



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

October 31, 1990

Behrooz Bassim, Physician  
102 Market Street  
Potsdam, N.Y. 13676-1719

Re: License No. 106646

Dear Dr. Bassim:

Enclosed please find Commissioner's Order No. 10975. 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 in your case is a revocation or a surrender of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. 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.

You may, pursuant to Rule 24.7 (b) of the Rules of the Board of Regents, a copy of which is attached, apply for restoration of your license after one year has elapsed from the effective date of the Order and the penalty; but said application is not granted automatically.

Very truly yours,

DANIEL J. KELLEHER  
Director of Investigations  
By:

GUSTAVE MARTINE  
Supervisor

DJK/GM/er  
Enclosures

CERTIFIED MAIL- RRR

cc: Cornelius D. Murray, Esq.  
O'Connell and Aronowitz  
100 State Street  
Albany, N.Y. 12207

**RECEIVED**  
OCT 31 1990  
Office of Professional  
Medical Conduct

**REPORT OF THE  
REGENTS REVIEW COMMITTEE**

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**BEHROOZ BASSIM**

**CALENDAR NO. 10975**



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

IN THE MATTER

of the

Disciplinary Proceeding

against

**BEHROOZ BASSIM**

**No. 10975**

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

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

BEHROOZ BASSIM, 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.

The instant disciplinary proceeding was properly commenced and on April 27, June 2, June 21, July 13, and August 1, 1989 hearings were held before a hearing committee of the State Board for Professional Medical Conduct. A copy of the statement of charges 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 concluded that respondent was guilty of the first through sixth specifications of the charges and

**BEHROOZ BASSIM (10975)**

recommended that respondent's license to practice as a physician in the State of New York be revoked. Charge B4 was withdrawn at the hearing and charge B3 was amended at the hearing as indicated in the hearing committee report.

The Commissioner of Health recommended to the Board of Regents that the findings of fact, conclusions, and recommendation of the hearing committee be accepted. A copy of the recommendation of the Commissioner of Health is annexed hereto, made a part hereof, and marked as Exhibit "C".

On August 10, 1990 respondent appeared before us in person and was represented by an attorney, Cornelius D. Murray, Esq., who presented oral argument on respondent's behalf. E. Marta Sachey, Esq., presented oral argument on behalf of the Department of Health.

Petitioner's recommendation, which is the same as the Commissioner of Health's recommendation, as to the measure of discipline to be imposed, should respondent be found guilty, was that respondent's license to practice as a physician in the State of New York be revoked.

Respondent elected not to make a recommendation as to the measure of discipline to be imposed, should respondent be found guilty.

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

**BEHROOZ BASSIM (10975)**

26, 1990 letter with accompanying brief, exceptions to the hearing committee report, and comments, and petitioner's August 1, 1990 letter with attached documents.

We reject respondent's contention that the hearing below should be reopened to allow for a physical demonstration concerning the misconduct charged. Such a demonstration is unnecessary. Respondent had a full and fair opportunity to present his case, and the record contains more than adequate evidence from which to assess respondent's conduct. We find no persuasive reason to support reopening a hearing record that is, in our unanimous opinion, both complete and accurate.

We unanimously recommend the following to the Board of Regents:

1. The hearing committee's 49 findings of fact, conclusions as to the question of respondent's guilt, and recommendation as to the measure of discipline be accepted, and the Commissioner of Health's recommendation as to those findings of fact, conclusions, and recommendation be accepted;
2. Respondent be found guilty, by a preponderance of the evidence, of the first through sixth specifications of the charges; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of

BEHROOZ BASSIM (10975)

the charges of which we recommend respondent be found  
guilty.

Respectfully submitted,

JORGE L. BATISTA

HERBERT BERNETTE EVANS

GEORGE POSTEL



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Chairperson

Dated:

9/17/90

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

-----X

IN THE MATTER : STATEMENT  
OF : OF  
BEHROOZ BASSIM, M.D. : CHARGES

-----X

BEHROOZ BASSIM, M.D., the Respondent, was authorized to practice medicine in New York State on July 22, 1970 by the issuance of license number 106646 by the New York State Education Department. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991 at 102 Market Street, Potsdam, New York 13676-1719.

