



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Mark R. Chassin, M.D., M.P.P., M.P.H.
Commissioner

Paula Wilson
Executive Deputy Commissioner

July 28, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jean Bresler, Esq.
New York State Department of Health
Bureau of Professional Medical Conduct
5 Penn Plaza - Sixth Floor
New York, New York 10001

Richard Gold, M.D.
223 Route 59
Monsey, New York 10952

Nathan L. Dembin, Esq.
225 Broadway - Suite 1905
New York, New York 10007

RE: In the Matter of Richard Gold, M.D.

Dear Ms. Bresler, Dr. Gold and Mr. Dembin:

Enclosed please find the Determination and Order (No. BPMC-94-128) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

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required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate.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

Office of Professional Medical Conduct
New York State Department of Health
Corning Tower - Fourth Floor (Room 438)
Empire State Plaza
Albany, New York 12237

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), "(t)he 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 all action 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
Empire State Plaza
Corning Tower, Room 2503
Albany, New York 12237-0030

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

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

Sincerely,

A handwritten signature in cursive script that reads "Tyrone T. Butler/crc".

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:crc

Enclosure

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

**IN THE MATTER
OF
RICHARD GOLD, M.D.**

**DETERMINATION
AND
ORDER
NO. BPMC-94-128**

The undersigned Hearing Committee consisting of **THEA PELLMAN, Chair, DR. JACK SCHNEE**, and **DR. RALPH LUCARELLO**, were duly designated and appointed by the State Board for Professional Medical Conduct. **MARY NOE, ESQ.** (Administrative Law Judge) served as Administrative Officer.

The hearing was conducted pursuant to the provisions of Sections 230 (10) of the New York Public Health Law and Sections 301-307 of the New York State Administrative Procedure Act to receive evidence concerning alleged violations of provisions of Section 6530 of the New York Education Law by **RICHARD GOLD, M.D.** (hereinafter referred to as "Respondent"). 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 hereby renders its decision with regard to the charges of medical misconduct.

SUMMARY OF PROCEEDINGS

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| Notice of Hearing and Statement of Charges: | August 26, 1993 |
| Pre-Hearing Conference: | September 10, 1993 |
| Hearing Dates: | September 14, 1993 November 4, 1993 November 11, 1993 November 18, 1993 December 3, 1993 December 14, 1993 December 16, 1993 December 21, 1993 February 17, 1994 March 1, 1994 April 12, 1994 |
| Place of Hearing: | NYS Department of Health New York, NY |
| Date of Deliberation: | April 28, 1994 May 12, 1994 |
| Petitioner Appeared by: | Jean Bresler, Esq. NYS Department of Health 5 Penn Plaza New York, New York |
| Respondent Appeared by: | Nathan Dembin, Esq. 225 Broadway New York, NY 10017 |

WITNESSES

| | |
|---------------------|--|
| For the Petitioner: | Patient A, B, C, D, and E Jerome Marton Bernard Gertler Dr. Schlossman Barbara Steinberg |
| For the Respondent: | Stanley Goldberg, M.D. Robert O'Keefe Richard Gold, M.D., Respondent Dr. Pinkser |

FINDINGS OF FACT

1. Respondent was authorized to engage in the practice of medicine in the State of New York on July 18, 1960, by the issuance of license number 084219 by the New York State Education Department. (Pet. Ex. 2).

2. Respondent is registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at 223 Route 59 Monsey, NY.

PATIENT A

3. On or about October 15, 1980 Patient A a 42 year old woman consulted with Respondent, a psychiatrist at his office, North Main Street, Spring Valley, NY, for help with marital problems. (Pet. Ex 2, T. 647, T. 633, 634).

4. On or about February 2, 1981, Patient A saw the Respondent for an appointment and during that appointment, Patient A and Respondent kissed each other. (T. 660).

5. On or about February 10, 1981, Patient A and Respondent had sexual contact including oral sex and intercourse. That the sexual contact occurred on a black lounge in Respondent's office and that Respondent never removed his shorts. (T. 672, 674).

6. On or about March 12, 1981 Patient A and Respondent kissed in Respondent's office during an appointment. (T. 677).

7. Respondent billed Patient A for psychiatric services rendered on February 2,

February 10, March 12, and April 13, 1981. (T. 935-936, Pet. Ex. 11).

8. On June 10, 1981, Patient A consulted a psychiatrist, Howard Schlossman, M.D. on the advice of her friend, Sheila Borack's psychiatrist. (T. 687, Pet. Ex. 21).

9. Patient A told Dr. Schlossman about her relationship with Respondent, her marital problems and her confusion. Dr. Schlossman corroborated her testimony indicating that Patient A had told him she had started treatment (with Respondent) in the year preceding and had ended up in bed with her therapist (T. 956). Dr. Schlossman also stated that Patient A was not at all subject to delusion; that there was a consistency to what Patient A had related to him and a continuity of material which caused him to believe her statements to him. (T. 958, T. 994, Pet. Ex. 16).

