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DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

Wilson

DEPARTMENT OF PROFESSIONAL
REGULATION,

CLERK _____
DATE 2-15-91

Petitioner,

DPR CASE NUMBER: 90-003273
DOAH CASE NUMBER: 90-003276
LICENSE NUMBER: ME 0029098

-vs-

RANDALL E. PITONE, M.D.,

Bruce

Respondent.

FINAL ORDER

This cause came before the Board of Medicine (Board) pursuant to Section 120.57(1)(b)10, Florida Statutes, on February 1, 1991, in Tampa, Florida, for the purpose of considering the Hearing Officer's Recommended Order, and Respondent's Motion for Imposition of Alternative Disciplinary Action (copies of which are attached hereto as Exhibits A and B, respectively) in the above-styled cause. Petitioner, Department of Professional Regulation, was represented by Bruce D. Lamb, Attorney at Law. Respondent was present and represented by Grover Freeman, Attorney at Law.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein.
2. There is competent substantial evidence to support the findings of fact.

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CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein.

3. There is competent substantial evidence to support the conclusions of law.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Hearing Officer be REJECTED for the reasons set forth in Respondent's Motion (Exhibit B) WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that

1. The license of Randall E. Pitone, M.D., to practice medicine shall be suspended for a period of one (1) year commencing with the filing of the Final Order of the Board. The suspension shall be stayed for such period of time as the Respondent complies with the following special requirements:

a. For the twelve (12) months that the suspension is stayed Dr. Pitone shall perform twenty (20) hours per week of community services at the Pinellas Emergency Mental Health Services, Inc., in accordance with the contract for such services which is attached as Exhibit A and which is hereby approved. He shall file with the Board quarterly affidavits confirming his compliance with his contract with Pinellas Emergency Mental Health Services, Inc. and detailing the community service which he is performing thereunder.

b. Dr. Pitone shall continue to obtain psychiatric care with Daniel J. Sprehe, M.D. with such frequency as Dr. Sprehe may deem appropriate. Any change in treating psychiatrists may be effectuated only following approval by the Board or the Probationer's Committee.

c. Dr. Pitone shall only practice medicine while he is in compliance with all state and federal statutes, rules and regulations pertaining to the practice of medicine, including Chapters 455, 458 and 893, Florida Statutes and Rules 21M of the Florida Administrative Code.

2. Dr. Pitone may prescribe scheduled controlled substances subject to the following restrictions:

a. Dr. Pitone shall utilize sequentially numbered triplicate prescriptions in the prescribing of controlled substances.

b. Dr. Pitone shall, within one (1) week after issuance, provide one (1) of each prescription for controlled substances to his monitoring physician.

c. Dr. Pitone shall, within one (1) month after issuance, provide one (1) copy of each prescription for a controlled substances to the Department's investigator.

d. Dr. Pitone shall maintain one (1) copy of each prescription for controlled substances in the patient's record.

3. Dr. Pitone shall be restricted in his medical practice insofar as he may no longer provide any medical or psychiatric services, including prescribing of any legend drug (including any controlled substance) for the patient described in the Administrative Complaint filed against him as Patient No. 1.

4. Dr. Pitone shall continue his practice under the indirect supervision of his currently approved monitoring physician or such other physician fully licensed under Chapter 458 approved by the Board or its Probationer's Committee. The responsibilities of the monitoring physician shall include:

a. Submission of quarterly reports, in affidavit form which shall include:

i. A brief statement of one of the physicians on probation.

ii. A description of Dr. Pitone's practice.

iii. A brief statement of Dr. Pitone's compliance with the terms of probation.

iv. A brief description of Dr. Pitone's relationship with the monitoring physician.

v. Details of any problems which may have arisen with Dr. Pitone.

b. Dr. Pitone shall be responsible for insuring that the monitoring physician submits the required reports.

c. Review of Dr. Pitone's patient records regarding patients for whom Dr. Pitone has prescribed, dispensed, administered, mixed or ordered controlled substances other than in a hospital setting. Such a review shall be conducted at least once every month for the purpose of determining the appropriateness of prescribing the adequacy of medical records to justify the course of treatment of the patient.

d. Receive and review copies of all prescriptions for controlled substances issued by Dr. Pitone.

e. Report to the Department any violations by Dr. Pitone of Chapters 455 and 458, Florida Statutes and the rules promulgated pursuant thereto.

5. Dr. Pitone shall practice only under the indirect supervision of a physician fully licensed under Chapter 458 approved by the board or its Probationer's Committee. Dr. Pitone shall have a monitoring physician at his first probation appearance before the Probationer's Committee. C. Ronald White, M.D. who was approved by the Secretary of the Department of Professional Regulation in May, 1990 may continue as Dr. Pitone's monitoring physician until presentation before the Probationer's Committee. Dr. Pitone shall have Dr. C. Ronald White or such other monitoring physician as he may propose with him at his first probation appearance before the Probationer's Committee. Prior to approval of the monitoring physician by the Committee, Dr. Pitone shall provide the monitoring physician with a copy of the Administrative Complaint and the Final Order in this case. If failure of Dr. Pitone with the monitoring physician to appear at the schedule Probation Committee meeting shall constitute a violation of the Board's Final Order. Prior to approval of the monitoring physician by the Committee, the Respondent shall submit to the Committee a current curriculum vitae and description of the current practice of the proposed monitoring physician together with copies of the last three (3) months of the reports filed by Dr. C. Ronald White with the Department of Professional Regulation pursuant to the emergency order issued April 11, 1990. These materials shall be received by the Board

office no later than fourteen (14) days before Dr. Pitone's first scheduled probation appearance. The definition adopted by the Board pertaining to monitoring physician and the duties referenced therein are incorporated herein.

