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STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
BOARD OF MEDICINE

AGENCY FOR HEALTH CARE  
ADMINISTRATION, BOARD OF  
MEDICINE,

Petitioner,

v.

JAMES GORELICK, M.D.,

Respondent.

\_\_\_\_\_ /

Final Order No. AHCA-95-01732 Date 12-13-95

**FILED**

Agency for Health Care Administration

**AGENCY CLERK**

R.S. Power, Agency Clerk

By: Anna C. Kirk

Deputy Agency Clerk

CASE NUMBER: 93-07417  
93-05900  
93-06740  
LICENSE NUMBER: ME 0036217

**FINAL ORDER**

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on December 1, 1995 in Miami, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement.

This Final Order takes effect upon filing with the Clerk of the Agency.

DONE AND ORDERED this 5<sup>th</sup> day December, 1995.

BOARD OF MEDICINE

Gary E. Winchester M.D.  
GARY E. WINCHESTER, M.D.  
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to James Gorelick, M.D., 5792 Kendall Drive, Miami, Florida 33156; Mark A. Dresnick, Esquire, Grand Bay Plaza, #201, 2665 South Bayshore Drive, Miami, Florida 33133-5402; and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Agency for Health Care Administration, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
MARM M. HARRIS, Ed.D.  
Executive Director



STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Petitioner,

v.

AHCA CASE NO. 93-05900  
93-06740  
93-07417

JAMES GORELICK, M.D.,

Respondent.

CONSENT AGREEMENT

James Gorelick, referred to as the "Respondent," and the Agency for Health Care Administration, referred to as the "Agency," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as the "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0036217.
2. Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Agency and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, Respondent read Chapters 455, 458, and 893, Florida Statutes, and the Rules of the Board of Medicine, at Section 59R, Florida Administrative Code.

2. FINE. The Board shall impose an administrative fine in the amount of fifteen thousand dollars (\$15,000) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within ONE HUNDRED EIGHTY (180) days of its imposition by Final Order of the Board. ~~THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT,~~  
SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN



CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN 180 DAYS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B, PARAGRAPH 1 OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

3. REPRIMAND. The Respondent shall receive a reprimand from the Board of Medicine.

4. SUSPENSION. Effective on the date of the entry of the Final Order incorporating the terms of this agreement, the Respondent's license to practice medicine in the State of Florida shall be suspended for two (2) years, with eighteen (18) months of the suspension stayed upon the Respondent's continuation of compliance with all requests of the Physician's Recovery Network, as required by the terms of probation set forth herein.

5. PERMANENT RESTRICTION. Respondent's license shall be permanently restricted in that the Respondent shall not be permitted, even after the termination of probation, to examine or treat a female patient without a female health practitioner, licensed by the Agency, present in the examining room at all times.

6. PROBATION. Effective on the date of the termination of the Respondent's suspension, Respondent's license to practice medicine shall be placed on probation for a period of five (5) years.

A. RESTRICTIONS DURING PROBATION. During the period of probation, Respondent's license shall be restricted as follows:

i. INDIRECT SUPERVISION. Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor." In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. TREATMENT/EXAMINATION OF FEMALE PATIENTS. Respondent shall not examine or treat any female patients without a female health care practitioner licensed by the Agency present in the room at all times. The Respondent shall identify in his medical records the female health practitioner that is present during the examination of female patients.

B. OBLIGATIONS/REQUIREMENTS OF PROBATION. During the period of probation, Respondent shall comply with the following obligations and requirements:

i. Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting whereat Respondent's appearance is required. Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of this Agreement, and shall subject the Respondent to disciplinary action.



ii. CONTINUING MEDICAL EDUCATION. Respondent shall attend five (5) hours of Category I Continuing Medical Education courses within one year in the area of medical ethics. Respondent shall submit a written plan to the Chairman of the Probation Committee for course approval prior to the completion of said courses. In addition, Respondent shall submit documentation of completion of these courses in his required reports. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board or the Chairman of the Probation Committee, said courses shall consist of a formal, live lecture format.

iii. COMMUNITY SERVICE. During the period of probation, Respondent shall perform 200 hours of community service, in addition to any previously required community service, at a minimum rate of 40 hours per year. Community service shall consist of the delivery of medical services directly to patients, without fee or cost to the patient, for the good of the people of the State of Florida. Such community service shall be performed outside the Respondent's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board quarterly.

iv. PHYSICIANS' RECOVERY NETWORK. Respondent shall participate and comply with the Physicians' Recovery Network (PRN).

