



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H., Dr.P.H.
Commissioner

Public

Dennis P. Whalen
Executive Deputy Commissioner

January 18, 2006

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Joseph H. Cahill, Esq.
NYS Department of Health
ESP-Corning Tower-Room 2512
Albany, New York 12237

Khalil Nazir, M.D.
6201 Empire Avenue
Schenectady, New York 12306

Khalil Nazir, M.D.
1659 Central Avenue
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Albany, New York 12205

David J. Taffany, Esq.
Anderson, Moschetti & Taffany, PLLC
26 Century Hill Drive - Suite 206
Latham, New York 12110

RE: In the Matter of Khalil Nazir, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 06-07) 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 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,



Sean D. O'Brien, Director
Bureau of Adjudication

SDO:cah

Enclosure

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

COPY

-----X
IN THE MATTER : DETERMINATION
: :
OF : AND
: :
KHALIL NAZIR, M.D. : ORDER
-----X
BPMC #06-07

A Notice of Hearing and Statement of Charges, both dated June 22, 2005, were served upon the Respondent, Khalil Nazir, M.D. FRED S. LEVINSON, M.D. (CHAIR), WILLIAM K. MAJOR, JR., M.D., AND IRVING CAPLAN, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10) (Executive) of the Public Health Law. LARRY G. STORCH, ADMINISTRATIVE LAW JUDGE, served as the Administrative Officer. The Department of Health appeared by Joseph H. Cahill, Esq., Associate Counsel. The Respondent appeared by Anderson, Moschetti & Taffany, PLLC, David J. Taffany, Esq., of Counsel. 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:	June 22, 2005
Pre-Hearing Conference:	July 7, 2005
Hearing Dates:	August 10, 2005 August 11, 2005 September 7, 2005 September 8, 2005 September 27, 2005
Deliberations Held:	December 9, 2005

STATEMENT OF CASE

Petitioner has charged Respondent with twenty¹ specifications of professional misconduct. The charges set forth allegations of conduct evidencing moral unfitness to practice the profession, in violation of Education Law §6530(20), and allegations of willfully harassing, abusing, or intimidating a patient either physically or verbally, in violation of Education Law §6530(31). The charges relate to Respondent's interactions with a combination of nine patients and support staff. Respondent denied the allegations.

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

¹ Subsequent to the start of the hearing, Petitioner withdrew the Second, Twelfth, Nineteenth and Twentieth Specifications of misconduct. Additionally, Petitioner withdrew all factual allegations regarding Patient B, as denoted in the Statement of Charges.

FINDINGS OF FACT

The following Findings of Fact were made after a review of the entire record in this matter. 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.

1. Khalil Nazir, M.D. (hereinafter "Respondent"), was authorized to practice medicine in New York State by the New York State Education Department's issuance of license number 203260 on June 14, 1996. (Ex. #2).

Patient H

2. Respondent provided medical care to Patient H, a female, from approximately February 13, 1997 through March 5, 1997 at Cohoes Family Care ("CFC"), 95 Remsen Street, Cohoes, New York. (Ex. #12).

3. Patient H is the director of rehabilitation services for a local skilled nursing facility. She is a registered occupational therapist with a Bachelor of Science degree. (T. 145-146).

4. On or about March 5, 1997. Patient was examined by Respondent at CFC. During the course of the examination,

Respondent put a stethoscope directly over Patient H's nipple when he was supposedly listening to her heart. (T. 147).

5. There is no medical information to be gained by placing a stethoscope directly on the nipple. (T. 471-472).

Patient C

6. Patient C, a female, commenced treatment with Respondent at CFC on or about September, 1997. (Ex. #5).

7. Patient C saw Respondent for routine checkups and for follow-up regarding a thyroid condition. (T. 37-38).

8. Respondent at times would pat Patient C's hand and rub her arm. He also patted Patient C's leg on the upper thigh. (T. 38).

9. On April 24, 2001, Patient C had sinus problems. She called from work to make an appointment to see Respondent after work. (T. 39).