6. In event that Dr. Pitone's monitoring physician is unable or unwilling to fulfill his responsibilities as a monitoring physician, as prescribed, then Dr. Pitone shall immediately advise the Board or the Probationer's Committee of this fact. Dr. Pitone shall further submit to the Probationer's Committee the name of a monitoring physician for approval and otherwise comply with the requests of the Probationer's Committee pertaining to replacement of a monitoring physician. Dr. Pitone shall not prescribe, administer, dispense, mix or order any controlled substances other than in a hospital setting pending approval of the proposed replacement as monitoring physician.

7. Within ninety (90) days of the date of the filing of the Final Order in this cause Dr. Pitone shall pay an administrative fine in the amount of \$5,000.00.

8. A finding by the Board that Dr. Pitone has failed to comply with the terms and conditions stated above shall constitute sufficient grounds for the immediate removal of the stay of the suspension and the license of Dr. Pitone to practice medicine in the State of Florida shall thereupon be suspended for one (1) year.

9. Following the one (1) year suspension period described above Dr. Pitone shall remain on probation for two (2) years under all of the terms set forth above except 1(a).

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 12th day of February, 1991.

BOARD OF MEDICINE



ZACHARIAH P. ZACHARIAH, M.D.
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to, by U.S. Mail to Randall E. Pitone, M.D., 1201 5th Avenue, North, #508, St. Petersburg, Florida 33705-1433 and Grover Freeman, Attorney at Law, Freeman, Lopez & Kelly, P.A., 4600 W. Cypress Street, Suite 500, Tampa, Florida 33607, by U.S. Mail to Joyous D. Parrish, Hearing Officer, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550; and by interoffice delivery to Bruce D. Lamb, Attorney at Law, Department of Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792 at or before 5:00 P.M., this 15th day of February, 1991



Orders/PitoneR 2-1-91

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF PROFESSIONAL)
REGULATION, BOARD OF MEDICINE,)
)
Petitioner,)
v.) Case No. 90-3276
)
RANDALL E. PITONE, M.D.,)
)
Respondent.)

RECOMMENDED ORDER

Pursuant to notice, a final hearing in the above-styled matter was held on August 28, 1990, in Tampa, Florida, before Joyous D. Parrish, a designated hearing officer of the Division of Administrative Hearings. The parties were represented at the hearing as follows:

APPEARANCES

For Petitioner: Bruce D. Lamb
Chief Trial Attorney
Department of Professional
Regulation
730 Sterling Street, Ste. 201
Tampa, Florida 33609

For Respondent: Grover C. Freeman
FREEMAN, LOPEZ & KELLY, P.A.
4600 West Cypress, Ste. 500
Tampa, Florida 33607

STATEMENT OF THE ISSUES

The central issue in this case is whether the Respondent is guilty of the violations alleged in the administrative complaint; and, if so, what penalty should be imposed.

000005

PRELIMINARY STATEMENT

This case began on April 18, 1990, when the Department of Professional Regulation (Department) filed an administrative complaint against the Respondent and alleged five violations of Chapter 458, Florida Statutes. More specifically, the administrative complaint alleged that Respondent had: violated Section 458.331(1)(j), Florida Statutes, by exercising influence within the patient-physician relationship for the purposes of engaging the patient in sexual activity; had violated Section 458.331(1)(q), Florida Statutes, by prescribing a controlled substance other than in the course of the physician's professional practice; had violated Section 458.331(1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as acceptable under similar conditions and circumstances; had violated Section 458.331(1)(x), Florida Statutes, by violating Section 458.329, Florida Statutes; and had violated Section 458.331(1)(m), Florida Statutes, by failing to keep written medical records justifying the course of treatment of the patient. All of the allegations revolved around Respondent's treatment of, his subsequent relationship with, and his prescribing of controlled substances for one female patient (Patient 1).

The case was forwarded to the Division of Administrative Hearings for formal proceedings on May 29, 1990. At the hearing, the Department presented the testimony of the following witness: Peter J. Spoto, a licensed psychiatrist. The Department's exhibit

1 was admitted into evidence. The Respondent testified in his own behalf and presented the testimony of the following witnesses: Charles Hirsch, a licensed psychiatrist; Theodore J. Machler, Jr., a licensed psychiatrist; Joseph Pitone, M.D., the Respondent's father; and James Edgar, a licensed psychiatrist. The Respondent's exhibits numbered 2 through 25 were admitted into evidence. The parties' joint exhibit 1 was also admitted into evidence. The parties' stipulation regarding factual matters which have been resolved and are therefore no longer disputed was filed at the outset of the hearing, together with the depositions of Daniel J. Sprehe, M.D., and Patient 1.

The transcript of the proceedings was filed with the Division of Administrative Hearings on September 12, 1990. Subsequently, the Department requested an extension of the time within which to submit its proposed recommended order and the parties were given until October 1, 1990 to file their proposed orders. Specific rulings on the proposed findings of fact submitted by the parties are included in the attached appendix.

FINDINGS OF FACT

Based upon the stipulation filed in this cause, the testimony of the witnesses, and the documentary evidence received at the hearing, the following findings of fact are made:

1. The Respondent, Randall E. Pitone, M.D., is a medical doctor licensed (license number ME 0029098) by the State of Florida since 1976.

