

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

IN RE:)
JAMES S. JEALOUS, D.O.) Docket No.: OS01-1104
License No. 032-0000358)

STIPULATION OF FACTS AND CONSENT ORDER

STIPULATION

Board Authority

1. The Board of Osteopathic Physicians and Surgeons ("the Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§1792, 1842 and 1843; the Board's and the Office of Professional Regulation's Administrative Rules.

Statement of Facts

2. The Respondent, James S. Jealous, is licensed by the State of Vermont as an Osteopathic Physician under license number 032-0000358. The Respondent's license was originally issued on October 11, 1989 and it is currently inactive per the Respondent's request.
3. On February 16, 2005, the Board received a letter from the New Hampshire Board of Medicine advising that action had been taken against the Respondent's New Hampshire license to practice medicine. Pursuant to the Consent Order entered into by the Respondent and the New Hampshire Board of Medicine, the Respondent's license has been revoked as of February 3, 2005.

Charges

4. The above acts and circumstances, alone or in combination, constitute unprofessional conduct pursuant to:
 - i. 26 V.S.A. §1842(b)(3) (suspension or revocation of the physician's license to practice osteopathic medicine and surgery by competent authority in any state, federal or foreign jurisdiction).

Understandings

5. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Commission and that if the

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Commission rejects any portion the entire Stipulation and Consent Order shall be null and void.

6. Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
7. This Stipulation and Consent Order is entered into voluntarily by Respondent after the opportunity to consult with legal counsel. Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
8. The Respondent waives his right to a contested hearing of this matter and any right to appeal from any order entered by the Board pursuant to this stipulation.

CONSENT ORDER

The Board of Osteopathic Physicians and Surgeons finds as follows:

9. The Respondent has agreed that the Commission may find the facts set out above as established and the Commission so finds.
10. The Respondent has further agreed that these facts constitute a sufficient basis for discipline.
11. Accordingly, the Commission finds that the Respondent failed to comply with federal or state statute or rules governing the practice of the profession in that he violated 26 V.S.A. § 1842(b)(3) (suspension or revocation of the physician's license to practice osteopathic medicine and surgery by competent authority in any state, federal or foreign jurisdiction).
12. Based on the above stipulation, the Commission **REVOKES** Respondent's license.
13. The final disposition of the complaint against Respondent is public and the Commission may notify other states of its disposition as provided in 3 V.S.A. § 129(a)(8).
14. Respondent understands that this Stipulation and Consent Order will remain part of his licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

STATE OF VERMONT



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Office of
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9 Baldwin Street
Montpelier, VT
05609-1107

AGREED TO:

STATE OF VERMONT

SECRETARY OF STATE

Dated: 9/2/05

By: Robert H. Backus
Robert H. Backus
State Prosecuting Attorney

JAMES S. JEALOUS, D.O.
RESPONDENT

Dated: Aug 33, 2005

By: James S. Jealous, D.O.
James S. Jealous, D.O.

APPROVED AS TO FORM:

ATTORNEY FOR RESPONDENT

Dated: 8/31/05

By: Sarah S. Murdough, Esq.
Sarah S. Murdough, Esq.

APPROVED AND SO ORDERED:

OSTEOPATHIC
VERMONT BOARD OF DENTAL
EXAMINERS

Dated: 9/22/05

By: Howard Jones, D.O.
Chairperson

Date of Entry: 9/22/05

os.jealous.stip

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**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

IN RE:)
JAMES S. JEALOUS, D.O.) Docket No.: OS01-1104
License No. 032-0000358)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges
against the Respondent, James S. Jealous, D.O.:

Board Authority

1. The Board of Osteopathic Physicians and Surgeons ("the Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§1792, 1842 and 1843; the Board's and the Office of Professional Regulation's Administrative Rules.

Statement of Facts

2. The Respondent, James S. Jealous, is licensed by the State of Vermont as an Osteopathic Physician under license number 032-0000358. The Respondent's license was originally issued on October 11, 1989 and it is currently inactive per the Respondent's request.
3. On February 16, 2005, the Board received a letter from the New Hampshire Board of Medicine advising that action had been taken against the Respondent's New Hampshire license to practice medicine. Pursuant to the Consent Order entered into by the Respondent and the New Hampshire Board of Medicine, the Respondent's license has been revoked as of February 3, 2005. The discipline was imposed due to allegations of the Respondent engaging in a sexual relationship with a patient (See Attachment A).