10. A nurse brought Patient C into an examination room at CFC. Respondent entered the examination room. He felt Patient C's throat, glands and sinuses from the front. The examination room door was closed. (T. 40, 42-43).

11. Patient C was seated on a chair during this examination. Respondent walked behind Patient C. He began to feel her throat and rubbed her shoulders. (T. 41).

12. Respondent then walked around to the front of the chair. He told Patient C that he would write out a few prescriptions for her sinuses, and that he would have to draw blood for her thyroid. Respondent then leaned over and kissed Patient C on the mouth. Respondent then brought the patient to another room and drew blood samples. (T. 42-43).

13. Patient C never returned to see Respondent after this incident, because she no longer felt comfortable seeing him. (T. 44).

Patient G

14. Patient G, a female, is married and has three children. Respondent provided medical care to Patient G, her husband, and her children at CFC at various times during the period 1997 through 2000. (Ex. # 9, 10 and 11; T. 326-327).

15. Respondent would pat Patient G on the back. He touched her back and shoulder. His hand traced the curve of her spine to her lower back. (T. 331-332).

16. The medical record for Patient G does not demonstrate any medical necessity for the contact described by the patient. (T. 471).

Employee I

17. Employee I was employed in the year 2000 as a medical assistant at CFC. Her duties included reception work,

clinical support, vital signs, EKGs and venipuncture. The office had four examining rooms and two doctor's offices. There was a central reception area and an employee lunch room. (T. 15, 17).

18. Employee I had worked with Respondent for about one year and felt that they had a normal employer-employee relationship. (T. 17-18).

19. On the day at issue, Respondent and Employee I had a disagreement in the morning over some work issue. (T. 18).

20. Later the same day, Employee I was getting ready to eat her lunch in the lunch room. a receptionist, was present at the time. (T. 19).

21. Respondent entered the room. Respondent apologized for the earlier disagreement. He then grabbed Employee I's cheeks with his hands, kissed her on the lips and said he was sorry. (T. 20, 22, 28, 33).

Michael L. Scher, M.D.

22. Michael L. Scher, M.D. is the Medical Director for Northeast Health Primary Care Network ("Northeast"). As medical director, Dr. Scher oversees their primary care sites, does yearly reviews of the physicians, and addresses hiring

issues, quality assurance issues, etc. Dr. Scher held this position in 2001. (T. 73-75).

23. CFC was one of the primary care facilities operated by Northeast. (T. 75).

24. On May 9, 2001, Dr. Scher met with Respondent regarding complaints made by a female patient. The patient had complained that Respondent had engaged in inappropriate behavior. (T. 75-76).

25. Bernadette Hallam, Assistant Vice President for Practice Services at Northeast, also attended the meeting. (Ex. #15; T. 76).

26. At the meeting, Dr. Scher and Ms. Hallam reviewed the complaint and Respondent's response. Dr. Scher gave Respondent a letter, dated May 9, 2001 which stated, in pertinent part, "It is important that any such unprofessional behavior cease and desist immediately. Such behavior includes hugs, back rubs, and friendly kisses, which, regardless of intentions, are inappropriate in the work environment." (Ex. #15; T. 77).

27. Dr. Scher also noted that Respondent stated that he understands the boundaries of acceptable contact with patients and would abide by them. He also refused counseling. (Ex. #15).

Employee J

28. Employee J, a female, was employed at CFC during 2000 and 2001. She worked as a medical receptionist, handled patient referrals, patient chart filing, and answered the telephone. (T. 133-135).

29. On October 9, 2001, Employee J was working at CFC. She brought a chart into Respondent's office. Respondent kissed her on the mouth twice. This made her feel uncomfortable. She left and never returned to CFC. (T. 136-137).

Administrative Warning

30. Ansel Marks, M.D., J.D., is the Executive Secretary of the New York State Board for Professional Medical Conduct. He has been the Executive Secretary of the Board for the past seven years. (T. 222-223).

31. On February 20, 2002, Dr. Marks met with Respondent, and Respondent's counsel. The purpose of the meeting was to deliver an administrative warning from the Board, as provided for by statute. (T. 223; Public Health Law §230(10)(m)(ii)).

