

NOV - 5 2009

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

DASHARATHRAM R. NALABOLU, M. D

CASE NO. 01 CVF 05-4497

Appellant,

JUDGE CAIN

vs.

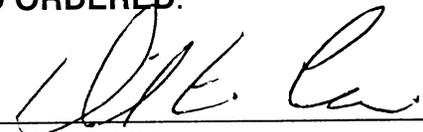
STATE MEDICAL BOARD OF OHIO,

ENTRY

Appellee.

.....
Upon application of the Appellant, **DASHARATHRAM R. NALABOLU, M. D.**, by and through counsel, **RION, RION & RION, L.P.A., INC.**, the appeal in the above captioned matter is hereby withdrawn with prejudice.

SO ORDERED.

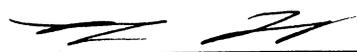


JUDGE CAIN

APPROVED & SUBMITTED BY:



DASHARATHRAM R. NALABOLU, M. D.
Appellant



KEVIN L. LENNEN, # 0038993
RION, RION & RION, L.P.A., INC.
Attorney for the Appellant
130 West Second Street
One First National Plaza, Suite 2150
Dayton, OH 45402
(937)223-9133

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OHIO STATE MEDICAL BOARD

NOV - 5 2007

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO

DASHARATHRAM R. NALABOLU, M. D.

CASE NO. 01 CVF 05-4497

Appellant,

JUDGE CAIN

vs.

STATE MEDICAL BOARD OF OHIO,

MOTION TO WITHDRAW

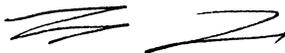
Appellee.

Now comes the Appellant, **DASHARATHRAM R. NALABOLU, M. D.** by and through counsel, **RION, RION & RION, L.P.A., INC.**, and herein gives notice of his request to withdraw his appeal in the above captioned matter with prejudice.

APPROVED & SUBMITTED BY:



DASHARATHRAM R. NALABOLU, M. D.
Appellant



KEVIN L. LENNEN, # 0038993
RION, RION & RION, L.P.A., INC.
Attorney for the Appellant
130 West Second Street
One First National Plaza, Suite 2150
Dayton, OH 45402
(937)223-9133

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HEALTH & HUMAN

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO OCT 22 2001

DASHARATHRAM R. NALABOLU, M.D., :

SERVICES SECTION

Appellant, :

vs. :

Case No. 01CVF05-4497

STATE MEDICAL BOARD OF OHIO, :

Judge Cain

Appellee. :

ENTRY GRANTING STATE MEDICAL BOARD'S MOTION TO VACATE JUNE 8, 2001 STAY, FILED SEPTEMBER 26, 2001

Rendered this 17th day of October 2001.

CAIN, J.

This matter is before the Court on the State Medical Board's Motion to Vacate June 8, 2001 Stay, filed September 26, 2001. Said motion is unopposed. Upon review, this Court finds the State Medical Board's motion to be well-taken, and it is hereby GRANTED. The stay filed herein on June 8, 2001 is hereby VACATED.

IT IS SO ORDERED.



David E. Cain, Judge

Copies to:

Kevin P. Byers
John H. Rion
Counsel for Appellant

Rebecca J. Albers
Counsel for Appellee

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IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

DASHARATHRAM R. NALABOLU, M.D.,

Appellant,

vs.

STATE MEDICAL BOARD OF OHIO,

Appellee.

CLERK OF COURTS

Case No. 01CVF05-4497

Judge Cain

DECISION AND ENTRY GRANTING IN PART AND DENYING IN PART STATE
MEDICAL BOARD OF OHIO'S MOTION FOR RECONSIDERATION OF THE
TERMS OF THE ORDER GRANTING APPELLANT'S MOTION FOR STAY,
FILED JUNE 11, 2001

DECISION AND ENTRY GRANTING APPELLANT'S MOTION, FILED JUNE 11,
2001

Rendered this 28th day of June 2001.

CAIN, J.

This matter is before the Court on the State Medical Board of Ohio's Motion for Reconsideration of the Terms of the Order Granting Appellant's Motion for Stay, filed June 11, 2001. Appellant filed a Response to Appellee's Motion on June 13, 2001. Also before the Court is Appellant's Motion for approval of notice, filed June 11, 2001.

On June 8, 2001, this Court granted Appellant's motion to stay the order of the State Medical Board, pending resolution of this administrative appeal. This Court conditioned the stay on several requirements. One such condition required Dr. Nalabolu to prepare a notice to be handed to each female patient, advising the patient that Dr. Nalabolu's medical license has been revoked, that such

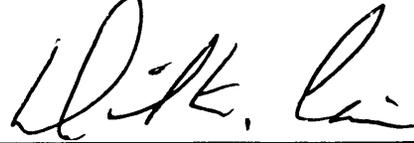
revocation is under appeal, and that the patient has the right to consider other health care alternatives. Counsel for Appellant was to prepare and submit a notice for Court approval, which Appellant's counsel filed on June 11, 2001 along with a Motion for approval. Appellant's proposed notice tracks the language of this Court's June 8, 2001 Decision and Order. This Court finds that Appellant's proposed notice is sufficient, and Appellant's motion for approval of that notice is hereby GRANTED.

In its Motion for Reconsideration, Appellee moves this Court to require that Dr. Nalabolu obtain a signature from each female patient, verifying that the patient received the notice prior to examination or treatment by Dr. Nalabolu. This Court agrees that Dr. Nalabolu should obtain a signature from each female patient verifying that the patient has received the required notice. Dr. Nalabolu has indicated that, despite Appellee's concerns, he fully intends to provide the required notice prior to seeing a patient and intends to keep written confirmation of such. To the extent that Appellee moves for a requirement that Dr. Nalabolu obtain a signature from each female patient, verifying that the patient received the required notice prior to being examined by Dr. Nalabolu, this Court finds Appellee's motion is well-taken and is hereby GRANTED.

Appellee also asks this Court to impose additional conditions that Dr. Nalabolu keep a log of all patients he sees during the pendency of this appeal and that Dr. Nalabolu obtain written verification from the required third-party present when Dr. Nalabolu examines female patients. Dr. Nalabolu indicates that daily patient sign-in sheets and patient files will provide verification of his

compliance with this Court's conditions. This Court agrees. Dr. Nalabolu has also indicated that Appellee may review that documentation to ensure compliance with this Court's previously imposed conditions. The Court finds that Appellee's requests for additional conditions of patient logs and written verifications by third-parties are not well-taken and are hereby DENIED.

IT IS SO ORDERED.



David E. Cain, Judge

Copies to:

Kevin P. Byers
John H. Rion
Counsel for Appellant

Rebecca J. Albers
Counsel for Appellee

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

DASHARATHRAM R. NALABOLU, M.D., :

Appellant, :

vs. :

STATE MEDICAL BOARD OF OHIO, :

Appellee. :

Case No. 01CVF05-4497

Judge Cain

DECISION AND ORDER GRANTING MOTION FOR STAY, FILED MAY 14, 2001

Rendered this 7th day of June 2001.

CAIN, J.

This matter is before the Court on Appellant's Motion for Stay, filed May 14, 2001. Appellee filed a Memorandum in Opposition on May 16, 2001, after which Appellant filed a Supplement to his Motion for Stay on May 25, 2001. Upon review, this Court finds that Appellant's motion is well-taken and is GRANTED, subject to the conditions set forth herein.

On May 14, 2001, Appellant filed a Notice of Appeal of the May 9, 2001 Order of the State Medical Board, permanently revoking his Ohio medical license. Simultaneously with his Notice of Appeal, Appellant moved this Court, pursuant to R.C. §119.12 to stay execution of the State Medical Board's Order during the pendency of this appeal. R.C. §119.12 provides, in pertinent part, that:

[I]n the case of an appeal from the state medical board . . . , the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the

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appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order.

The State Medical Board asserts that neither of the required conditions has been met and that Appellant's motion for stay must be denied.

This Court finds that Appellant has demonstrated that he will suffer an unusual hardship if the Order of the State Medical Board is not stayed during the pendency of the present appeal. Nevertheless, this Court must make a second finding before suspending the execution of the State Medical Board's Order.

Before issuing an Order suspending execution of the State Medical Board's Order, it must appear to this Court that the health, safety, and welfare of the public will not be threatened by suspension of the Board's Order. This second prong of the R.C. §119.12 analysis is of significant concern to this Court, given the allegations of sexual improprieties against Appellant, on which the State Medical Board based its May 9, 2001 Order. Pursuant to R.C. §119.12, this Court is authorized to fix the terms of a suspension of the Board's Order, and this Court finds that the health, safety and welfare of the public can be adequately protected through the imposition of certain conditions on a suspension of the Board's Order. Counsel for Appellant has indicated that Appellant would abide by conditions set by this Court.

It is hereby ORDERED that execution of the May 9, 2001 Order of the State Medical Board shall be stayed, conditions on the following:

Dr. Nalabolu shall not undertake the care of any patient not already under his care.

Dr. Nalabolu shall prepare a notice, which is to be handed to each female patient advising that patient that Dr. Nalabolu's license has been revoked but that such revocation is under appeal and that the patient has the right to consider other health care alternatives. Counsel for Appellant shall prepare and submit for this Court's approval, such notice within three days of this Decision.

Dr. Nalabolu shall not examine any female patient without a third party present in the room.

This Order of Stay shall become effective upon Dr. Nalabolu's posting of a bond of \$5000 with securities sufficient for this Court to insure Dr. Nalabolu's compliance with this Order.

If compliance with the above-stated conditions is not proper, then upon notification and after hearing, this Order may be vacated.

IT IS SO ORDERED.



David E. Cain, Judge

Copies to:

Kevin P. Byers
John H. Rion
Counsel for Appellant

Rebecca J. Albers
Counsel for Appellee

OHIO STATE MEDICAL BOARD

MAY 14 2001

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF:

CASE NO.