2. Respondent is a diplomate in psychiatry having received certification from the American Board of Psychiatry and Neurology. At all times material to the allegations of this case, Respondent was in the practice of psychiatry in the State of Florida. Respondent has been affiliated with or authorized to practice in a number of hospitals in the Pinellas County area. He enjoys a good reputation among the community of practicing psychiatrists and has covered for several of them during the course of his practice.

3. The Respondent became Patient 1's treating psychiatrist in 1982 when the patient was almost 18 years of age. Patient 1 has a borderline personality disorder and other problems for which she required treatment.

4. In order to more effectively provide treatment for borderline patients, Respondent attended at least two courses related to borderline personality disorder during the early 1980s.

5. From September, 1982 through May, 1988, Respondent treated Patient 1 with individual psychotherapy. During this time, Patient 1 was hospitalized on several occasions and Respondent counseled with her within the hospital setting and at his office.

6. Borderline patients are typically very needy, seductive, and manipulative in their approach to others. During her period of treatment Patient 1 frequently attempted to initiate a romantic relationship with Respondent who diplomatically refused her advances. On each of these occasions, Respondent explained to Patient 1 that he could not have a romantic relationship and

continue therapy. Also during this period, Respondent was married and devoted to his family.

7. In May, 1988, Respondent and Patient 1 ended their formal physician-patient relationship. Patient 1 was not sincerely pursuing therapy. Additionally, she had a new boyfriend with whom she seemed happy. Respondent encouraged her to seek therapy but she mistakenly believed that she did not need it. Although she would periodically drop by to visit with Respondent, she did not make appointments for therapy. Nor did she obtain therapy from another psychiatrist despite Respondent's encouragement for her to do so.

8. Respondent's wife left him sometime in 1988. Her departure was very difficult for Respondent. The couple divorced in June, 1988, and Respondent's former wife remarried shortly thereafter and moved to Georgia. Respondent's children resided with him until sometime in 1989 when they moved to their mother's home.

9. Subsequently, Respondent allowed Patient 1 to move into his home. She resided with him from June, 1989 until April, 1990. Throughout this period of cohabitation, Respondent included Patient 1 in his family activities. She went to his brother's home with him for Christmas and went on a cruise to Jamaica with his relatives. Respondent did not hide their relationship from his family or friends. During this period Respondent and Patient 1 engaged in sexual intercourse.

10. Patient 1 has been hospitalized on several occasions

since 1982. During one such hospitalization, on or about October 30, 1988 (after formal therapy had ended), Dr. Helm consulted with the Respondent regarding Patient 1's suspected drug abuse.

11. Patient 1 has a serious addiction to alcohol, cocaine, and crack cocaine. This addiction dates at least as far back as the summer of 1989, and perhaps earlier. Respondent knew of Patient 1's addiction to cocaine and of her abuse of other substances. Respondent prescribed medications for Patient 1 in a misguided effort to ween her from street drugs.

12. Whenever Respondent refused to give Patient 1 prescriptions, she would become outraged and destructive. On one such occasion, Patient 1 exited the car in which the couple was travelling and bolted in front of an oncoming truck. As a result Patient 1 was hospitalized with a broken pelvis.

13. Between May, 1988, and March, 1990, Respondent wrote or authorized the prescriptions listed in attachment A for Patient 1. These prescriptions were given to Patient 1 despite the fact that she was no longer formally receiving psychotherapy from Respondent. Moreover, many of the prescriptions issued are not of the type generally associated with the treatment of psychiatric patients since they are more commonly associated with pain relief.

14. Amitriptyline is a legend drug.

15. Dalmane is a brand name of flurazepam, a legend drug and controlled substance.

16. Valium is a brand name of diazepam, a legend drug and controlled substance.

17. Xanax is a brand name of alprazolam, a legend drug and controlled substance.

18. Darvocet is a brand name of a compound containing propoxyphene, a legend drug and controlled substance.

19. Tylenol #3 and Tylenol #2 are brand names of acetaminophen or apap with codeine, legend drugs and controlled substances.

20. Percodan is a brand name of oxycodone with aspirin, a legend drug and controlled substance.

21. Percocet is a brand name of oxycodone with acetaminophen or apap, a legend drug and controlled substance.

22. Legend drugs are required by federal or state law to be dispensed only on a prescription.

23. Respondent inappropriately prescribed legend drugs/controlled substances to Patient 1.

24. Respondent prescribed drugs for Patient 1 after they were living together and engaging in sexual relations.

25. The types and quantities of prescriptions written by Respondent for Patient 1 were not justified by examinations and records maintained by the Respondent, were not issued in the course of medical practice, and were clearly excessive.

26. By prescribing the drugs listed in attachment A, Respondent failed to provide Patient 1 with that level of care, skill and treatment, which a reasonably prudent similar physician recognizes as acceptable under the conditions and circumstances of this case.

27. Respondent also failed to seek consultation in connection with his concerns over Patient 1. Instead, Respondent set himself up as her sole provider and savior. This action was medically inappropriate and further evidences Respondent's loss of objectivity in this instance. In effect, Respondent became a patient in need of treatment as a result of his erroneous and misguided efforts to assist Patient 1.

28. On April 11, 1990, an order of emergency restriction of Respondent's license was issued by Larry Gonzalez, acting as Secretary of the Department. That order placed specific restrictions on the Respondent's license which include:

- the prescription of controlled substances utilizing sequentially numbered triplicate prescriptions;
- the review of each prescription by a supervisory physician;
- the prohibition of providing medical services to Patient 1; and
- the submission of monthly reports by a monitoring physician which includes specific information regarding Respondent's practice, any problems, a review of prescriptions and patient records.

