

**BEFORE THE DIRECTOR  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH  
STATE OF NEBRASKA**

<b>In the Matter of the Petition for</b>	)	<b>Order Reinstating</b>
<b>Reinstatement of a License to Practice</b>	)	<b>License on Probation</b>
<b>Medicine and Surgery Following Suspension</b>	)	
<b>of Bruce Jay Bottlinger, MD.</b>	)	

This matter comes before the Director for consideration In the Matter of the Petition For Reinstatement of License to Practice Medicine and Surgery Following Suspension of Bruce Jay Bottlinger, MD, signed on the 8<sup>th</sup> day of February, 2008 by Bruce Jay Bottlinger, MD.

The Director, having reviewed the record of this case, finds that a license on probation should be granted in that:

1. The Board of Medicine and Surgery has given the Director its recommendation for reinstatement of license on probation;
2. All documents required to be submitted with the application have been submitted; and
3. The recommendations of the Board are consistent with the Nunc Pro Tunc Order issued November 4, 2005 and Neb. Rev. Stat. 71-161.04.

Accordingly, it is hereby

ORDERED that the license of Bruce Jay Bottlinger, MD be reinstated on Probation for a period of five (5) years from the date of reinstatement of the license with the following terms and conditions.

1. Dr. Bottlinger shall abstain from the consumption of alcohol and shall not consume products or medications containing alcohol, to include but not be limited to mouthwash and over the counter medications, unless prescribed by a physician.
2. Dr. Bottlinger shall abstain from the personal use or possession of controlled substances, and all other prescription drugs or mood altering substances, unless prescribed by or administered to him by a licensed physician or authorized licensed practitioner for a diagnosed medical condition. Dr. Bottlinger shall assure that the licensed practitioner sends the Division of Public Health a letter reporting the medical reason for the use of any controlled substance or prescription drug included in any treatment.
3. Dr. Bottlinger shall submit to random body fluid alcohol and/or drug testing at his own expense and at such time and place as the Division of Public Health may direct.
4. Dr. Bottlinger shall report on a monthly basis any controlled substances and prescription drugs used by or administered to him.
5. Dr. Bottlinger shall attend a minimum of two (2) Alcoholics Anonymous or other chemical dependency support group meetings per week, unless more are recommended by his treatment provider. Dr. Bottlinger must submit an attendance record to the Division of Public Health on a quarterly basis.

6. Dr. Bottlinger shall maintain an Alcoholics Anonymous or other chemical dependency support group sponsor at all times.
7. Dr. Bottlinger shall advise all personal treating physicians and other treating practitioners, prior to treatment, of his diagnosis of alcohol dependence and of all medications he is taking at the time of treatment. Dr. Bottlinger shall authorize all treating physicians and other treating practitioners to inform the Division of Public Health of all conditions for which he is being treated, including any drugs or medications, prescribed or over-the-counter, included in any treatment.
8. Dr. Bottlinger shall remain actively engaged in psychotherapy with a licensed psychiatrist to include ongoing psychiatric assessment, treatment and medication management as the psychiatrist determines. Dr. Bottlinger shall attend appointments as determined by the psychiatrist, except that he must attend a minimum of one appointment every three months.
9. Dr. Bottlinger shall assure that his treating psychiatrist submits quarterly reports to the Division of Public Health. These reports need to describe Dr. Bottlinger's diagnosis; treatment recommendations; compliance with treatment, including compliance with all medication recommendations; progress in treatment; and the psychiatrist's assessment of Dr. Bottlinger's mental health status and ability to safely practice medicine and surgery.
10. Dr. Bottlinger shall remain under the care of, and follow all treatment recommendations of a licensed psychologist or licensed mental health practitioner. Dr. Bottlinger shall attend appointments as determined by the psychologist or mental health practitioner, except that he must attend a minimum of one appointment every three months.
11. Dr. Bottlinger shall assure that his treating psychologist or licensed mental health practitioner submits quarterly reports to the Division of Public Health. These reports need to describe Dr. Bottlinger's diagnosis, treatment recommendations, compliance with treatment, progress in treatment, and the psychologist's or mental health practitioner's assessment of Dr. Bottlinger's mental health status and ability to safely practice medicine and surgery.
12. Dr. Bottlinger shall provide notification of this disciplinary action to any employer(s) for whom he provides medical services, any facility where he practices medicine and surgery, or has credentials to practice medicine and surgery, all practice partners or associates, and to any educational program of medicine in which he may enroll. Written confirmation of this notification shall be provided to the Division of Public Health within thirty (30) days of the reinstatement of license and within thirty (30) days of any new employment, partners, facility privileges or educational programs of medicine.
13. Dr. Bottlinger shall provide notification of this disciplinary action to the licensing authority in any state where he has or may obtain a license or permit to practice medicine and surgery. Written confirmation of this notification shall be provided to the Division of Public Health within thirty (30) days of the reinstatement of license and within thirty (30) days of licensure in another state.
14. Dr. Bottlinger shall provide written notification, within seven (7) days of its occurrence, of any change in residence, employment, address or phone number and its effective date.
15. Dr. Bottlinger shall provide all reports, notices, and other documentation as directed by the Division of Public Health. If the Division of Public Health provides any particular form of report, reports must be made on such form.