DASHARATHRAM R. NALABOLU, M.D.

NOTICE OF APPEAL

Now comes the Appellant, **DASHARATHRAM R. NALABOLU, M. D.**, by and through his counsel, **RION, RION & RION, L.P.A., INC.**, and herein gives his Notice of Appeal of the agency's adjudication order mailed May 9, 2001, in the above-captioned matter. Said order was issued based upon a hearing held on May 9, 2001.

The Appellant, **DASHARATHRAM R. NALABOLU, M. D.**, states the adjudication order is not supported by the evidence submitted at the hearing and that the agency's adjudication order improperly suspends the Appellant's right to practice medicine.

Respectfully submitted,



**JOHN H. RION of
RION, RION & RION, L.P. A., INC.,
PO BOX 1262
Dayton, OH 45402
(937)223-9133**

2001 MAY 14 10 2 50
STATE MEDICAL BOARD

MAY 14 2001

CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that a copy of the foregoing has been hand delivered to the Ohio State Medical Board, 77 South High Street, 7th Floor, Columbus, OH 43215-6127 and Rebecca Albers and Hanz R. Wasserburger, Assistant Attorney General, Health & Human Services Section, 30 Broad Street, 26th Floor, Columbus, Ohio 43215-3428, on May 14, 2001.



**RION, RION & RION, L.P.A., INC.
JOHN H. RION**

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CIVIL DIVISION

IN THE MATTER OF:

CASE NO.

DASHARATHRAM R. NALABOLU, M.D. 01CVF05 04497

61) Misty Manning
Dayton OH 45454

MOTION FOR STAY

Now comes the Appellant, DASHARATHRAM R. NALABOLU, M. D., by and through his counsel, RION, RION & RION, L.P.A., INC., and herein moves this Honorable Court for an order staying the adjudication order of the Ohio State Medical Board in the above-captioned matter. A memorandum in support is attached hereto.

Respectfully submitted,



JOHN H. RION of
RION, RION & RION, L.P. A., INC.,
PO BOX 1262
Dayton, OH 45402
(937)223-9133

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CERTIFICATE OF SERVICE

I, the undersigned do hereby certify that a copy of the foregoing has been hand delivered to the Ohio State Medical Board, 77 South High Street, 7th Floor, Columbus, OH 43215-6127 and Rebecca Albers and Hanz R. Wasserburger, Assistant Attorney General, Health & Human Services Section, 30 Broad Street, 26th Floor, Columbus, Ohio 43215-3428, on May 14, 2001.



RION, RION & RION, L.P.A., INC.
JOHN H. RION



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

May 9, 2001

Dasharathram Reddy Nalabolu, M.D.
511 Misty Morning
Centerville, OH 45429

Dear Doctor Nalabolu:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Sharon W. Murphy, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 9, 2001, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 7518
RETURN RECEIPT REQUESTED

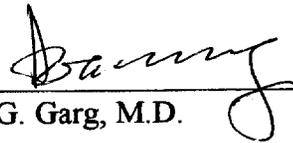
cc: Kevin L. Lennen, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0022 4402 7501
RETURN RECEIPT REQUESTED

Mailed 5-10-01

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on May 9, 2001, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the Matter of Dasharathram Reddy Nalabolu, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Anand G. Garg, M.D.
Secretary

(SEAL)

MAY 9, 2001

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

DASHARATHRAM REDDY
NALABOLU, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on May 9, 2001.

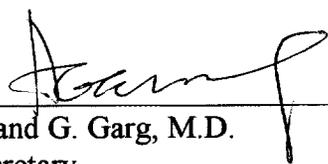
Upon the Report and Recommendation of Sharon W. Murphy, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

1. The allegations against Dasharathram Reddy Nalabolu, M.D., pertaining to Patient 4 and Patient 9, as set forth in the September 13, 2000, notice of opportunity for hearing, shall be DISMISSED WITHOUT PREJUDICE:
2. The certificate of Dr. Nalabolu to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

This Order shall become effective thirty days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty day interim, Dr. Nalabolu shall not undertake the care of any patient not already under his care. Moreover, Dr. Nalabolu shall not examine any female patient without first providing the patient a copy of this Report and Recommendation and Board Order and without a third party being present in the room.

(SEAL)



Anand G. Garg, M.D.
Secretary

MAY 9, 2001
Date

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**REPORT AND RECOMMENDATION
IN THE MATTER OF DASHARATHRAM REDDY NALABOLU, M.D.**

The Matter of Dasharathram Reddy Nalabolu, M.D., was heard by Sharon W. Murphy, Attorney Hearing Examiner for the State Medical Board of Ohio, on January 22 through 25, 2001.

INTRODUCTION

I. Basis for Hearing

A. By letter dated September 13, 2000, the State Medical Board of Ohio [Board] notified Dasharathram Reddy Nalabolu, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in this state. The Board based its proposed action on allegations pertaining to Dr. Nalabolu's conduct in his treatment of nine patients. [Patients 1 through 9 are identified in a Patient Key, which has been sealed to protect patient confidentiality.] The Board further alleged that Dr. Nalabolu's conduct constituted the following:

- “[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.02, Ohio Revised Code, Rape, and Section 2907.05, Ohio Revised Code, Gross Sexual Imposition.”
- “[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.”
- “[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,’ as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.”
- “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,’ as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.”

- “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,’ as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association’s *Principles of Medical Ethics*.”

Accordingly, the Board advised Dr. Nalabolu of his right to request a hearing in this matter. (State’s Exhibit 10A).

- B. On September 20, 2000, John H. Rion, Esq., submitted a written hearing request on behalf of Dr. Nalabolu. (State’s Exhibit 10C).

II. Appearances

- A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers and Hanz R. Wasserburger, Assistant Attorneys General.
- B. On behalf of the Respondent: Kevin L. Lennen, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the State

- A. Patient 1
- B. Detective Sergeant Mark Casey
- C. Patient 6
- D. Patient 7
- E. Patient 2
- F. Patient 3
- G. Patient 8
- H. Patient 5
- I. Thomas C. Stan, M.D.

II. Exhibits Examined

A. Presented by the State

- * 1. State’s Exhibits 1 through 3 and 5 through 8: Copies of Dr. Nalabolu’s patient records for Patients 1 through 3 and 5 through 8.

STATE BOARD OF MEDICAL EXAMINERS
1001 N. G. ST. # 502
TAMPA, FL 33604

2. State's Exhibits 10A and 10C-10S: Procedural exhibits.
 - * 3. State's Exhibit 11: Copy of transcript of a recording of a conversation between Dr. Nalabolu and Patient 1 which occurred June 29, 2000.
 4. State's Exhibit 13: Curriculum vitae of Thomas C. Stan, M.D.
 5. State's Exhibit 15: Copies of the American Medical Association's *Principles of Medical Ethics and Sexual Misconduct in Practice of Medicine*.
 - * 6. State's Exhibits 10B and 17-23: Confidential Patient Keys.
 7. State's Exhibit 24: *State's Closing Argument*, filed February 28, 2001.
 8. State's Exhibit 25: *State's Reply to Respondent's Closing Argument*, filed March 21, 2001.
 9. State's Exhibit 26: *State's Supplemental Closing Brief*, filed April 3, 2001
- B. Presented by the Respondent
1. Respondent's Exhibit A: *Closing Argument of Dasharathram Reddy Nalabolu, M.D.*, filed March 16, 2001.
 2. Respondent's Exhibit B: *Respondent's Closing Argument as to Court's Entry of March 23, 2001*, filed April 3, 2001.
- C. Presented on the Hearing Examiner's Own Motion
1. Board Exhibit A: September 1, 2000, report written by Thomas C. Stan, M.D.
 2. Board Exhibit B: Copy of a February 1, 2001, Entry scheduling the filing of written closing arguments.
 3. Board Exhibit C: Copy of a March 23, 2001, Entry requesting that the parties file briefs on an issue of law.

(Note: Exhibits marked with an asterisk [*] have been sealed to protect patient confidentiality.)

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PROFFERED EXHIBITS

Proffer A: A proffer of testimony the Respondent believes he would have elicited regarding Patient 3's financial situation. (See Hearing Transcript at 237-239).

PROCEDURAL MATTERS

On January 23, 2001, Patient 4 presented at the hearing prepared to testify in this matter. At that time, it became apparent that Patient 4 had previously been represented in a legal matter by Mr. Lennen, Dr. Nalabolu's counsel. Due to the potential conflict, the State chose not to present any evidence regarding the allegations made in the notice of opportunity for hearing as pertaining to Patient 4. (Hearing Transcript [Tr.] at 191-193; State's Exhibit [St. Ex.] 25 at 1, n.1).

In addition, after the hearing commenced, Patient 9 advised that she no longer wished to testify in this matter. Therefore, the State presented no additional evidence regarding Patient 9. The State further agreed to allow the Hearing Examiner to strike any testimony regarding Patient 9 that had already been presented. (Tr. at 645-647; St. Ex. 25 at 1, n.1; Board Exhibit B).

Accordingly, with the agreement of the parties, the Hearing Examiner stated that she would strike from the record all substantive references to Patients 4 and 9. The Hearing Examiner further advised that she would recommend that the Board dismiss without prejudice any allegations made in the notice of opportunity for hearing regarding Patients 4 and 9. Neither party objected to this course of action. (Tr. at 383-384).

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

DASHARATHRAM REDDY NALABOLU, M.D.

1. Dasharathram Reddy Nalabolu, M.D., presented no evidence or testimony at hearing. Nevertheless, his patient records indicate that Dr. Nalabolu practices medicine and is the medical director of the Pain Management Center of Dayton, Inc., in Kettering, Ohio. (See, e.g., State's Exhibit [St. Ex.] 1 at 11).

THOMAS C. STAN, M.D.