29. To date, Respondent has complied with the restrictions placed on his license. Additionally, Respondent has sought and obtained psychiatric counseling in connection with his errors in thinking related to his relationship with Patient 1. Respondent developed a rescue fantasy in which he perceived that he alone could assist Patient 1 recover from her illnesses. This was not a medically sound approach to the dilemma within which Respondent became embroiled. As Respondent fell in love with

Patient 1, he lost his professional perspective and undertook this ill-fated rescue of her.

30. An examination of Respondent's medical records does not suggest that the activities which gave rise to the allegations of this case have occurred regarding other patients. From the circumstances of this case, it is unlikely another incident or series of incidents of this type will recur.

31. Sexual activity between a psychiatrist and his patient has detrimental effects on the patient. In this instance, that conduct had detrimental effects on both the Respondent and Patient 1. Since Respondent fell prey to Patient 1's manipulative nature, his judgment became impaired and she was able to orchestrate an inappropriate response from Respondent. It cannot be found, however, that Respondent used their relationship to induce Patient 1 to engage in sexual activity.

CONCLUSIONS OF LAW

1. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of these proceedings.
2. Section 458.331(1), Florida Statutes, provides, in pertinent part:

The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

* * *

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free,

full, and informed consent to sexual activity with his physician.

* * *

(m) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

* * *

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his intent.

* * *

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances...

* * *

(x) Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

3. Section 458.329, Florida Statutes, provides:

The physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient.

Sexual misconduct in the practice of medicine is prohibited.

4. The Department bears the burden of establishing the violations alleged against the Respondent by clear and convincing evidence. Ferris v. Turlington, 510 So.2d 292 (Fla. 1987).

5. In this case, the Department has established by clear and convincing evidence that the Respondent violated Section 458.331(1)(m), Florida Statutes. The Respondent failed to keep written medical records justifying the course of treatment which he provided to Patient 1 subsequent to May, 1988.

6. Further, the Respondent violated Section 458.331(1)(q), Florida Statutes, by prescribing legend drugs/controlled substances in inappropriate and excessive quantities. By providing Patient 1 with prescriptions when he knew she had an abuse problem, Respondent failed to practice medicine within that level of care which a reasonably prudent, similar physician would deem acceptable under the circumstances.

7. Accordingly, Respondent also violated Section 458.331(1)(t), Florida Statutes, and is guilty of gross or repeated malpractice.

8. Based upon the record in this case, it is not concluded that Respondent exercised his influence as a physician to induce Patient 1 to engage in sexual activities. While the Respondent does not deny that he resided with and was involved in a loving relationship with Patient 1, he has disputed that his motive was to obtain sexual favors. More accurately, Respondent

was trapped in his erroneous notion that he alone could rescue Patient 1 from her illnesses. To that extent, his judgment was impaired and he was as much in need of treatment as she.

9. Consequently, Respondent is not guilty of violating Sections 458.331(1)(j) or (x), Florida Statutes.

10. Section 458.331(2), Florida Statutes, provides, in pertinent part:

When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.

(g) Issuance of a letter of concern.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with

compliance with orders issued under this subsection are the obligation of the physician.

11. Rule 21M-20.001(2), Florida Administrative Code, sets forth the disciplinary guidelines applicable to this case. In summary, that rule provides:

VIOLATION	RECOMMENDED RANGE OF PENALTY
Exercising influence to engage patient in sex. (458.331(1)(j), F.S.)	(j) From one (1) year suspension to revocation or denial, and an administrative fine from \$250.00 to \$5,000.00.
Failure to keep written medical records. (458.331(1)(m), F.S.)	(m) From a reprimand to denial or two (2) years suspension followed by probation, and an administrative fine from \$250.00 to \$5,000.00.
Inappropriate or excessive prescribing. (458.331(1)(q), F.S.)	(q) From one (1) year probation to revocation or denial, and an administrative fine from \$250.00 to \$5,000.00.
Malpractice. (458.331(1)(t), F.S.)	(t) From two (2) years probation to revocation or denial, and an administrative fine from \$250.00 to \$5,000.00.
Violation of law, rule, order, or failure to comply with subpoena. (458.331(1)(x), F.S.)	(x) From a reprimand to revocation or denial, and an administrative fine from \$250.00 to \$5,000.00.

12. Rule 21M-20.001(3), Florida Administrative Code, sets forth aggravating and mitigating circumstances to be considered in the assessment of appropriate penalties for violations of Chapter 458, Florida Statutes. That rule provides:

Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

- (a) Exposure of patient or public to injury or potential injury, physical or otherwise: none, slight, severe, or death;
- (b) Legal status at the time of the offense: no restraints, or legal constraints;
- (c) The number of counts or separate offenses established;
- (d) The number of times the same offense or offenses have previously been committed by the licensee or applicant;
- (e) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
- (f) Pecuniary benefit or self-gain inuring to the applicant or licensee;
- (g) Any other relevant mitigating factors.

13. In this case, the Respondent has demonstrated that he enjoys a good reputation among his colleagues in the medical community, that the events which gave rise to the allegations of this case were limited to one patient with whom Respondent had an intimate and apparently unsuccessful relationship, and that the violations that resulted from that failed relationship are unlikely to recur with other patients or potential patients.

RECOMMENDATION

Based on the foregoing, it is

RECOMMENDED:

That the Department of Professional Regulation, Board of Medicine enter a final order finding the Respondent guilty of violating Sections 458.331(1)(m), (q), and (t), Florida Statutes, and imposing the following penalties: suspension of the Respondent's license for a period of one year during which time the Respondent shall continue counseling, followed by a two year period of probation under the terms set forth in the emergency

order issued April 11, 1990, together with an administrative fine in the amount of \$5,000.00.