32. Dr. Marks discussed the conduct which resulted in the administrative warning. Specifically, he addressed the allegations of kissing on the lips, and other inappropriate

overt sexual conduct with five individuals. Following the administrative warning, Respondent indicated to Dr. Marks that he would amend his interactions with patients and staff. (T. 224-227).

Patient/Employee F

33. Patient/Employee F received her LPN certification in 1988. She worked at a nursing home from 1992 to June, 2000. At the time of her testimony, Patient/Employee F was again working at the nursing home, as a charge nurse. (T. 233-235).

34. Patient/Employee F was initially treated by Respondent at CFC. She saw Respondent twice at that location, before he left. She subsequently was treated by Respondent at Respondent's practice, Ariana Family Care, LLC, located at 1659 Central Avenue, Albany, New York ("Ariana"). Respondent treated her for a thyroid disorder, chronic back pain, neck surgery, anxiety and depression. (T. 236-237; Ex. #8).

35. On June 18, 2002, Patient/Employee F was injured in a work related event at the nursing home. She left that job due to the injury. Subsequently, she talked to Respondent about employment and began working as a receptionist at Ariana. Patient/Employee F stopped working following the

birth of a child on October 20, 2002. She resumed work at Ariana around Christmas, 2002. (T. 238-239).

36. Following her return to work, Respondent began to try and hug and kiss Patient/Employee F. (T. 241).

37. At one time, Patient/Employee F brought her child to see Respondent because the child was ill. Respondent told the child that he was going to kiss her mommy now. Patient/Employee F was uncomfortable with that and turned her face so that Respondent got only her cheek when he tried to kiss her. (T. 241).

38. On another occasion, during the spring or summer of 2003, Respondent and Patient/Employee F were both in the back of Respondent's office. Respondent, who was sitting on a chair, tried to pull Patient/Employee F down onto his lap. She resisted, saying that she didn't even sit on her husband's lap. (T. 243).

39. On another occasion, Respondent was located behind Patient/Employee F in a hallway at Ariana. His hands came from behind her and crossed over her breasts. Respondent told Patient/Employee F that she "had little boobs". He made this comment while his hands were on her breasts. (T. 243-246).

40. On another occasion, Patient/Employee F was in the office where the computer was located. She was standing in front of the desk. Respondent came up behind Patient/Employee F. He pushed her against the desk, and asked her if he could "feel that". Respondent's pelvis was against Patient/Employee F's buttocks. She could feel his penis. (T. 248-250).

41. At this time, Patient/Employee F was working a part-time schedule, one or two days per week, and every other Saturday. Patient/Employee F and her family had just built a new home, and money was very tight. She continued working at Respondent's office for about four weeks. She took a job with another physician. Initially, she worked four days a week for that other physician, on days that she did not work for Respondent. When she informed Respondent about the new job, he fired her. (T. 253-256).

Patient D

42. Patient D is a female, born in 1970. She was first treated by Respondent at CFC. She also took her children to see him. When she learned that Respondent was opening his own practice (Ariana), she had her medical records transferred there. (T. 179-183).

43. In February, 2004, Patient D had a painful right heel. She went to see Respondent. She was not accompanied by anyone on that visit. (T. 183-184).

44. Patient D was seated on an examination table while Respondent examined her foot. He told her that she might have a bone spur. He suggested a cortisone shot to alleviate the pain. He left the room to prepare the injection. (T. 184-185).

45. When Respondent returned to the room he told Patient D he was also going to give her an injection of lidocaine because the cortisone shot was painful. He asked Patient D to lie down on the examination table. (T. 186).

46. Patient D lay down on the table. Her eyes were closed while Respondent administered the injections. While her eyes were closed, Respondent kissed Patient D on the lips. She opened her eyes. Respondent then brushed the hair out of her face and kissed Patient D on the lips a second time. (T. 187-188).

47. Patient D was baffled by Respondent's behavior. She saw Respondent two more times after this incident. On both occasions, she brought her boyfriend with her to Respondent's office. (T. 190).

