

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	NOTICE OF CHARGES
Robert Emmett Winton, M.D.,	)	AND ALLEGATIONS;
	)	NOTICE OF HEARING
Respondent.	)	

The North Carolina Medical Board (hereafter "Board") has preferred and does hereby prefer the following charges and allegations:

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes.

2. On or about October 14, 1978, the Board first issued a license to practice medicine and surgery to Robert Emmett Winton, M.D. (hereafter "Dr. Winton"), license number 22994.

3. During the times relevant herein, Dr. Winton practiced medicine in Durham, North Carolina.

4. Patient A was a long-term patient of Dr. Winton's for over twenty years. Patient A, a woman, presented to Dr. Winton, a psychiatrist, for therapy.

5. Beginning in or about November 2004, and continuing until August 2005, Dr. Winton expressed to Patient A that he was sexually attracted to her and that he believed she may have felt the same

about him. Dr. Winton also discussed with Patient A much personal information about himself including his own personal sexual history. In addition, Dr. Winton told Patient A that he was sexually attracted to some of his other female patients and that some of these female patients had expressed to him a desire to have sex with him.

5. In regard to Dr. Winton sharing personal intimate information about himself and his own personal relationships and sexual history, the information he imparted to Patient A contained a great amount of detail, the majority of which is being omitted from this pleading out of concern for others. This pleading is a summary of what transpired between Dr. Winton and Patient A.

6. From November 2004 to August 2005, Dr. Winton and Patient A exchanged emails of a personal nature. In one email, Dr. Winton expressed his vulnerability to Patient A and openly expressed a worry that Patient A may hurt him by reporting him to the Medical Board. In another email, Dr. Winton signed off on the email with the closing, "Love, Bob." In another email, Dr. Winton asked for Patient A's help in editing a story he had written about "Francesca and Julio," a story about forbidden love. Patient A interpreted the story as a parable of the interaction she was having at the time with Dr. Winton.

7. In November 2004, Dr. Winton gave Patient A a hug after Patient A had expressed a desire that he not do so.

8. After Patient A discontinued her patient relationship with Dr. Winton, Patient A began to see another psychiatrist and part of her therapy with this new psychiatrist included issues related to the events that transpired between her and Dr. Winton during 2004 and 2005. The new psychiatrist spent time treating Patient A because of the actions of Dr. Winton.

9. The actions of Dr. Winton caused harm to Patient A.

10. As a result of the events between Patient A and Dr. Winton, the American Psychiatric Association and the North Carolina Psychiatric Association suspended Dr. Winton's membership in those organizations for a period of three years with supervision.

11. Pursuant to N.C. Gen. Stat. 90-21.41(4)(b)(1) and (4) of the Psychotherapy Patient/Client Sexual Exploitation Act, sexual exploitation of a patient by a psychotherapist includes the following: "Sexual exploitation. - Either of the following, whether or not it occurred with the consent of a client or during any treatment, consultation, evaluation, interview, or examination....(b) Any act done or statement made by the psychotherapist for the purpose of sexual stimulation or gratification of the client or psychotherapist which includes any of the following actions:....(1) The psychotherapist's relating to the client the psychotherapist's own sexual fantasies or the details of the psychotherapist's own sexual life....(4) Statements containing sexual innuendo, sexual threats, or sexual suggestions

regarding the relationship between the psychotherapist and the client."

12. Dr. Winton's conduct, as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit Dr. Winton's license to practice medicine issued by the Board or to deny any future application he might make.

13. Dr. Winton's conduct, as described above, constitutes a violation of the Psychotherapy Patient/Client Sexual Exploitation Act, and therefore, Dr. Winton violated a law involving the practice of medicine within the meaning of N.C. Gen. Stat. § 90-14(a)(7), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit Dr. Winton's license to practice medicine issued by the Board or to deny any future application he might make.



NOTICE TO DR. WINTON

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, on August 19, 2009, at 8:00 a.m. or as soon thereafter, at the offices of the Board at 1203 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.4, 14.5, and 14.6. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf.

You may, if you desire, file written answers to the charges and complaints preferred against you within 30 days after the service of this notice.

The identity of Patient A and the date and place of treatment of this patient are being withheld from public disclosure pursuant to N.C. Gen. Stat. § 90-8. However, this information will be provided to you upon your request.


Pursuant to N.C. Gen. Stat. § 150B-40(c)(5), it is further ordered that the parties shall arrange a prehearing conference at which they shall prepare and sign a stipulation on prehearing conference. The prehearing stipulation shall be submitted to the undersigned no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. §

150B-40(d), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 13<sup>th</sup> day of July, 2009.