Respondent shall enter into an after care contract with the PRN and shall cause the medical director of the network to send the Board a copy of that after care contract. Respondent shall comply with all of the conditions of his after care contract with the PRN. Respondent shall execute a release for the PRN to authorize the PRN to release information and medical records (including psychiatric records) to the Board as needed to monitor the progress of Respondent in the PRN's program. Respondent shall cause the director of PRN to report to the Board any problems that may occur with Respondent and any violations of Chapter 458, Florida Statutes, that occur within thirty days of the occurrence of any problems or violations of the law.

v. Respondent shall be responsible for ensuring that the monitor submits all required reports.

C. RESPONSIBILITIES OF THE MONITORING PHYSICIAN.

The Monitor shall:

i. Review 100% percent of Respondent's active, female patient medical records at least once a month, for the purpose of ascertaining whether the Respondent is complying with the requirement that the Respondent have a licensed female health professional present whenever the Respondent examines a female patient. The monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and shall select the records to be reviewed.



ii. The Respondent shall maintain a separate log documenting all female patients that he is treating, which shall be provided to the monitoring physician on a monthly basis.

iii. Submit reports on a quarterly/semiannual basis, in affidavit form, which shall include:

a) A brief statement of why Respondent is on probation.

b) A description of Respondent's practice (type and composition).

c) A statement addressing Respondent's compliance with the terms of probation.

d) A brief description of the monitor's relationship with the Respondent.

e) A statement advising the Board of any problems which have arisen.

f) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the Respondent's compliance with the requirement that he identify in each medical record the female health professional that was present during the examination of any female patient.

iv. Maintain contact with the Respondent on a frequency of at least once per month. In the event that the monitor is not timely contacted by Respondent, then the monitor shall immediately report this fact in writing to the Board.

v. Report immediately to the Board any violations by the Respondent of Chapters 455 or 458, Florida Statutes, and the rules promulgated thereto.

vi. Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of his monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, the Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.

D. REPORTS FROM RESPONDENT. The Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- i. A brief statement of why Respondent is on probation.
- ii. A description of practice location.
- iii. A description of current practice (type and composition).
- iv. A brief statement of compliance with probationary terms.
- v. A description of the relationship with monitoring physician.

vi. A statement advising the Board of any problems which have arisen.

vii. A statement addressing compliance with any restrictions or requirements imposed.

E. STANDARD PROVISIONS. Respondent's probation shall be governed, to the extent applicable, by the attached "provisions regarding monitoring/supervising physicians," Exhibit B, which is incorporated as if fully set forth herein.

7. It is expressly understood that this Agreement is subject to the approval of the Board and the Agency. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless a Final Order incorporating the terms of this Agreement is entered by the Board.

8. Respondent shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent, in conjunction with the consideration of this Agreement by the Board, shall respond to questions under oath from the Board, Board Staff or Agency Staff. Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a recurrence.

9. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.



10. Respondent and the Agency fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Agency against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.

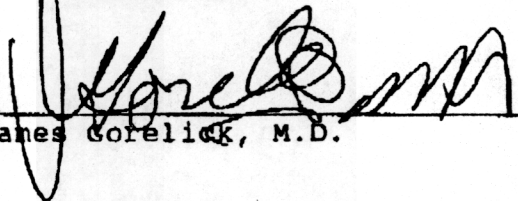
11. Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

12. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Agency in connection with this matter.

13. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Furthermore, should this joint Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or

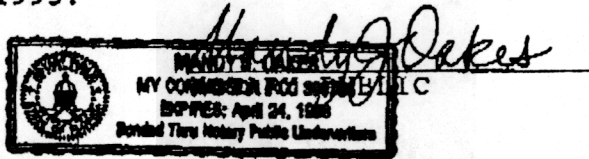
any of its members from further participation, consideration or resolution of these proceedings.

SIGNED this 20 day of October, 1995.

  
James Gorelick, M.D.

Before me, personally appeared James Gorelick, MD., whose identity is known to me by Drivers license (type of identification) and who, under oath, acknowledges that his/her signature appears above.

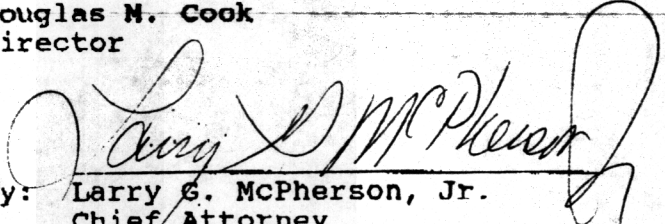
Sworn to and subscribed before me this 20 day of October, 1995.



My Commission Expires:

APPROVED this 23 day of October, 1995.

Douglas M. Cook  
Director

  
By: Larry G. McPherson, Jr.  
Chief Attorney  
Medical Section

## STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS

The following are the standard terms applicable to all consent agreements, including supervision and monitoring provisions applicable to licensees on probation.

A. PAYMENT OF FINES. Unless otherwise directed by the consent agreement, all fines shall be paid by check or money order and sent to the Board address set forth in paragraph E, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless otherwise directed by the consent agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph E, **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. ADDRESSES. Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that Respondent leaves the active practice of medicine in Florida.

D. COSTS. Pursuant to Section 458.331(2), Florida Statutes, the Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the costs of preparation of Investigative



Reports detailing compliance with the terms of the Consent Agreement, obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative costs directly associated with Respondent's probation.

E. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquiries shall be sent to: Board of Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, Attn: Final Order Compliance Officer.

F. PROBATION TERMS. If probation was imposed by the Final Order of the Board, the following provisions are applicable.

1. DEFINITIONS:

a. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor) whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board-certified in the Respondent's specialty area unless otherwise provided by the Board.

b. DIRECT SUPERVISION is supervision by a supervising physician (supervisor) whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervising physician shall be board-certified in the Respondent's specialty area unless

otherwise provided by the Board.

c. PROBATION COMMITTEE or "committee" are members of the Board of Medicine designated by the Chairman of the Board to serve as the Probation Committee.

2. REQUIRED SUPERVISION.

a. If the terms of the consent agreement include indirect monitoring of the licensees's practice (MONITORING) or direct monitoring of the licensees practice (SUPERVISION), the Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Consent Agreement, unless otherwise ordered by the Board.

b. The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board or Committee and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than twenty (20) miles unless otherwise specifically provided for in the consent agreement. The Board or Committee may also reject any proposed monitor/supervisor for good cause shown.

c. MECHANISM FOR APPROVAL OF

MONITOR/SUPERVISOR:

(1). TEMPORARY APPROVAL. The Board confers authority on the Chairman of the Board's Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. Once a Final Order adopting this Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.

(2). FORMAL APPROVAL. Respondent shall have the monitor/supervisor with him at his first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vitae and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure that the appearance of his monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a



violation of the terms of this Stipulation and shall subject the Respondent to disciplinary action.

d. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his responsibilities as a monitor/supervisor as described above, then the Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairman of the Board's Probation Committee the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

3. CONTINUITY OF PRACTICE

a. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled

status until Respondent returns to active practice in the State of Florida:

(1). The time period of probation shall be tolled.

(2). The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled.

(3). The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.

(4). Any provisions regarding community service shall be tolled.

b. ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION  
BOARD OF MEDICINE

AGENCY FOR HEALTH  
CARE ADMINISTRATION

PETITIONER,

CASE NOS. 9307417  
9305900  
9306740

vs.