16. Dr. Bottlinger shall provide written authorizations requested by the Division of Public Health for all records, information and reports concerning any alcohol, drug or chemical dependency treatment or counseling and any mental health treatment or therapy, including such forms of authorization to permit the obtaining and use of records, information and reports by the Department and the Nebraska Attorney General in conformity with 42 CFR, Part 2.

17. Dr. Bottlinger shall promptly respond to all requests and inquiries by the Division of Public Health concerning compliance with the terms and conditions of probation.

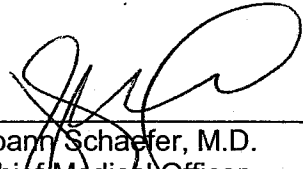
18. Dr. Bottlinger shall obey all state and federal laws and the rules and regulations regarding the practice of medicine and surgery. Any violations shall be reported to the Division of Public Health within seven (7) days.

19. Dr. Bottlinger shall pay any costs associated with insuring compliance with the probation, including for random body fluid screens.

20. Any period that Dr. Bottlinger may hold an inactive Nebraska license or is not practicing medicine and surgery shall not reduce the probationary period or satisfy the terms and conditions of probation.

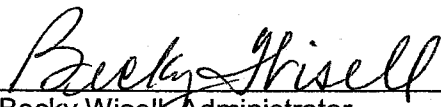
21. If Dr. Bottlinger practices or resides in a jurisdiction other than Nebraska, such practice or residency shall not serve to reduce or satisfy the probationary terms and conditions unless that jurisdiction adopts the probationary terms and conditions that are on his Nebraska license.

Dated: February 28, 2008

  
Joann Schaefer, M.D.  
Chief Medical Officer  
Director, Division of Public Health  
Department of Health and Human Services

#### CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 29<sup>th</sup> day of February, 2008, a copy of the foregoing Order Reinstating License on Probation was sent by certified United States mail, postage prepaid, return receipt requested, to Bruce Jay Bottlinger, MD, 501 North Colorado AVE, Hastings, NE 68901-5251, and to Susan Ugai, Assistant Attorney General, 2115 State Capitol, by interagency mail.

  
Becky Wisell, Administrator  
Office of Medical & Specialized Health  
Licensure Unit  
Division of Public Health

BEFORE THE DIRECTOR  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH  
STATE OF NEBRASKA

IN THE MATTER OF THE PETITION  
FOR REINSTATEMENT OF A LICENSE  
TO PRACTICE MEDICINE AND SURGERY  
FOLLOWING SUSPENSION OF  
BRUCE JAY BOTTLINGER, MD

) PETITION FOR REINSTATEMENT  
) OF LICENSE  
)  
)  
)

I, Bruce Jay Bottlinger, MD, having received notification of the recommendation of the Board of Medicine and Surgery regarding reinstatement of my license to practice Medicine and Surgery, hereby request the Director to issue my license in accordance with the Board's recommendation for reinstatement.

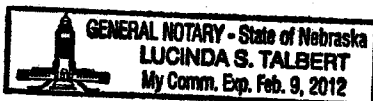
8 February 2008  
Date

*Bruce Jay Bottlinger MD*  
Signature of Applicant

STATE OF Nebraska )  
COUNTY OF Adams )

I, Lucinda S. Talbert, a notary public in and for said county, in the State aforesaid, DO HEREBY CERTIFY that BRUCE JAY BOTTLINGER is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed the said instrument as his free and voluntary act, for use and purposes therein set forth.

Given under my hand and notarial seal this 8th day of February, 2008.