FACTUAL ALLEGATIONS

A. Respondent, at various times from 1981 through 1987, provided medical care to Patient A [Patients are identified in Appendix A] at his office at 102 Market Street, Potsdam, New York 13676-1719 [hereinafter "his office"]. Respondent, on or about December 3, 1987, during the course of examining Patient A, inserted his penis into Patient A's vagina and moved it in and out.

EXHIBIT "A"

B. Respondent, at various times from 1981 through January 14, 1986, provided medical care to Patient B at his office. Respondent, from on or about the summer or autumn of 1985 through on or about mid January, 1986, during the course of Patient B's appointments at his office, engaged in physical contact of a sexual nature with Patient B, which included the following:

1. Respondent, on numerous occasions, rubbed and fondled Patient B's breasts.
2. Respondent, on numerous occasions, placed his hand inside Patient B's underwear and fondled her buttocks and genital area.
3. Respondent, on numerous occasions, unhooked Patient B's brassiere and kissed Patient B's breasts and neck.
4. Respondent, on frequent occasions while engaged in the aforesaid conduct, rubbed his body against Patient B's body.

C. Respondent, at various times from July, 1982 through August 5, 1988, provided medical care to Patient C at his office. Respondent, on or about August 5, 1988, during the course of examining Patient C for pain in her neck and shoulders, engaged in physical contact of a sexual nature with Patient C, which included the following:

1. Respondent, on two occasions, cupped Patient C's breasts in his hands and fondled and massaged them.
2. Respondent pulled Patient C's shorts and underwear down, touched her buttocks, and put his hands between Patient C's legs pressing her upper inner thighs.

FIRST THROUGH THIRD SPECIFICATIONS

CONDUCT EVIDENCING

MORAL UNFITNESS

Respondent is charged with conduct in the practice of the profession of medicine which evidences moral unfitness to practice medicine under N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.1(b)(5) (1987) in that the State Board for Professional Medical Conduct [hereinafter "Petitioner"] charges:

1. The facts in Paragraph A.
2. The facts in Paragraphs B and B.1, B.2, B.3, and/or B.4.
3. The facts in Paragraphs C and C.1 and/or C.2.

FOURTH THROUGH SIXTH SPECIFICATIONS

PHYSICAL ABUSE

OF A PATIENT

Respondent is charged with willfully abusing a patient physically under N.Y. Educ. Law §6509(9) (McKinney 1985) and 8 NYCRR §29.2(a)(2) (1987), in that Petitioner charges:

4. The facts in Paragraph A.

5. The facts in Paragraphs B and B.1, B.2, B.3, and/or B.4.
6. The facts in Paragraphs C and C.1 and/or C.2.

DATED: Albany, New York  
*March 14, 1959*

*Peter D. Van Buren*  
\_\_\_\_\_  
PETER D. VAN BUREN  
Deputy Counsel

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

IN THE MATTER  
OF  
BEHROOZ BASSIM, M.D.

REPORT OF  
HEARING  
COMMITTEE

TO: HONORABLE DAVID AXELROD, M.D.  
COMMISSIONER OF HEALTH OF THE STATE OF NEW YORK

The undersigned Hearing Committee (the Committee) consisting of Patricia Bredenberg, R.N., Chairperson, Richard Chazin, M.D. and Kendrick Sears, M.D. was duly designated, constituted and appointed by the State Board for Professional Medical Conduct (the Board). Marshall Jay Grauer, Esq. served as the 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 the 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 a part of the record.

The Committee has considered the entire record in the above-captioned matter and makes a Report of its Findings of Fact, Conclusions and Recommendations to the New York State Commissioner of Health.