10. Following her termination as a patient with Respondent as of April 13, 1981, the date of his last billing and notes, Patient A and Respondent continued in a relationship. During the period of this relationship, Patient A learned many details about the personal life of Respondent and was able to describe many events in his life in great detail. (T. 707, 708-712, 719-720).

11. Patient A began treatment with another psychiatrist, Dr. Burton August in November of 1984 and she continued in treatment with Dr. August until April 3, 1992. Patient A told Dr. August about her relationship with Respondent. (T. 724, 726, 735).

12. Respondent told Patient A about his surgery following the initial sexual contact (T. 712). She testified she heard the "ostomy bag move during intercourse" and asked him about it (T. 713). That Respondent never removed his boxer shorts (T. 716); and that on one occasion in May, 1983, Respondent showed Patient A an area on his body which was bandaged. (T. 717).

13. Patient A testified that Respondent wanted more "oral sex" than intercourse and that

sex occurred on the "black lounge". (T. 721).

14. Patient A saw Respondent at his office on Wednesdays, lunch hours and breaks between patients. (T.725).

15. Respondent wrote a letter of recommendation for Patient A on June 4, 1984. (Pet. Ex. 12) in which he stated Patient A was an employee, which was not true.

16. Patient A testified she and Respondent had had lunch at the Rosebud Restaurant on August 28, 1985 and telephone records of Respondent confirm that he had made calls from that restaurant on that date. Respondent had denied this fact to two New York State investigators on two separate occasions. (Pet. 16-17).

PATIENT B

17. Patient B began treatment with Respondent several months after her move to Rockland County in 1968, at the age of 19 (T. 478-479). The main reason for her seeking psychiatric treatment was her depression and mourning for her son who had died in March, 1968. (T. 478-479).

18. After several months of therapy, Respondent made sexual overtures to Patient B and told her he had feelings for her as a man not as a doctor. (T. 487).

19. Respondent and Patient B engaged in a sexual relationship including intercourse and oral sex. (T. 488).

20. Sex occurred between Patient B and Respondent on a dark chaise or lounge. (T. 489).

21. Patient B described that during sex Respondent wore boxer shorts (T. 541). Patient B continued to see Respondent at his office for approximately one year during which period they continued to have sex at the office. (T. 489).

22. Patient B's bills for treatment were paid by her husband's army medical coverage. (T. 492).

23. Patient B never saw a secretary or receptionist during her visits to Respondent's office. (T 490).

24. At the time of the sexual relationship with Respondent, Patient B told one friend, Elinore Ross (T. 493) about the relationship. Elinore Ross' sworn affidavit states that in or around 1968 Patient B informed her that she was having sex with Respondent. (Pet. Ex. 20).

PATIENT C

25. Patient C began treatment with Respondent in or around 1973-74 (T. 58) At the time of treatment, Patient C was 24 years of age. (T. 62).

26. During the course of her treatment, Respondent made sexual overtures toward Patient C, such as sitting next to her, touching her leg and telling her he found her attractive. (T. 41, 109, 110).

27. Patient C immediately left Respondent's office and never returned. (T. 41, 43, 44).

28. Shortly after Patient C left Respondent as a patient, she related the incident to her friend, Barbara Sternberg, who is married to a psychiatrist. (T. 46-47, 121, 122).

29. Barbara Sternberg recalled Patient C telling her that Respondent turned off the lights and placed his hand on Patient C's thigh. (T. 123).

30. Barbara Sternberg advised Patient C at that time not to see Respondent again and to seek treatment from some one else. (T. 123).

31. Barbara Sternberg called Patient C in October, 1992 after reading a newspaper article about Respondent and reminded Patient C of their conversation 20 years earlier. (T. 124).

PATIENT D

32. On or about October, 1976 Patient D was referred to Respondent by Dr. Peter Stangel, and began a course of treatment. (T. 161, Pet. Ex. 4 and 4A).

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33. Respondent treated patient D with psychotherapy and medication including tranquilizers, sleeping medication and sedatives from the beginning of treatment. (T. 164; Pet. Ex. 14, 15) (Pet Ex. 4, 4A, 5, 6, 7, 8, 9, 10).

34. Respondent admitted Patient D to good Samaritan Hospital seven times to the Frawley Unit, psychiatric unit, and between admissions she received therapy privately from him. (T. 67).

35. Patient D's psychiatric treatment was paid for exclusively by medicaid. (T. 173).

36. Toward the end of the first year of therapy Respondent began talking about her physical appearance and sitting next to her. (T. 176-178).

