to the Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.**

Sincerely,

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

Enclosure

cc: Eugene E. Napierski, Esq.  
Napierski, Vandenburg & Napierski, L.L.P.  
296 Washington Avenue Extension  
Albany, NY 12203

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

IN THE MATTER  
OF  
RICHARD ADAMS, D.O.

CONSENT  
ORDER

BPMC No. 06-29

Upon the application of (Respondent) Richard Adams, D.O. 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 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.

DATED: 2-17-06

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

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

IN THE MATTER  
OF  
RICHARD ADAMS, D.O.

CONSENT  
AGREEMENT  
AND  
ORDER

Richard Adams, D.O., representing that all of the following statements are true, deposes and says:

That on or about 1980 I was licensed to practice medicine in the State of New York, and issued License No. 142256 by the New York State Education Department.

My current registration address is 56 Brinkerhoff Street, Plattsburgh, New York, 12901 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 has charged me with five (5) 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 admit all Factual Allegations, and the First Specification, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to Section 230-a(2) of the Public Health Law, my license to practice medicine shall be suspended for a period of thirty-six (36) months, with the first twelve (12) months to be served as period of

actual suspension, and with the last twenty-four (24) months of said suspension to be stayed. I shall be subject to a condition that I comply with all relevant provisions of Exhibit D, "Guidelines for Closing a Medical Practice Following a Suspension of 6 months or more of a Medical License."

Pursuant to Section 230-a(8) of the Public Health Law, I agree to submit to a clinical assessment within six (6) months of the effective date of this order as set forth in Exhibit E, and to be bound by the recommendations which result therefrom;

Pursuant to §230-a(9) of the Public Health Law, I shall be placed on probation for a period of three years, subject to the terms set forth in Exhibit B.

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

That Respondent, at all times when he is practicing medicine in New York State, shall examine and/or treat female patients only in the presence of a chaperone, as set forth in attached Exhibit C.

That Respondent shall maintain active registration of Respondent's license with the New York State Education Department, Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed 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 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 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 Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in the 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 the Public 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 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 Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted.

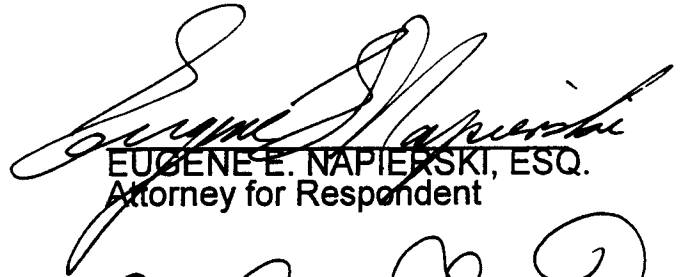
I stipulate that the proposed sanction and Order are authorized by Public Health Law Sections 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent 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 ask that the Board adopt this Consent Agreement.

DATED: 2/2/06

  
RICHARD ADAMS, D.O.  
RESPONDENT

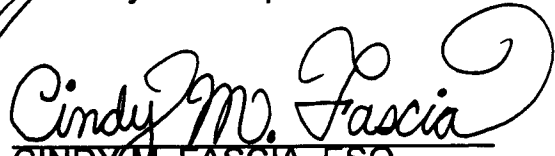
The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATED: 2/7/06



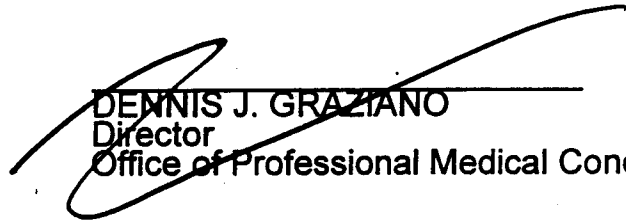
EUGENE E. NAPIERSKI, ESQ.  
Attorney for Respondent

DATED: 2/9/06



CINDY M. FASCIA, ESQ.  
Bureau of Professional Medical Conduct

DATED: 2/16/06



DENNIS J. GRAZIANO  
Director  
Office 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 New York State Education Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public 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 such 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, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
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 thirty 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 thirty day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will 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 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 and/or hospital charts; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.



8. 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.

### **PRACTICE MONITOR**

9. Within thirty days of the effective date of the order, 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.
  - 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.

