



interviews of both Patient 1 and Respondent relevant to this matter. The Committee's investigation resulted in the following factual allegations:

a. Respondent performed artificial insemination by donor procedures for patients as part of his OB/GYN practice. He performed this procedure for Patient 1 in 1977.

b. Respondent and Patient 1 agreed that there would be donor anonymity during her procedure to protect the privacy of the donor and the recipient.

c. Prior to the performance of the artificial insemination, Respondent represented to Patient 1 that her donor was an unnamed medical student with similar physical characteristics to her husband.

d. In addition to performing the artificial insemination by donor procedure for Patient 1 on December 27, 1977, Respondent was the attending physician who delivered the child Patient 1 conceived as a result of that insemination.

e. In October 2018, Patient 1 learned through the results of a commercial genetic testing service that Respondent is the biological father of her child and thereby inseminated her with his own sperm and delivered the child she conceived as a result of that medical procedure.

f. The Committee asked Respondent on behalf of the Board to respond to Patient 1's allegations. In April 2019 Respondent provided a response to the Board in which he denied that he was the father of Patient 1's child but affirmed that he would have told her that the donor and recipient of the sperm would be anonymous "to protect both from later intrusive and unwanted contact." The Committee subsequently asked Respondent to participate in genetic testing to verify his denial of paternity. He refused.

g. The Committee later learned that Respondent had participated in genetic testing relevant to this complaint in another forum. The Committee asked him again to provide the Board with information about his paternity of Patient 1's child in light of that testing. Respondent responded to this second request for information in November of 2020. He admitted that he was the father of Patient 1's child but claimed he had no memory of Patient 1, her course of treatment, or using his own sperm during her procedure.

h. In that November 2020 letter, Respondent also wrote: "I have no knowledge of, or reason to suspect the existence of, any other occasion where I used my own sperm in the performance of an artificial insemination procedure."

i. Respondent made a material misrepresentation to the Committee during the course of its investigation when he told the Board that he was not the father of Patient 1's child.

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5. The Board subsequently received a complaint in January 2021 from a second patient (hereafter "Patient 2"). Patient 2 reported to the Board that in 1978 Respondent used his own sperm during an artificial insemination by donor procedure without her knowledge or consent.

6. The Committee evaluated evidence pertaining to this matter. Respondent's medical records for Patient 2 were not available due to the passage of time, however, the Committee was able to interview Patient 2, review genetic testing information, and consider

Respondent's response to the complaint. The Committee's investigation resulted in the following factual allegations:

- a. Respondent performed an artificial insemination by donor procedure for Patient 2 in 1978.
- b. Prior to the procedure, Respondent and Patient 2 agreed to donor anonymity to protect the privacy of both the sperm donor and the recipient.
- c. Patient 2 reported that Respondent represented to her that her donor was an unnamed medical student.
- d. In November 2020, after the publishing of a newspaper advertisement seeking children conceived after artificial insemination by donor procedures performed by Respondent, Patient 2's child participated in commercial genetic testing with Patient 1's child and discovered that they were half siblings sharing the same father.
- e. In April 2021, five months after his letter to the Board denying he used his sperm in any procedures other than the insemination of Patient 1, Respondent admitted based upon the above DNA results that he also used his sperm during Patient 2's artificial insemination by donor procedure and was the biological father of the child resulting from that pregnancy.
- f. In that letter, Respondent claimed no memory of Patient 2, her course of treatment, or using his own sperm during the procedure.
- g. Respondent made a material misrepresentation to the Committee when he claimed in November 2020 that he had no knowledge of, or reason to suspect the

existence of, the use of his sperm in artificial insemination by donor procedures other than the procedure he performed for Patient 1.

## **II. State's Allegations of Unprofessional Conduct**

### **Count 1**

7. Paragraphs 1 through 6, above, are restated and incorporated herein by reference.

8. Respondent engaged in a gross violation of the standard of care in his treatment of Patient 1. Respondent failed to disclose to Patient 1 that he would be performing the artificial insemination by donor procedure with his own sperm. This conduct violates the trust inherent in the physician patient relationship which was a required component of the standard of care at the time these artificial insemination by donor procedures were performed. It was a material nondisclosure that resulted in the physician becoming a partner to reproductive activity with the patient without the patient's informed consent. It also breached the Patient's reasonable expectation and express agreement that the artificial insemination by donor procedure would involve sperm donation that was anonymous; meaning that the identities of the donor and the recipient would not be known to either party. This conduct is unprofessional as it constitutes a gross violation of 26 V.S.A. § 1354(a)(22).