NOTARY SEAL

*Lucinda S. Talbert*  
Notary Public

My commission expires: February 9, 2012

Mail to: Joann Schaefer, MD, Chief Medical Officer and Director  
c/o Becky Wisell, Administrator  
Department of Health and Human Services  
Division of Public Health - Licensure Unit  
PO Box 94986  
301 Centennial Mall South  
Lincoln, NE 68509

**BEFORE THE BOARD OF MEDICINE AND SURGERY  
STATE OF NEBRASKA**

<b>In the Matter of the Petition for</b>	)	<b>Findings of Fact, Conclusions of</b>
<b>Reinstatement of a License to Practice</b>	)	<b>Law and Notice of Intent to</b>
<b>Medicine and Surgery Following Suspension</b>	)	<b>Recommend Reinstatement On</b>
<b>of Bruce Jay Bottlinger, MD.</b>	)	<b>Probation</b>

On December 14, 2007, the Board of Medicine and Surgery reviewed the Petition for Reinstatement of License to Practice Medicine and Surgery Following Suspension by Bruce Bottlinger, MD. The Board considered the Petition and all supporting documentation.

**FINDINGS OF FACT**

The Board finds as follows:

1. Dr. Bottlinger's discipline history dates back to August 10, 2001, is a matter of public record, and is incorporated herein by reference. The Findings of Fact Conclusions of Law and Order issued December 4, 2002 suspended Dr. Bottlinger's license for a period of one year, retroactively, beginning on August 10, 2001; assessed a civil penalty; ordered community service; and placed the license on probation for a period of three years. This action was based on Dr. Bottlinger's unprofessional conduct for sexual misconduct; his dependence on alcohol; and his practice of medicine and surgery while his ability to practice was impaired by alcohol.
2. The most recent disciplinary action concerning Dr. Bottlinger was the Nunc Pro Tunc Order issued November 4, 2005 which revoked Dr. Bottlinger's probation for violation of his probation and imposed a suspension for a period of two years. The license is only to be reinstated after the period of suspension if Dr. Bottlinger satisfactorily demonstrates to the Board of Medicine and Surgery and to the Director that he has been addressing his emotional, psychological, and dependency issues during the period of suspension and that he no longer poses a threat to members of the public who might become his patients.
3. Dr. Bottlinger submitted a Petition for Reinstatement of License Following Suspension which was received in the Department of Health and Human Services, Division of Public Health on November 14, 2007. All required documentation to complete this application was also received.
4. The following documents were received in the Division of Public Health In support of Dr. Bottlinger's Petition for Reinstatement:
  - A. Certificate of completion of 8 hour Defensive Driving Course Attitudinal Dynamics of Driving presented by the National Safety Council on January 7, 2006;
  - B. Certificate of attendance at the Mothers Against Drunk Driving Victim Impact Panel on February 9, 2006;
  - C. Documentation of community service work completed at Good Will Industries in Grand Island, Nebraska;
  - D. Letter dated November 6, 2007 from Earl Umbenhowe, Community Support Program Manager of Goodwill Industries of Nebraska. Mr. Umbenhowe states that Dr. Bottlinger has performed over 200 hours of volunteer service for Goodwill and states that Dr. Bottlinger is working a program of recovery and is giving back to the community;

E. Letter dated November 8, 2007 from Navdeep Sood, MD, Medical Director, Mid Plains Center for Behavioral Health. Dr. Sood worked in the field of psychiatry with Dr. Bottlinger in the past and highly recommends that Dr. Bottlinger's medical license be reinstated;

F. Letter dated November 8, 2007 from Michael J. Sedlacek, MD. Dr. Sedlacek has been treating Dr. Bottlinger for Type II Bipolar Disorder and alcohol dependence and states that both of these disorders appear to be in remission. It is Dr. Sedlacek's professional recommendation that Dr. Bottlinger's license be reinstated as long as requirements for regular attendance at Alcoholics Anonymous and ongoing scheduled appointments for therapy and medication are in place to prevent future relapses.

G. Letter dated November 6, 2007 from Scott A. Dugan, President and CEO of Mid-Plains Center for Behavioral Healthcare Services. He states that he has worked with Dr. Bottlinger over the past two years and believes that he is capable of providing excellent care to individuals. He has no reservations or concerns professionally or personally that patients in his care would be subject to any harm and recommends his reinstatement.

H. Letter dated December 7, 2007 from Lee Wigert, PhD, Professor of Psychology, Hastings College. Dr. Wigert served as Dr. Bottlinger's therapist during the Fall of 2005, leading up to the time Dr. Bottlinger's license was suspended. Dr. Wigert states that he has not provided therapy to Dr. Bottlinger since the license suspension. Dr. Bottlinger told Dr. Wigert this was because he was unemployed and did not have insurance and that he plans to resume therapy once he is employed and is able to afford sessions. Dr. Wigert included a Summary of Treatment plan from November 1, 2005 which included the recommendation for weekly therapeutic sessions with Dr. Wigert

### **CONCLUSIONS OF LAW**

The Board of Medicine and Surgery has jurisdiction over this matter pursuant to the Nunc Pro Tunc Order of November 4, 2005 and Neb. Rev. Stat. 71-161.04. The Petitioner has met the procedural requirements for consideration of reinstatement. This matter is properly before the Board for consideration on the merits of the Petition for Reinstatement of License to Practice Medicine and Surgery Following Suspension.