NORTH CAROLINA MEDICAL BOARD

By:   
George L. Saunders, III, M.D.  
President

**BEFORE THE  
NORTH CAROLINA MEDICAL BOARD**

In re:	)	
	)	
Robert Emmett Winton, M.D.	)	<b>MOTION TO CONTINUE</b>
	)	<b>HEARING</b>
Respondent.	)	

Respondent Robert Winton, M.D., by and through his undersigned attorneys, hereby requests that the hearing on the Board's Complaint against him be continued from its current setting on August 19, 2009. In support of this motion, Dr. Winton submits that:

1. On August 3, 2009, the undersigned received a telephone call from Marcus Jimison with the Medical Board concerning the hearing in this matter.
2. The undersigned contacted Mr. Jimison on August 3, 2009 and this was the first notice of a hearing. Mr. Jimison agreed to email to the undersigned a copy of the notice of charges and notice of hearing.
3. Dr. Winton, by and through his counsel, was served with a copy of the Notice of Charges and Notice of Hearing on August 4, 2009.
4. On August 4, 2009, the undersigned received copies of the investigative report and forty-eight pages of attachments.
5. Dr. Winton and his counsel need time to review the notice of charges, investigation report and attachments, complete expert reviews, and prepare Dr. Winton's defense.
6. This is the first request for a continuance of the hearing.
7. The undersigned has discussed this request for continuance with Mr. Jimison, and he has no objection to the continuance of the scheduled hearing to a later Board meeting.

WHEREFORE, Dr. Winton respectfully requests that the hearing on the complaints against him be removed from the August 19, 2009 calendar and continued to a later scheduled meeting of the Medical Board.

This the 5<sup>th</sup> day of August, 2009.

**YATES, McLAMB & WEYHER, L.L.P.**

By: Kathrine Fisher

John W. Minier

N.C. State Bar No.: 17179

Kathrine E. Fisher

N.C. State Bar No.: 27737

Attorneys for Defendant Respondent

Post Office Box 2889

Raleigh, North Carolina 27602

Telephone: (919) 835-0900

Facsimile: (919) 835-0910

### **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that a copy of the foregoing **Motion to Continue Hearing** was served on the following parties to this action by: ( ) facsimile ( ) hand delivery (x) electronic mail and (x) by depositing a copy of the same in the United States Mail postage prepaid and addressed to:

George L. Saunders, III, M.D., President  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

Marcus B. Jimison, Esquire  
Board Attorney  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

This the 5<sup>th</sup> day of August, 2009.

**YATES, McLAMB & WEYHER, L.L.P.**

By:

Kathrine Fisher  
John W. Minier  
N.C. State Bar No.: 17179  
Kathrine E. Fisher  
N.C. State Bar No.: 27737  
Attorneys for Defendant Respondent  
Post Office Box 2889  
Raleigh, North Carolina 27602  
Telephone: (919) 835-0900  
Facsimile: (919) 835-0910

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Robert Emmett Winton, M.D.	)	<b>MOTION TO CONTINUE</b>
	)	<b>HEARING</b>
Respondent.	)	

Respondent Robert Winton, M.D., by and through his undersigned attorneys, hereby requests that the hearing on the Board's Complaint against him be continued from its current setting on October 21, 2009. In support of this motion, Dr. Winton submits that:

1. The parties have reached an agreement in principal as to the terms of a Consent Order in this matter. The parties need additional time to finalize the language and details of a Consent Order.
2. This is the second request for a continuance of the hearing.
3. The undersigned has discussed this request for continuance with Marcus Jimison, and he has no objection to the continuance to allow the parties additional time to finalize a Consent Order.

WHEREFORE, Dr. Winton respectfully requests that the hearing on the complaints against him be removed from the October 21, 2009 calendar and continued to a later scheduled meeting of the Medical Board.

This the 14<sup>th</sup> day of October, 2009.

YATES, McLAMB & WEYHER, L.L.P.

By: Kathrine Fisher  
John W. Minier  
N.C. State Bar No.: 17179  
Kathrine E. Fisher  
N.C. State Bar No.: 27737  
Attorneys for Defendant Respondent  
Post Office Box 2889  
Raleigh, North Carolina 27602  
Telephone: (919) 835-0900  
Facsimile: (919) 835-0910

## CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing **Motion to Continue Hearing** was served on the following parties to this action by: ( ) facsimile ( ) hand delivery (x) electronic mail and (x) by depositing a copy of the same in the United States Mail postage prepaid and addressed to:

George L. Saunders, III, M.D., President  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

Marcus B. Jimison, Esquire  
Board Attorney  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

This the 14<sup>th</sup> day of October, 2009.