Patient E

48. Patient E, a female born in 1981, is employed by the State of New York, Office of General Services, as a computer operator. She has two children, including a daughter born in September, 2003. (T. 371-373).

49. Beginning in 2002, Patient E and her daughter both received medical care from Respondent at Ariana. (Ex. # 7, 13; T. 373-374).

50. Patient E's daughter had a serious case of eczema. (T. 374; Ex. #7).

51. On one occasion, Patient E took her then six month old daughter to see Respondent. It was a late afternoon visit as Patient E left work at 4:00 p.m. (T. 375).

52. When Patient E and her daughter arrived at Ariana only the receptionist and Respondent were present in the office. However, the receptionist left while Patient E and her daughter were still there. (T. 375).

53. During the examination, Patient E's daughter received an immunization shot from Respondent. As Patient E was leaving the room, Respondent leaned over and kissed her on the lips. (T. 376).

54. Patient E was confused about Respondent's behavior. She believed that he was Indian and wondered if this is what Indian doctors do. (T. 376-377).

55. On a later date in 2004, Patient E took her daughter to see Respondent again. Everything seemed fine until the end of the visit. As she was leaving, Respondent tried to kiss Patient E again. Patient E had her daughter in front of her, between herself and Respondent. (T. 377).

56. On or about August 5, 2004, Patient E again brought her daughter to see Respondent. During this visit, Patient E was sitting in a chair across from Respondent, while he sat on the examination table, holding her daughter. The baby tried to grab Respondent's glasses. Patient E stood up to take her daughter. She stood in front of Respondent, who was still seated on the table. Respondent put his legs around Patient E's legs, "grabbed my butt and pulled me in and started kissing" the patient. (T. 377-379).

Patient A

57. Patient A, a female born in 1992, was thirteen years old when she testified before this Hearing Committee. Patient A was born in the United States and has lived here her whole life. Her mother and father were both born in Afghanistan. (T. 88-91).

58. In August, 2004, Patient A developed an earache while swimming in New Jersey at a relative's house. Her younger brother also developed an earache. When they returned home it was late in the day. Patient A's mother took them to see Respondent the next day. Patient A had been to Respondent's office at Ariana many times before. (T. 93-95).

59. Patient A, her mother and her brother all went into the examination room together. Patient A went over to close the door and to sit down. Respondent hugged her on her waist and asked her how old she was, and whether she had a husband. (T. 97-98).

60. Respondent examined Patient A's ear. He wrote out prescriptions for her, and the family left the examination room together. They went to the secretary's desk so that Patient A's mother could make another appointment. (T. 99).

61. Patient A's mother then asked Patient A to go back and ask Respondent for some allergy pills. Respondent was in his office at the time. Patient A went to Respondent's office. She told him that her mother wanted allergy pills. Respondent grabbed Patient A. He hugged her, and then put both hands on her face. He then kissed Patient A on the lips. (T. 100-102).

62. Patient A became frightened. Respondent asked Patient A if she got good grades in school. She didn't reply. Respondent then pulled her face closer and tried to kiss her again. Patient A pushed him away and ran out to the entrance door. (T. 102).

63. Respondent then left his office and got the allergy medication. (T. 103).

64. A few minutes later the family left the office. They got into the car and pulled out of the parking lot. When they were at a traffic light Patient A told her mother that she did not want to go back to Respondent's office again because he had kissed her on the lips. (T. 104).

CONCLUSIONS OF LAW

Respondent is charged with nine specifications alleging conduct evidencing moral unfitness to practice the profession, in violation of Education Law §6530(20), and seven specifications alleging the willful harassing, abusing, or intimidating of a patient either physically or verbally, in violation of Education Law §6530(31). Neither of these violations are defined further by statute.

Conduct in the practice of medicine which evidences moral unfitness to practice medicine has been defined as conduct

which violates the moral standards of the professional community or alternatively, conduct which violates the trust conferred upon a physician by virtue of his licensure. See, Matter of Rojas v. Sobol, 167 AD2d 707, leave denied 77 NY2d 806; Matter of Abdelmessih v. Board of Regents, 205 AD2d 983, 613 NYS2d 971.