2. Thomas C. Stan, M.D., testified at hearing on behalf of the State. Dr. Stan testified that he received his medical degree from the University of Arkansas for Medical Sciences, College of Medicine, and completed an anesthesiology residency at the Cleveland Clinic. Dr. Stan works full time as an anesthesiologist and pain management specialist. He is certified by the American Board of Anesthesiology. Moreover, he is a diplomate of the American Academy of Pain Management, the American Academy of Pain Medicine, and the American Society of Anesthesiologists Specializing in Pain Medicine. (Hearing Transcript [Tr.] at 367-370; St. Ex. 13).

Dr. Stan testified that the American Medical Association [AMA] has published a code of ethics and related guidelines, which are general principles designed to protect patients' rights. He further testified that one of the guidelines promulgated by the AMA is *Sexual Misconduct in the Practice of Medicine*. Finally, Dr. Stan testified that it is never appropriate for a physician to have sexual contact with a patient. He based this opinion on the *Principles of Medical Ethics*; on his experience, education and training as a physician; and on his own morality. (Tr. at 370-372, 380-381).

PRINCIPLES OF MEDICAL ETHICS OF THE AMERICAN MEDICAL ASSOCIATION

3. The *Principles of Medical Ethics* promulgated by the AMA provides as follows:

The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility not only to patients, but also to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct which define the essentials of honorable behavior for the physician.

- I. A physician shall be dedicated to providing competent medical service with compassion and respect for human dignity.
- II. A physician shall deal honestly with patients and colleagues, and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.

* * *

- IV. A physician shall respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences within the constraints of the law.

(St. Ex. 15 at 1).

SEXUAL MISCONDUCT IN THE PRACTICE OF MEDICINE OF THE AMERICAN MEDICAL ASSOCIATION

4. The AMA promulgated guideline, *Sexual Misconduct in the Practice of Medicine*, provides, in part, as follows:

Sexual contact that occurs concurrent with the physician-patient relationship constitutes sexual misconduct. Sexual or romantic interactions between physicians and patients detract from the goals of the physician-patient relationship, may exploit the vulnerability of the patient, may obscure the physician's objective judgment concerning the patient's health care, and ultimately may be detrimental to the patient's well-being.

(St. Ex. 15 at 2).

PATIENT 1

5. Patient 1 first presented to Dr. Nalabolu's office on June 14, 2000. (St. Ex. 1 at 6a). Patient 1 testified that she had a history of anxiety, stress, postpartum depression, and postpartum trauma. Patient 1 had also been diagnosed with bipolar disorder. Patient 1 had been prescribed a variety of medications prior to seeing Dr. Nalabolu. These medications included Vicodin, Xanax, and Paxil. In addition, in 1998, Patient 1 had attempted to commit suicide. (Tr. at 45, 49-51, 54; St. Ex. 1 at 6b).

Patient 1 testified that she first contacted Dr. Nalabolu when she was looking for a physician to treat chronic pain. Patient 1 stated that she had been suffering shoulder pain, back pain, and bilateral knee pain, which had most likely resulted from a bicycle accident. She stated that she had had surgery on her knees after the accident, but had continued to have pain. Patient 1 was working as a machine operator at the time of her first visit. (Tr. at 15-17; St. Ex. 1 at 7).

Patient 1 stated that she had continued to see Dr. Nalabolu at least three times per week; twice a week she received therapy, and once each week Dr. Nalabolu evaluated her medications. Patient 1 stated that Dr. Nalabolu had changed her medications weekly and, over the course treating her, Dr. Nalabolu had prescribed Klonopin, Celebrex, OxyContin, Ambien, and Paxil. (Tr. at 17-19).

6. Patient 1 stated that she saw Dr. Nalabolu on June 28, 2000. Regarding the events that occurred that day, Patient 1 testified as follows:
- No one was in the examination room other than Dr. Nalabolu and Patient 1. Patient 1 complained to Dr. Nalabolu that her shoulder was painful, and

Dr. Nalabolu offered to give her an injection. Patient 1 accepted the offer. Patient 1 was wearing a T-shirt, blue jeans, a sports bra and underwear. (Tr. at 19-23).

Patient 1 laid on her side and lowered her pants to the bottom of her hip. Dr. Nalabolu administered the injection, and rubbed Patient 1's buttocks. Patient 1 stated that she had never known a doctor to rub with so much pressure after administering an injection. Dr. Nalabolu repeatedly asked her if it had hurt. Dr. Nalabolu then pulled Patient 1's pants down and inserted his fingers inside her vagina. Dr. Nalabolu was not wearing gloves. Patient 1 "couldn't believe what was happening." Dr. Nalabolu asked her if he should stop, and Patient 1 said, "Yes." Dr. Nalabolu removed his hand, but quickly inserted the other hand. Dr. Nalabolu asked, "Does that feel good?" Patient 1 grabbed Dr. Nalabolu's hand and asked him to stop. Dr. Nalabolu just turned away and started washing his hands. He then left the room. (Tr. at 26-28, 67-87).

- Patient 1 left the examining room intending to leave Dr. Nalabolu's office. The receptionist stopped Patient 1, however, and stated that Patient 1 must remain in the office for fifteen or twenty minutes in order to evaluate the effects of the injection. At that point, the office staff started leaving the offices because it was the end of the day. Then, Dr. Nalabolu entered the waiting room, locked the door, and shut the blinds. (Tr. at 29, 35-36, 88-90).

Dr. Nalabolu approached Patient 1 and gave her a sample of Celebrex. Dr. Nalabolu started rubbing Patient 1's shoulders and commented that she was tense. While Dr. Nalabolu was rubbing her shoulders, Patient 1 stated that she was very frightened, and even wondered about the contents of the injection Dr. Nalabolu had administered to her. She was afraid that the medication would "knock [her] out." Dr. Nalabolu instructed Patient 1 to go back to an examining room so that he could give her "a whole body massage." Dr. Nalabolu asked Patient 1 if she was afraid of him. Nevertheless, Dr. Nalabolu continued to rub "all over" Patient 1's body. He asked why she had "such small breasts." Patient 1 stated that she didn't know. Patient 1 turned to run to the door, and Dr. Nalabolu grabbed her groin area. (Tr. at 29-30, 89-101).

- Patient 1 ran out of the office and went to her car. She drove to a parking lot, and called her boyfriend. When she arrived home, she and her boyfriend went to the Centerville Police Station. At the police station, she met Detective Sergeant Mark Casey and gave him a report of the incidents in Dr. Nalabolu's office. Patient 1 then went to the hospital for an examination. (Tr. at 30-31).
7. Patient 1 testified that, the day after the incident at Dr. Nalabolu's office, Det. Sgt. Casey contacted Patient 1 and asked if she would "wear a wire" on her next visit to Dr. Nalabolu's office. Patient 1 agreed. Prior to her visit to Dr. Nalabolu's office that

afternoon, Patient 1 went to the Centerville Police Station where Det. Sgt. Casey gave her a recording device. Patient 1 testified that the device looked like a pager and was fastened to her pants. With the device attached, Patient 1 went to Dr. Nalabolu's office. (Tr. at 31-32). Regarding that visit to Dr. Nalabolu's office, Patient 1 testified as follows:

- Patient 1 refused her usual treatment and asked to speak with Dr. Nalabolu. She was placed in an examination room and waited for Dr. Nalabolu. When Dr. Nalabolu entered the room, Patient 1 told him that she wanted to speak to him about what had happened the previous day. Patient 1 asked Dr. Nalabolu why he had inserted his fingers into her vagina. Dr. Nalabolu answered that he didn't know what had come over him. Dr. Nalabolu further stated that he was sorry and that he would do anything so long as Patient 1 would continue to see him. (Tr. at 33-34).

After the visit, Patient 1 went to Det. Sgt. Casey's car which was parked outside Dr. Nalabolu's office. Det. Sgt. Casey drove Patient 1 to the police station. (Tr. at 35).

8. Patient 1 testified that she has suffered from the effects of Dr. Nalabolu's conduct. She stated that she lost her job because she couldn't go to work. She has nightmares, and sees Dr. Nalabolu's face when she goes to sleep. Her relationship with her boyfriend has suffered because she now avoids sexual intimacy. Patient 1 also stated that she takes frequent showers to eradicate the feeling of Dr. Nalabolu's hands on her body. Finally, Patient 1 stated that she will never trust another doctor. (Tr. at 37).
9. Patient 1 further testified that she had been hospitalized in November 2000 for an attempted suicide. At that time, Patient 1 tested positive for marijuana and cocaine. Patient admitted to marijuana use, but denied having used cocaine. (Tr. at 42-44).
10. Detective Sergeant Mark T. Casey, Centerville Police Department, testified at hearing on behalf of the State. Det. Sgt. Casey testified that he had interviewed Patient 1 at the Centerville Police Station the afternoon of June 28, 2000. Patient 1 reported the events that had taken place in Dr. Nalabolu's office. After recording Patient 1's statement, Det. Sgt. Casey accompanied Patient 1 to the Kettering Hospital where she was examined. (Tr. at 108-111).

Det. Sgt. Casey further testified that he had asked if Patient 1 would wear an auto-transmitting device upon her next visit to Dr. Nalabolu's office. Patient 1 agreed. Accordingly, Det. Sgt. Casey fitted Patient 1 with the auto-transmitting device the following day. He accompanied Patient 1 to Dr. Nalabolu's office and waited outside the office. Det. Sgt. Casey listened to Patient 1's conversation with Dr. Nalabolu in Dr. Nalabolu's office. (Tr. at 111-113).