DONE and ENTERED this 14 day of November, 1990, in Tallahassee, Leon County, Florida.

Joyous D. Parrish

Joyous D. Parrish
Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32301
(904)488-9675

Filed with the Clerk of the Division of Administrative Hearings this 14 day of November, 1990.

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS:

All parties have the right to submit written exceptions to this recommended order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.

Copies forwarded to:

Bruce D. Lamb
Chief Trial Attorney
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APPENDIX TO CASE NO. 90-3276

RULINGS ON THE PROPOSED FINDINGS OF FACT SUBMITTED BY THE DEPARTMENT:

1. Paragraphs 1 through 20 are accepted.
2. With regard to paragraph 21 it is accepted that Respondent provided the prescriptions as described, however, he had formally ended psychotherapy of Patient 1 in May, 1988. It was inappropriate for him to issue the prescriptions.
3. Paragraphs 22A. and 22C. are accepted. Paragraph 22D. is rejected to the extent that it finds Respondent did not maintain appropriate records, otherwise, rejected as contrary to the weight of the credible evidence. Note: there is no paragraph 22B.
4. Paragraph 23 is accepted.
5. Paragraph 24A. is accepted. Paragraphs 24B. and 24C. are rejected as contrary to the weight of credible evidence.
6. With regard to paragraph 25 it is accepted that Respondent prescribed substances for Patient 1 inappropriately and excessively, otherwise the paragraph is rejected as contrary to the weight of the evidence or a conclusion of law.
7. Paragraphs 26, 27, 30 and 31 (because it allowed her to manipulate Respondent into prescribing inappropriately--he should have been the physician not a co-patient) are accepted.
8. Paragraphs 28 and 29 are rejected as contrary to the weight of credible evidence.

RULINGS ON THE PROPOSED FINDINGS OF FACT SUBMITTED BY THE RESPONDENT:

1. Paragraphs 1 through 3 are accepted.
2. To the extent addressed in findings paragraphs 3 through 7, Respondent's paragraphs 4 through 9 are accepted; otherwise rejected as irrelevant or a recitation of testimony.
3. With the exception of the last sentence, paragraph 10 is accepted. The last sentence is rejected as speculative or conjecture--it is accepted that Respondent was in a stress-filled, emotional situation.
4. Paragraphs 11 through 14 are accepted.
5. Paragraph 15 is rejected as irrelevant.
6. Paragraph 16 is accepted but is irrelevant.
7. Paragraph 17 is accepted.
8. Paragraphs 18 through 19 are accepted.
9. Paragraphs 20 through 23 are rejected as recitation of testimony but see findings of fact paragraphs 27, 28, and 29.
10. Paragraphs 24 through 28 are rejected as recitation of testimony.
11. With regard to paragraph 29 it is accepted that the Respondent does not pose a threat to the public under his current

circumstances. Otherwise, paragraph 29 is rejected as recitation of testimony or irrelevant.

12. Paragraph 30 is accepted.

13. Paragraph 31 is rejected as recitation of testimony.

14. Paragraph 32 is accepted.

15. Paragraph 33 is accepted.

ATTACHMENT A

<u>Date</u>	<u>Drug Prescribed</u>
5/14/88	Dalmane
6/02/88	Valium
7/15/88	Percodan
7/20/88	Percodan
7/27/88	Xanax
7/27/88	Percodan
8/12/88	Percodan
9/06/88	Percodan
9/13/88	Zantac
9/23/88	Percodan
10/7/88	Darvocet N-100
10/29/88	Xanax
11/18/88	Percodan
01/6/89	Xanax 1 mg
01/09/89	Xanax 1 mg
01/10/89	Percodan
01/11/89	Xanax
01/16/89	Xanax
01/18/89	Xanax
01/21/89	Xanax
01/20/89	Tylenol 3
01/24/89	Tylenol 3
01/25/89	Tylenol 3
01/26/89	Xanax
01/31/89	Xanax
02/02/89	Percodan
02/04/89	Xanax 1mg
02/04/89	Percodan
02/04/89	Xanax 1mg
02/09/89	Percodan
02/10/89	Xanax
02/10/89	Percodan
03/03/89	Xanax
03/03/89	Percodan
03/13/89	Percodan
03/14/89	Xanax 1mg
03/17/89	Percodan
03/20/89	Xanax
03/24/89	Xanax
03/24/89	Percodan
03/27/89	Percodan
03/27/89	Xanax
03/29/89	Percodan
03/31/89	Percodan
04/07/89	Xanax 1mg
04/10/89	Percocet 5mg
04/11/89	Percodan

04/21/89	Percodan
04/24/89	Percodan
04/25/89	Percodan
04/25/89	Xanax
04/26/89	Percodan
04/28/89	Percodan
04/28/89	Xanax 1
04/29/89	Percodan
05/01/89	Xanax
05/02/89	Percodan
05/04/89	Percodan
05/05/89	Percodan
05/09/89	Xanax
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06/14/89	Xanax 1 mg
06/14/89	Percodan
06/16/89	Xanax 1 mg
06/23/89	Xanax 1mg
06/24/89	Percodan
06/26/89	Percodan
07/01/89	Xanax
07/07/89	Xanax 1 mg
07/07/89	Percodan
07/10/89	Percodan
07/15/89	Percodan
07/17/89	Percodan
07/20/89	Percodan
07/21/89	Valium 10 mg
07/21/89	Percodan
07/28/89	Percodan
07/30/89	Valium
07/31/89	Percodan
08/02/89	Percodan
08/04/89	Percodan
08/05/89	Valium 10 mg
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08/09/89	Percodan
08/20/89	Valium 10 mg
09/01/89	Percodan
09/04/89	Valium
09/06/89	Percodan
09/19/89	Percodan
09/22/89	Valium
09/22/89	Percodan