The other charged specifications of misconduct involve the alleged willful harassing, abusing or intimidating of patients, either physically or verbally. The Hearing Committee interpreted these words in light of their usual and commonly understood meaning. (See, New York Statutes, §232).

Using the above-referenced definitions as a framework for its deliberations, the Hearing Committee made the following conclusions of law pursuant to the factual findings listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless noted otherwise.

The Hearing Committee first considered the credibility of the various witnesses, and thus the weight to be accorded their testimony.

The Petitioner presented testimony from each of the nine alleged victims: Patients A, C, D, E, Patient/Employee F, Patients G and H, and Employees I and J. Each of these witnesses presented dramatically similar testimony of abuse by Respondent, taking place over a period of years. None of the

witnesses knew each other. None of the alleged victims have sued Respondent for damages. Indeed, no credible motive for fabrication was put forward by Respondent regarding any of these witnesses. Several of the adult patients indicated that they were happy with Respondent's medical care, until the abuse began. The Hearing Committee found all of these witnesses to be highly believable.

The Petitioner also presented testimony from several individuals to whom several of the patients/employees made prompt reports of Respondent's conduct. These witnesses were also found to be credible.

The Petitioner presented testimony by Michael Scher, M.D., and Ansel Marks, M.D., J.D. These witnesses testified regarding the warnings given to Respondent about his conduct towards female patients. This testimony was essentially unchallenged by Respondent. The Petitioner also presented testimony by Joel Amidon, II, D.O. Dr. Amidon testified regarding the lack of medical justification for Respondent's touching of several of the patients, and also opined on the subject of appropriate behavior of a physician towards his patients. His testimony was also found to be credible.

Respondent presented five witnesses to rebut the evidence presented by the Petitioner. They all testified

regarding the allegations regarding patients from Ariana. The Respondent presented no witnesses other than himself to rebut the testimony regarding the patients and employees seen by Respondent at CFC.

Respondent presented testimony from Amy Gilbert, *N. N.*, Carol Nazir, Karen Abdul-Haqq, and Wahyda Nezari. All are current or former employees. Although *N. N.* is no longer employed by Respondent, she and her family are currently treated by Respondent. Two of the witnesses (Carol Nazir and Wahyda Nezari) are Respondent's sisters-in-law, as well as employees. As a result, all of these witnesses have something to lose if Respondent were found guilty. This alone renders their testimony suspect. Moreover, none of them were in a position to observe Respondent's interactions with patients at all times, and had no direct knowledge of events. They claimed specific recollections of events years past, although they testified that nothing unusual occurred. Their testimony was simply not believable, and the Hearing Committee gave it no weight.

Respondent presented two character witnesses - Steffanie Cotugno, D.O. and Laura Staff, M.D. Neither had any personal knowledge of the events at issue, and their testimony was given little weight.

Lastly, Respondent testified on his own behalf. He clearly has a stake in the outcome of these proceedings. He flatly denied any wrongdoing with regard to all of the patients/employees who testified against him. In order to believe Respondent, this Committee would have to conclude that each of the patients/employees were either lying or mistaken as to what Respondent did to them. We find such a conclusion to be insupportable.

Respondent attempted to blame his troubles on a conspiracy on the part of people in the Northeast Health organization. He presented no proof of such a conspiracy. He provided no motivation for anyone to engage in such a conspiracy. Moreover, how could such a conspiracy involve the patients and employees from Ariana? Even Respondent's counsel disavowed the notion of a conspiracy against Respondent.

As we noted above, none of the patients/employees knew each other, yet they described strikingly similar conduct by Respondent. None of them has anything to gain by testifying falsely. The Hearing Committee unanimously concluded that the victims were truthful, and that the Respondent was not. As a result, the Committee gave little weight to his testimony.