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When Patient 1 left Dr. Nalabolu's office, Det. Sgt. Casey followed her to the Centerville Police Station, retrieved the auto-transmitting device, and gave the tape to the Centerville Police Department transcriptionist. Det. Sgt. Casey stood behind the transcriptionist as she transcribed the tape. Det. Sgt. Casey listened to the tape while the transcriptionist worked, and verified that the tape portrayed the conversation he had overheard in Dr. Nalabolu's office. When the transcript was complete, he reviewed it for accuracy. Det. Sgt. Casey testified that the transcript accurately portrays Patient 1's conversation with Dr. Nalabolu. (Tr. at 120-123).

11. The transcript of the tape of the conversation between Patient 1 and Dr. Nalabolu provides, in part, as follows:

Doctor: Why didn't you take the treatment today?

Patient: Because I wanted to talk to you about what happened yesterday.

Doctor: Uh huh (indicated yes).

Patient: And ask you why did you stick your fingers inside me.

Doctor: I absolutely apologize for that.

Patient: And when I asked you to stop you did it again.

Doctor: I know, sorry about that. What happened. Okay. Forgive me of that and I'll do whatever you need to take care of it.

Patient: How do I know that I can believe you.

Doctor: You trust me and I . . . for what happened.

Patient: You are a doctor, you should be able to trust your doctor.

Doctor: I know, I understand that. I apologize for that and it will never happen again and that's all I can say.

Patient: I'm afraid and this really scared me.

Doctor: I understand that. I truly apologize, okay. Just trust my word, that's all I can say. I know it is hard when you lose a confidence to get it back, but I'll make it up to you like everybody else and . . .

grabbed Patient 1's groin area, that behavior would have departed from the minimal standard of care of similar practitioners under the same or similar circumstances. Dr. Stan further testified that such behavior would constitute a violation of Principles I, II, and IV of the *Principles of Medical Ethics* and the guideline entitled *Sexual Misconduct in the Practice of Medicine*. (Tr. at 385-394). Dr. Stan testified that, in his review of Dr. Nalabolu's medical records for Patient 1, he saw no indication that Patient 1 had complained of vaginal or breast pain. Moreover, he saw no reason that Dr. Nalabolu should have performed a vaginal examination of Patient 1. (Tr. at 384-385).

PATIENT 2

13. Patient 2 first saw Dr. Nalabolu on April 7, 1997. Patient 2 complained of lower back pain and neck pain. Under "Mode of Onset & Location of Pain [how and where pain began]," someone wrote, "after gave birth to her son 4 years ago. Kept getting worse. LBP." Moreover, the record indicates that someone reported Patient 2 as having said that she was having sexual intercourse less often "due to pain." (St. Ex. 2 at 5a).

Patient 2 testified that she went to see Dr. Nalabolu because Dr. Nalabolu was listed as a pain management specialist covered by her insurance. Patient 2 stated that, during the first visit, an assistant interviewed her and elicited basic information about her back pain. Then the assistant left, and Dr. Nalabolu entered the room. Patient 2 testified that Dr. Nalabolu started asking her questions. Patient 2 testified that she had believed Dr. Nalabolu's questions to be unprofessional. (Tr. at 192-196, 206, 211). Regarding that visit, Patient 2 further testified as follows:

- Dr. Nalabolu first asked her questions regarding her government provided-medical insurance. He then proceeded to ask her questions of a sexual nature, such as: what positions did she engage in when having sex with her husband, did she reach orgasm, and did her husband reach orgasm. Patient 2 told Dr. Nalabolu that those questions were not related to her pain complaints, and told him that she was uncomfortable. Dr. Nalabolu advised Patient 2 that the questions were normal procedural questions in such a situation. Patient 2 was confused, but believed that she should trust her doctor. (Tr. at 196-197).
- Dr. Nalabolu then told Patient 2 to take off her clothing except for her underpants. Dr. Nalabolu left the room while Patient 2 undressed. When Dr. Nalabolu returned, he told Patient 2 to sit on the examination table. Dr. Nalabolu straddled Patient 2's thigh and reached around her body to examine her back. Patient 2 could feel Dr. Nalabolu's erect penis against her leg. (Tr. at 197-200).

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Then Dr. Nalabolu asked Patient 2 to lie on the table. Patient 2 did so. Dr. Nalabolu examined Patient 2's neck very roughly, leaving bruises on her skin. While he was doing so, Dr. Nalabolu kept his erect penis pressed against Patient 2's leg. Then Dr. Nalabolu told Patient 2 that an assistant would return to give Patient 2 prescriptions and to schedule follow-up appointments. Dr. Nalabolu left the room. (Tr. at 200-201).

- Patient 2 had been unable to tell her husband what had happened during the ride home. When she reached her home, she locked herself in her room and cried. When she finally told her husband and her mother what had happened, they encouraged her to contact the Board, which she did. Patient 2 never returned to Dr. Nalabolu's office. (Tr. at 201-202).
14. Dr. Stan testified regarding Dr. Nalabolu's care and treatment of Patient 2. Dr. Stan testified that Dr. Nalabolu's questions regarding Patient 2's sexual relations with her husband had been inappropriate. Acknowledging that some of these questions might be appropriate if a patient complained of vaginal pain, Dr. Stan testified that, in his review of Dr. Nalabolu's medical records for Patient 2, he saw no indication that Patient 2 had complained of vaginal pain. Dr. Stan stated that he had interpreted the patient's statement that she had been 'having had sex less often due to pain' as being related to her complaints of back pain. Therefore, Dr. Stan testified that it had been inappropriate for Dr. Nalabolu to question Patient 2 regarding the positions she and her husband assumed during sexual intercourse, to ask whether her husband reached orgasm, or to ask if she received welfare assistance. (Tr. 392, 395-398, 39, 512-522). Dr. Stan stated that:

Asking patients inappropriate questions, putting patients in a difficult emotional situation gets away from the reason why the patient came to see a physician in the first place. Questions should be directed toward the patient's pain complaint, the etiology of how the pain occurred, in order to figure out a proper diagnosis and then a treatment plan. * * * There was no need to ask these other questions in order to figure out a diagnosis.

(Tr. at 400-401).

Dr. Stan testified that, if Dr. Nalabolu had pressed his penis against Patient 2's body, that behavior would have departed from the minimal standard of care of similar practitioners under the same or similar circumstances. Dr. Stan further testified that such behavior would constitute violations of Principles I, II, and IV of the *Principles of Medical Ethics* and the guideline entitled *Sexual Misconduct in the Practice of Medicine*. Dr. Stan explained that, in performing a physical examination, the physician should not touch the patient with anything other than the physician's hands. (Tr. at 393-398).

Patient 3 testified that she has been very uncomfortable when seeing physicians since the incident with Dr. Nalabolu. (Tr. at 225-226).

16. Dr. Nalabolu's patient medical records for Patient 3 indicate that her last visit to Dr. Nalabolu's office occurred on May 20, 1997. On that day, Patient 3 complained of neck, back and shoulder pain. She also complained of weakness and tingling in her upper extremities, but denied any radicular pain to her lower extremities. (St. Ex. 3 at 58).
17. Dr. Stan testified that touching a patient's breasts during examination or treatment of back pain is inappropriate. Dr. Stan testified that such touching violates the *Principles of Medical Ethics*, constitutes sexual misconduct, and falls below the minimal standard of care. (Tr. at 403-407, 529-543). Regarding the possibility that Dr. Nalabolu may have accidentally touched Patient 5's breasts while doing a procedure, Dr. Stan noted that a physician might accidentally touch the breasts while performing a procedure on a large breasted woman who is lying in a prone position if the woman's breasts were so large that the breast tissue extended out from her body up to the level of her back. Dr. Stan further stated, however, that breast tissue would extend to a level equal to the woman's back only if the woman were morbidly obese. (Tr. at 632). At the time she was seeing Dr. Nalabolu, Patient 3 was 5'5" and weighed 140 pounds. (St. Ex. 3 at 2a).

Dr. Stan further testified that he could not state that Dr. Nalabolu's touching of Patient 3's buttocks was inappropriate. Dr. Stan stated that, "There are times when you need to see the buttock area and you need to bring the pants down, and that can be taken two different ways." (Tr. at 528-529).

PATIENT 5

18. Patient 5 testified that she was referred to Dr. Nalabolu by another physician in 1999. Patient 5 had fallen through a roof two years earlier, injuring her left leg, left buttocks, and lower back. She also complained of paresthesias in her left foot and in both hands. Patient 5 testified that she had only seen Dr. Nalabolu for a few weeks in 1999, as she had been homeless and could not continue seeing him. Patient 5 returned to Dr. Nalabolu in approximately February 2000. (Tr. at 343-345; St. Ex. 5 at 6a-7).

Patient 5 testified that she was seeing Dr. Nalabolu for Reflex Sympathetic Dystrophy [RSD]. She explained that RSD is a painful disorder that affects ligaments, tendons, and blood vessels, and causes cramping in the extremities. Patient 5 reported that she experienced pain in her buttocks, in her left leg, and in her left foot. She had been transported to Dr. Nalabolu's office twice weekly by the Red Cross. (Tr. at 343-344, 347, 361-363, 408).

Patient 5 stated that on one occasion, Dr. Nalabolu's assistants asked her to remove her clothes and lie on the examination table. Patient 5 was to have a treatment performed

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below the minimal standard of care. Moreover, Dr. Stan testified that, if Dr. Nalabolu had offered Patient 5 any drugs she wanted, that conduct would have been below the minimal standard of care because a patient is not qualified to determine which medications are appropriate for her treatment. (Tr. at 411-417).