### **RECOMMENDATION**

Based upon the foregoing, the Board of Medicine and Surgery hereby recommends reinstatement of the license of Bruce Jay Bottlinger, MD on Probation for a period of five (5) years from the date of reinstatement of the license with the following terms and conditions.

1. Dr. Bottlinger shall abstain from the consumption of alcohol and shall not consume products or medications containing alcohol, to include but not be limited to mouthwash and over the counter medications, unless prescribed by a physician.
2. Dr. Bottlinger shall abstain from the personal use or possession of controlled substances, and all other prescription drugs or mood altering substances, unless prescribed by or administered to him by a licensed physician or authorized licensed practitioner for a diagnosed medical condition. Dr. Bottlinger shall assure that the licensed practitioner sends the Division of Public Health a letter reporting the medical reason for the use of any controlled substance or prescription drug included in any treatment.
3. Dr. Bottlinger shall submit to random body fluid alcohol and/or drug testing at his own expense and at such time and place as the Division of Public Health may direct.

4. Dr. Bottlinger shall report on a monthly basis any controlled substances and prescription drugs used by or administered to him.
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17. Dr. Bottlinger shall promptly respond to all requests and inquiries by the Division of Public Health concerning compliance with the terms and conditions of probation.

18. Dr. Bottlinger shall obey all state and federal laws and the rules and regulations regarding the practice of medicine and surgery. Any violations shall be reported to the Division of Public Health within seven (7) days.

19. Dr. Bottlinger shall pay any costs associated with insuring compliance with the probation, including for random body fluid screens.

20. Any period that Dr. Bottlinger may hold an inactive Nebraska license or is not practicing medicine and surgery shall not reduce the probationary period or satisfy the terms and conditions of probation.

21. If Dr. Bottlinger practices or resides in a jurisdiction other than Nebraska, such practice or residency shall not serve to reduce or satisfy the probationary terms and conditions unless that jurisdiction adopts the probationary terms and conditions that are on his Nebraska license.

Dated: February 6, 2008

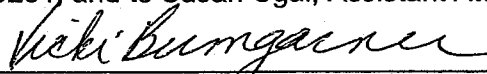
The Nebraska Board of Medicine & Surgery



Carl V. Smith, MD, Chairman

#### CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 6<sup>th</sup> day of February, 2008, a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND NOTICE OF INTENT TO RECOMMEND REINSTATEMENT ON PROBATION was sent by certified United States mail, postage prepaid, return receipt requested, to Bruce Jay Bottlinger, MD, 501 North Colorado AVE, Hastings, NE 68901-5251, and to Susan Ugai, Assistant Attorney General, 2115 State Capitol, by interagency mail.



Vicki Bumgarner, Health Licensing Coordinator  
Licensure Unit

Department of Health and Human Services, Licensure Unit  
State of Nebraska

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA**

**CREDENTIALING DIVISION**

OCT 31 2005

**RECEIVED**

69 - 020902

**STATE OF NEBRASKA ex rel.,  
JON BRUNING, Attorney General,**

**Plaintiff,**

**v.**

**BRUCE BOTTLINGER, M.D.,**

**Defendant.**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

On August 24, 2005, an amended petition to revoke probation was filed against Dr. Bottlinger alleging that he had violated the terms and conditions of probation which was imposed upon his license on December 4, 2002. A hearing on those allegations was held before Hearing Officer Terry Schaaf on September 12, 2005. At that hearing, the State was represented by Assistant Attorney General Terri Nutzman and Dr. Bottlinger by Richard Alexander.

**SUMMARY OF THE HEARING**

At the hearing, testimony was taken from Department Probation Monitor Ruth Schuldt, RN; from Dr. Lee Wigert, Ph.D., Dr. Bottlinger's treating psychologist; from Thomas Peterson, Dr. Bottlinger's AA sponsor; from Rosemary Peterson, LMHP, wife of Thomas Peterson and a co-worker of Dr. Bottlinger; and from Dr. Bottlinger himself. In addition to the testimony, twenty (20) exhibits were offered and received.