### **Count 2**

9. Paragraphs 1 through 6, above, are restated and incorporated by reference.

10. Respondent represented to Patient 1 that her artificial insemination by donor procedure would be anonymous for both the donor and the recipient of the sperm to protect both

from later intrusive and unwanted contact. However, Patient 1's identity was known to Respondent as he was her treating physician and performed the artificial insemination by donor procedure with his own sperm, thus Patient 1 - the recipient - was not anonymous to the donor as Respondent represented to Patient 1. Respondent's conduct here constitutes a willful misrepresentation in medical treatments in violation of 26 V.S.A. § 1354(a)(14).

### **Count 3**

11. Paragraphs 1 through 6, above, are restated and incorporated by reference.

12. Respondent made a material misrepresentation to the Board during the course of its investigation into the allegations of unprofessional conduct involving the medical treatment he provided to Patient 1. This material misrepresentation occurred in his April 2019 letter to the Board wherein Respondent denied his paternity of the child Patient 1 conceived through the artificial insemination by donor procedure he performed using his own sperm. Respondent's lack of candor during an investigation into his unprofessional conduct by the Vermont Board of Medical Practice constitutes conduct evidencing an unfitness to practice medicine pursuant to 26 V.S.A. § 1354(a)(7).

### **Count 4**

13. Paragraphs 1 through 6, above, are restated and incorporated by reference.

14. Respondent engaged in a gross violation of the standard of care in his treatment of Patient 2. Respondent failed to disclose to Patient 2 that he would be performing the artificial insemination by donor procedure with his own sperm. This conduct violates the trust inherent in the physician patient relationship which was a required component of the standard of care at the time these artificial insemination by donor procedures were performed. It was a material

nondisclosure that resulted in the physician becoming a partner to reproductive activity with the patient without the patient's informed consent. It also breached the Patient's reasonable expectation and express agreement that the artificial insemination by donor procedure would involve sperm donation that was anonymous; meaning that the identities of the donor and the recipient would not be known to either party. This conduct is unprofessional as it constitutes a gross violation of 26 V.S.A. § 1354(a)(22).

#### **Count 5**

15. Paragraphs 1 through 6, above, are restated and incorporated by reference.

16. Respondent represented to Patient 2 that her artificial insemination by donor procedure would be anonymous for both the donor and the recipient of the sperm to protect both from later intrusive and unwanted contact. However, Patient 2's identity was known to Respondent as he was her treating physician and performed the artificial insemination by donor procedure with his own sperm, thus Patient 2 - the recipient- was not anonymous to the donor as Respondent represented to Patient 2. Respondent's conduct here constitutes a willful misrepresentation in medical treatments in violation of 26 V.S.A. § 1354(a)(14).

#### **Count 6**

17. Paragraphs 1 through 6, above, are restated and incorporated by reference.

18. Respondent made a material misrepresentation to the Board during the course of its investigation into the allegations of unprofessional conduct involving the medical treatment he provided to Patient 2. This material misrepresentation occurred in his November 2020 letter to the Board confirming his paternity of Patient 1's child when Respondent wrote, "I have no knowledge of, or reason to suspect the existence of, any other occasion where I used my own

sperm in the performance of an artificial insemination procedure.” Respondent’s lack of candor during an investigation into his unprofessional conduct by the Vermont Board of Medical Practice constitutes conduct evidencing an unfitness to practice medicine pursuant to 26 V.S.A. § 1354(a)(7).

WHEREFORE, Petitioner, the State of Vermont, moves the Board to issue an Order that:

- (1) Respondent shall be reprimanded for the conduct above ;
- (2) Respondent’s Vermont medical license shall be revoked on a permanent basis;
- (3) Respondent shall pay an administrative penalty of a minimum of \$4,000.00 in accordance with 26 V.S.A. § 1374(b)(1)(A)(iii);
- (4) Take any additional disciplinary action against the medical license of Respondent John B. Coates III, MD permitted by 26 V.S.A. §§ 1374(b) and/or 1398 as it deems proper.

Dated at Chelsea, Vermont this 14th day of July, 2021.

STATE OF VERMONT

THOMAS J. DONOVAN, JR  
ATTORNEY GENERAL

E-SIGNED by Megan Campbell  
on 2021-07-14 14:06:00 EDT

By:

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Megan Campbell  
Assistant Attorney General  
109 State Street  
Montpelier, VT 05609



The foregoing Specification of Charges, filed by the State of Vermont, as to John B. Coates III, MD, Vermont Board of Medical Practice docket numbers MPS 001-0119 and MPS 027-0121 are hereby issued.

Dated at South Burlington, Vermont this 20<sup>th</sup> day of July 2021.

VERMONT BOARD OF MEDICAL PRACTICE

**David K. Herlihy**

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Herlihy

Date: 2021.07.20 14:46:32 -04'00'

By:

David K. Herlihy

Executive Director

Vermont Board of Medical Practice