**YATES, McLAMB & WEYHER, L.L.P.**

By: Kathrine Fisher  
John W. Minier  
N.C. State Bar No.: 17179  
Kathrine E. Fisher  
N.C. State Bar No.: 27737  
Attorneys for Defendant Respondent  
Post Office Box 2889  
Raleigh, North Carolina 27602  
Telephone: (919) 835-0900  
Facsimile: (919) 835-0910

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Robert Emmett Winton, M.D.	)	<b>MOTION TO CONTINUE</b>
	)	<b>HEARING</b>
Respondent.	)	

Respondent Robert Winton, M.D., by and through his undersigned attorneys, hereby requests that the hearing on the Board's Complaint against him be continued from its current setting on October 21, 2009. In support of this motion, Dr. Winton submits that:

1. The parties have reached an agreement in principal as to the terms of a Consent Order in this matter. The parties need additional time to finalize the language and details of a Consent Order.
2. This is the second request for a continuance of the hearing.
3. The undersigned has discussed this request for continuance with Marcus Jimison, and he has no objection to the continuance to allow the parties additional time to finalize a Consent Order.

WHEREFORE, Dr. Winton respectfully requests that the hearing on the complaints against him be removed from the October 21, 2009 calendar and continued to a later scheduled meeting of the Medical Board.

This the 14<sup>th</sup> day of October, 2009.

**YATES, McLAMB & WEYHER, L.L.P.**

By: Kathrine Fisher  
John W. Minier  
N.C. State Bar No.: 17179  
Kathrine E. Fisher  
N.C. State Bar No.: 27737  
Attorneys for Defendant Respondent  
Post Office Box 2889  
Raleigh, North Carolina 27602  
Telephone: (919) 835-0900  
Facsimile: (919) 835-0910



## CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing **Motion to Continue Hearing** was served on the following parties to this action by: ( ) facsimile ( ) hand delivery (x) electronic mail and (x) by depositing a copy of the same in the United States Mail postage prepaid and addressed to:

George L. Saunders, III, M.D., President  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

Marcus B. Jimison, Esquire  
Board Attorney  
North Carolina Medical Board  
1203 Front Street  
Raleigh, North Carolina 27609

This the 14<sup>th</sup> day of October, 2009.

**YATES, McLAMB & WEYHER, L.L.P.**

By: Kathrine Fisher  
John W. Minier  
N.C. State Bar No.: 17179  
Kathrine E. Fisher  
N.C. State Bar No.: 27737  
Attorneys for Defendant Respondent  
Post Office Box 2889  
Raleigh, North Carolina 27602  
Telephone: (919) 835-0900  
Facsimile: (919) 835-0910

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

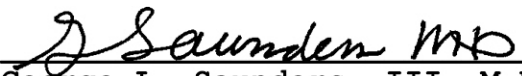
In re: )  
 )  
Robert Emmett Winton, M.D. ) ORDER  
 )  
Respondent. )

This matter is before the undersigned President of the North Carolina Medical Board regarding the hearing scheduled for October 21, 2009 in the above-captioned case. Upon consideration of Respondent's Motion to Continue, I hereby enter the following ORDER:

The hearing scheduled for October 21, 2009 is continued and shall be heard at 8:00 a.m. on February 17, 2010 or as soon thereafter as the Board or a panel thereof may hear it.

This the 16<sup>th</sup> day of October, 2009.

NORTH CAROLINA MEDICAL BOARD

By:   
George L. Saunders, III, M.D.  
President

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Robert Emmett Winton, M.D.	)	CONSENT ORDER
	)	
Respondent.	)	

This matter is before the North Carolina Medical Board (hereafter "Board") on a Notice of Charges and Allegations dated July 13, 2009, regarding Robert Emmett Winton, M.D. (hereafter "Dr. Winton"). Dr. Winton admits, and the Board finds and concludes, that:

Whereas, the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes, and

Whereas, on or about October 14, 1978, the Board first issued a license to practice medicine and surgery to Dr. Winton, license number 22994, and

Whereas, during the times relevant herein, Dr. Winton practiced psychiatry in Durham, North Carolina, and

Whereas, Patient A was a patient of Dr. Winton's, at various times, for over twenty years, and

Whereas, during a therapy session on November 24, 2004, Patient A became upset after coming to feel that Dr. Winton had not

adequately reviewed email correspondence sent to him by Patient A; Dr. Winton, in an attempt to reassure Patient A, gave Patient A a brief hug after Patient A had asked him not to do so; and

Whereas, Patient A reports that, during a therapy session on December 20, 2004, Dr. Winton made statements from which she inferred a sexual attraction towards her. Dr. Winton denies having had a sexual attraction and denies that he implied such an attraction, and

Whereas, from November 2004 to August 2005, Dr. Winton and Patient A exchanged emails that were of a personal nature at times, and

Whereas, from January 2005 to August 2005, Dr. Winton disclosed, inappropriately, personal information about himself to Patient A, and

Whereas, Dr. Winton denies that he intended any inappropriate relationship with Patient A, and contends that in the exercise of his best judgment at the time, his actions were intended to have therapeutic purposes. Dr. Winton now recognizes that he failed to maintain treatment boundaries.