**FINDINGS OF FACT**

1. A Petition for Disciplinary Action was filed against the Defendant's license on September 3, 2002, alleging sexual misconduct with a patient, alcohol dependency and practice of the profession while impaired.
2. On October 17, 2002, a hearing was held on the Petition for Disciplinary Action and on December 4, 2002, the Chief Medical Officer signed Findings of Fact Conclusion of Law and Order which placed the Defendant's license to practice medicine on probation for three (3) years.
3. Among the probation conditions imposed by the Order is condition 4. (a) which states that the Defendant shall abstain from the consumption of alcohol.
4. On April 9, 2005, the Defendant was arrested for Second Offense Driving Under the Influence; Refusal to Submit to a Preliminary Breath Test and Resisting Arrest by the Nebraska State Patrol.

5. On May 25, 2005, the Defendant's psychiatrist, Dr. M. S., M.D., reported to the Department that the Defendant "relapsed on one occasion to drinking alcohol resulting in a DUI which occurred last month".

6. The Department's Credentialing Monitor has left messages for the Defendant to call her since May 31, 2005, on five (5) different occasions and the Defendant has failed to return said calls.

7. Defendant's consumption of alcohol is a violation of Condition 4.(a) of his probation.

8. On July 27, 2005, the Defendant pled no contest to Driving Under the Influence Second Offense and is scheduled for sentencing on September 21, 2005.

9. On August 15, 2005, the Defendant was terminated from his place of employment at H. R. C. as a psychiatrist.

### DISCUSSION

Dr. Bottlinger has significant psychological and dependency issues. In the past, they have adversely affected his practice. While he has sought professional assistance for these conditions, they have yet to be resolved to an extent such as to allow the Director to feel comfortable in allowing Dr. Bottlinger to continue practicing at this time. Therefore, Dr. Bottlinger's license is being suspended to give him a period of time in which to more completely address these issues, after which he can perhaps present a longer period of sobriety and more extensive psychological counseling to the Board and the Director as part of any request for reinstatement.

### CONCLUSIONS OF LAW

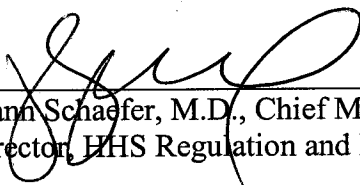
Violations of the terms and conditions of probation constitute grounds for additional sanction.

### ORDER

The license held by Dr. Bottlinger to practice medicine and surgery in the State of Nebraska is hereby suspended for a period of two years beginning on the date of this order.

DATED this 28 day of October 2005.



  
Joann Schaefer, M.D., Chief Medical Officer  
Director, HHS Regulation and Licensure

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

**FILED**

**AUG 24 2005**

**HHS REGULATION  
AND LICENSURE**

STATE OF NEBRASKA ex rel. JON  
BRUNING, Attorney General,

Plaintiff,

v.

BRUCE BOTTLINGER, M.D.,

Defendant.

**AMENDED  
PETITION TO REVOKE  
PROBATION**

**CREDENTIALING DIVISION**

**AUG 26 2005**

**RECEIVED**

The Plaintiff alleges as follows:

1. A Petition for Disciplinary Action was filed against the Defendant's license on September 3, 2002, alleging sexual misconduct with a patient, alcohol dependency and practice of the profession while impaired.
2. On October 17, 2002, a hearing was held on the Petition for Disciplinary Action and on December 4, 2002, the Chief Medical Officer signed Findings of Fact Conclusion of Law and Order which placed the Defendant's license to practice medicine on probation for three (3) years.
3. Among the probation conditions imposed by the Order is condition 4. (a) which states that the Defendant shall abstain from the consumption of alcohol.
4. On April 10, 2005, the Defendant was arrested for Second Offense Driving Under the Influence; Refusal to Submit to a Preliminary Breath Test and Resisting Arrest by the Nebraska State Patrol.

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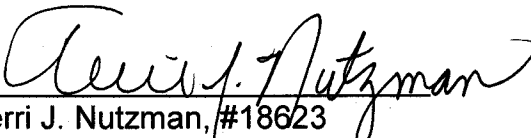
#### **PRAYER**

WHEREFORE, the Plaintiff requests that the Director set this Amended Petition to Revoke Probation for hearing and enter an order for appropriate disciplinary action pursuant to Neb. Rev. Stat. Section 71-155, and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON  
BRUNING, Attorney General  
Plaintiff,

BY: JON BRUNING, #20351  
Attorney General

BY:

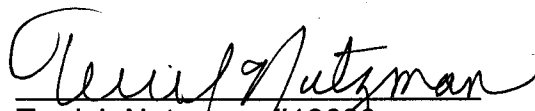
  
Terri J. Nutzman, #18623  
Assistant Attorney General  
2115 State Capitol  
Lincoln, Nebraska 68509  
402-471-9658

ATTORNEYS FOR PLAINTIFF.