Charges

4. The above acts and circumstances, alone or in combination, constitute unprofessional conduct pursuant to:
 - i. 3 V.S.A. §129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession); and

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Office of
Professional Regulation
Montpelier, VT 05602

- ii. 26 V.S.A. §1842(b)(3) (suspension or revocation of the physician's license to practice osteopathic medicine and surgery by competent authority in any state, federal or foreign jurisdiction); and
- iii. 3 V.S.A. § 129a(b) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions, which includes failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of James S. Jealous, D.O. should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 10th day of May 2005.

STATE OF VERMONT
SECRETARY OF STATE

By: _____

Edward G. Adrian
State Prosecuting Attorney

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STATE OF VERMONT



Prosecuting Attorney
Office of
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Montpelier, VT 05602

**State of New Hampshire
Board of Medicine
Concord, New Hampshire 03301**

In the Matter of
James S. Jealous, D.O.
No.: 11320
(Misconduct Allegations)

CONSENT ORDER

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of medicine, the New Hampshire Board of Medicine (“Board”) and James S. Jealous, D.O. (“Dr. Jealous” or “Respondent”), a physician licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 329:17, I, 329:18 and 329:18-a, and Medical Administrative Rule (“Med”) 206 and 210, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physicians. Pursuant to RSA 329:18-a, III, the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. Respondent certifies that he has read this *Consent Order*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter. Respondent understands that if such a hearing took place he would have the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations and to present oral argument. Respondent understands that he would have the right to appeal rulings made at the adjudicatory hearing to the courts. Respondent fully understands the nature, qualities

and dimensions of these rights. Respondent specifically waives his constitutional due process right to a hearing. Respondent understands that by signing this *Consent Order*, he is waiving all rights related to such a hearing as they pertain to the misconduct described herein.

3. The Board first granted Respondent a license to practice medicine in the State of New Hampshire on July 11, 2001. Respondent holds license number 11320. Until March 26, 2004, Respondent practiced osteopathic medicine from his home office at 24 Tunnel Brook Road in Easton, New Hampshire. In addition to his practice as an osteopath, Respondent informed the Board that he travels and teaches his osteopathic techniques as part of an organization called "Biodynamics."
4. On or about October 8, 2004, the Board issued an Order of Emergency Suspension of Respondent's license to practice medicine, pursuant to RSA 329:18-b and Med 503.01. Respondent waived his right to a hearing within ten days as provided by RSA 318-b, RSA 541-A and Med 503.01(b).
5. The Board's Order of Emergency Suspension was based upon information gathered during the investigation of a complaint which alleged that Respondent engaged in a personal relationship, which included sexual contact, with one of Respondent's former patients.
6. In response to the complaint, the Board conducted an investigation and obtained information from various sources pertaining to the nature of Respondent's treatment of and relationship with L.F.

7. If a disciplinary hearing were to take place, Hearing Counsel would present evidence that Respondent engaged in professional misconduct and sexual misconduct, in violation of RSA 329:17, VI (c), (d) and (k); Med 501.02 (d), (e) and (h); American Medical Association ("AMA") *Principles of Medical Ethics* I, II and IV; and *AMA Opinions on Practice Matters* 8.14, by the following facts:
- A. On or between March 2002 and December of 2002, Respondent provided osteopathic medical treatment to L.F. (DOB: 01/08/65) at his home office in Easton, New Hampshire. L.F. was referred to Respondent for treatment and for assistance with her efforts to discontinue the use of antidepressant medication.
 - B. On or between March of 2002 and December of 2002, Respondent treated L.F. at his home approximately eight times. Treatments lasted from forty-five minutes to two hours.
 - C. On or between March of 2002 and December 1, 2002, L.F. confided in Respondent. She related to him personal information concerning her medical and other history, past intimate relationships, her religious and spiritual beliefs, and her emotional dependence on Respondent.
 - D. On or between March of 2002 and December 1, 2002, Respondent's treatment of L.F. included hands-on osteopathic treatments. During treatment sessions Respondent provided L.F. with advice regarding spiritual and personal matters. Treatment sessions led to discussions of a personal nature relating to

L.F.'s personal life and of L.F.'s poetry and her development as a writer.