37. Respondent then began touching her during therapy sessions - unbuttoning her blouse

and touching her breasts. (T. 178-179).

38. Thereafter Respondent engaged in regular sexual encounters, including oral sex and intercourse, several times per month.

39. A sexual relationship first began between Patient D and Respondent toward the second half of the first year of treatment. (T. 168-169).

40. Oral sex was more frequent than intercourse (T. 180-181). She described that he unbuttoned his shirt and unzipped his pants (T. 181). This was the most consistent part of their sexual relationship. (T. 181).

41. Initially Patient D saw a secretary at Respondent's office. Once the sex began she no longer saw the secretary. (T. 224).

42. Patient D wasn't sure what Respondent wore during sexual intercourse because during sex Patient D laid down and closed her eyes and kept them closed. She didn't look at his body during intercourse and intercourse was infrequent. (T. 224).

43. Intercourse between Patient D and Respondent took place on a wooden frame table, like an examining table without attachments. (T. 223, 326).

44. Patient D and Respondent had sex on this table infrequently; approximately 90% of the time they had oral sex. (T. 327).

45. Patient D could not remember how many times per week she had sex with the Respondent but at a certain point in time sex was frequent. (T. 328, 330, 336).

46. On April 16, 1992 Patient D was interviewed by a state investigator, Mr. O'Keefe. At first Patient D told Mr. O'Keefe, that the Respondent removed all his clothes infrequently. Then she recalls telling Mr. O'Keefe "come to think of it I never saw him naked". (T. 344). Patient D never saw Mr. O'Keefe's report. (T. 344).

47. Patient D never saw him take off his underwear and that he wore boxer shorts. (T. 346).

48. At a prior deposition of Patient D, she stated that Respondent never took off his shorts (T. 614-615). This deposition took place before the civil trial between Patient A and Respondent. (T. 205).

49. Mr. O'Keefe testified that he writes reports from notes and he tries to be accurate but sometimes makes mistakes. (T. 1839).

50. During an admission to Good Samaritan Hospital in 1979, Patient D told a psychiatric social worker named Jerry Marton about her sexual relationship with Respondent (T. 191). Patient D testified that she recalls Mr. Marton telling her to stop seeing Respondent and referring her to another psychiatrist whom she called but who did not take medicaid patients. (T. 192).

51. Patient D asked Jerry Marton not to speak to Respondent because she feared he would stop prescribing drugs for her. (T. 193).

52. Mr. Marton was called as a witness by the Petitioner. He is currently administrative coordinator for psychiatry and social work for Good Samaritan Hospital. He corroborated the aforementioned testimony of Patient D. (T. 404-405, 413).

53. Patient D has never spoken to Patients A, B, C, or E. (T. 205).

54. Patient D spoke to Mr. O'Keefe of the State Health Dept's Investigator staff for the first time, before she read any newspaper accounts or knew the name of Patient A. (T. 1841-1843).

JEROME MARTON

55. Mr. Marton testified that he is a social worker who has been employed at Good Samaritan Hospital for 23 years. (T. 399-400).

56. From 1975 - 1979 he was either indirectly involved in Patient D's care because he supervised her social worker or he was directly involved in her case. (T. 402).

57. During Patient D's last admission to the Frawley Unit Patient D advised Mr. Marton that she was having sexual relations with Respondent. (T. 404).

58. Mr. Marton testified that he told the patient that she could report it, he could speak to Respondent, and he could refer her to another psychiatrist; and that she had options and didn't have to return to treatment with him. (T. 404-405).

59. Mr. Marton recalls that over a period of a few days Patient D resolved with Mr. Marton that she did not want to report it, that she didn't want Mr. Marton to confront Respondent, but she asked for referrals to other psychiatrists which Mr. Marton provided. (T. 405).

60. Mr. Marton did not see Patient D again until 1992 when she was doing an internship at Good Samaritan Hospital. This was after he had spoken to Mr. O'Keefe from the New York State Health Department. He asked Patient D if she wanted him to put Mr. O'Keefe in touch with her. (T. 406).

61. Mr. Marton made a reference in the chart to Patient D's ambivalence regarding her relationship with her significant other. This reference was to remind him of her relationship with Respondent. (T. 413.).

62. Mr. Marton testified he made an oblique reference in his notes to the patient's relationship with Respondent to remind him of his conversation with her. He testified that "it meant that she had reported to me that she had a sexual relationship with [Respondent]". (T. 413, lines 16-20).

63. Mr. Marton did not recall the patient having alcohol blackouts or being delusional in a post-alcoholic state. His chart indicates that she did not suffer from such states. (T. 434; Pet. Ex. 4-10).

64. Mr. Marton explored with the patient her allegation. He recalls her stating that it had gone on for some time. She was not delusional. (T. 449).