On cross-examination, Dr. Stan was referred to Dr. Nalabolu's medical records for Patient 5 for July 20, 1999. A note on that page may indicate that Patient 5 had complained of tenderness in the left groin and over the left hip. Dr. Stan testified that, even if Patient 5 had complained of groin pain, there had been no reason for Dr. Nalabolu to palpate or touch her vagina. (Tr. at 546-565, 620-621; St. Ex. 5 at 8a-8b). Moreover, Dr. Stan testified that, if it is appropriate for a physician to perform a vaginal examination, the physician should perform a pelvic examination with manual digital exploration of the vagina. To do so, the physician would first explain the procedure to the patient. Further, the examination could not be performed while the patient was wearing a jogging suit, so the patient would have to disrobe. Moreover, the physician would place the patient's legs in stirrups. Finally, the physician would wear gloves during the examination. Therefore, Dr. Stan concluded that Dr. Nalabolu had not performed a professional examination of Patient 5's vagina. (Tr. at 630-634).

20. On cross-examination, Dr. Stan acknowledged that Dr. Nalabolu's medical records for Patient 5 do not demonstrate a patient visit specifically on March 30, 2000, as Patient 5 had testified. (Tr. at 628-629).

PATIENT 6

21. Patient 6 first saw Dr. Nalabolu on August 31, 1998. Patient 6 complained of pain in her right lower back radiating to the right side of her abdomen and pressure on her right leg when standing. Patient 6 also complained of right groin pain. Patient 6 denied any other pain radiation. Patient 6 stated that she had fallen down a flight of stairs on two occasions. (St. Ex. 6 at 2a, 4a-4b, 28).

Dr. Nalabolu's medical records for Patient 6 reveal that Patient 6's last visit was February 24, 1999. At that time, Patient 6 complained of lower back pain, and denied any other pain. She also denied any radiation of pain. In the "trigger points" section of his examination sheet, Dr. Nalabolu circled "lumbosacral, right and left." (St. Ex. 6 at 24).

22. Regarding her last visit to Dr. Nalabolu's office, Patient 6 testified as follows:
 - Patient 6 was in an examination room with Dr. Nalabolu and one of Dr. Nalabolu's assistants. Patient 6 had complained of pain on the right side of her lower back and numbness in her right foot. Patient 6 was sitting on the examination table with her feet dangling. Dr. Nalabolu stood between her legs

and “started touching [her] all over.” He started touching her head and moved down her body. On his way down her body, Dr. Nalabolu touched the sides of her breasts.

Dr. Nalabolu also touched Patient 6’s inner thighs, close to Patient 6’s groin area. At that point, Dr. Nalabolu’s assistant asked Dr. Nalabolu “What the fuck he was doing?” The assistant further advised Dr. Nalabolu that what he was doing was not “part of the procedure.” Dr. Nalabolu stopped what he was doing and looked at the assistant. Then he stepped back and told Patient 6 that she was done. (Tr. at 128-135).

Patient 6 testified that she had been very uncomfortable, because she knew that Dr. Nalabolu’s touching was not “right.” Patient 6 stated that she has not seen Dr. Nalabolu since that time. Moreover, when she does see a physician, she takes a family member with her and demands that the physician leave the door open. (Tr. at 134, 136-137).

Patient 6 testified that she did not report Dr. Nalabolu’s conduct to the police until she saw a report on the television regarding Dr. Nalabolu and sexual impropriety. (Tr. at 142-143, 145-146).

23. Dr. Stan testified that it is inappropriate for a physician to perform an examination of a patient’s breasts while the patient is sitting and the physician is standing between her legs. Dr. Stan further testified that, when performing a breast examination, the patient should be supine in order that the body is rigid against the table. Dr. Stan concluded that Dr. Nalabolu had not performed a medical examination of Patient 6’s breasts because Patient 6 had been sitting at the side of the examination table. (Tr. at 637-638).

Dr. Stan further testified that, if Dr. Nalabolu had examined the upper, inner portions of Patient 6’s thighs during the course of a physical examination for complaints of lower back pain, Dr. Nalabolu’s conduct would have violated the *Principles of Medical Ethics* and fallen below the minimal standard of care. (Tr. at 418-421, 480).

On cross-examination, however, Dr. Stan acknowledged that, if a patient complained of pain in the medial aspect of the upper thigh, a pain management physician would have reason to palpate the medial aspect of the upper thigh. Nonetheless, Dr. Stan noted that Patient 5 had not complained of any pain other than lower back pain. Dr. Stan stated that, if Patient 5 had complained of other pain, Dr. Nalabolu should have recorded it in the medical record. (Tr. at 487-503, 595-597, 620-624; St. Ex. 5 at 28).

PATIENT 7

25. Patient 7 first saw Dr. Nalabolu on May 8, 2000, for complaints of neck pain; upper, middle, and lower back pain; tailbone pain; and bilateral hand pain. She reported a history of having fractured her tailbone during childbirth, and falling down a flight of stairs on two occasions. Patient 7 also reported a history of anxiety, panic attacks, and depression. (St. Ex. 7 at 6-7).

On June 6, 2000, Patient 7 presented to Dr. Nalabolu's office for a medication refill. Regarding that visit, Patient 7 testified that while Dr. Nalabolu was examining her back, he started rubbing her breasts with his hand on top of her undergarments. Patient 7 told Dr. Nalabolu that her breasts did not hurt, and Dr. Nalabolu stopped touching them. Patient 7 left the office. She told a friend about the incident, but was not sure Dr. Nalabolu's behavior had been inappropriate. (Tr. at 156-159).

Patient 7 returned to Dr. Nalabolu's office two or three weeks later. Patient 7 reported to Dr. Nalabolu that she had been "having problems with her leg going out" with numbness and tingling in her legs. Regarding that visit, Patient 7 testified as follows:

Patient 7 was sitting on the examining table with her feet dangling. She was wearing shorts and "a little spaghetti-strap muscle shirt." Dr. Nalabolu stood in front of Patient 7 while he examined her back and massaged her neck area. (Tr. at 160-161).

Dr. Nalabolu continued rubbing Patient 7's back, but it became difficult to do in that position. Therefore, Patient 7 slid off the table, turned her back to Dr. Nalabolu, and leaned against the examining table. Dr. Nalabolu continued to rub Patient 7's back, and then started rubbing her buttocks, near her pubic area, and in the area around her anus. Dr. Nalabolu's hand was within "a fingertip" of Patient 7's vagina. Dr. Nalabolu then moved his hands to Patient 7's chest, and grabbed her breasts with his hands. Dr. Nalabolu's body was pressed against Patient 7's back. Patient 7 could feel Dr. Nalabolu's penis against her buttocks. (Tr. at 161-165, 173, 179).

Patient 7 felt very nervous and uncomfortable, and did not know what to say. Then someone opened the door and Dr. Nalabolu moved away from Patient 7.

Dr. Nalabolu acted "normal" and told Patient 7 "to have a nice day." (Tr. at 163-164).

Patient 7 stated that, after leaving Dr. Nalabolu's office, she went home and called a friend. The friend advised her to contact legal authorities. Patient 7 stated that she had hesitated to do so because she did not think that anyone would believe her. Eventually, Patient 7 reported the incident to the Centerville Police after she saw a report about Dr. Nalabolu on the television news. (Tr. at 166-167, 177-178).

Patient 7 had continued to see Dr. Nalabolu after these incidents. Patient 7 explained that she had been in the process of testing and treatment with Dr. Nalabolu, and had been afraid to interrupt it. Patient 7 further testified that she received medical benefits from Ohio Medicaid; accordingly, she must go through a lengthy referral process before she can see a new physician. Therefore, she feared that her problems would worsen if she suddenly stopped seeing Dr. Nalabolu. Nevertheless, Patient 7 stated that she was never again alone in a room with Dr. Nalabolu. (Tr. at 167-169, 175-176, 181-182).

26. Dr. Stan testified that Dr. Nalabolu had had no reason to examine Patient 7's breasts or pubic region. He stated that the medical record contained no indication that Patient 7 had complained of pain in her pubic region or breast pain. Dr. Stan further testified that, if Dr. Nalabolu had touched Patient 7's breasts or pubic area or had pressed his body against hers during an examination for complaints of back and hand pain, Dr. Nalabolu's conduct would have violated Principles I, II, and IV of the *Principles of Medical Ethics* and would have been below the minimal standard of care. (Tr. at 422-424, 428, 566-573, 626).

PATIENT 8

27. Patient 8 first saw Dr. Nalabolu on June 24, 1998. Patient 8 complained of fibromyalgia, pain radiating down her legs and up her arms, carpal tunnel syndrome of both hands and lower arms, rheumatoid arthritis, migraine and cluster headaches, and jaw pain from previously broken facial bones. Patient 8 further reported that, prior to and while seeing Dr. Nalabolu, she had been taking methadone in order to treat severe pain. Patient 8 stated that her family physician had referred her to Dr. Nalabolu. (Tr. at 243-24; St. Ex. 8 at 3a-4).

Patient 8 further testified that, prior to seeing Dr. Nalabolu, she had been addicted to opiates. She had been treated for drug dependency in 1990, and relapsed once in 1993 after the death of her son. At the time she first saw Dr. Nalabolu, she was following a recovery program. Patient 8 explained that she had become addicted to pain medications prescribed by a physician. When the physician realized that she had become addicted, the physician ceased prescribing all controlled medications. She suffered withdrawal from the medications, which had led to conduct that resulted in her being convicted of nine counts of illegally processing drug documents, and for obtaining a prescription by deception. (Tr. at 291-292, 297-299, 301-305, 325-326).

Patient 8 had continued to suffer from pain. Patient 8 testified that, during the first year in which she saw Dr. Nalabolu, she visited the office three times a week for treatments. In addition, Dr. Nalabolu performed spinal blocks and epidural blocks to help ease the pain. He also prescribed methadone, Klonopin, and other medications. Patient 8 testified that, with Dr. Nalabolu's treatment and the medications he prescribed, she was able to tolerate her pain for the first time in many years. (Tr. at 245-247, 290, 294).