### **CONTINUING MEDICAL EDUCATION**

10. Respondent, during each year of the period of probation, shall complete 100 hours of Category I Continuing Medical Education (CME). Said CME is to be in the areas of boundary issues with patients, medical recordkeeping, and primary care medicine. All CME courses are subject to the prior written approval of OPMC. Respondent must personally attend all courses. No on-line courses will be approved.

### **THERAPY TREATMENT PLAN**

11. Licensee shall engage and continue in therapy with a therapist proposed by Licensee and subject to the written approval of the Director of OPMC, in accordance with a treatment plan approved by the Director of OPMC. The health care professional shall be familiar with Licensee's history of boundary violations and sexual relationships with patients, with this Order, and with the

conditions of practice imposed by the Order. Licensee shall submit the name of a proposed successor within seven days of learning the approved health care professional is no longer willing or able to serve. The treating health care professional shall acknowledge willingness to comply with the reporting requirements below by executing the acknowledgment provided by OPMC.

- a. Licensee shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan.
  - b. The therapist shall report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or if Respondent discloses he has engaged in sexual contact or other inappropriate behavior with a patient.
12. Respondent, in addition to the therapy treatment plan set forth above, shall be evaluated by a physician (Evaluating Physician) who specializes in the evaluation and treatment of physicians who have engaged in sexual boundary violations with patients. Respondent's choice of Evaluating Physician is subject to the approval of OPMC.
- a. Respondent shall schedule the evaluation by the Evaluating Physician to commence within 30 days of the effective date of this Order, unless the Director of OPMC extends this deadline in writing. No extensions will be granted beyond 90 days from the effective date of this Order.
  - b. The Evaluating Physician may require any further evaluation, examinations, or testing that the Evaluating Physician deems appropriate to enable the Evaluating Physician to complete the evaluation of Licensee: this may entail evaluations, examinations, or testing of Licensee by other professionals whom the Evaluating Physician shall designate.
  - c. The evaluation shall not be completed until the Evaluating Physician determines that it is completed and the Licensee shall cooperate completely with the evaluation.
  - d. The Licensee shall provide any releases or consents, whenever requested, with respect to confidentiality that the Evaluating Physician, the Board, or the Office of Professional Medical Conduct deem necessary:
    - (i) To permit the examination to proceed and the Evaluation Report to issue;
    - (ii) To permit the Evaluating Physician to obtain any information from other sources the Evaluating Physician deems necessary to properly conduct the evaluation and to facilitate such further evaluation, examinations, or testing of the Licensee by other professionals, as designated by the Evaluating Physician.
    - (iii) To authorize the Evaluating Physician to provide OPMC with information about Licensee's compliance or noncompliance with this Order.
    - (iv) To authorize the Evaluating Physician to provide a complete

copy of the evaluation and any supporting documentation both to Respondent's therapist and to OPMC.

- e. The Licensee shall provide the Evaluating Physician with a copy of the Consent Application and Order, and shall authorize OPMC to provide the Evaluating Physician materials including statements and reports of interviews with Respondent and the patients in issue.
  - f. The Evaluating Physician shall, as set forth above, provide a copy of the evaluation and all supporting documentation to Respondent's treating therapist. The Evaluating Physician shall contact Respondent's therapist and work out treatment plan goals regarding maintaining professional boundaries with patients and avoiding further sexual boundary violations. Said initial contact shall be within 20 days of the completion of the evaluation. Thereafter, the Evaluating Physician shall contact the therapist every 90 days during the period of probation to ascertain Respondent's progress with the above treatment plan goals.
  - g. Respondent shall bear all costs of therapy and the evaluation process.
13. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or 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.

## EXHIBIT C

### CHAPERONE

1. Respondent shall, in the course of practicing medicine in New York State, examine and/or 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, and shall not be a family member, personal friend, or be in a professional relationship with Respondent, other than employer-employee, which could pose a conflict with the chaperone's responsibilities. The chaperone shall be proposed by Respondent and subject to the written approval of the Director of OPMC.
2. 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.
3. The terms in Paragraph 2 and subparagraphs 2a through 2d shall apply to Respondent's office practice. In any other setting in which Respondent will be examining and/or treating a female, including but not limited to a hospital or nursing home, Respondent shall propose to OPMC a chaperone plan for each such setting in which Respondent will be practicing, which plan(s) shall be subject to the approval of OPMC. Respondent will not examine and/or treat females in any such setting until an approved chaperone plan is in place.
4. The requirement for a chaperone shall be a permanent condition on Respondent's license to practice medicine in New York State.