65. Mr. Marton asked Patient D why she persisted in her relationship with Respondent and he testified "her answer had to do with that she was drug dependent and Respondent was feeding her drugs." (T. 452). Although Mr. Marton had no specific memory that he discussed the accusation with Dr. Levitt, his superior, that would have been his practice. (T. 450).

66. Mr. Marton's testimony provides significant corroboration of Patient D's testimony. Mr. Marton has no reason to lie or hurt Respondent. As a matter of fact he testified that as a practitioner he had respect for Respondent and that was why he made his reference oblique. (T. 418-420).

PATIENT E

67. The first time Patient E sought psychiatric treatment was after her father's death in 1970. (T. 1206). Patient E asked her primary physician for a referral and he referred her to Respondent. (T. 1207).

68. Patient E's first appointment with Respondent was approximately in June of 1970. Patient E saw the Respondent for several months and he recommended that she and her husband see a marriage counselor that he supervised and worked directly with. She continued to see Respondent for medication or if she wanted to talk with him. (T. 1210-1211).

69. Prior to referring Patient E and her husband to a marriage counselor, Respondent made a comment to Patient E about her underwear which made her upset and caused her to be so nervous she felt she was having difficulty breathing. (T. 1212-1213).

70. Respondent told Patient E to move with him to another room in his office where he massaged her back with and then without her blouse on. (T. 1213).

71. The Respondent called Patient E at her home and identified himself as her boyfriend. (T. 1222). On one occasion during therapy, he put his arm around her when she had been feeling needy. (T. 1223). Another time he put his arm around her and rubbed her. (T. 1223). At one appointment Patient E asked Respondent to hold her which he did and she felt his erection. (T. 1223). Patient E felt uncomfortable and confused about this interaction and told no one about it. (T. 1214).

72. In or about April, 1972 she again started seeing Respondent regularly for therapy. (T. 1220).

73. In or about April or May of 1973 Patient E began engaging in regular sexual contact with the Respondent. (T. 1221-1222). She recalls this date because she had an IUD inserted because of the sexual contact. She obtained the IUD from her gynecologist. (T. 1221).

74. Thereafter the Respondent and Patient E engaged in sexual intercourse and oral sex. The sex did not occur in the room where they had therapy, but in an adjoining room. (T. 1224-1225). Sex occurred on a flat analyst's couch. (T. 1225).

75. Patient E's father-in-law provided the money to her for therapy. At some point, soon after sex occurred Patient E notified the Respondent that she couldn't continue to see him, have sex with him, and take money from her father-in-law. (T.1227).

76. Patient E was aware that Respondent left his practice because of illness sometime in 1971-1972. It was during this time Patient E was treated by Mr. Gelinson, a marriage counselor, whom she saw in Respondent's office. (T. 1290).

77. During this time Patient E recalls another patient in the waiting room telling her that her father was a pharmacist and that she knew that Respondent was in a hospital in New York and had been in Good Samaritan and that he had been very ill. She also learned that he had a "colostomy". (T. 1224).

78. Sometime between 1974 and 1975 Patient E spoke with several therapists at Pomona Mental Health Center about the relationship with Respondent which at the time she referred to as an affair. (T. 1235-1249). She testified that one of the therapists she told was a Mr. Gertler. (T. 1239).

79. Patient E also told someone she met in group therapy at the Pomona Mental Health Center about the sexual relationship with Respondent. Her name was Cathy Goldman Carr. (T. 1245)

Pet. Ex. 23, Affidavit of Cathy Carr).

80. During the entire period of time that she was having sex with Respondent he never took off his "shorts". During the period of time that she had sex with Respondent she knew that he had a "colostomy" but never saw or felt the colostomy bag. (T. 1241-1243).

81. After Patient E had the IUD inserted, Respondent put on a condom during sex. When she reminded the Respondent about the IUD he indicated to her that he was having sex with others. (T. 1245).

82. Patient E had sex with the Respondent only in his office. (T. 1249).

83. Patient E never spoke with any of the other patients involved in this case. (T. 1249).

84. Patient E testified at the American Psychiatric Association proceeding that he wore socks and shorts. (T. 1328, 1332).

85. Patient E describes the couch they had sex on as being flat like a table. (T. 1335). It had a slant, it was hard, it wasn't a soft couch it was only two inches thick (T. 1335) like a pallet. (T. 1335).

BERNARD GERTLER, PH.D.

86. Dr. Gertler is a licensed psychologist since 1975. He is currently on the faculty of William Alanson White Institute and is a supervisor at the city university clinical psychology training program. (T. 1356-57).

87. On July 13, 1976 Dr. Gertler saw Patient E alone in therapy for one meeting. Dr. Gertler testified that at that meeting she told him that she had slept with her former therapist. (T. 1363).