Patient 8 stated that, during the summer of 1999, after she had been seeing Dr. Nalabolu without incident for more than one year, she went to Dr. Nalabolu's office for an appointment. On that day, Patient 8 was wearing slacks without underwear due to the heat. (Tr. at 247-249). Regarding that visit, Patient 8 testified as follows:

- Dr. Nalabolu asked Patient 8 to lie on her stomach on the examination table. Dr. Nalabolu was standing beside her. Dr. Nalabolu massaged her back, and during the massage, rubbed her buttocks through her pants. Then Dr. Nalabolu started examining Patient 8's lower spine, despite the fact that Patient 8 had never had problems with her lower spine. Dr. Nalabolu lifted her pants, and placed his hand on the fleshy part of one buttock. Patient 8 stated that she was embarrassed and confused; she simply "froze." (Tr. at 250-257).

Patient 8 testified that, a few months later, another incident occurred. Patient 8 was sitting on the examination table with her legs dangling. Dr. Nalabolu stood in front of her. Dr. Nalabolu was examining her back, when he placed his hand on her breast on top of her blouse. (Tr. at 257-263).

Early the following winter, Patient 8 presented to Dr. Nalabolu's office while Patient 8 was wearing a long skirt. When she was lying on the examination table, Dr. Nalabolu lifted her skirt and looked underneath. (Tr. at 264-269).

On another occasion, Patient 8 was lying on her back on the examination table. Dr. Nalabolu was standing next to and leaning over her. Dr. Nalabolu was touching different places on her body, and moved down the front of her body. Dr. Nalabolu pressed "really hard" on her stomach area, and stated, "Well, it seems like you're experiencing some groin tenderness." Then Dr. Nalabolu reached underneath Patient 8's slacks and panties with both hands. He continued to press hard on her groin and legs. Patient 8 stated that Dr. Nalabolu touched very close to, but not on, her vagina. He was touching her pubic hair, approximately one inch from Patient 8's vagina. Patient 8 told Dr. Nalabolu to stop, but he did not respond. When an office staff member knocked on the door and entered the room, Dr. Nalabolu told Patient 8 to get up. (Tr. at 273-280).

Patient 8 testified that she had continued to see Dr. Nalabolu despite his inappropriate behavior for a number of reasons. First, Patient 8 had continued to see Dr. Nalabolu because Dr. Nalabolu's treatments were effective in treating or minimizing her pain. She stated that, before seeing Dr. Nalabolu, she had been barely able to live inside her own body. Dr. Nalabolu had been the answer to her prayers. Therefore, despite the deteriorating physician-patient relationship, she had continued to see him. Patient 8 also testified that that she had been afraid to "make waves." Dr. Nalabolu was then prescribing approximately ten medications, and she knew she could not tolerate discontinuing them. Moreover, she stated that she received medical insurance through Medicaid, and finding a new physician would be difficult. Finally, Patient 8 testified that

she had continued to see Dr. Nalabolu because she has a history of accepting abuse, and her behavior in this situation reverted back to that of her past. She stated that an abused person knows to “keep your mouth shut and [not] make waves.” (Tr. at 270-271, 290-294, 308-309).

Eventually, Patient 8 discussed Dr. Nalabolu’s behavior with her family physician. Patient 8 stopped seeing Dr. Nalabolu in approximately July 2000. Then, after seeing a televised report regarding Dr. Nalabolu, Patient 8 contacted the police. (Tr. at 283-288).

29. Dr. Stan testified that, if Dr. Nalabolu had touched Patient 8’s pubic area underneath her clothing, and placed his hand to within an inch of her vagina, such conduct would have violated Principles I, II, and IV of the *Principles of Medical Ethics* and would have been below the minimal standard of care. (Tr. at 429-431).

On cross-examination, Dr. Stan was directed to Dr. Nalabolu’s medical records for Patient 8. Dr. Stan noted that, where Patient 8 had been asked to mark her painful areas on a drawing of a human, she had marked her breasts on more than one occasion. Dr. Stan testified that, if Dr. Nalabolu had touched Patient 8’s breast during a professional physical examination for breast pain, the touching would have been appropriate. Nevertheless, Dr. Stan stated that a professional physical examination would most likely be done with the tips of the fingers, but not with the whole hand. (Tr. at 575-576, 581-582).

FINDINGS OF FACT

1. On June 28, 2000, Patient 1 saw Dr. Nalabolu in his office. Dr. Nalabolu advised Patient 1 that he would give her an injection for pain. After administering the injection, Dr. Nalabolu pulled Patient 1’s pants down and inserted his ungloved fingers into her vagina. Dr. Nalabolu asked Patient 1 if it “felt good.” Dr. Nalabolu removed his hand, but quickly inserted the other hand. Patient 1 grabbed Dr. Nalabolu’s hand and asked him to stop. Dr. Nalabolu just turned away and started washing his hands. He then left the room.

Patient 1 started to leave Dr. Nalabolu’s office, but was informed that she must remain in the waiting room in order to evaluate the effects of the injection. At that point, the office staff started leaving the office because it was the end of the day. Dr. Nalabolu entered the waiting room, locked the door, and shut the blinds. Dr. Nalabolu started rubbing Patient 1’s shoulders and commented that she was tense. Dr. Nalabolu instructed Patient 1 to go back to an examining room so that he could give her “a whole body massage.” Dr. Nalabolu asked Patient 1 if she was afraid of him. Nevertheless, Dr. Nalabolu continued to rub Patient 1’s body. Patient 1 turned to run to the door, and Dr. Nalabolu grabbed her groin area.

2. Patient 2 saw Dr. Nalabolu on April 7, 1997. Dr. Nalabolu asked unprofessional and inappropriate questions of Patient 2, including questions of a sexual nature. Dr. Nalabolu also questioned Patient 2 regarding her government-provided medical insurance. Patient 2 told Dr. Nalabolu that those questions were not related to her pain complaints and that she was uncomfortable.

Dr. Nalabolu then told Patient 2 to take off her clothing, except for her underpants, and to sit on the examination table. Dr. Nalabolu straddled Patient 2's thigh and reached around her body to examine her back. In doing so, Dr. Nalabolu pressed his erect penis against Patient 2's leg. Dr. Nalabolu then asked Patient 2 to lie on the table. Patient 2 did so. During the ensuing examination, Dr. Nalabolu again pressed his erect penis against Patient 2's leg.

3. On May 20, 1997, Dr. Nalabolu told Patient 3 to lie on the examination table in a prone position. Dr. Nalabolu started rubbing lotion on Patient 3's back, and unhooked her bra. Dr. Nalabolu rubbed the sides of Patient 3's breasts as he rubbed her back. Dr. Nalabolu also grabbed the back of Patient 3's unzipped jeans and her underpants, and pulled them down. Dr. Nalabolu rubbed the crack of Patient 3's buttocks, approximately six inches below her waistline. Patient 3 asked Dr. Nalabolu to stop, and stated that she does not even let her husband touch her there because it tickles. Patient 3 tensed her buttocks to keep Dr. Nalabolu from pulling her pants further down. Dr. Nalabolu just told her to "relax." Someone touched the door handle as if they were about to enter the room. Dr. Nalabolu jumped when he heard the door handle. Dr. Nalabolu very quickly fastened Patient 3's bra and left the room.
4. There was no evidence presented regarding Patient 4.
5. During one visit to Dr. Nalabolu's office, while Patient 5 was lying on the examination table in a prone position fully clothed, Dr. Nalabolu rubbed up and down Patient 5's legs. While doing so, Dr. Nalabolu positioned his hands on the front of Patient 5's thighs with his thumbs on her inner thighs. Dr. Nalabolu touched Patient 5's vaginal area with his thumbs. The second time this occurred, Patient 5 grabbed his hand and asked what he was doing. Dr. Nalabolu replied that he was examining her. At the end of this visit, Dr. Nalabolu told Patient 5 that she could have any drug that she wanted and that she would never be in pain again.
6. On Patient 6's last visit to Dr. Nalabolu, approximately February 24, 1999, Patient 6 was sitting on the examination table with her feet dangling. Dr. Nalabolu was standing between her legs, and "started touching [her] all over." He started touching her head and moved down her body. On his way down her body, Dr. Nalabolu touched the sides of her breasts. Dr. Nalabolu touched Patient 6's inner thighs, close to Patient 6's groin area. At that point, Dr. Nalabolu's assistant advised Dr. Nalabolu that what he was doing was not "part of the procedure." Dr. Nalabolu stepped back and told Patient 6 that she was done.

7. On June 6, 2000, Patient 7 presented to Dr. Nalabolu's office. While Dr. Nalabolu was examining Patient 7's back, Dr. Nalabolu started rubbing her breasts with his hand on top of her undergarments. Patient 7 told Dr. Nalabolu that her breasts did not hurt, and Dr. Nalabolu stopped touching them.

During another office visit, on or about June 27, 2000, Patient 7 stood, leaning against the examination table. Dr. Nalabolu rubbed Patient 7's back and buttocks, near her pubic area, and in the area around her anus. Dr. Nalabolu's hand was within "a fingertip" of Patient 7's vagina. Dr. Nalabolu then moved his hands to her chest, and grabbed her breasts with his hands. Dr. Nalabolu's body was pressed against Patient 7's back. Dr. Nalabolu pressed his erect penis against her buttocks.

8. On one occasion during the summer of 1999, Dr. Nalabolu asked Patient 8 to lie on her stomach on the examination table. Dr. Nalabolu stood beside her and massaged her back. During the massage, Dr. Nalabolu rubbed her buttocks through her pants. Then Dr. Nalabolu lifted her pants, and placed his hand on the fleshy part of her buttocks.

A few months later, Patient 8 was sitting on Dr. Nalabolu's examination table with her legs dangling. Dr. Nalabolu stood in front of her. While Dr. Nalabolu was examining Patient 8's back, he placed his hand on her breast on top of her blouse.