**CERTIFICATE OF SERVICE**

On August 23, 2005, a true and correct copy of the foregoing Amended Petition To Revoke Probation was sent by U. S. Mail, postage prepaid to Mr. Richard L. Alexander, Attorney at Law, P.O. Box 2064, Hastings, Nebraska 68902-2064, attorney for the Defendant.

By:

  
Terri J. Nutzman, #18623

34-1418.1-14



5. At all times relevant herein, Dr. Bottlinger has practiced the medical specialty of psychiatry. However, since July 28, 2001, Dr. Bottlinger has not actively practiced medicine of any nature in Nebraska due to a self-imposed suspension pending the Board of Medicine and Surgery recommendation and the outcome of this case.
6. From January 10, 2000, until August 10, 2001, Dr. Bottlinger was employed as a psychiatrist by AHI Medical Center in Omaha, Nebraska.
7. On December 1, 2000, Dr. Bottlinger went to AHI Medical Center to do rounds after consuming alcohol. While at AHI Medical Center, Dr. Bottlinger lost his temper and yelled at a nurse.
8. After yelling at the nurse, Dr. Bottlinger was approached by other physicians and requested to consent to a breath alcohol test.
9. At 5:55 p.m. on December 1, 2000, a breath alcohol test was performed on Dr. Bottlinger at AHI Medical Center, which test result determined an alcohol content of .078.
10. From December 10 through December 22, 2000, Dr. Bottlinger underwent in-patient assessment and treatment at a treatment facility in Kansas.
11. After discharge from in-patient treatment, Dr. Bottlinger returned to medical practice at AHI Medical Center. Dr. Bottlinger's employment was subject to employment conditions requiring abstinence and periodic body fluid screens.
12. Beginning at the end of January, 2001, Dr. Bottlinger established a physician-patient relationship with Male Patient MM. Dr. Bottlinger diagnosed Male Patient MM with depression and anxiety during an initial psychiatric examination. Thereafter, Dr. Bottlinger's treatment of Male Patient MM consisted primarily of prescribing psychotropic medications with periodic medication checks.
13. During one office visit, Dr. Bottlinger invited Male Patient MM to go to an antique sale. Male Patient MM accepted the invitation and accompanied Dr. Bottlinger to the sale.
14. Thereafter, pursuant to Dr. Bottlinger's invitations, Male Patient MM accompanied him to additional antique sales.
15. On July 28, 2001, Male Patient MM had breakfast in a restaurant with Dr. Bottlinger. During breakfast, Dr. Bottlinger invited Male Patient MM to accompany him to a medical convention in Boston. At some point after breakfast, Male Patient MM dropped Dr. Bottlinger off at his apartment with the agreement that Male Patient MM would return later for dinner and a movie.
16. Later in the day of July 28, 2001, Male Patient MM picked up Dr. Bottlinger as previously agreed. Dr. Bottlinger and Male Patient MM had dinner at a restaurant in Omaha, during which time Dr. Bottlinger consumed alcoholic liquor.
17. After dinner, Dr. Bottlinger and Male Patient MM returned to Dr. Bottlinger's apartment to watch a movie.
18. During the course of watching the movie in Dr. Bottlinger's apartment, Dr. Bottlinger sat on the floor next to Male Patient MM. Dr. Bottlinger proceeded to rub Male Patient MM's chest, kiss Male Patient MM, and place Dr. Bottlinger's hand down Male Patient MM's pants. Dr. Bottlinger discontinued touching Male Patient MM after Male Patient MM informed Dr. Bottlinger that he did not feel comfortable.

19. The following Monday, Male Patient MM reported Dr. Bottlinger's conduct to Male Patient MM's therapist, who reported Dr. Bottlinger's conduct to the administration at AHI Medical Center.
20. On August 10, 2001, AHI Medical Center terminated Dr. Bottlinger's employment for cause.
21. Section 8.14 of the Code of Ethics of the American Medical Association provides 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.
23. The Defendant's conduct with Male Patient MM on July 28, 2001, constituted sexual misconduct contrary to the ethics of his profession.
24. The Defendant's sexual misconduct with Male Patient MM constituted "unprofessional conduct" as defined by the following statutory provisions:
  - a. Neb. Rev. Stat. § 71-148: "any departure from or failure to conform to . . . the ethics of the profession";
  - b. Neb. Rev. Stat. §71-148(18): "commission of any act of sexual . . . misconduct . . . related to the practice of the profession".
25. The Hearing Officer in this case made no recommendation as to the ultimate disposition and his comments made on the record concerning Dr. Bottlinger's trial strategy were not considered by the Chief Medical Officer in reaching the conclusions set out herein.