88. Patient E was having difficulty communicating with Dr. Gertler and he asked her why - this caused her to relate that she had a sexual relationship with a former therapist. (T. 1363).

89. In response to a question by the chairperson how credible Patient E appeared Dr. Gertler testified "but basically I am aware that I did experience it as a credible statement that I needed to work with and take serious thought of." (T. 1383).

90. Dr. Gertler testified that there was no indication that Patient E was hallucinating delusional or fantasizing when she made the statement about her sexual involvement with her former therapist. (T. 1390).

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CONCLUSIONS

Two of the three panel members found Patient A's testimony to be credible regarding the sexual contact during treatment as noted in Paragraphs 4, 5, and 6 of this determination. The panel members placed great significance on the testimony of Dr. Howard Schlossman a psychiatrist who saw Patient A as a patient on June 10, 1981 at which time she told him about the sexual contact and identified her lover to him as "Richard". (T. 953, Pet. Ex. 16).

Dr. Schlossman also testified that he believed Patient A at that time; that she was not delusional and not subject to delusions or hallucinations (T. 958). Dr. Schlossman testified that he relied on the fact that there was a consistency to what Patient A related to him and a continuity in terms of material that she presented that convinced him that she was telling the truth (T. 944). With regard to a notation on Patient A's record that she was a "fantasy-ridden liar, deadbeat promises, but

does not pay her bills," (T. 962) Dr. Schlossman maintained that this statement had nothing to do with anything other than that he was angry with her for saying she would pay her bill and not doing so. (T. 962).

Patient A's credibility was also established by her detailed testimony about Respondent and his family and personal life both during the doctor/patient relationship and continuing until September, 1985. (T. 719-720). Respondent had told Patient A about his surgery following the initial sexual contact (T. 712) and she testified she heard the sound from the ostomy bag and asked him about it (T. 713). Patient A also testified that Respondent wanted more oral sex than intercourse and that intercourse occurred on the "black lounge" (T. 721). Patient A testified that Respondent made appointments when Respondent was available between patients "Wednesdays, lunch hours, when he had free time." (T. 725). Respondent's secretary subsequently testified she did not work on Wednesdays. (T. 1319, 1397).

In addition, Respondent wrote a letter of recommendation for Patient A in which he stated that he employed Patient A, which was not true. (T. 801, Pet. 12). In assessing Patient A's credibility, the panel also attributed great significance to Respondent's testimony about a lunch meeting he had with Patient A on August 28, 1985. Respondent initially told two Department of Health investigators on June 22, 1986 and October 23, 1986 that he had not taken Patient A out to lunch (Pet. Ex. 16 and 17). Subsequently, irrefutable evidence in the form of telephone records (T. 1681-1689) placed Respondent at the Rosebud Restaurant on August 28, 1985. (T. 1693).

On the other hand, one panel member found Patient A's testimony not credible regarding the sexual contact during the doctor/patient relationship which ended on April 13, 1981. As to Dr. Schlossman's testimony, this panel member put great weight on Dr. Schlossman's statement that Patient A "was a fantasy-ridden liar." This is the basis upon which this panel member has dissented regarding Patient A and her credibility. However, this panel member believes that there was a

sexual relationship between Patient A and Respondent subsequent to the ending of the doctor/patient relationship and that it was during this relationship that Patient A was able to gather details about Respondent's personal life.

Although there was extensive testimony by both Patient D and Respondent as to Patient D's dependence and/abuse of drugs and alcohol with repeated hospitalizations, the panel decided that such testimony was not relevant to the charges of sexual abuse. Moreover, no negative inference as to drug treatment was drawn against the Respondent because of this testimony and exhibits.

While the panel considered Patient D to be very credible, they attributed some of her cloudy recollections to such drug dependency and abuse.

In further assessing the credibility of Patient D, the panel found more significant the corroborative testimony of social worker, Jerome Marton, who made a note on Patient D's record at the hospital about her conversation with him concerning her sexual relationship with Respondent and communicated this at that time to his supervisor. The reference was oblique. Jerome Marton did not find Patient D to be delusional.

The panel also considered Patient D credible in that she had had no contact with other witnesses.

The panel rejected the testimony of Respondent's witness, Dr. Pinkser because he admitted he had not seen nor heard Patient D testify and that even if he had, he would have had difficulty in ascertaining the truth. He stated that if presented with a hypothetical situation in which five witnesses related similar sexual activity with a psychiatrist and that each had related their experiences to other parties within a reasonably short time after the occurrences, he would be suspicious, concerned, and would balance this against all other concerns presented. While he

speculated that Patient D could have been fantasizing, he never said she was.