RECORD OF PROCEEDINGS

Notice of Hearing and Statement of Charges Dated:	March 14, 1989
Hearing Dates:	April 27, 1989 June 2, 1989 June 21, 1989 July 13, 1989 August 1, 1989
Hearing Locations:	University Inn Canton, NY  Canton College of Technology Canton, NY  Airport Inn Syracuse, NY
Date and Location of Deliberations held by Committee:	9/28/89 Airport Inn Syracuse, NY
State Board of Professional Medical Conduct Appeared by:	E. Marta Sachey, Esq. Corning Tower Building Room 2429 Empire State Plaza Albany, NY 12237
Respondent Appeared by:	Robert Halliday, Esq. 21 Market Street Potsdam, NY 13767
Respondent's Address:	Route 11B Stockholm, NY
Respondent's Office Address:	102 Market Street Potsdam, NY 13767

WITNESSES

FOR THE DEPARTMENT

PATIENT "A"	Patient of Respondent
PATIENT "B"	Patient of Respondent
PATIENT "C"	Patient of Respondent
MARK A. HOFFMEISTER	Senior Investigator for New York State Department of Health

FOR THE RESPONDENT

KAREN SUE LUSTYK	Former receptionist/clerk for Respondent
DONNA BEHNKE	Former receptionist/clerk for Respondent
DONNA LARSON	Former clerical employee of Respondent
PATRICIA R. BASSIM	Wife of Respondent
BEHROOZ BASSIM, M.D.	Respondent

SUMMARY OF CHARGES

Respondent, a duly licensed and practicing physician, is charged with conduct evidencing moral unfitness and physical abuse of a patient in that, with respect to the care and treatment of three female patients ("A", "B" and "C") he engaged in inappropriate and improper physical and/or sexual contact with said patients, including intercourse and he inappropriately fondled and caressed said patients. Said conduct is alleged to have occurred during the period encompassed by the years 1985 through 1988.

### PRELIMINARY FINDINGS

Respondent is a duly licensed, practicing physician, who was authorized to practice medicine in New York State on July 22, 1970 by the issuance of license number 106646 by the New York State Education Department. He is currently registered to practice medicine for the period January 1, 1989 through December 31, 1991 at 102 Market Street, Potsdam, New York 13676-1719.

### FACTUAL ALLEGATIONS

#### Paragraph "A"

A. Respondent, at various times from 1981 through 1987, provided medical care to Patient A at his office at 102 Market Street, Potsdam, New York 13676-1719. Respondent, on or about December 3, 1987, during the course of examining Patient A, inserted his penis into Patient A's vagina and moved it in and out.

### FINDINGS

1. Patient "A" is a 42 year old married women who first became a patient of the Respondent in approximately 1981. (Exh. "4") (T. 17-19)
2. Respondent's office records indicate that he saw Patient "A" as a patient at his office on 4/24/81, 5/28/81, 7/2/81, 9/15/81, 9/24/81, 5/24/82, 3/8/83, 5/7/84, 11/14/85, 7/31/87, 8/3/87, 9/25/87 and 12/3/87 usually with respect to problems Patient "A" had with vaginal or urinary tract infections.. (Exh. "4") (T. 513-515)
3. On December 3, 1987 Patient "A" came to Respondent's

office with complaints of a mild urinary tract infection. (Exh. "4") (T. 578)

4. Prior to her visit on December 3, 1987, Patient "A" had received internal examinations performed by Respondent, the most recent one being September 25, 1987. (Exh. "4") (T. 578-579)

5. It was the usual custom and practice to have Respondent's wife, Patricia, act as a chaperon when Respondent would give an internal exam. (T. 92)

6. Respondent advised Patient "A" that he wished to perform an internal exam. (T. , 24, 25, 51, 526)

7. On this date, Respondent's wife was not present, and the examination was performed by Respondent without any other person being present. (T. 528)

8. Respondent instructed Patient "A" to undress from the waist down and provided her with a sheet to cover herself. He instructed her to call him when she was ready and left the examining room. (T. 24-25, 51, 526-527, 591)