JAMES GORELICK, M.D.,

RESPONDENT.

AMENDED ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner," and files this Amended Administrative Complaint before the Board of Medicine against James Gorelick, 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 20.165, 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 0036217. Respondent's last known address is 7500 SW 8th Street, #309, Miami, FL 33144-4400.

3. Pursuant to Section 458.329, Florida Statutes, 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 used



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.

Facts Regarding Patient N.L.

4. On or about 17 March 1993, Patient N.L., a 36 year old female, presented to Respondent, a neurologist, with complaints of continuous pain in her back and leg.

5. Respondent told Patient N.L. to undress while beginning a physical examination, which included Respondent pressing and rubbing along Patient N.L.'s legs, buttocks, and other parts of her body.

6. During examination, Respondent fondled Patient N.L.'s buttocks and genitals and attempted to insert his finger into her vagina, but was stopped by the patient.

7. Respondent did not wear gloves and no one else was present in the room during the examination of Patient N.L.

8. On or about May 6, 1993, Respondent was charged in the Eleventh Judicial Circuit Court in and for Dade County, Florida, with unlawfully committing a sexual battery upon N.L., in violation of Section 794.011(5), Florida Statutes.

9. On or about October 12, 1993, Respondent was found guilty in the Eleventh Judicial Circuit Court in and for Dade County, Florida, upon the entry of a nolo contendere plea, to the charge of sexual battery upon N.L. and was placed on Community Control for a

period of two (2) years, followed by Probation for a period of five (5) years.

Count One

10. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein this Count One.

11. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent fondled Patient N.L.'s buttocks and vagina and inappropriately attempted to insert his finger into her vagina during an examination.

12. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, and is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

Count Two

13. Petitioner realleges and incorporates paragraphs one (1) through nine (9) and eleven (11) as if fully set forth herein this Count Two.

14. Respondent is guilty of violating any provision of Chapter 458, 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 in that Respondent engaged in sexual misconduct during his examination of Patient N.L.

15. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of violating any

provision of Chapter 458, 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.

FACTS PERTAINING TO PATIENT H.N.

16. On or about 29 March 1993, Patient H.N., a 26 year old female, presented to Respondent, a neurologist, with complaints of compressed nerves in her back.

17. Respondent began to undress Patient H.N., but she requested he not do so. Respondent gave Patient H.N. a paper gown and told her to undress in private.

18. During examination, Respondent inserted his finger into Patient H.N.'s vagina, stating he was checking for sensitivity.

19. Respondent questioned Patient H.N. about her sexual activity and sexual relationships during the examination.

20. Respondent did not wear gloves and no one else was present in the room during the examination of Patient H.N.

21. On or about July 22, 1993, Respondent was charged in the Eleventh Judicial Circuit Court in and for Dade County, Florida, with unlawfully committing a sexual battery upon H.N., in violation of Section 794.011(5), Florida Statutes.

22. On or about October 12, 1993, Respondent was found guilty in the Eleventh Judicial Circuit Court in and for Dade County, Florida, upon the entry of a nolo contendere plea, to the charge of sexual battery upon H.N. and was placed on Community Control for a



period of two (2) years, followed by Probation for a period of five (5) years.

Count Three

23. Petitioner realleges and incorporates paragraphs one (1) through nine (9), eleven (11), fourteen (14), and sixteen (16) through twenty-two (22), as if fully set forth herein this Count Three.

24. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent questioned Patient H.N. of her sexual activities, and inappropriately inserted his finger into Patient H.N.'s vagina during an examination.

25. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, and is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

Count Four

26. Petitioner realleges and incorporates paragraphs one (1) through nine (9), eleven (11), fourteen (14), sixteen (16) through twenty-two (22), and twenty-four (24), as if fully set forth herein this Count Four.

27. Respondent is guilty of violating any provision of Chapter 458, 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 in that Respondent engaged in sexual misconduct during his examination of Patient H.N..

28. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of violating any provision of Chapter 458, 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.

Facts Regarding Patient H.P.