The panel considered Patient E to be credible. She was relevant and coherent in her testimony. In explaining why she had misrepresented her original letter to the American Psychiatric Association, she showed conscience. Within three years of the sexual abuse, she told several mental health therapists about her experiences, one of whom, Dr. Gertler, testified and corroborated her presentation.

Patient E also testified that Respondent never took off his shorts and that sex occurred on a couch - like pallet. She knew that Respondent had a colostomy, but never saw or felt the bag.

In reviewing the testimony of Respondent, the panel did not believe Respondent's denials of sexual relationships with all five patients. Patients A, B, D and E similarly testified that respondent preferred oral sex. Each of them stated that he wore boxer shorts while having sex. Each testified having sexual intercourse on a black couch - like pallet or similar. Each testified that Respondent's secretary was not in the outer office.

With regard to Respondent's scar and ostomy appliance, the panel noted that Patient B had sex with Respondent prior to any surgery and Patient C never had sex with Respondent. Although Patient D's testimony as to the scar was somewhat vague, her testimony as to the sexual encounters were credible. Patients A and E were aware of Respondent's colostomy. Patient A testified that during sex with respondent, he dropped his pants and that she never saw respondent without his clothes. Patient E testified that he wore his shirt opened at the top and always wore his shorts.

Patients A and E were aware of Respondents colostomy (ileostomy); Patient B had sex with respondent prior to surgery. Patient C did not have sex with Respondent, but testified to sexual overtures made which she rejected.

All five patients related their experiences to a third party well before any civil or disciplinary actions were taken against Respondent. While the decision in each case was decided by the panel on its individual merits, the panel saw a pattern and a similarity in the sexual relationships with each patient.

VOTE OF THE HEARING COMMITTEE

(All votes were unanimous (3-0) unless otherwise indicated)

FIRST THROUGH FOURTH SPECIFICATIONS:

Moral Unfitness

SUSTAINED

AS TO PARAGRAPHS B, C, D, E

FIFTH THROUGH SIXTH SPECIFICATIONS:

Sexual contact by a Psychiatrist

SUSTAINED

AS TO PARAGRAPHS A (VOTE 2-1), D

DETERMINATION OF THE HEARING COMMITTEE AS TO PENALTY

The hearing Committee unanimously determines that the Respondent's license to practice medicine in the state of New York should be **REVOKED**.

ORDERED

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

1. Respondent's license to practice medicine in the State of New York is **REVOKED**.

July 27, 1994



THEA PELLMAN
Chairperson

RALPH LUCARELLO, M.D.
JACK SCHNEE, M.D.

APPENDIX I

1

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

-----X
: IN THE MATTER :
: OF : NOTICE
: RICHARD GOLD, M.D. : OF
: : HEARING
-----X

TO: RICHARD GOLD, M.D.
223 Route 59
Monsey, NY 20952

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993) and N.Y. State Admin. Proc. Act Sections 301-307 and 401 (McKinney 1984 and Supp. 1993). The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 14th day of September, 1993 at 10:00 in the forenoon of that day at 5 Penn Plaza, Sixth Floor, New York, NY 10016 and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce

witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Administrative Law Judge's Office, Empire State Plaza, Tower Building, 25th Floor, Albany, New York 12237, (518-473-1385), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230 (McKinney 1990 and Supp. 1993), you may file an answer to the Statement of Charges not less than ten days prior to the date of the hearing. If you wish to raise an affirmative defense, however, N.Y. Admin. Code tit. 10, Section 51.5(c) requires that an answer be filed, but allows the filing of such an answer until three days prior to the date of the hearing. Any answer shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the

Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A
DETERMINATION THAT YOUR LICENSE TO PRACTICE
MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED, AND/OR THAT YOU BE FINED OR
SUBJECT TO THE OTHER SANCTIONS SET OUT IN
NEW YORK PUBLIC HEALTH LAW SECTION 230-a
(McKinney Supp. 1993). YOU ARE URGED TO
OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS
MATTER.

DATED: New York, New York

August 18, 1993

By Name For:

CHRIS STERN HYMAN,
Counsel

Inquiries should be directed to: Jean Bresler
Associate Counsel
Bureau of Professional
Medical Conduct
5 Penn Plaza, 6th Floor
New York, New York 10001

Telephone No.: 212-613-2601

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

-----X
IN THE MATTER : STATEMENT
OF : OF
RICHARD GOLD, M.D. : CHARGES
-----X

RICHARD GOLD, M.D., the Respondent, was authorized to practice medicine in New York State on July 18, 1960 by the issuance of license number 084219 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at 223 Route 59 Monsey, New York.

