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IDAHO STATE BOARD OF MEDICINE

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Attorneys for Respondent

BEFORE THE IDAHO STATE BOARD OF MEDICINE

In the matter of:)	
)	Case No. BOM-2011-537
RICHARD J. PINES, D.O.)	
License No. 0-184)	ANSWER
)	
Respondent.)	
_____)	

COMES NOW, the Respondent above named, by and through his attorneys of record, Cantrill, Skinner, Sullivan and King, LLP and as and for an Answer to Plaintiff's Complaint on file herein admits, denies and alleges:

FIRST DEFENSE

Respondent denies each and every allegation contained in the Board's Complaint not specifically admitted herein.

SECOND DEFENSE

I.

Respondent admits the allegations contained in paragraph 1 of the Board's Complaint.

II.

Respondent denies the allegations contained in paragraph 2 of the Board's Complaint.

III.

Respondent denies the allegations contained in paragraph 3 of the Board's Complaint.

IV.

Respondent denies the allegations contained in paragraph 4 of the Board's Complaint.

V.

Respondent denies the allegations contained in paragraph 5 of the Board's Complaint.

VI.

Respondent denies the allegations contained in paragraph 6 of the Board's Complaint.

VII.

Respondent denies the allegations contained in paragraph 7 of the Board's Complaint.

VIII.

Respondent denies the allegations contained in paragraph 8 of the Board's Complaint.

IX.

Respondent denies the allegations contained in paragraph 9 of the Board's Complaint.

X.

Respondent denies the allegations contained in paragraph 10 of the Board's Complaint.

XI.

Respondent denies the allegations contained in paragraph 11 of the Board's Complaint.

XII.

Respondent denies the allegations contained in paragraph 12 of the Board's Complaint.

XIII.

Respondent denies the allegations contained in paragraph 13 of the Board's Complaint.

XIV.

Respondent denies the allegations contained in paragraph 14 of the Board's Complaint.

XV.

Respondent denies the allegations contained in paragraph 15 of the Board's Complaint.

XVI.

Respondent denies the allegations contained in paragraph 16 of the Board's Complaint.

XVII.

Respondent denies the allegations contained in paragraph 17 of the Board's Complaint.

XVIII.

Respondent denies the allegations contained in paragraph 18 of the Board's Complaint.

XIX.

Respondent denies the allegations contained in paragraph 19 of the Board's Complaint.

XX.

Respondent denies the allegations contained in paragraph 20 of the Board's Complaint.

FIRST AFFIRMATAIVE DEFENSE


XXI

The Board fails to state a claim for which relief can be granted.

Respondent reserves the right to amend this Answer at any time.

DATED This 19th day of July, 2012.

CANTRILL, SKINNER, SULLIVAN & KING LLP

By: 
David W. Cantrill, Of the Firm
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2012, I served a true and correct copy of the above and foregoing instrument, by method indicated below, upon:

Jean R. Uranga
URANGA & URANGA
714 North 5th Street
P.O. Box 1678
Boise, ID 83701

Facsimile
 Hand Delivery
 U.S. Mail


David W. Cantrill

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Idaho State Bar No. 1763

Attorneys for the Board

BEFORE THE IDAHO STATE BOARD OF MEDICINE

In the Matter of:)	
)	Case No. BOM-2011-537
RICHARD J. PINES, D.O.,)	
License No. O-184,)	COMPLAINT
)	
Respondent.)	
<hr/>		

NANCY KERR, Executive Director of the Idaho State Board of Medicine, hereinafter referred to as the Board, complains and alleges as follows:

COUNT ONE

1.

Respondent, Richard J. Pines, D.O., is the holder of an Idaho license to practice osteopathic medicine, License No. O-184, issued by the Idaho State Board of Medicine on June 24, 1997. Said license is subject to the provisions of Title 54, Chapter 18, Idaho Code, commonly referred to as the Medical Practice Act.

2.