Based on the foregoing, the Hearing Committee concluded that each of the factual allegations set forth in the

Statement of Charges have been proved by a preponderance of the evidence. Respondent's conduct towards Patients A, C, D, E, F, G, H and Employees I and J clearly evidenced moral unfitness to practice medicine, in violation of New York Education Law §6530(20). Respondent repeatedly violated the professional and ethical standards of the medical community. Respondent acted to gratify his own needs and desires, against the best interests of his patients and staff. By so doing, Respondent violated the trust placed in him by virtue of his licensure. Accordingly, the Hearing Committee unanimously concluded that the first and third through tenth specifications of professional misconduct set forth in the Statement of Charges should be sustained.

The evidence further demonstrated that Respondent intentionally grabbed patients, pulled some of them on to his lap, kissed them against their will, put his hands on their faces, wrapped his legs around a patient, and pushed one patient against a desk while he rubbed against her. These acts constitute willful abuse, harassing and intimidation of patients in violation of New York Education Law §6530(31). Therefore, the Hearing Committee unanimously concluded that the eleventh and thirteenth through eighteenth specifications of professional misconduct should also be sustained.

DETERMINATION AS TO PENALTY

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, unanimously determined that Respondent's license to practice medicine as a physician 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.

Respondent has engaged in a pattern of abusive conduct extending over at least seven years. The behavior continued despite being admonished by his Medical Director in May, 2001, and despite receiving an administrative warning from the State Board for Professional Medical Conduct in February, 2002. Moreover, the severity of Respondent's actions intensified over time, as seen in his actions towards Patient/Employee F, and culminating in the molestation of Patient A, a twelve year old girl.

It is clear that Respondent is either unwilling, or unable to conform his conduct to general standards of decency. He persisted in denying any wrongdoing despite overwhelming evidence to the contrary, and spun unsubstantiated claims of conspiracy. His total lack of insight means that no sanction

short of revocation will adequately protect the public from further harm at his hands.

The Hearing Committee strongly recommends that Respondent seek out counseling and treatment, perhaps through the Medical Society's Committee on Physician's Health. Then, in three years time, he will have the opportunity to petition for reinstatement of his medical license. At that time, he would have the burden of demonstrating that he had undergone evaluation and treatment, and that he may safely rejoin the practice of medicine.

ORDER

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

1. The First, Third through Eleventh, and Thirteenth through Eighteenth Specifications of professional misconduct, as set forth in the Statement of Charges, (Petitioner's Exhibit #1) are **SUSTAINED**;

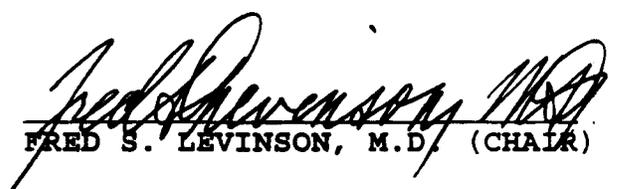
2. Respondent's license to practice medicine as a physician in New York State be and hereby is **REVOKED**;

3. This Determination and Order shall be effective upon service. Service shall be either by certified mail upon Respondent at Respondent's last known address and such service shall be effective upon receipt or seven days after mailing by

certified mail, whichever is earlier, or by personal service and such service shall be effective upon receipt.

DATED: Troy, New York

January 16, 2006


FRED S. LEVINSON, M.D. (CHAIR)

WILLIAM K. MAJOR, JR., M.D.
IRVING CAPLAN

TO: Joseph H. Cahill, Esq.
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APPENDIX I

IN THE MATTER
OF
KHALIL NAZIR, M.D.

STATEMENT
OF
CHARGES

Khalil Nazir, M.D., Respondent, was authorized to practice medicine in New York State on or about June 14, 1996, by the issuance of license number 203260 by the New York State Education Department. Respondent is currently registered with the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent provided medical care and treatment from approximately July 2002 through August 2004 to Patient A (patients are identified in the Appendix), a 12 year old female, at Ariana Family Care, LLC, located at 1659 Central Avenue, Albany, New York (hereafter "Ariana").
1. Respondent, on more than one occasion, kissed Patient A on the head.
 2. Respondent, on more than one occasion, put his arms around Patient A.
 3. Respondent, on more than one occasion, told Patient A, she "was the prettiest one", or words to that effect.
 4. Respondent, on or about August 28, 2004, engaged in the following conduct:

- a. Respondent grabbed Patient A by her hand, pulled her to himself and hugged her tightly.
 - b. Respondent, with his arms around Patient A, asked her if she had a husband and asked how old she was, or words to that effect.
 - c. Respondent, when Patient A replied she was 12 years old and was too young to have a husband, said "you are old enough to have one", or words to that effect.
5. Respondent, a few minutes later, was seated on a chair in an office. Patient A came into the office and asked Respondent for certain medicine. Respondent engaged in the following conduct:
- a. Respondent grabbed Patient A by the hand and pulled her onto his lap.
 - b. Respondent told Patient A that she was a good girl and that he liked her, or words to that effect.
 - c. Respondent kissed Patient A on the mouth.
 - d. Respondent, with his arms around Patient A, asked Patient A if she was good in school, or words to that effect.
 - e. Respondent tried to kiss Patient A again.

6. Respondent engaged in the above described conduct toward Patient A despite having received previously two separate admonitions on two separate dates, May 7, 2001 and February 20, 2002, that such types of conduct were unprofessional and/or inappropriate.

B.

withdrawn
by
Petitioner
JLB

REDACTION B, 1-56

Withdrawn
by
Petitioner
848

REDACTION B. 5C

- C. Respondent, from approximately 1997 to 2001 provided medical care and treatment to Patient C, a female, at CFC.
1. Respondent, on more than one occasion, rubbed Patient C's arm and/or leg and said "I love you", or "You're so cute", or words to that effect.
 2. Respondent, on or about April 24, 2001, engaged in the following conduct toward Patient C:
 - a. Respondent, while Patient C was seated on a chair in the examination room, went behind Patient C's back and massaged her neck and shoulders with his hands, without medical justification.
 - b. Respondent, while massaging Patient C, told her she "was just nervous" or words to that effect.
 - c. Respondent walked around in front of Patient C and kissed her on the mouth.
 - d. Respondent, after kissing Patient C on the mouth, told Patient C she "was going to be all right", or words to that effect.

D. Respondent provided medical care and treatment from approximately 2002 through 2004 to Patient D, a female, at Ariana. Patient D presented to Respondent in 2004 with severe right heel pain. Respondent injected the site with medication.

1. Respondent, while Patient D was laying on an examination table, kissed Patient D on the lips.
2. Respondent kissed Patient D on the lips a second time.
3. Respondent engaged in the above described conduct toward Patient D despite having received previously two separate admonitions on two separate dates, May 7, 2001 and February 20, 2002, that such types of conduct were unprofessional and/or inappropriate.

E. Respondent provided medical care and treatment from approximately 2002 through 2004 to Patient E, and/or to her daughter at Ariana.

1. Respondent, during May or June of 2004, kissed Patient E on the lips while she was holding her daughter.
2. Respondent, during a subsequent visit, tried to kiss Patient E on the lips.
3. Respondent, during a subsequent visit in approximately August 2004, engaged in the following conduct:
 - a. Respondent placed his arms around Patient E and grabbed her buttocks.
 - b. Respondent pulled Patient E toward him and wrapped his legs around her.
 - c. Respondent tried to kiss Patient E.

4. Respondent engaged in the above described conduct toward Patient E despite having received previously two separate admonitions on two separate dates, May 7, 2001 and February 20, 2002, that such types of conduct were unprofessional and/or inappropriate.

F. Respondent provided medical care and treatment from approximately February of 2002 through 2003, to Patient/Employee F, a female, at Ariana. Patient/Employee F was employed by Respondent at Ariana.

1. Respondent, on various occasions in 2002 and 2003, tried to wrap his arms around Patient/Employee F.
2. Respondent, on various occasions in 2002 and 2003 either tried to kiss Patient/Employee F or did kiss her on the cheek.
3. Respondent, on one occasion, tried to pull Patient/Employee F onto his lap.
4. Respondent, in the Spring or Summer of 2003 came up behind Patient/Employee F and grabbed her breasts, stating "you have little boobs", or words to that effect.
5. Respondent, on a subsequent occasion, came up behind Patient/Employee F and put his hands on a desk, one arm on either side of her. Respondent then pressed his erect penis against her buttocks and asked Patient/Employee F "Can you feel it?", or words to that effect.