FACTUAL ALLEGATIONS

- A. On or about October, 1980 Patient A, (the identity of Patient A and other patients is contained in the Appendix) commenced psychiatric treatment with the Respondent at his office, North Main Street Spring Valley, New York. Patient A was being treated by the Respondent on a weekly basis from October 15, 1980 through April 13, 1981. On or about February 2, 1981, during an office visit, the Respondent kissed Patient A on the mouth. Between February 2 and February 9 the Respondent and Patient A had

several telephone conversations. On or about February 9, 1981 Patient A returned to the Respondent's office for her scheduled appointment. At this appointment, Respondent engaged in sexual intercourse with Patient A. By March of 1981, Respondent and Patient A were engaged in regular sexual encounters including sexual intercourse and fellatio. From March, 1981 to September 1985 the Respondent and Patient A engaged in regular telephone communication and regular sexual contact in his office.

PATIENT B

B. In or about 1969, Patient B commenced treatment with the Respondent at his office located at North Main Street, Spring Valley, N.Y. At the time, Patient B was 19 years old. Patient B consulted the Respondent because she suffered from depression after the death of her baby in 1968. Patient B was treated by the Respondent on a weekly basis for approximately one year. A few months after therapy commenced, during a therapy session, Respondent put his arms around Patient B and began to stroke her. Beginning that session, or soon thereafter Respondent and Patient B engaged in regular sexual contact in his office during her therapy sessions. The sexual contact included sexual intercourse and fellatio.

PATIENT C

- C. Patient C was treated on a weekly basis by the Respondent on or about 1973-1974 at his private office, North Main Street, Spring Valley, New York. Patient C sought treatment for problems related to her separation from her husband. At the last session, the Respondent told Patient C that he found her attractive and wanted to know her better. He then got up from his chair, turned out the lights and sat next to Patient C on the couch and touched her. He then pulled Patient C toward him and attempted to kiss her. Patient C resisted, pulled away and left his office.

PATIENT D

- D. In or around 1975, Patient D became the private patient of the Respondent. Respondent treated Patient D in his private office on North Main Street, Spring Valley, New York and he treated her at Good Samaritan Hospital between 1977 and 1979. Respondent prescribed and dispensed tranquilizers, sedatives, sleeping medication and

anti-depressant medication for Patient D throughout the period of treatment. Within approximately six months of commencing treatment the Respondent and Patient D engaged in regular sexual encounters (on approximately a weekly basis), in his office. The sexual encounters included sexual touching, sexual intercourse and fellatio. This sexual relationship continued for approximately four years. Throughout this period the Respondent prescribed and dispensed medication to Patient D and treated her during approximately eight admissions to Good Samaritan Hospital.

SPECIFICATIONS

FIRST THROUGH FOURTH SPECIFICATIONS

1 MORAL UNFITNESS

Respondent is charged with professional misconduct by reason of engaging in conduct in the practice of medicine which evidences moral unfitness of practice medicine pursuant to N.Y. Educ. Law Section 6530(20), formerly 8 N.Y.C.R.R. Section 60.1(d)(7); 8 N.Y.C.R.R. Section 29.1(b)(5), in that the petitioner charges:

1. The facts in paragraph A.
2. The facts in paragraph B.

3. The facts in paragraph C.

4. The facts in paragraph D.

FIFTH THROUGH SIXTH SPECIFICATIONS

SEXUAL CONTACT BY A PSYCHIATRIST

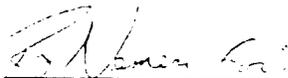
The Respondent is charged within professional misconduct in the practice of psychiatry by reason of his engaging in physical contact of a sexual nature with his patients pursuant to N.Y. Educ. Law Section 6530 (44) (McKinney Supp. 1993) formerly 8 NYCRR Section 29.4(5)(i).

5. The facts in paragraph A.

6. The facts in paragraph D.

DATED: New York, New York

August 18, 1973



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

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

-----X AMENDED
IN THE MATTER : STATEMENT
OF : OF
RICHARD GOLD, M.D. : CHARGES
-----X

RICHARD GOLD, M.D., the Respondent, was authorized to practice medicine in New York State on July 18, 1960 by the issuance of license number 084219 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1993 through December 31, 1994 at 223 Route 59 Monsey, New York.

FACTUAL ALLEGATIONS

- A. On or about October, 1980 Patient A, (the identity of Patient A and other patients is contained in the Appendix) commenced psychiatric treatment with the Respondent at his office, North Main Street Spring Valley, New York. Patient A was being treated by the Respondent on a weekly basis from October 15, 1980 through April 13, 1981. On or about February 2, 1981, during an office visit, the Respondent kissed Patient A on the mouth. Between February 2 and February 9 the Respondent and Patient A had

several telephone conversations. On or about February 10, 1981 Patient A returned to the Respondent's office for her scheduled appointment. At this appointment, Respondent engaged in sexual intercourse with Patient A. By March of 1981, Respondent and Patient A were engaged in regular sexual encounters including sexual intercourse and fellatio. From March, 1981 to September 1985 the Respondent and Patient A engaged in regular telephone communication and regular sexual contact in his office.