On or around January 29, 2011, Respondent engaged in sexual misconduct or contact with N.R., born December, 1992, while N.R. was still a senior in high school. Respondent told

N.R. that Respondent needed to perform a physical examination as part of Respondent's "medical certification" as a ruse to have N.R. get undressed and allow Respondent to touch N.R. sexually. Respondent told N.R. that Respondent needed a "test patient" to practice hernia exams on. The sexual contact occurred in Respondent's bedroom. N.R. was a former foster child of Respondent. N.R. and Respondent continued their relationship after N.R. was a foster child. N.R. contacted Respondent from time to time to do odd jobs for Respondent for money and was told by Respondent to call after he was 18-years-old. Respondent admittedly gave N.R. \$2000 after the incident.

3.

The acts and practices of Respondent, as alleged in Paragraph 2 above, constitute violations of the Idaho Medical Practice Act in that:

(1) Respondent has committed an act constituting a felony or committed an act constituting a crime involving moral turpitude in violation of Idaho Code §54-1814(21) and Idaho Code §18-919.

(2) Respondent has abused or exploited his position as a physician to engage in improper sexual contact in violation of Idaho Code §54-1814(22) and IDAPA 22.01.01.101.04.d.

4.

The purpose of this disciplinary proceeding is to determine whether Respondent's Idaho license to practice medicine and surgery should be suspended, restricted or revoked.

COUNT TWO

5.

The Board realleges and incorporates by reference Paragraphs 1 and 4 of Count One as though fully set forth.

6.

Respondent, in the course of his practice, used his position as a physician to engage in improper, inappropriate, unprofessional and unethical sexual contact or conduct with respect to Patient D.P., born January, 1992. Patient D.P. was under Respondent's care and treatment from approximately August 31, 2005 through September 26, 2007, as a patient of Northwest Children's Home, Inc. Patient D.P. has severe emotional and behavioral issues. Respondent diagnosed Patient D.P. with Oppositional Defiant Disorder with a history of emotional and possibly physical abuse. Respondent admitted to taking naked pictures of Patient D.P. while Patient D.P. and Respondent were at Respondent's cabin in Garden Valley, Idaho. Respondent admitted taking money to Patient D.P. the Monday before Respondent's interview with Boise Police Department on March 17, 2011. Respondent admitted to having engaged in sexual behavior with Patient D.P. during his interview with the Boise Police Department.

7.

The acts and practices of Respondent, as alleged in Paragraph 6 above, constitute violations of the Idaho Medical Practice Act in that:

(1) Respondent has provided health care which fails to meet the standard of health care provided by other qualified physicians in the same or similar communities, in violation of Idaho Code §54-1814(7) and IDAPA 22.01.01.101.03.d; and

(2) Respondent has engaged in conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient, in violation of Idaho Code §54-1814(22) and IDAPA 22.01.01.101.4.d.

(3) Respondent has committed an act constituting a felony or committed an act constituting a crime involving moral turpitude in violation of Idaho Code §54-1814(21) and Idaho Code §18-919.

8.

The purpose of this disciplinary proceeding is to determine whether Respondent's Idaho license to practice medicine and surgery should be suspended, restricted or revoked.

COUNT THREE

9.

The Board realleges and incorporates by reference Paragraphs 1 and 4 of Count One as though fully set forth.

10.

On various occasions between 2000 and 2005, Respondent provided respite foster care for S.G., born June, 1988. S.G. reported Respondent's touching him on or about the Summer of 2007, after S.G. turned 18, to Health and Welfare and to Casey Family Program. Respondent told S.G. that Respondent needed to give massages to naked bodies to maintain his medical license. Respondent constantly asked S.G. if he wanted massages when he was in respite care and that Respondent would massage S.G. 's bare back and shoulders. In the summer of 2007, S.G. contacted Respondent asking if S.G. could work for Respondent to make some money. Respondent told S.G. Respondent needed an 18- year-old to practice naked massages on to prepare for a medical examination. At Respondent's home in Boise in Respondent's bedroom, S.G. let Respondent perform a naked massage on him under the auspices that this was medically related. Respondent had improper contact with S.G.. Respondent may have videotaped the massage.