9. When Patient "A" indicated to Respondent she was ready, Respondent returned to the examining room, placed her in a reclining position and put her feet in the stirrups. (T. 25, 53-55, 93, 96-97, 527, 529, 622)

10. Respondent began the internal examination using his fingers. During the initial portion of the examination, Patient "A" reported no soreness or discomfort in response to Respondent's questions. (T. 27, 58)

11. During the course of the examination, Patient "A"

suddenly experienced a change and felt internally a "full and thrusting motion" forceful enough to move her body up and down on the examining table and also to produce pain and discomfort. (T. 27, 28)

12. At the same time that the patient felt these thrusting motions, she observed Respondent's facial expressions and described them as being "contorted" and also that he was gritting his teeth and looking "down." (T. 28)

13. Patient "A" concluded that Respondent had inserted his penis into her vagina and was rhythmically moving it in and out. (T. 27-28, 34)

14. Patient "A" said, "Wait a minute, what's going on here?" and got off the examining table quickly, at which time her hand unintentionally struck Respondent's left shoulder as he was turning away from Patient "A". (T. 30, 61-65, 95)

15. Patient "A" observed that Respondent had his elbows at his waist, his fists clenched toward his chin area and that he was in a crouched position. The fly on his trousers was unzipped. (T. 31, 32)

16. Respondent thereafter exited the examining room via his adjacent counseling room and instructed Patient "A" to get dressed. (T. 31)

17. Patient "A" could clearly distinguish the difference between the examination of December 3, 1987 from prior internal examinations she had received, particularly with respect to the pain and thrusting. (T. 34-36)

18. After Patient "A" dressed, she briefly went to Respondent's counseling room, where Respondent was at his desk. He stated that she had a viral infection and gave her a prescription he had written, after which she exited to the waiting room. (T. 36, 62-63)

19. The evening of December 3, 1987 Patient "A" told her husband of the incident. She made and kept an appointment with Dr. Rogers on December 4, 1987, at which time she reported the incident to him. (T. 39, 41)

20. On December 7, 1987 Patient "A" went to the St. Lawrence County Mental Health Clinic, pursuant to certain recommendations made by Dr. Rogers. (T. 40-43)

#### CONCLUSIONS

The Hearing Committee concludes that the factual allegations in Paragraph "A" have been sustained by a preponderance of the evidence.

There is certain conflicting testimony between Patient "A" and the Respondent with respect to the office visit of December 3, 1987. There was no dispute, however, that Patient "A" was in the offices of Respondent on that day for a scheduled visit and that she had an infection and that Respondent performed an internal examination. Up to the point when Patient "A" described the rhythmic thrusting motions, there is little difference in Patient "A"'s vs. Respondent's accounts of what took place.

took place.

Nor is there any question raised as to historical facts relative to the doctor-patient relationship that existed from 1981 to December 1987. Respondent acknowledged that when he performed an internal exam, his wife customarily performed the role as assistant and chaperon and that even on this date he asserts that he checked to see if she was available. (T. 528) He opted to perform the examination without a chaperon, however, since he considered Patient "A" an established patient who he had sufficient rapport with, and trust in, so he felt there was no cause for concern.

Patient "A" had seen the Respondent for a period of over six years and approximately thirteen visits. Her medical records show that the majority of these visits were for genital-urinary problems, and as a consequence, she had received several prior internal examinations. Her history indicated that she behaved normally as a patient and never made any accusations against Respondent or any other physician in the past.

In summary, the record is devoid of any facts which would support a conclusion that there would be any motivation for Patient "A" to intentionally misrepresent the facts or make false accusations against Respondent. To the contrary, there appeared to be a positive physician-patient relationship in the past, which had endured six years. Absent a basis to conclude malice on the part of Patient "A", the question arises whether there is a possibility that this patient drew incorrect conclusions with

respect to the thrusting she felt during the examination. In this regard, the patient is a married woman, has had a normal sexual relationship and is not so unsophisticated as to be unable to discern accurately the physical sensations she experienced on December 3, 1987. In addition to those sensations, she observed Respondent's facial expressions and saw him in a partial state of undress.