PATIENT B

- B. In or about 1969, Patient B commenced treatment with the Respondent at his office located at North Main Street, Spring Valley, N.Y. At the time, Patient B was 19 years old. Patient B consulted the Respondent because she suffered from depression after the death of her baby in 1968. Patient B was treated by the Respondent on a weekly basis for approximately one year. A few months after therapy commenced, during a therapy session, Respondent put his arms around Patient B and began to stroke her. Beginning that session, or soon thereafter Respondent and Patient B engaged in regular sexual contact in his office during her therapy sessions. The sexual contact included sexual intercourse and fellatio.

PATIENT C

C. Patient C was treated on a weekly basis by the Respondent in or about 1973-1974 at his private office, North Main Street, Spring Valley, New York. Patient C sought treatment for problems related to her separation from her husband. At the last session, the Respondent told Patient C that he found her attractive and wanted to know her better. He then got up from his chair, turned out the lights and sat next to Patient C on the couch and touched her. He then pulled Patient C toward him and attempted to kiss her. Patient C resisted, pulled away and left his office.

PATIENT D

D. In or around 1976, Patient D became the private patient of the Respondent. Respondent treated Patient D in his private office on North Main Street, Spring Valley, New York and he treated her at Good Samaritan Hospital between 1977 and 1979. Respondent prescribed and dispensed tranquilizers, sedatives, sleeping medication and

anti-depressant medication for Patient D throughout the period of treatment. Within one year of commencing treatment the Respondent began sitting next to Patient D and began touching her during her therapy sessions. Soon thereafter the Respondent and Patient D engaged in regular sexual encounters (on approximately a weekly basis), in his office. The sexual encounters included sexual touching, sexual intercourse and fellatio. This sexual relationship continued for approximately three years. Throughout this period the Respondent prescribed and dispensed medication to Patient D and treated her during approximately seven admissions to Good Samaritan Hospital.

SPECIFICATIONS

FIRST THROUGH FOURTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with professional misconduct by reason of engaging in conduct in the practice of medicine which evidences moral unfitness of practice medicine pursuant to N.Y. Educ. Law Section 6530(20), formerly 8 N.Y.C.R.R. Section 60.1(d)(7); 8 N.Y.C.R.R. Section 29.1(b)(5), in that the petitioner charges:

1. The facts in paragraph A.

2. The facts in paragraph B.

3. The facts in paragraph C.

4. The facts in paragraph D.

FIFTH THROUGH SIXTH SPECIFICATIONS

SEXUAL CONTACT BY A PSYCHIATRIST

The Respondent is charged within professional misconduct in the practice of psychiatry by reason of his engaging in physical contact of a sexual nature with his patients pursuant to N.Y. Educ. Law Section 6530 (44) (McKinney Supp. 1993) formerly 8 NYCRR Section 29.4(5)(i).

5. The facts in paragraph A.

6. The facts in paragraph D.

DATED: New York, New York

September 7, 1993



CHRIS STERN HYMAN
Counsel
Bureau of Professional Medical
Conduct

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

-----X FIRST AMENDMENT
IN THE MATTER : TO THE AMENDED
OF : STATEMENT OF
RICHARD GOLD, M.D. : CHARGES
-----X

FACTUAL ALLEGATIONS

E. In or around June 1970, Patient E commenced treatment on a regular basis with the Respondent at his private office located at North Main Street, Spring Valley, N.Y. Patient E sought treatment after the death of her father in March of 1970. Approximately three months after treatment began, the Respondent commenced physical contact of a sexual nature with Patient E including asking her to remove her blouse and rubbing her back. Shortly thereafter Patient E commenced marriage counseling with a social worker and saw Respondent intermittently. Throughout this period of time, the Respondent prescribed medication for Patient E including anti-depressants and tranquilizers.

In or around 1972, after the birth of her second child Patient E again felt emotionally distraught and resumed treatment with the Respondent. Several months after therapy began Patient E became part of a study that Respondent was conducting for a drug company. Patient E continued to see Respondent and received medication from him until sometime in 1974. In or around April or May 1973, Respondent commenced having physical

contact of a sexual nature with Patient E in his office which continued for approximately one year.

SEVENTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with professional misconduct by reason of engaging in conduct in the practice of medicine which evidences moral unfitness to practice medicine pursuant to N.Y. Educ. Law Section 6530(20), formerly 8 N.Y.C.R.R. Section 60.1(d)(7); 8 N.Y.C.R.R. 29.1(b)(5), in that the petitioner charges:

1. The facts in paragraph E.

November 15, 1993

DATED

Chris Stern Hyman, Deputy Counsel for:

CHRIS STERN HYMAN
Counsel