29. On or about 31 March 1993, Patient H.P., a 37 year old female, presented to Respondent, a neurologist, with complaints of back injuries from a car accident.

30. Respondent told Patient H.P. to undress, and gave her a paper gown to wear.

31. During examination, Respondent fondled Patient H.P.'s genital and inserted his finger into her vagina, stating he was checking for sensitivity.

32. During examination, Respondent questioned Patient H.P. about her sexual activity, and told her different sexual positions she could use with her husband.

33. Respondent did not wear gloves and no one else was present in the room during the examination of Patient H.P..

34. On or about July 22, 1993, Respondent was charged in the Eleventh Judicial Circuit Court in and for Dade County, Florida, with unlawfully committing a sexual battery upon H.N., in violation of Section 794.011(5), Florida Statutes.

35. On or about October 12, 1993, Respondent was found guilty in the Eleventh Judicial Circuit Court in and for Dade County, Florida, upon the entry of a nolo contendere plea, to the charge of sexual battery upon H.P. and was placed on Community Control for a period of two (2) years, followed by Probation for a period of five (5) years.

Count Five

36. Petitioner realleges and incorporates paragraphs one (1) through nine (9), eleven (11), fourteen (14), sixteen (16) through twenty-two (22), twenty-four (24), twenty-seven (27) and twenty-nine (29) through thirty-five (35), as if fully set forth herein this Count Five.

37. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent questioned Patient H.P. of her sexual activities, fondled Patient H.P.'s genitals, and inappropriately inserted his finger into her vagina during an examination.

38. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, and is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

Count Six

39. Petitioner realleges and incorporates paragraphs one (1) through nine (9), eleven (11), fourteen (14), sixteen (16) through twenty-two (22), twenty-four (24), twenty-seven (27), twenty-nine



(29) through thirty-five (35), and thirty-seven (37), as if fully set forth herein this Count Six.

40. Respondent is guilty of violating any provision of Chapter 458, 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 in that Respondent engaged in sexual misconduct during his examination of Patient H.P.

41. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of violating any provision of Chapter 458, 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.

#### Count Seven

42. Petitioner realleges and incorporates paragraphs one (1) through nine (9), eleven (11), fourteen (14), sixteen (16) through twenty-two (22), twenty-four (24), twenty-seven (27), twenty-nine (29) through thirty-five (35), thirty-seven (37), and forty (40), as if fully set forth herein this Count Seven.

43. Respondent is guilty of being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

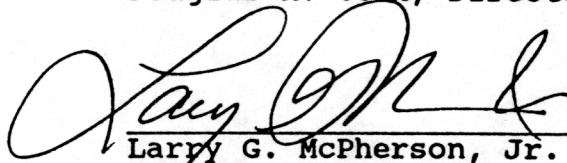
44. Based on the foregoing, Respondent violated Section 458.331(1)(c), Florida Statutes, by entering a plea of nolo

contendere to a crime which directly relates to the practice of medicine or to the ability to practice medicine.

WHEREFORE, the 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 28 day of October, 1994.

Douglas M. Cook, Director

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR AGENCY:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Florida Bar Number 788643  
Agency for Health Care Administration  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750

RPC/tc  
PCP: October 27, 1994  
Slade, Varn & Murray

**FILED**  
AGENCY FOR  
HEALTH CARE ADMINISTRATION  
DEPUTY CLERK  
CLERK *Brandon R. Moore*  
DATE 10-31-94

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 9307417  
9305900  
9306740

JAMES GORELICK, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Business and Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against James Gorelick, 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 20.165, 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 0036217. Respondent's last known address is 7500 SW 8th Street, #309, Miami, FL 33144-4400.

3. Pursuant to Section 458.329, Florida Statutes, 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 used 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.

Facts Regarding Patient N.L.

4. On or about 17 March 1993, Patient N.L., a 36 year old female, presented to Respondent, a neurologist, with complaints of continuous pain in her back and leg.

5. Respondent told Patient N.L. to undress while beginning a physical examination, which included Respondent pressing and rubbing along Patient N.L.'s legs, buttocks, and other parts of her body.