The Hearing Committee can find no basis to reject or discredit the testimony of this patient.

By contrast, there were certain aspects of Respondent's testimony and his demeanor that give rise to the question of credibility. Respondent denied that during the pelvic exam Patient "A" jumped off the examining table, brushing or striking against him, and that she stated, "What's going on here?"

Respondent's version was simply that the entire internal examination took "half a minute" and that he left the room with the patient still in the lithotomy position.

The Hearing Committee accepts as the facts Patient "A"'s version of the events. Even if Patient "A" was totally mistaken in her belief that Respondent had thrust his penis into her, it would not have been necessary for Respondent to deny the fact that she jumped off the table, as she described. It is further noted that during Respondent's account of the events surrounding this visit, he, as well as his wife, were remarkably precise in their recollections. Given the period of time that had elapsed since the events occurred, such a remarkably precise recollection

raises questions in the Committee's mind of the Respondent's credibility.

#### FACTUAL ALLEGATIONS

##### Paragraph "B"

B. Respondent, at various times from 1981 through January 14, 1986, provided medical care to Patient B at his office. Respondent, from on or about the summer or autumn of 1985 through on or about mid-January, 1986, during the course of Patient B's appointments at his office, engaged in physical contact of a sexual nature with Patient B, which included the following:

1. Respondent, on numerous occasions, rubbed and fondled Patient B's breasts.
2. Respondent, on numerous occasions, placed his hand inside Patient B's underwear and fondled her buttocks and genital area.
3. Respondent, on numerous occasions, [unhooked Patient B's brassiere and] kissed Patient B's [breasts] and neck.<sup>1</sup>
- [4. Respondent, on frequent occasions, while engaged in the aforesaid conduct, rubbed his body against Patient B's body.]<sup>2</sup>

#### FINDINGS

21. Patient "B" is a single woman, 33 years of age. She received a bachelor's degree in 1979. In 1981 she completed a

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<sup>1</sup> Language in brackets appeared in original charges but was withdrawn.

<sup>2</sup> This charge (B4) appeared in the original Statement of Charges but was withdrawn.

program of practical nursing and recently was employed as a home health aide. (Exh. "6") (T. 160-162)

22. Respondent's office records indicate that Respondent saw Patient "B" approximately 37 times at his office during the period from 1981 through January 14, 1986 for various complaints including allergies, headaches, gastrointestinal and menstrual problems and problems relating to her back. (Exh. "6")

23. Patient "B" had been receiving psychological counseling at the County Mental Health Clinic for the ten years immediately preceding the hearing. (T. 176-177)

24. Respondent's office records indicated, in part, that during the latter part of 1985 he saw Patient "B" on 8/23, 9/6, 9/24, 10/1, 10/4, 10/8, 10/18, 10/22, 11/8, 11/14, 11/18, 12/2, 12/9 and 12/17. (Exh. "6")

25. In connection with Patient "B"'s back problems, she had received medication, therapy, injections, and commencing in approximately mid-summer of 1985 also received massages administered by Respondent. (T. 168)

26. Starting in the fall of 1985 and through January of 1986, on at least five occasions, these massages consisted of Respondent rubbing the lower back, buttocks, pubic and vaginal areas of Patient "B" while she bent over the examining table. On some of these occasions, Respondent placed his hand under "B"'s brassiere to rub her breasts, and he also kissed her neck and chest area. (T. 169-174)

27. On the occasions that the Respondent had intimate

physical contact with "B", as above described, she would not be undressed, but slacks and jeans were unzipped. (T. 172)

28. On these occasions, Patient "B" did not protest Respondent's actions because she wished the relationship to continue. She enjoyed the contact and became sexually aroused by Respondent's conduct and was infatuated with him. (T. 176-180)