09/28/89	Percodan
10/01/89	Percodan
10/02/89	Percodan
10/02/89	Valium 10 mg
10/04/89	Valium 10 mg
10/04/89	Percodan
10/05/89	Xanax 1 mg
10/06/89	Percodan
10/13/89	Darvocet-N.100
10/13/89	Valium
10/13/89	Tylenol #2
10/17/89	Tylenol #2
10/19/89	Valium 5 mg
10/20/89	Tylenol #3
10/24/89	Tylenol #3
10/24/89	Valium 5 mg
10/25/89	Tylenol #3
10/26/89	Percocet
10/30/89	Percocet
10/30/89	Tylenol #4
10/30/89	Valium 10 mg
11/03/89	Percodan
11/17/89	Percodan
11/17/89	Valium 10 mg
11/24/89	Valium 10 mg
11/24/89	Percocet
11/27/89	Percocet
11/29/89	Percocet
01/02/90	Valium 10 mg
01/02/90	Percodan
01/12/90	Tylenol #3
01/12/90	Valium 10 mg
01/13/90	Xanax 1 mg
01/17/90	Tylenol #3
02/04/90	Xanax 1 mg
02/17/90	Percodan
02/20/90	Percodan
02/28/90	Percodan
03/10/90	Percodan
03/16/90	Percodan
03/17/90	Percodan

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

Case No. 90-003273

RANDALL E. PITONE, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint before the Board of Medicine against Randall E. Pitone, M.D., hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes, Chapter 455, Florida Statutes and Chapter 458, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0029098. Respondent's last known address is 1201 5th Avenue North, St. Petersburg, Florida 33705-1433.

3. At all times material hereto, Respondent specialized in the practice of psychiatry.

4. Between on or about May 14, 1988, and on or about at least March 20, 1990, Respondent prescribed Flurazepam, Diazepam, Oxycodone with Aspirin, APAP with Oxycodone, Percodan, Percocet,

Xanax, Darvocet, Doxycycline, Tylenol No. 2, Tylenol No. 3, APAP with Codeine, Valium, Amitriptyline and Acetaminophen with Codeine, all for Patient # 1. The specific information regarding each prescription is included in the Prescription Profile attached as Exhibit 1.

5. On or about October 30, 1988, Patient # 1 was hospitalized at St. Anthony's Hospital in St. Petersburg, Florida, for a suspected drug overdose. At that time, Patient # 1 stated that she was being treated by Respondent for depression.

6. On or about October 23, 1989, Patient #1 was found staggering into the street and into traffic at the intersection of 22nd Avenue and 4th Street North, in St. Petersburg, Florida. After medical treatment, Patient # 1 advised paramedics that she lived with Respondent at 120 - 23rd Avenue North, in St. Petersburg, Florida. At that time, Respondent was contacted at St. Anthony's Hospital, where he was working, and Respondent confirmed that Patient # 1 did, in fact, live with him.

7. On or about September 16, 1989, at 8:00 p.m., Patient # 1 was found by the city police at 180 - 23rd Avenue North, in St. Petersburg, Florida. At that time, Patient # 1 was observed to be staggering, she was drunk and needed help to stand. Patient # 1 was taken home to Respondent's home at 120 - 23rd Avenue North, in St. Petersburg, Florida.

8. On or about November 11, 1989, Patient # 1 was located at 11th Avenue South and 6th Street, in St. Petersburg by City Police, who responded to a complaint of disorderly conduct by Patient # 1. At that time, Patient # 1 was very drunk and was

accusing everyone of selling "crack". Again, Patient # 1 stated that she was living with Respondent and he was contacted. Respondent advised the police officer that Patient # 1 was not welcome in his home if Patient # 1 was drunk. Thereafter, the patient was arrested for disorderly conduct.

9. On or about January 12, 1990, at about 12:57 a.m., the police responded to a complaint that a white female was screaming and breaking windows at 120 - 23rd Avenue North, in St. Petersburg, Florida. Upon responding, city police located Patient # 1 who was very intoxicated and unable to stand. Respondent would not respond from inside his home, when police attempted to reach him. Thereafter, he was reached by telephone and advised that he could not handle Patient # 1 in her present condition. Therefore, Patient # 1 was transported to St. Anthony's Hospital for medical clearance prior to being transported to jail for disorderly conduct.

10. On or about February 8, 1990, a city police officer responded to reports of an overdose at Respondent's home located at 120 - 23rd Avenue North, in St. Petersburg, Florida. Upon arrival, Respondent advised the police officer that he (Respondent) went out to walk his dog and found Patient # 1 on his front porch. At that time, Respondent told the police officer that Patient # 1 was not living at his home, but had just been released from Horizon Hospital, where she had been treated for her drug dependence. At that time, the patient appeared to have attempted suicide.

11. Flurazepam is a schedule **IV controlled** substance pursuant to Section 893.03, Florida Statutes. It is used in

treatment of insomnia.