Respondent also provided L.F. with books, compact discs, examples of his own writings and gifts.

- E. Respondent did not maintain a detailed or adequate medical report of his treatment of L.F. Respondent was unable to provide any medical records for L.F. upon request by the Board. Respondent did not believe that his treatment could be documented in a record which would be meaningful to a reviewing practitioner.
- F. On or between March of 2002 and July of 2003, frequent telephonic contact occurred between L.F. and Respondent. Respondent informed L.F. that this contact would enable him to assist her with problems.
- G. On or about December 1, 2002, Respondent wrote a letter to L.F. in which he stated that he was discharging himself as her physician. Respondent stated that he wanted their relationship to move to a middle ground where he and L.F. could continue to develop the personal relationship and friendship which began during the time he had been her physician. In addition to discharging himself as her physician, the letter discussed matters of a personal, religious and spiritual nature.
- H After December 1, 2002, Respondent engaged in a personal relationship with L.F. which after a time included sexual contact.

- I. On or between May and July of 2003, Respondent took L.F. to his daughter's home and introduced her to his daughter and other family members.
 - J. On or between March of 2002 and July of 2003, Respondent developed a relationship with L.F.'s son and took him fishing on multiple occasions.
 - K. On or between May and July of 2003, on at least one occasion when Respondent and L.F. traveled to Bethel, Maine together, L.F. developed a headache and Respondent provided her with a back rub to ease her discomfort. L.F. considered this conduct treatment.
 - L. Respondent abruptly terminated his sexual relationship with L.F., informing her that their relationship was too overwhelming for him. L.F. felt abandoned and suffered emotionally as a result of the loss of this relationship.
- 8. Respondent neither admits nor denies the facts set forth in paragraph 7 above....
 - 9. The Board finds by a preponderance of the evidence that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 329:17, VI (c), (d) and (k); Med 501.02 (d), (e) and (h); AMA *Principles of Medical Ethics* I, II and IV; and *AMA Opinions on Practice Matters* 8.14.
 - 10. Respondent acknowledges that the Board has made findings as set forth in paragraph 7 above, and consents to the Board's imposition of the following discipline pursuant to RSA 329:17, VII.
 - 1. The Board imposes the following discipline:

- A. Respondent's license to practice medicine in the State of New Hampshire is permanently REVOKED.
 - B. For a continuing period of five (5) year from the effective date of this agreement, Respondent shall furnish a copy of this *Consent Order* to any employer to which Respondent may apply for work as a physician or for work in any capacity which requires a medical degree and/or medical license or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physicians, to which Respondent may apply for any such professional privileges or recognition.
12. Respondent's breach of any terms or conditions of this *Consent Order* shall constitute unprofessional conduct pursuant to RSA 329:17, VI (d), and a separate and sufficient basis for further disciplinary action by the Board.
13. Except as provided herein, this *Consent Order* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above.
- However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future.
- Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
14. This *Consent Order* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.

15. Respondent voluntarily enters into and signs this *Consent Order* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.
16. The Board agrees that in return for Respondent executing this *Consent Order*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
17. Respondent understands that his action in entering into this *Consent Order* is a final act and not subject to reconsideration or judicial review or appeal.
18. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Consent Order*.
19. Respondent understands that the Board must review and accept the terms of this *Consent Order*. If the Board rejects any portion, the entire *Consent Order* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Consent Order* have prejudiced his right to a fair and impartial hearing in the future if this *Consent Order* is not accepted by the Board. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Consent Order*.

This *Consent Order* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 1/20/05

James S. Jealous
James S. Jealous, D.O.
Respondent

Date: 1/25/05

Cinde Warmington
Cinde Warmington, Esq.
Counsel for Respondent

FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 2/3/05

Penny Taylor
(Signature)

PENNY TAYLOR
(Print or Type Name)
Authorized Representative of the
New Hampshire Board of Medicine

/* Kevin Costin, Board member, recused.