29. On or about January 14, 1986, Patient "B" had a letter delivered to the Respondent by leaving it with his secretary. Statements in the letter allude to some kind of a relationship taking place between Respondent and Patient "B". (Exh. "E")

30. The letter of January 14, 1986 precipitated Respondent notifying "B" that he was terminating her as a patient and ending the relationship. (T. 708, 709)

31. Patient "B" was upset by Respondent's termination of her as a patient and wished to continue the relationship, including the physical contact. She had become infatuated with the Respondent. (T. 179, 222)

32. After she was terminated, Patient "B" wrote another letter directed to both the Respondent and his wife, the substance of which was a plea to be allowed to continue as a patient. (Exh. "F")

#### CONCLUSIONS

The Hearing Committee concludes by unanimous vote that the factual allegations in Paragraph "B1", "B2" and "B3" (as amended) have been sustained by a preponderance of the evidence.

Here again, the Committee is confronted with conflicting testimony as to certain specific events that occurred in the privacy of the Respondent's examining room. There are, however, certain facts that are not in dispute such as the fact that Patient "B" was, in fact, a patient of Respondent, and the dates and times that Patient "B" was in the office being attended to by Respondent are clearly documented. The Committee notes that particularly with respect to the months of October, November and December, the visits were extremely frequent and closely placed in time. The Hearing Committee has carefully noted the demeanor and credibility of Patient "B", as well as having read the complete record. The Hearing Committee can find no motive whatsoever for Patient "B" to falsify the statements that she has testified to. It is noted that Patient "B" was a patient of fairly long duration, commencing in 1981 through 1988, and she did not testify or suggest that Respondent's contact with her was inappropriate for a physician-patient relationship until the very latter part of the their relationship.

It must be particularly noted in evaluating the credibility of both "B" and the Respondent that the two letters transmitted to Respondent and to Respondent and his wife, both of which are in evidence, and which were sent long before the instant proceeding was commenced, give rise to a reasonable inference that some type of a relationship had developed and was in existence. These letters and their contents are consistent with the narrative testimony of Patient "B". It is further noted that

Patient "B" did not testify in a fashion critical of the conduct of Respondent, but rather, she freely acknowledged that the conduct of Respondent was not offensive to her, and she wished it to continue.

Respondent, in his testimony, suggested that the motive of Patient "B" was retribution for his rejection of her. The Hearing Committee has seriously evaluated this possibility and has rejected same in the context of the entire record.

#### FACTUAL ALLEGATIONS

##### Paragraph "C"

C. Respondent, at various times from July, 1982 through August 5, 1988, provided medical care to Patient C in his office. Respondent, on or about August 5, 1988, during the course of examining Patient C for pain in her neck and shoulders, engaged in physical contact of a sexual nature with Patient C, which included the following:

1. Respondent, on two occasions, cupped Patient C's breasts in his hands and fondled and massaged them.
2. Respondent pulled Patient C's shorts and underwear down, touched her buttocks and put his hands between Patient C's legs pressing her upper inner thighs.

#### FINDINGS

33. Patient "C" was a woman who, at the time of the hearing, was 31 years of age, married and mother of an eight year old child. (T. 103)

34. Patient "C" is a high school graduate, a housewife and

has a small ceramics business. (T. 103)

35. Respondent provided medical care to Patient "C" from January 26, 1982 through August 5, 1988. (Exh. "5")

36. Patient "C"'s complaints included lightheadedness and dizziness, neck pain, nervousness, rapid and/or skipped heartbeat, as well as an eating disorder. (Exh. "5") (T. 106, 107)

37. During the period from 1982 to 1988, Respondent saw Patient "C" at his office approximately 11 times. (Exh. "5")

38. The physician-patient relationship was routine and uneventful until 1988. (T. 104-107)

39. In July of 1988, Patient "C" saw Respondent, pursuant to a recommendation of the Mental Health Clinic, to rule out any physical problems that could be related to an existing eating disorder "C" suffered from. (Exh. "5") (T. 105-109)