## EXHIBIT D

### **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of six months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Order. Respondent shall not represent that Respondent is eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Order's effective date, Respondent shall notify all patients that Respondent has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty days of the Order's effective date, Respondent shall deliver Respondent's original license to practice medicine in New York State and current biennial registration to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, for at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender Respondent's DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
7. Within 15 days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice

medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by Respondent or others) while barred from practicing medicine. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date.
9. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest completely of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Order's effective date.
10. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.

## EXHIBIT E

### CLINICAL COMPETENCY ASSESSMENT

1. Respondent shall obtain a clinical competency assessment performed by a program for such assessment as directed by the Director of OPMC. Respondent shall cause a written report of such assessment to be provided directly to the Director of OPMC within six (6) months of the effective date of this Order.
  - a. Respondent shall be responsible for all expenses related to the clinical competency assessment and shall provide to the Director of OPMC proof of full payment of all costs that may be charged. This term of probation shall not be satisfied in the absence of actual receipt, by the Director, of such documentation, and any failure to satisfy shall provide a basis for a Violation of Probation proceeding.
  
2. At the direction of the Board and within 60 days following the completion of the clinical competency assessment (CCA), if any deficiencies are identified or retraining recommendations are made or identified in the CCA, the Respondent shall identify a Preceptor, preferably a physician who is board certified in the same specialty, to be approved in writing, by the Director of OPMC. The Respondent shall cause the Preceptor to:
  - a. Develop and submit to the Director of OPMC for written approval a remediation plan, which addresses the deficiencies/retraining recommendations identified in the CCA. Additionally, this proposal shall establish a time frame for completion of the remediation program.
  - b. Submit progress reports at periods identified by OPMC certifying whether the Respondent is fully participating in the personalized continuing medical education program and is making satisfactory progress towards the completion of the approved remediation plan.
  - c. Report immediately to the Director of OPMC if the Respondent withdraws from the program and report promptly to OPMC any significant pattern of non-compliance by the Respondent.
  - d. At the conclusion of the program, submit to the Director of OPMC a detailed assessment of the progress made by the Respondent toward remediation of all identified deficiencies.

**Respondent shall be solely responsible for all expenses associated with these terms, including fees, if any, for the clinical competency assessment, the personalized continuing medical education program, or to the monitoring physician.**

IN THE MATTER  
OF  
RICHARD ADAMS, D.O.

STATEMENT  
OF  
CHARGES

Richard Adams, D.O., the Respondent, was authorized to practice medicine in New York State on or about May 30, 1980, by the issuance of license number 142256 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

- A. Respondent provided medical care to Patient A (Patients are identified in attached Appendix) from on or about March 1992 through on or about December 2003 at Respondent's medical office in Plattsburgh, New York. Respondent, during the period of time that he was providing medical care to Patient A, engaged in a sexual relationship with Patient A.
- B. Respondent provided medical care to Patient B from on or about October 1991 through on or about November 2003 at Respondent's medical office in Plattsburgh, New York. Respondent, during the period of time that he was providing medical care to Patient B, engaged in a sexual relationship with Patient B.
- C. Respondent provided medical care to Patient C from on or about December 1990 through on or about December 2003 at Respondent's medical office in Plattsburgh, New York. Respondent, during the period of

EXHIBIT A



time that he was providing medical care to Patient C, engaged in a sexual relationship with Patient C.

- D. Respondent provided medical care to Patient D from on or about December 1999 through on or about December 2003 at Respondent's medical office. Respondent, during the period of time that he was providing medical care to Patient D, engaged in a sexual relationship with Patient D.

### **SPECIFICATION OF CHARGES**

#### **FIRST SPECIFICATION**

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

Respondent is charged with professional misconduct by reason of his practicing medicine with negligence on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges that Respondent committed two or more of the following:

1. The facts in Paragraphs A and/or B and/or C and/or D.

#### **SECOND THROUGH FIFTH SPECIFICATIONS**

#### **MORAL UNFITNESS**

Respondent is charged with professional misconduct by reason of his committing conduct in the practice of medicine that evidences moral unfitness to practice medicine in violation of New York Education Law § 6530(20), in that Petitioner charges:

2. The facts in Paragraph A.
3. The facts in Paragraph B.

4. The facts in Paragraph C.
5. The facts in Paragraph D

DATED: February 9, 2006  
Albany, New York



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