12. Diazepam is a Schedule IV controlled substance pursuant to Section 893.03, Florida Statutes. It is used in the treatment of anxiety and in acute alcohol withdrawal. Addiction-prone individuals should be under careful surveillance when receiving diazepam or other psychotropic agents because of the predisposition of such patients to habituation and dependence.

13. Percodan is the brand name for a tablet containing oxycodone hydrochloride and aspirin. The generic form of Percodan is typically referred to as Oxycodone with Aspirin. Percodan is indicated for the treatment of moderate to moderately severe pain. Because it contains oxycodone in compound form, Percodan is a Schedule II controlled substance pursuant to Section 893.03, Florida Statutes. Oxycodone can produce drug dependence of the morphine type and therefore, has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop from repeated administration of Percodan and it should be prescribed with the same degree of caution appropriate to the use of other oral narcotic-containing medications. Patients receiving other narcotic analgesics or other CNS depressants (including alcohol) concomitantly with Percodan may exhibit an additive CNS depression.

14. Xanax is the brand name for a tablet containing alprazolam, which is a Schedule IV controlled substance pursuant to Section 893.03, Florida Statutes. It is indicated for the management of anxiety disorders or for the short-term relief of the symptoms of anxiety. It is also indicated for treatment of anxiety

associated with depression. Xanax is not of value in the treatment of psychotic patients. Patients should be cautioned about the simultaneous ingestion of alcohol and other central nervous system depressant drugs during treatment with Xanax. Xanax, like any controlled substance, has a potential for abuse and may cause drug dependence.

15. Darvocet is the brand name for a tablet containing propoxyphene napsylate and acetaminophen. Because it contains propoxyphene in compound form, Darvocet is a Schedule IV controlled substance, pursuant to Section 893.03, Florida Statutes. Darvocet is indicated for the relief of mild to moderate pain. Darvocet has a Central Nervous System (CNS) depressant effect which is additive with that of other CNS depressants including alcohol.

16. Acetaminophen #3 is a generic form of the brand Tylenol #3. Acetaminophen #3 contains acetaminophen and codeine. Because Acetaminophen #3 contains 30 milligrams of codeine, it is a Schedule III controlled substance pursuant to Section 893.03, Florida Statutes. Acetaminophen #3 is indicated for the relief of mild to moderate pain. Like any controlled substance, Acetaminophen #3 has a potential for abuse and may cause drug dependence. Patients receiving other narcotic analgesics, antipsychotics, anti-anxiety agents or other CNS depressants (including alcohol) concomitantly with this drug may exhibit an additive CNS depression.

17. Tylenol #2 is the brand name for a tablet containing acetaminophen and 15 milligrams of codeine. Because it contains 15 milligrams of codeine, Tylenol #2 is a Schedule III controlled

substance pursuant to Section 893.03, Florida Statutes.

18. Percocet is the brand name for a tablet containing Oxycodone hydrochloride and acetaminophen. Because it contains Oxycodone in compound form, Percocet is a Schedule II controlled substance, pursuant to Section 893.03, Florida Statutes. Percocet is indicated for the relief of moderate to moderately severe pain. Oxycodone can produce drug dependence of the morphine type and therefore, has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop from repeated administration of Percocet and it should be prescribed with the same degree of caution appropriate to the use of other oral narcotic-containing medications. Patients receiving other narcotic analgesics or other CNS depressants (including alcohol) concomitantly with Percocet may exhibit an additive CNS depression. Percocet in its generic form would be Oxycodone with acetaminophen.

19. APAP with Oxycodone is a schedule II controlled substance, pursuant to Section 893.03, Florida Statutes. Oxycodone can produce drug dependence of the morphine type and therefore, has the potential for being abused. Psychic dependence, physical dependence, and tolerance may develop from repeated administration of APAP with Oxycodone and it should be prescribed with the same degree of caution appropriate to the use of other oral narcotic-containing medications. Patients receiving other narcotic analgesics or other CNS depressants (including alcohol) concomitantly with APAP with Oxycodone may exhibit an additive CNS depression.

20. Amitriptyline is a legend drug.

21. Between on or about May 14, 1988, and on or about March 20, 1990, Respondent was Patient #1's physician, as evidenced by the prescribing described above and in the attached Exhibit 1. At no time during this period did Respondent terminate that relationship as evidenced by the fact that he continued to prescribe legend drugs for Patient #1.

22. Between in or about March, 1988, and on or about March 20, 1990, Respondent allowed Patient #1 to live with him at various and diverse times at his residence, the exact location of which is described above. During this time period, Respondent and Patient #1 had sexual relations on more than one occasion.

23. Respondent inappropriately prescribed the foregoing substances to Patient #1 for the following reasons:

a. Patient #1 was drug dependent and had demonstrated that she did in fact abuse controlled substances on multiple occasions. In fact, Patient #1 was hospitalized for her drug dependence, had taken excessive amounts of drugs prescribed and had apparently attempted suicide on at least one occasion. Nonetheless, Respondent persisted in prescribing controlled substances to Patient #1 after her drug dependence was evident and sufficiently serious that the drug dependence presented a clear threat to Patient #1's life.

b. Respondent prescribed drugs which were inappropriate in the face of continued use of alcohol by Patient #1, at a time when Respondent knew that Patient #1 was using alcohol.

c. Respondent continued to prescribe controlled

substances for Patient #1 at a time when the two were living together and having sexual relations. Under the circumstances present in this case, it is clear that Respondent's professional judgement was impaired by the personal relationship which Respondent had with Patient #1.

d. Respondent was providing psychiatric therapy for Patient #1. The quantities and types of controlled substances prescribed by Respondent over the extended time period in question, were inappropriate as either primary psychiatric therapy, adjunct to such therapy, or as treatment for their recognized indications given the facts and circumstances described above.