40. Patient "C" saw Respondent again for a follow-up visit at his office on August 5, 1988, at which time Respondent advised "C" that tests taken previously were normal but that her fat intake should be increased. On this occasion, Patient "C" reported some discomfort in her neck. (T. 111)

41. Respondent instructed "C" to go into his examining room, and while "C" was on the examining table on her stomach, Respondent pulled her shorts and underpants down below her knees, thereby exposing her body below the waist. (T. 112)

42. Patient "C" was wearing a T-shirt top with no bra. (T. 110-112)

43. Respondent then partially raised Patient "C"'s body with one hand and with the other pressed and touched near the top of her thighs. (T. 113)

44. Later in the exam, when Respondent was rubbing her back, he located an area of discomfort in the upper back and neck area. (T. 114)

45. During the course of the examination, Respondent reached around and stroked and squeezed both of "C"'s breasts. Patient "C" characterized Respondent's acts as "playing" with her breasts. (T. 114-117)

46. Patient "C" tried to divert Respondent by advising him she had to go to the bathroom. (T. 117)

47. After this encounter the patient went from the examining room to Respondent's counseling room, where he was at his desk. He told Patient "C" to eat more fats and gave her a prescription for her neck. (T. 117-119)

48. When Patient "C" left Respondent's offices that day, she reported the incident to her mother and brother, who were waiting in their automobile. (T. 120-122)

49. Patient "C" later reported the incident to her counselor at the Mental Health Clinic, where she was being treated for her eating disorder. (T. 120-122)

#### CONCLUSIONS

The Hearing Committee concludes, by unanimous vote, that the factual allegations set forth in Paragraph "C" and Subparagraphs

"1" and "2" have been sustained by a preponderance of the evidence in that on or about August 5, 1988, Respondent inappropriately fondled and massaged Patient "C"'s breasts and also fondled Patient "C"'s upper thighs and buttocks.

"C" was a patient of the Respondent's for a period of six years. There is nothing in the record indicating that prior to August 5, 1988 there was anything out of the ordinary in their doctor-patient relationship, nor is there anything to suggest any hostility or animosity between them. Respondent did not deny that he made contact and/or manipulated "C"'s buttocks. He accounts for this behavior by explaining he was searching for the sciatic notch. (T. 647-649, 661, 664) Consequently, in his testimony, the Respondent acknowledged he came in contact with the patient's upper thighs and buttocks. Although the Respondent attempts to justify this contact based on medical necessity, there is really nothing in Patient "C"'s record that would suggest any need for this type of examination.

After careful evaluation, the Hearing Committee concludes that Patient "C" gave a credible account of the events of August 5, 1985, and the record does not support an inference to indicate any motivation for Patient "C" to falsify a story to malign or injure the Respondent. The Respondent's explanations are not credible.

Respondent also suggested there may be a conspiracy against him in the community and that Patient "C" was induced by some third person to testify against him. (T. 673-675) Patient "C",

during her cross-examination, did not reveal any hostility or duplicity with respect to the Respondent, and a review of the entire record does not appear to support Respondent's assertion of conspiracy.

After careful consideration, it is concluded that the factual allegations have been sustained by a preponderance of the credible evidence.

#### SUMMARY AND CONCLUSIONS

As hereinbefore noted, the Hearing Committee has found that all of the factual allegations set forth in the Statement of Charges have been sustained by a preponderance of the evidence. The Hearing Committee, in its deliberations, has independently evaluated the factual allegations with respect to each patient separately without regard to the fact that three separate patients have made similar charges.

In passing, however, it is noted that these patients, each of them unknown to the others, have reported incidents of a similar nature in connection with their treatment by Respondent. Respondent's conduct is apparently not an isolated incident, but rather, appears to be a pattern of behavior.