### **CONCLUSIONS OF LAW**

1. Dr. Bottlinger's "unprofessional conduct" is grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(10).
2. Dr. Bottlinger's dependence on alcohol constitutes grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(3).
3. Dr. Bottlinger practiced the profession of medicine while his ability to practice was impaired by alcohol, which is grounds for disciplinary action pursuant to Neb. Rev. Stat. §71-147 (6).

### **ORDER**

1. Dr. Bottlinger's license to practice medicine and surgery in the State of Nebraska is hereby suspended retroactively for a period of one year beginning on August 10, 2001.
2. Dr. Bottlinger is assessed a civil penalty in the amount of \$5000 payable within 90 days of the date of this Order.
3. Dr. Bottlinger is ordered to perform 100 hours of community service within 18 months of the date of this Order. The community service should be performed by working with troubled youth, counseling them on the dangers of abusing alcohol and other mood

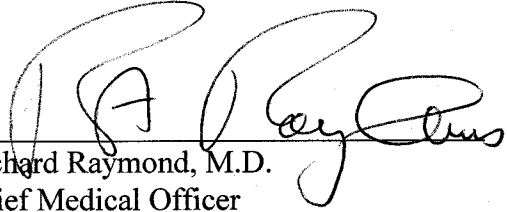
altering substances. The forum for the performance of whatever specific community service Dr. Bottlinger chooses to perform must be approved by the Board of Medicine and Surgery in advance of its being instigated.

4. Dr. Bottlinger's license to practice medicine and surgery is hereby placed upon probation for a period of three (3) years commencing on the date of this order subject to the following terms and conditions:

- a) Dr. Bottlinger shall abstain from the consumption of alcohol.
- b) Dr. Bottlinger shall be subject to random body fluid or chemical testing at his own expense at such time and place as the Department may direct.
- c) Dr. Bottlinger shall follow the instructions and directives of the Department for this body fluid or chemical testing.
- d) Within 30 days of the date of this Order Dr. Bottlinger shall submit the name of a psychiatrist who will be treating him for his manic depressive disorder for the approval of this psychiatrist by the Board of Medicine and Surgery. The psychiatrist selected must agree to submit semi-annual reports to the Board concerning Dr. Bottlinger's compliance with the psychiatrist's treatment recommendations and his compliance with all directions concerning medications prescribed by the psychiatrist for the treatment of this condition.
- e) Dr. Bottlinger shall submit written notification to the Department within seven (7) days of any change in residence or telephone.
- f) In the event Dr. Bottlinger violates any of the above terms of probation the Chief Medical Officer, after motion by the Attorney General and hearing, may take care further disciplinary action including the revocation of Dr. Bottlinger's license.

DATED this 4<sup>th</sup> day of December, 2002.

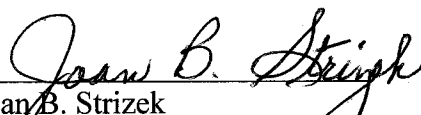


  
Richard Raymond, M.D.  
Chief Medical Officer

CERTIFICATE OF SERVICE

**COMES NOW** the undersigned and certifies that on the 6<sup>th</sup> day of Dec., 2002, a copy of the foregoing FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER was sent by certified United States mail, postage prepaid, return receipt requested, to Attorney for Dr. Bottlinger, Paula Wilson, Howell & Wilson, 11620 Arbor St., #203, Omaha, NE 68114 and by interagency mail to James D. Smith, Deputy Attorney General, 2115 State Capitol, Lincoln, Nebraska.



  
Joan B. Strizek  
HHS Regulation and Licensure  
P.O. Box 95007  
Lincoln, NE 68509-5007  
(402) 471-0384

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

**FILED**

SEP - 3 2002

**HHS REGULATION  
AND LICENSURE**

**PETITION FOR  
DISCIPLINARY ACTION**

STATE OF NEBRASKA,

Plaintiff,

v.

BRUCE JAY BOTTLINGER, M.D.,

Defendant.

The Plaintiff alleges as follows:

**ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

1. Jurisdiction is based on Neb. Rev. Stat. § 71-150.
2. At all times relevant herein, the Defendant Bruce Jay Bottlinger, M.D., has been the holder of a license (# 15311) issued by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to practice medicine and surgery.
3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Licensing Law regulating the practice of medicine and surgery.
4. The Nebraska Board of Medicine and Surgery has considered the investigation of this matter and made its recommendation to the Attorney General to file disciplinary proceedings against the Defendant's license to practice medicine and surgery.
5. At all times relevant herein, the Defendant has practiced the medical specialty of psychiatry.
6. From January 10, 2000, until August 10, 2001, the Defendant was

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employed as a psychiatrist by AHI Medical Center in Omaha, Nebraska.