6. Respondent engaged in the above described conduct toward Patient F despite having received previously two separate admonitions on two separate dates, May 7, 2001 and February 20, 2002, that such types of conduct were unprofessional and/or inappropriate.
- G. Respondent provided medical care and treatment from approximately 1997 through 2000 to Patient G, a female, and to her husband, son and daughter, at CFC. Patient G accompanied her husband, son and daughter for a number of their visits for medical care with the Respondent.
1. Respondent, on more than one occasion, and without medical justification, touched Patient G's cheeks with his hands.
 2. Respondent, on more than one occasion, and without medical justification, rubbed Patient G's back.
- H. Respondent provided medical care and treatment to Patient H, a female, from approximately February 13, 1997 to March 5, 1997 at CFC.
1. Respondent, on or about March 5, 1997 engaged in the following conduct:
 - a. Respondent, placed his stethoscope directly onto the nipple of Patient H's breast which conduct was not medically justified.
- I. Respondent, during the year 2000, while working as a physician at CFC placed his hands on either side of Employee I's face and kissed her on the mouth.

J. Respondent, on or about October 9, 2001, while working as a physician at CFC, engaged in the following conduct toward Employee J, a female.

1. Respondent put his arms around Employee J and kissed her on the mouth.
2. Respondent told Employee J she was cute, or words to that effect.
3. Respondent grabbed Employee J by the arm and kissed her on the mouth again.
4. Respondent engaged in the above described conduct toward Patient J despite having previously received an admonition on May 7, 2001 that such types of conduct were unprofessional and/or inappropriate.

SPECIFICATION OF CHARGES
FIRST THROUGH TENTH SPECIFICATIONS
MORAL UNFITNESS

A. 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:

1. The facts set forth in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4 and/or A and A.5.

2. *REDACTION*

3. The facts set forth in Paragraphs C and C.1 and/or C and C.2.

4. The facts set forth in Paragraphs D and D.1 and/or D and D.2.

5. The facts set forth in Paragraphs E and E.1, E and E.2 and/or E and E.3.

6. The facts set forth in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4 and/or F and F.5.

7. The facts set forth in Paragraphs G and G.1 and/or G and G.2.

8. The facts set forth in Paragraphs H and H.1.

9. The facts set forth in Paragraph I.

10. The facts set forth in Paragraphs J and J.1, J and J.2 and/or J and J.3.

*withdrawn by
Petitioner
8/18*

ELEVENTH THROUGH TWENTIETH SPECIFICATIONS
WILFULLY HARASSING OR ABUSING A PATIENT PHYSICALLY
AND/OR VERBALLY

B. Respondent is charged with professional misconduct by reason of his willfully harassing, abusing, or intimidating a patient either physically or verbally, in violation of New York Education Law § 6530(31), in that Petitioner charges:

11. The facts set forth in Paragraphs A and A.1, A and A.2, A and A.3, A and A.4, A and A.5 and/or A and A.6.

*withdrawn by
Petitioner
JMB*

12. *REDACTION*

13. The facts set forth in Paragraphs C and C.1 and/or C and C.2.

14. The facts set forth in Paragraphs D and D.1, D and D.2 and/or D and D.3

15. The facts set forth in Paragraphs E and E.1, E and E.2, E and E.3 and/or E and E.4.

16. The facts set forth in Paragraphs F and F.1, F and F.2, F and F.3, F and F.4, F and F.5 and/or F and F.6.

17. The facts set forth in Paragraphs G and G.1 and/or G and G.2.

18. The facts set forth in Paragraphs H and H.1.

*withdrawn by
Petitioner*

19. *REDACTION*
20. *REDACTION*

DATED: June 22, 2005
Albany, New York



Brian M. Murphy
Chief Counsel
Bureau of Professional
Medical Conduct