#### FIRST THROUGH THIRD SPECIFICATIONS

The Committee, by unanimous vote, concludes that Respondent is guilty of conduct evidencing moral unfitness to practice medicine under New York Education Law §6509(9)(McKinney 1985)

1. The facts in Paragraph "A";
2. The facts in Paragraph "B" and subparagraphs "1", "2" and "3";
3. The facts in Paragraph "C" and subparagraphs "1" and "2".

#### FOURTH THROUGH SIXTH SPECIFICATIONS

The Committee further concludes that Respondent is guilty of the charge of Willfully Abusing a Patient Physically under the provisions of New York Education Law §6509(9)(McKinney 1985) and 8NYCRR §29.2(a)(2)(1987), by reason of the facts as set forth in Paragraph "4", which relates to the facts in Paragraph "A"; Paragraph "5", which relates to the facts in Paragraph "B" and subparagraphs "1", "2" and "3"; and Paragraph "6", which relates to the facts in Paragraphs "C" and subparagraphs "1" and "2".

#### RECOMMENDATIONS

The Committee considers Respondent's conduct to be a very serious violation of his responsibility to patients and in gross contravention of his ethical obligations. Inherent in the practice of medicine is the fact that patients come to a physician seeking help and, based on trust, place themselves in extremely vulnerable circumstances. In the opinion of the Committee, a physician who takes advantage of this trust acts in a reprehensible manner. Respondent has abused three patients for his own gratification.

The Committee has considered the possible appropriate

penalties with respect to this Respondent, i.e., probation, public service, fine, censure and reprimand or suspension, none of which, in the judgment of the Committee, would be fitting under the facts of this case.

Nor is this a situation where, by reason of Respondent's incompetence in certain areas, the deficiencies can be remedied by additional training and study.

In conclusion, the Committee feels there is no alternative but to recommend revocation of Respondent's license to practice medicine in the State of New York.

DATED: December 19, 1989

Respectfully submitted,

*Patricia Bredenberg, R.N.*

PATRICIA BREDEBERG, R.N.  
Chairperson  
Richard Chazin, M.D.  
Kendrick Sears, M.D.

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

-----X  
IN THE MATTER :  
OF :  
BEHROOZ BASSIM, M.D. :  
-----X

COMMISSIONER'S  
RECOMMENDATION

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 April 27, 1989, June 2, 1989, June 21, 1989, July 13, 1989 and August 1, 1989. Respondent, Behrooz Bassim, M.D., appeared by Robert Halliday, Esq. The evidence in support of the charges against the Respondent was presented by E. Marta Sachey, 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 and Conclusions of the Committee should be accepted in full;
- B. The Recommendation of the Committee should be accepted; and
- C. 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 described above.

EXHIBIT "C"

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

DATED: Albany, New York  
*May 18*, 1989

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

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

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**BEHROOZ BASSIM**

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**CALENDAR NO. 10975**



# The University of the State of New York

IN THE MATTER

OF

**BEHROOZ BASSIM**  
(Physician)

**DUPLICATE  
ORIGINAL  
VOTE AND ORDER  
NO. 10975**

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Upon the report of the Regents Review Committee, a copy of which is made a part hereof, the record herein, under Calendar No. 10975, and in accordance with the provisions of Title VIII of the Education Law, it was

**VOTED (October 19, 1990):** That, in the matter of BEHROOZ BASSIM, respondent, the recommendation of the Regents Review Committee be accepted as follows:

1. The hearing committee's 49 findings of fact, conclusions as to the question of respondent's guilt, and recommendation as to the measure of discipline be accepted, and the Commissioner of Health's recommendation as to those findings of fact, conclusions, and recommendation be accepted;
2. Respondent is guilty, by a preponderance of the evidence, of the first through sixth specifications of the charges; and
3. Respondent's license to practice as a physician in the State of New York be revoked upon each specification of the charges of which respondent was found guilty;

and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

BEHROOZ BASSIM (10975)

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 26<sup>th</sup> day of October, 1990.

*Thomas Sobol*  
Commissioner of Education