7. On December 1, 2000, the Defendant went to AHI Medical Center to do rounds after consuming alcohol. While at AHI Medical Center, the Defendant lost his temper and yelled at a nurse.

8. After yelling at the nurse, the Defendant was approached by other physicians and requested to consent to a breath alcohol test.

9. At 5:55 p.m. on December 1, 2000, a breath alcohol test was performed on the Defendant at AHI Medical Center, which test result determined an alcohol content of .078.

10. From December 10 through December 22, 2000, the Defendant underwent in-patient assessment and treatment at a treatment facility in Kansas.

11. After discharge from in-patient treatment, the Defendant returned to medical practice at AHI Medical Center. The Defendant's employment was subject to employment conditions requiring abstinence and periodic body fluid screens.

12. Beginning at the end of January, 2001, the Defendant established a physician-patient relationship with Male Patient MM. The Defendant diagnosed Male Patient MM with depression and anxiety during an initial psychiatric examination. Thereafter, the Defendant's treatment of Male Patient MM consisted primarily of prescribing psychotropic medications with periodic medication checks.

13. During one office visit, the Defendant invited Male Patient MM to go to an art exhibition and sale. Male Patient MM accepted the invitation and accompanied the Defendant to the art exhibition and sale.

14. Thereafter, pursuant to the Defendant's invitations, Male Patient MM

accompanied the Defendant to additional art exhibitions and sales.

15. On July 28, 2001, Male Patient MM had breakfast in a restaurant with the Defendant. During breakfast, the Defendant invited Male Patient MM to accompany the Defendant to a medical convention in Boston at the Defendant's expense. At some point after breakfast, Male Patient MM dropped the Defendant off at the Defendant's apartment with the agreement that Male Patient MM would return later for dinner and a movie.

16. Later in the day of July 28, 2001, Male Patient MM picked up the Defendant as previously agreed. The Defendant and Male Patient MM had dinner at the French Café restaurant in Omaha, during which time the Defendant consumed alcoholic liquor.

17. After dinner, the Defendant and Male Patient MM returned to the Defendant's apartment to watch a movie.

18. During the course of watching the movie in the Defendant's apartment, the Defendant sat on the floor next to Male Patient MM. The Defendant proceeded to rub Male Patient MM's chest, kiss Male Patient MM, and place the Defendant's hand down Male Patient MM's pants. The Defendant discontinued touching Male Patient MM after Male Patient MM informed the Defendant that Male Patient MM did not feel comfortable.

19. The following Monday, Male Patient MM reported the Defendant's conduct to Male Patient MM's therapist, who reported the Defendant's conduct to the administration at AHI Medical Center.

20. On August 10, 2001, AHI Medical Center terminated the Defendant's employment for cause.

#### **FIRST CAUSE OF ACTION**

21. Paragraphs 1 through 20 are incorporated by reference.

22. Section 8.14 of the Code of Ethics of the American Medical Association provides 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.

23. The Defendant's conduct with Male Patient MM on July 28, 2001, constituted sexual misconduct contrary to the ethics of his profession.

24. The Defendant's sexual misconduct with Male Patient MM constituted "unprofessional conduct" as defined by the following statutory provisions:

- a. Neb. Rev. Stat. § 71-148: "any departure from or failure to conform to . . . the ethics of the profession";
- b. Neb. Rev. Stat. § 71-148(18): "commission of any act of sexual . . . misconduct . . . related to the practice of the profession".

25. The Defendant's "unprofessional conduct" is grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(10).

## **SECOND CAUSE OF ACTION**

26. Paragraphs 1 through 20 are incorporated by reference.

27. During April and May, 2002, the Defendant underwent outpatient chemical dependency treatment for a diagnosis of alcohol dependency.

28. The Defendant has an active dependence to alcohol.

29. The Defendant's dependence constitutes grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(3).

### **THIRD CAUSE OF ACTION**

30. Paragraphs 1 through 20 are incorporated by reference.

31. On December 1, 2000, the Defendant practiced the profession of medicine while his ability to practice was impaired by alcohol, which is grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(6).

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action pursuant to Neb. Rev. Stat. § 71-155 concerning the Defendant's license to practice medicine and surgery, and tax the costs of this action to the Defendant.

STATE OF NEBRASKA  
Plaintiff,

BY: DON STENBERG  
Attorney General

BY:

  
James D. Smith, #15476  
Deputy Attorney General  
2115 State Capitol  
Lincoln, NE 68509  
(402) 471-2682

Attorneys for Plaintiff