6. During examination, Respondent fondled Patient N.L.'s buttocks and genitals and attempted to insert his finger into her vagina, but was stopped by the patient.

7. Respondent did not wear gloves and no one else was present in the room during the examination of Patient N.L..

Count One

8. Petitioner realleges and incorporates paragraphs one (1) through seven (7) as if fully set forth herein this Count One.

9. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent fondled Patient N.L.'s buttocks and vagina and inappropriately attempted to insert his finger into her vagina during an examination.

10. Based on the foregoing, Respondent violated Section

11. Petitioner realleges and incorporates paragraphs one (1) through seven (7) and nine (9) as if fully set forth herein this Count Two.

12. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent fondled Patient N.L.'s buttocks and vagina and inappropriately attempted to insert his finger into her vagina during an examination.

16. During examination, Respondent inserted his finger into Patient H.N.'s vagina, stating he was checking for sensitivity.

17. Respondent questioned Patient H.N. about her sexual activity and sexual relationships during the examination.

18. Respondent did not wear gloves and no one else was present in the room during the examination of Patient H.N..

#### Count Three

24. Petitioner realleges and incorporates paragraphs one (1) through three (3) and fourteen (14) through eighteen (18) as if fully set forth herein this Count Three.

25. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent questioned Patient H.N. of her sexual activities, and inappropriately inserted his finger into Patient H.N.'s vagina during an examination.

26. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, and is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

#### Count Four

27. Petitioner realleges and incorporates paragraphs one (1) through three (3), fourteen (14) through eighteen (18), and twenty-five (25) as if fully set forth herein this Count Four.

28. Respondent is guilty of violating any provision of Chapter 458, 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 in that Respondent engaged in sexual misconduct during his examination of Patient H.N..

29. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of violating any provision of Chapter 458, 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.

Facts Regarding Patient H.P.

30. On or about 31 March 1993, Patient H.P., a 37 year old female, presented to Respondent, a neurologist, with complaints of back injuries from a car accident.

31. Respondent told Patient H.P. to undress, and gave her a paper gown to wear.

32. During examination, Respondent fondled Patient H.P.'s genital and inserted his finger into her vagina, stating he was checking for sensitivity.

33. During examination, Respondent questioned Patient H.P. about her sexual activity, and told her different sexual positions she could use with her husband.

34. Respondent did not wear gloves and no one else was present in the room during the examination of Patient H.P..

Count Five

35. Petitioner realleges and incorporates paragraphs one (1) through three (3) and thirty (30) through thirty-four (34) as if



fully set forth herein this Count Five.

36. Respondent is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity in that Respondent questioned Patient H.P. of her sexual activities, fondled Patient H.P.'s genitals, and inappropriately inserted his finger into her vagina during an examination.

37. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, and is guilty of exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

#### Count Six

38. Petitioner realleges and incorporates paragraphs one (1) through three (3), thirty (30) through thirty-four (34), and thirty-six (36) as if fully set forth herein this Count Six.

39. Respondent is guilty of violating any provision of Chapter 458, 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 in that Respondent engaged in sexual misconduct during his examination of Patient H.P..

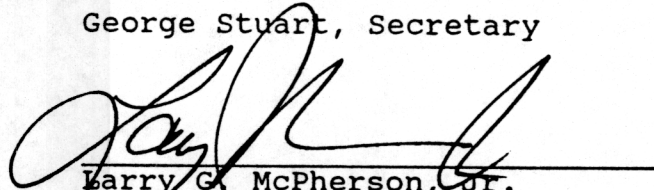
40. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, and is guilty of violating any provision of Chapter 458, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued

subpoena of the department.

WHEREFORE, the 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 24 day of September, 1993.

George Stuart, Secretary

  
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
RPC/mry  
PCP: 16 September  
Murray and Slade

**FILED**

Department of Business and Professional Regulation  
AGENCY CLERK

CLERK Sarah L. Washburn  
DATE 9/24/93