Whereas, in 2005, Patient A discontinued being Dr. Winton's patient and she began sessions with another psychiatrist that included therapy related to her interactions with Dr. Winton in 2004 and 2005, and

Whereas, Patient A complained of these events to the American Psychiatric Association and the North Carolina Psychiatric Association; these organizations suspended Dr. Winton's membership for a period of three years with supervision, and

Whereas, Dr. Winton's conduct, as described above, constitutes unprofessional conduct including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without North Carolina, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit Dr. Winton's license to practice medicine issued by the Board or to deny any future application he might make, and

Whereas, Dr. Winton reports that after the termination of treatment and correspondence with Patient A, he eliminated the use of email correspondence in his practice, completed a five hour risk management course which included boundary management, undertook supervision with a North Carolina licensed psychiatrist on a weekly basis for eighteen months, and continues in supervision with a North Carolina licensed psychiatrist on a biweekly basis, and

Whereas, the above actions by Dr. Winton, subsequent to the above occurrences, evidences reasonable steps toward obtaining supervision and therapeutic assistance for himself and educating and monitoring himself regarding the boundary issues addressed herein, and

Whereas the Board has determined that the facts and circumstances of this case do not warrant or require a restriction or limitation to be placed on Dr. Winton's license to practice medicine and surgery and that it is in the public interest to resolve this case as set forth below;

Now, therefore, with Dr. Winton's consent, it is ORDERED that:

1. Dr. Winton's North Carolina medical license is hereby SUSPENDED for a period of ONE (1) YEAR. This suspension is IMMEDIATELY STAYED; except for a period of THIRTY (30) DAYS, beginning THIRTY (30) DAYS from the date of this Consent Order wherein Dr. Winton shall serve an ACTIVE SUSPENSION. Furthermore, Dr. Winton is placed on PROBATION for ONE (1) YEAR from the date of this Consent Order.

2. Within THIRTY (30) DAYS from the date of this Consent Order, Dr. Winton shall pay a FINE of FIVE THOUSAND AND 00/100 DOLLARS to the North Carolina Medical Board.

3. Within THIRTY (30) DAYS from the date of this Consent Order, Dr. Winton shall submit himself for an assessment by the North Carolina Physicians Health Program ("NC PHP"), and strictly

comply with any recommendations made by the NC PHP, including submitting to any additional assessments recommended by NC PHP and the signing of a monitoring contract with the NC PHP.

4. During the probationary period, Dr. Winton shall complete in-person Category I Continuing Medical Education courses on boundary issues and ethics, such courses to be approved by the Board's Medical Director.

5. Dr. Winton shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

6. Dr. Winton shall notify the Board in writing of any change in his residence or practice addresses within ten (10) days of the change.

7. Dr. Winton shall meet with the Board or members of the Board for an informal interview at such times as requested by the Board.

8. If Dr. Winton fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend, or revoke his license to practice medicine and surgery and to deny any application he might make in the future or then have pending for a license.

9. This Consent Order shall take effect immediately upon its execution by both Dr. Winton and the Board, and it shall continue in effect until specifically ordered otherwise by the Board.

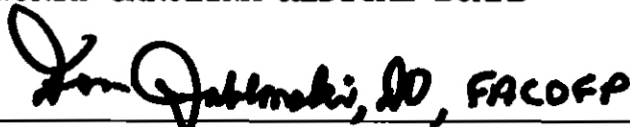
10. Dr. Winton hereby waives any requirement under law or rule that this Consent Order be served on him.

11. Upon execution by Dr. Winton and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies, and clearinghouses as required by and permitted by law including, but not limited to, the Federation of State Medical Boards, the National Practitioner's Data Bank, and the Healthcare Integrity and Protection Data Bank.

This the 23rd day of November, 2009.

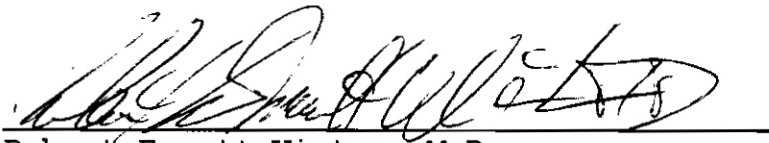
NORTH CAROLINA MEDICAL BOARD

By:

 Donald E. Jablonski, D.O., FACOFP

Donald E. Jablonski, D.O.  
President

Consented to this the 20 day of November, 2009.

  
Robert Emmett Winton, M.D.



State of North Carolina

County of Wake

I, WANDA A. LONG, a Notary Public for the above named County and State, do hereby certify that Robert Emmett Winton, M.D., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

This the 23<sup>rd</sup> day of NOVEMBER, 2009.

Wanda A. Long  
Notary Public

(SEAL)

My Commission expires: 4-18 2010