On another occasion, Patient 8 laid on her back on the examination table. Dr. Nalabolu stood beside her, leaning over her. Dr. Nalabolu reached underneath Patient 8's slacks and panties with both hands. He pressed on her groin and legs. Dr. Nalabolu touched Patient 8's pubic hair, within an inch of Patient 8's vagina.

9. There was no evidence presented regarding Patient 9.

CONCLUSIONS OF LAW

1. The Board alleged that the conduct of Dasharathram Reddy Nalabolu, M.D., as set forth in Findings of Fact 1, constitutes "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.02, Ohio Revised Code, Rape.

Section 2907.02, Ohio Revised Code, provides, in pertinent part, as follows:

- (A)(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is

living separate and apart from the offender, when any of the following applies:

- (a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.
 - (b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.
 - (c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.
- (2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

Sexual conduct is defined in Section 2907.01(A), Ohio Revised Code, as follows:

'Sexual conduct' means vaginal intercourse between a male and a female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument or apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

The conduct of Dr. Nalabolu, by inserting his fingers into Patient 1's vaginal cavity, without privilege to do so, meets the statutory definition of sexual conduct.

The statute presents the additional question, however, as to whether Dr. Nalabolu's conduct also contained the necessary element of force or threat of force. A review of Ohio law reveals that courts have not yet established the amount of force necessary to meet that required by the statute when the conduct takes place during the course of medical treatment in a physician-patient relationship.

A physician-patient relationship inherently requires a degree of exposure, vulnerability, and trust not seen in many other relationships. As noted by the State in its supplemental closing brief:

The inability for meaningful consent [to sexual conduct] found in the physician-patient relationship is analogous to the parent-child relationship. Much like a parent, the physician is in a position of authority over the patient, directing medical care and treatment. The physician is in a position of dominance and control over the patient. The patient seeking medical care is often in a weakened condition due to illness or pain. The patient may be emotionally and psychologically vulnerable. In seeking the physician's care, the patient must discuss with the physician details of his or her life which could include abuse of drugs or alcohol or sexual relationships that would not be shared with anyone else. The patient is also physically vulnerable to the physician, permitting the physician access to all parts of the body while often all or partially unclothed. Finally, the physician-patient relationship, like the parent-child relationship, is one that must be based upon trust. A patient, trusting the physician, does not expect the physician to use his [or her] position for sexual exploitation.

(St. Ex. 26 at 5).

Thus, an analogy can be made to an allegation of rape by a parent of a child. In a rape case involving a parent and child, the Ohio Supreme Court considered the special relationship between the parent and the child, as follows:

The force and violence necessary in rape is naturally a relative term, depending upon the age, size and strength of the parties and their relation to each other; as the relation between father and daughter under twelve years of age. With the filial obligation of obedience to the parent, the same degree of force and violence would not be required upon a person of such tender years, as would be required were the parties more nearly equal in age, size and strength.

State v. Eskridge (1988), 38 Ohio St.3d 56, 58; 526 N.E.2d 304 (citations omitted). The Court further noted that "R.C. 2907.02(B) requires only that minimal force or threat of force be used in the commission of a rape. * * * Force need not be overt and physically brutal, but can be subtle and psychological. As long as it can be shown that the rape victim's will was overcome by fear or duress, the forcible element of rape can be established." *Id.* at 58 (citations omitted).

In the present matter, Patient 1 presented to Dr. Nalabolu with a chronic pain condition. Her history included problems with anxiety, stress, postpartum depression, bipolar

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disorder, and attempted suicide. During the course of treating her, Dr. Nalabolu prescribed a variety of medications, including the controlled substances Klonopin, OxyContin, and Ambien. It is significant to this physician-patient relationship that, in light of Patient 1's history of pain, anxiety, and depression, Patient 1 may have become very dependent on the medications prescribed by Dr. Nalabolu.

On the date in question, Patient 1 presented to Dr. Nalabolu with complaints of pain. Patient 1 willingly unzipped her pants and lowered them to the bottom of her in order to allow Dr. Nalabolu access for administration of an injection for pain. Nevertheless, when Patient 1 was lying on the examination table, her buttox partially exposed, Dr. Nalabolu grabbed Patient 1's jeans and underwear and pulled them down. He then inserted his ungloved fingers into her vagina. Despite her demand that he stop, Dr. Nalabolu again inserted his fingers into her vagina. Under these circumstances, Dr. Nalabolu's conduct constituted an abuse of his professional relationship with Patient 1 by which he forced her to submit to his inappropriate sexual conduct.

Accordingly, the conduct of Dr. Nalabolu was sufficient to constitute "force" as presented in Section 2907.02, Ohio Revised Code. Therefore, the conduct of Dr. Nalabolu, as set forth in Findings of Fact 1, constitutes "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.02, Ohio Revised Code, Rape.

2. The Board further alleged that the conduct of Dr. Nalabolu, as set forth in Findings of Fact 1, constitutes "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.05, Ohio Revised Code, Gross Sexual Imposition.

Section 2907.05, Ohio Revised Code, provides, in pertinent part, as follows:

- (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:
 - (1) The offender purposely compels the other person, or one of the other persons, to submit by force or threat of force.
 - (2) For the purpose of preventing resistance, the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug,

intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

- (3) The offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment, or surgery.
- (4) The other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person.
- (5) The ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

Sexual contact is defined in Section 2907.01(B), Ohio Revised Code, as follows:

'Sexual contact' means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Based on the reasoning presented in Conclusion of Law 1, the conduct of Dr. Nalabolu, as set forth in Findings of Fact 1, also constitutes "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.05, Ohio Revised Code, Gross Sexual Imposition.

3. The conduct of Dr. Nalabolu, as set forth in Findings of Fact 1, 5, 7, and 8, constitutes "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.
4. The conduct of Dr. Nalabolu, as set forth in Findings of Fact 1, 5, 7, and 8, constitutes "[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this

state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.

5. The conduct of Dr. Nalabolu, as set forth in Findings of Fact 1 through 3 and 5 through 8, constitutes “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.
6. The conduct of Dr. Nalabolu, as set forth in Findings of Fact 1 through 3 and 5 through 8, constitutes “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association’s *Principles of Medical Ethics*.

* * * * *

Dr. Nalabolu argued that the Board’s allegations against him are false. Moreover, Dr. Nalabolu argued that the evidence presented in this matter would demonstrate that “this is a case where there is a working together * * * between the state and county agencies and various local police agencies out to get the doctor. They use * * * a cast of characters, those with drug addictions, those that have a suicide past and convicted felons, in order to support the allegations against the doctor, and quite simply, all in the pursuit of money.” (Hearing Transcript at 11-12. See also Respondent’s Exhibit A).

Nevertheless, the evidence did not support Dr. Nalabolu’s contentions. There did not appear to be collusion between government agencies which were intent upon discrediting a good, upstanding physician. The accusations against Dr. Nalabolu began when Patient 1 reported her complaint to the Centerville Police Department. Det. Sgt. Casey investigated Patient 1’s complaint and made a taped recording of Dr. Nalabolu’s apologies to Patient 1. Once Dr. Nalabolu was arrested, it was not unreasonable that the story was released in the local news media.

Moreover, the fact that many of these witnesses did not come forward until after allegations against Dr. Nalabolu were released in the news media is also not unreasonable under the circumstances. A number of the witnesses testified that, prior hearing the news release regarding Dr. Nalabolu, they had not felt that anyone would believe their stories regarding Dr. Nalabolu. Such is a tribute to the respect and deference with which most physicians are viewed.

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Furthermore, Dr. Nalabolu's argument that the witnesses in this matter were "a cast of characters" with histories of drug addiction, suicide attempts, and felony convictions did not support his contention that the witnesses were not credible. These witnesses were credible, and very sympathetic under the circumstances. In fact, patients who suffer chronic pain often have histories of drug abuse and/or suicide attempts. Moreover, these are the patients who are least able to defend against inappropriate sexual advances of a physician. Accordingly, Dr. Nalabolu's attempt to discredit these witnesses for those reasons was not persuasive.

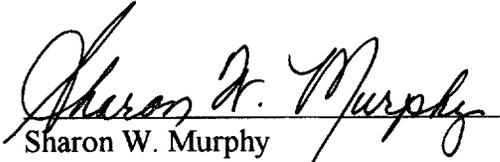
Finally, Dr. Nalabolu argued that the State's expert witness had found, in many cases, that Dr. Nalabolu's conduct had not fallen below the minimal standard of care or had not violated any code of ethics. Such a reading of the testimony is not accurate. In some cases, Dr. Stan testified that Dr. Nalabolu's behavior may have been appropriate in certain circumstances. Nevertheless, when considering the circumstances presented in these cases, it is clear that Dr. Nalabolu's conduct was wholly inappropriate.

PROPOSED ORDER

It is hereby ORDERED that:

1. The allegations against Dasharathram Reddy Nalabolu, M.D., pertaining to Patient 4 and Patient 9, as set forth in the September 13, 2000, notice of opportunity for hearing, shall be **DISMISSED WITHOUT PREJUDICE**:
2. The certificate of Dr. Nalabolu to practice medicine and surgery in the State of Ohio shall be **PERMANENTLY REVOKED**.

This Order shall become effective thirty days from the date of mailing of notification of approval by the State Medical Board of Ohio. In the thirty day interim, Dr. Nalabolu shall not undertake the care of any patient not already under his care. Moreover, Dr. Nalabolu shall not examine any female patient without first providing the patient a copy of this Report and Recommendation and Board Order and without a third party being present in the room.