11.

The acts and practices of Respondent, as alleged in Paragraph 10 above, constitute violations of the Idaho Medical Practice Act in that:

(1) Respondent has committed an act constituting a felony or committed an act constituting a crime involving moral turpitude in violation of Idaho Code §54-1814(21) and Idaho Code §18-919.

(2) Respondent has abused or exploited his position as a physician to engage in improper sexual contact in violation of Idaho Code §54-1814(22) and IDAPA 22.01.01.101.04.d.

12.

The purpose of this disciplinary proceeding is to determine whether Respondent's Idaho license to practice medicine and surgery should be suspended, restricted or revoked.

COUNT FOUR

13.

The Board realleges and incorporates by reference Paragraphs 1 and 4 of Count One as though fully set forth.

14.

According to Respondent's interview with the Boise Police Department, Patient N.C., born November, 1967, and Respondent had a three year affair. Respondent has prescribed controlled substances to Patient N.C., without supporting records. The last prescription prescribed for Patient N.C. was Acetaminophen-Codeine 300mg-30mg, #100 tablets which was filled June 27, 2010.

15.

The acts and practices of Respondent, as alleged in Paragraph 18 above, constitute violations of the Idaho Medical Practice Act in that:

(1) Respondent has provided health care which fails to meet the standard of health care provided by other qualified physicians in the same or similar communities, in violation of Idaho Code §54-1814(7) and IDAPA 22.01.01.101.03.d; and

(2) Respondent has prescribed or furnished narcotic, hypnotic, hallucinogenic, simulating or dangerous drugs for other than treatment of any disease, injury or medical condition, in violation of Idaho Code §54-1814(12).

16.

The purpose of this disciplinary proceeding is to determine whether Respondent's Idaho license to practice medicine and surgery should be suspended, restricted or revoked.

COUNT FIVE

17.

The Board realleges and incorporates by reference Paragraphs 1 and 4 of Count One as though fully set forth.

18.

In June, 2001, Respondent engaged in improper sexual contact with B.H., born April, 1987, when B.H. was 14-years-old at Respondent's cabin in Garden Valley. The incident occurred after B.H. and Respondent used the hot-tub at the cabin in Garden Valley. Respondent asked B.H. to help Respondent with a medical recertification by allowing Respondent to perform a massage on B.H. After using the hot tub, Respondent asked B.H. to come upstairs to Respondent's bedroom for the massage. During the course of the massage, B.H.'s towel came undone and Respondent stroked B.H.'s genitals. B.H. said the room was dark and they were on the floor, but he believes Respondent was masturbating during this part of the massage.

19.

The acts and practices of Respondent, as alleged in Paragraph 22 above, constitute violations of the Idaho Medical Practice Act in that:

(1) Respondent has committed an act constituting a felony or committed an act constituting a crime involving moral turpitude in violation of Idaho Code §54-1814(21) and Idaho Code §18-919.

(2) Respondent has abused or exploited his position as a physician to engage in improper sexual contact in violation of Idaho Code §54-1814(22) and IDAPA 22.01.01.101.04.d.

20.

The purpose of this disciplinary proceeding is to determine whether Respondent's Idaho license to practice medicine and surgery should be suspended, restricted or revoked.

PRAYER FOR RELIEF

WHEREFORE, Complainant prays that the Board:

1. Appoint a hearing officer and conduct a hearing upon the matters set forth herein;
2. Suspend, revoke or take such action with regard to Respondent's license as may be deemed just by the Board; and
3. Award the Board its costs and attorney's fees incurred in these matters.

DATED This 28th day of June, 2012.

IDAHO STATE BOARD OF MEDICINE



NANCY KERR
Executive Director