24. Between on or about October 1, 1989, and on or about November 4, 1989, Respondent prescribed about 129 Percodan tablets or its generic equivalent for Patient #1. This amount is excessive in view of Patient #1's problems with drug dependence.

25. Between on or about March 10, 1990, and on or about March 20, 1990, Respondent prescribed about one hundred and eight Percodan tablets for Patient #1. This averages about eleven Percodan per day and is grossly excessive in view of Patient #1's problems with drug dependence.

26. Respondent, in his care of Patient #1, failed to practice medicine with that level of care, skill and treatment which a reasonably prudent similar physician recognizes as acceptable under similar conditions and circumstances, in the following respects:

a. Respondent continued to prescribe controlled substances inappropriately and excessively for the reasons

previously described.

b. Respondent failed to terminate the physician-patient relationship and to discontinue treatment after his professional judgment was impaired by the personal relationship between Respondent and Patient #1.

c. Respondent had sexual relations with a person with whom he had an ongoing physician-patient relationship which included ongoing psychiatric treatment.

27. Section 458.329, Florida Statutes, provides that the physician-patient relationship is founded on mutual trust. Sexual-misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of medicine is prohibited.

COUNT ONE

28. Petitioner realleges paragraphs one (1) through twenty-two (22) above as if fully set forth herein this Count One.

29. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, in that Respondent has exercised influence within a patient-physician relationship for the purposes of engaging the patient in sexual activity. A patient shall be presumed to be incapable of giving free, full and informed consent to sexual activity with her physician.

COUNT TWO

30. Petitioner realleges paragraphs one (1) through twenty-five (25) above as if fully set forth in this Count Two.

31. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes, in that he has prescribed, dispensed, administered, mixed or otherwise prepared a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this provision, it shall be legally presumed that prescribing, dispensing, administering, mixing or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his intent.

COUNT THREE

32. Petitioner realleges paragraphs one (1) through twenty-six (26) above as if fully set forth herein this Count Three.

33. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes, in that he has failed to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as acceptable under similar conditions and circumstances.

COUNT FOUR

34. Petitioner realleges paragraphs one (1) through twenty-two (22) and twenty-seven (27) above as if fully set forth

herein this Count Four.

35. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, in that he has violated a provision of Chapter 458, Florida Statutes, specifically Section 458.329, Florida Statutes.

COUNT FIVE

36. Petitioner realleges paragraphs one (1) through twenty-five (25) above as if fully set forth herein this Count Five.

37. Respondent's medical records for Patient #1 cannot be adequate to justify the inappropriate and excessive prescribing of controlled substances.

38. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes, in that he failed to keep written medical records justifying the course of treatment of the patient including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

WHEREFORE, Petitioner respectfully requests the Board of medicine enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an

administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 17th day of April

1990.

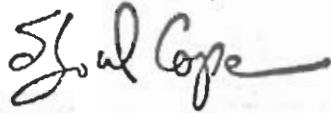
Larry Gonzalez
Secretary



BY: Stephanie A. Daniel
Chief Medical Attorney

FILED

Department of Professional Regulation
AGENCY CLERK



CLERK

DATE

4-18-90

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DOAH CASE NO.: 90-003276

DPR CASE NO. : 90-003273

RANDALL E. PITONE, M.D.,

Respondent.

STIPULATION

The Petitioner, through its undersigned counsel and the Respondent individually and through his undersigned counsel, enter into the following stipulation to simplify the issues in this cause and to avoid unnecessary expense on the part of both parties in connection therewith:

1. RANDALL E. PITONE, M.D., is a medical doctor license by the State of Florida since 1976, license number ME0029098. Since June 1989, he has been a diplomate in psychiatry having been issued that certificate by the American Board of Psychiatry and Neurology. He has continued in the practice of that specialty since licensure by the State of Florida.

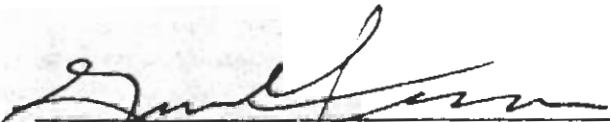
2. RANDALL E. PITONE, M.D. treated Patient No. 1 for borderline personality disorder and associated problems between 1982 and February, 1990.

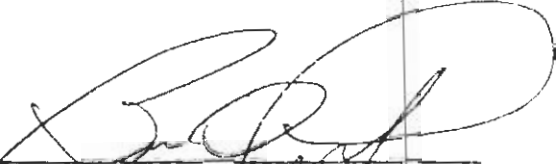
3. This patient was hospitalized on numerous occasions throughout the course of her treatment for various problems associated with her diagnosed condition. One such hospitalization

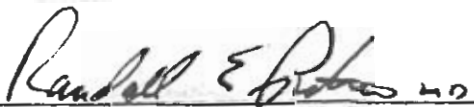
occurred on or about October 30, 1988, when she was hospitalized by Dr. William Helm for suspected drug abuse, during which Dr. Pitone participated as a consultant.

4. RANDALL E. PITONE, M.D. admits writing the prescriptions which are attached to this stipulation as Exhibit " A ".

5. Between late June, 1989, until April, 1990, Patient No. 1 lived with the Respondent, RANDALL E. PITONE, M.D., at his home located at 120 23rd Avenue North, St. Petersburg, Florida, and during the time they cohabited together they would, on occasion engage in sexual intercourse.


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RANDALL E. PITONE, M.D.