Sharon W. Murphy
Attorney Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF MAY 9, 2001

REPORTS AND RECOMMENDATIONS

Dr. Bhati announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Bhati asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matter of Dasharathram Reddy Nalabolu, M.D. A roll call was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Egner | - aye |
| | Dr. Talmage | - aye |
| | Dr. Somani | - aye |
| | Dr. Buchan | - aye |
| | Mr. Browning | - aye |
| | Ms. Sloan | - aye |
| | Dr. Stienecker | - aye |
| | Dr. Garg | - aye |
| | Dr. Bhati | - aye |

Dr. Bhati asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

| | | |
|------------|----------------|-------|
| ROLL CALL: | Mr. Albert | - aye |
| | Dr. Egner | - aye |
| | Dr. Talmage | - aye |
| | Dr. Somani | - aye |
| | Dr. Buchan | - aye |
| | Mr. Browning | - aye |
| | Ms. Sloan | - aye |
| | Dr. Stienecker | - aye |
| | Dr. Garg | - aye |
| | Dr. Bhati | - aye |

Dr. Bhati noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying

that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters.

Dr. Bhati stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

DASHARATHRAM REDDY NALABOLU, M.D.

.....

DR. TALMAGE MOVED TO APPROVE AND CONFIRM MS. MURPHY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DASHARATHRAM REDDY NALABOLU, M.D. DR. SOMANI SECONDED THE MOTION.

.....

A vote was taken on Dr. Talmage's motion to approve and confirm:

| | | |
|-------|----------------|-----------|
| Vote: | Mr. Albert | - abstain |
| | Dr. Egner | - aye |
| | Dr. Talmage | - aye |
| | Dr. Somani | - aye |
| | Dr. Buchan | - aye |
| | Mr. Browning | - aye |
| | Ms. Sloan | - aye |
| | Dr. Stienecker | - aye |
| | Dr. Garg | - abstain |
| | Dr. Bhati | - aye |

The motion carried.



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September 13, 2000

Dasharathram Reddy Nalabolu, M.D.
511 Misty Morning
Centerville, Ohio 45429

Dear Doctor Nalabolu:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about June 28, 2000, Patient 1, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), presented to your office for an appointment.

While alone with Patient 1 in the examining room, you informed Patient 1 that you would give her a shot to help alleviate the pain that she was experiencing. As Patient 1 lay on her side on the examining table, she unzipped her pants and exposed the top portion of her left hip to allow for this shot to be given. You rubbed alcohol on Patient 1's hip, gave her the shot, and began rubbing the area of the injection site.

At this time, you also moved Patient 1's pants down to below her buttocks and began grabbing and spreading apart her buttocks. You then inserted your finger into Patient 1's vagina and asked her "Does it hurt here?" Patient 1 replied "No." You then asked Patient 1 "Does it feel good? Do you like it?" and she again replied "No." You then removed your finger, spread apart her buttocks, and again inserted your finger into Patient 1's vagina and asked whether she liked it. Patient 1 again said "No." You then said "If you want me to stop, I will," and Patient 1 said "Yes, please stop." You then removed your finger and began rubbing and squeezing Patient 1's breast and vaginal regions. Patient 1 grabbed your hand and told you that she did not like what you were doing. You then informed Patient 1 that she needed to wait in the waiting room for 20 minutes because of having received the shot.

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As Patient 1 remained in the waiting room, and after office staff had left, you entered the waiting room, closed the blinds, and locked the door. You offered to give Patient 1 a whole body massage in an examination room. She declined your offer noting that she had somewhere to go. You then began rubbing Patient 1's neck and shoulders, and fondled her breast and vaginal areas through her clothing. Though you again mentioned that you could provide a massage, Patient 1 unlocked the door and left your office.

- (2) On or about April 7, 1997, Patient 2, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure) presented to your office for an appointment. During this visit, a staff member questioned Patient 2 about matters related to her presenting complaint, back pain, and then left the examining room.

When you came into the examining room, where you were alone with Patient 2, you asked Patient 2 questions, such as "How is your sex life?" "Do you reach orgasm?" and "How often do you reach orgasm?" You also asked Patient 2 questions, such as "Does your husband enjoy sex with you?" "Is your husband the father of your child?" and "Were you on welfare when you had your child?" In addition, when you began examining her neck, you firmly pressed your erect penis against Patient 2's leg and continued to do so until a nurse entered the examining room and Patient 2 told you that she was very uncomfortable.

- (3) On or about May 20, 1997, Patient 3, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), presented to your office for an appointment for treatment related to her presenting complaints of back, neck, and shoulder pain. During this visit, as Patient 3 lay on her stomach on the examining table in your office, wearing a gown (open in the back), her bra, and jeans, you told her that you were going to rub her back. Patient 3 undid her jeans, so her lower back could be rubbed.

After obtaining lotion and beginning to rub her back, you undid Patient 3's bra. You returned to rubbing her back, then you touched the sides of her breasts. In addition, you told Patient 3 that you needed her pants to be down a little further, and she pushed them down a bit further. You then grabbed her pants and attempted to pull them down further.

At that point, Patient 3 tensed the muscles in her buttocks in an attempt to keep her pants from moving, and you told her to relax. Patient 3, who could feel your hands on her buttocks, said "That tickles. Even my husband can't touch me there. Please stop." You then returned to rubbing her back. When the door handle wiggled, you stopped rubbing Patient 3's back and fastened her bra.

- (4) On or about April 24, 2000, Patient 4, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), presented to your office for an appointment for treatment related to her presenting complaints of lower back and left leg pain and headaches. During this visit, while Patient 4 was lying on her back on the examination table, wearing a gown with her bra and underwear on underneath it, you brushed your hand over her genital area.

On subsequent visits, after Patient 4 had had breast implant surgery, you frequently questioned her regarding whether her stitches had been removed. In addition, on or about June 22, 2000, you asked Patient 4 if you could see her breasts, and said "It's up to you." Patient 4 told you "No."

- (5) Patient 5, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), received treatment in your office from in or about July 1999 to in or about March 2000 for treatment primarily related to her presenting complaints of lower back, left buttock, and left leg pain. During one visit to your office, while Patient 5 was lying on the examination table fully clothed, you began rubbing the top of her legs and continued to rub down her legs and then back up her legs, and then down her legs and back up again. Both times you reached the top of Patient 5's legs, with your hands positioned on the front of her thighs and your thumbs on her inner thighs, you touched her vaginal area with your thumbs. The second time this occurred, Patient 5 grabbed your hand and said "What are you doing?" You replied, "Examining you."

At the end of this visit, you told Patient 5 that she could have any drug that she wanted, and she advised you that she was fine with her current medications.

- (6) Patient 6, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), received treatment in your office from in or about August 1998 to in or about February 1999 primarily for back pain. During one visit to your office, as Patient 6 sat on the examination table you stood between her legs in front of her and began pressing on her neck, her shoulders, and around the sides of her breasts (not touching her breasts). You then began at her knees and moved up her thighs, pressing with one firm motion, and with your hands ending up on her inner thighs near her vaginal area. At that time, a member of your staff who was in the room interrupted you, saying that was not part of the normal procedure.
- (7) On or about June 6, 2000, Patient 7, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), presented to your office for an appointment, reporting pain primarily in her neck, back, and hands. During this visit, while Patient 7 was sitting on the examining table, you began rubbing her, starting at her neck and shoulders and working downward to her

chest, breasts, stomach, and pubic area. As you did so, you continually asked "Does this hurt?" when you reached a new area. When you began rubbing her pubic area, Patient 7 said "It doesn't hurt there," and got up from the table.

During another office visit, on or about June 27, 2000, you asked Patient 7 to stand and face the exam table. As you stood behind her, you began rubbing her, including her legs and her pubic region. You also pressed yourself firmly against her from behind and rubbed yourself against her.

- (8) Patient 8, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), received treatment in your office from in or about June 1998 to in or about July 2000 for many pain related complaints. On multiple occasions during this period, as you physically examined Patient 8 as she sat or lay on the examining table during office visits, you also touched her breasts, pubic area, and buttocks, both through, and by slipping your hands under, her clothes.
- (9) On or about May 22, 2000, Patient 9, a female identified on the attached Patient Key (Key confidential--to be withheld from public disclosure), presented to your office for an appointment for treatment related to her presenting complaints of lower back, left hip, and left leg pain. During this visit, while Patient 9 was wearing a gown with no clothing underneath it, you cupped her breast and placed your stethoscope on her nipple. In addition, as Patient 9 sat on the examining table, you began pressing on her stomach area and asking "Does this hurt?" As you did this, you once brushed across her breasts and once squeezed her breasts. You then proceeded to press on her hip and pubic areas, and to rub her inner thighs and her vaginal area. You also touched her legs and placed your hands under her gown touching her vaginal area. Further, while she was lying on her stomach, you pressed on her back, hips and legs, once touching her vaginal area again.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "[c]ommission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section 4731.22(B)(10), Ohio Revised Code, to wit: Section 2907.02, Ohio Revised Code, Rape, and Section 2907.05, Ohio Revised Code, Gross Sexual Imposition.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1), (5), and (7) through (9) above, individually and/or collectively, constitute "[c]ommission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed," as that clause is used in Section

4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1), (5), and (7) through (9) above, individually and/or collectively, constitute “[c]ommission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed,” as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual Imposition.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (9) above, individually and/or collectively, constitute “[a] departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (9) above, individually and/or collectively, constitute “[v]iolation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule,” as that clause is used in Section 4731.22(B)(18), Ohio Revised Code, to wit: Principles I, II, and IV of the American Medical Association’s Principles of Medical Ethics.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that “[w]hen the board refuses to grant

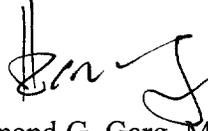
Dasharathram Reddy Nalabolu, M.D.

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a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Anand G. Garg', written in a cursive style.

Anand G. Garg, M.D.
Secretary

AGG/bjs
Enclosures

CERTIFIED MAIL #Z 395 591 184
RETURN RECEIPT REQUESTED

cc: Kevin L. Lennen, Esq.

CERTIFIED MAIL #Z 395 591 225
RETURN RECEIPT REQUESTED