

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In Re: )  
 )  
PETER J. McKENNA ) MPS 74-0505  
 )  
Respondent )

**SPECIFICATION OF CHARGES**

Now Comes the State of Vermont, by and through William Sorrell, Attorney General, and undersigned counsel, and avers the following:

**JURISDICTION**

1. The Vermont Medical Practice Board (hereinafter "Board") has jurisdiction over this matter as Respondent Peter J. McKenna, M.D. (hereinafter "Respondent") is currently licensed to practice medicine in the State of Vermont, holding license number 042-0007110.

**FACTUAL ALLEGATIONS**

2. On April 20, 2005, Virginia Werneke ("Werneke"), Investigator for the Medicaid Fraud and Residential Abuse Unit ("MFRAU") of the Vermont Attorney General's Office, contacted Phil Ciotti ("Ciotti"), Investigator for the Board. Werneke informed Ciotti that Adult Protective Services had reported to MFRAU that a patient of Respondent's (hereinafter referred to as "Patient A") had informed her primary physician that Patient A had been having a sexual, romantic, and social relationship with Respondent.

3. On May 3, 2005 Ciotti and Werneke, with an investigator from Adult Protective Services, interviewed Patient A at the law offices of Patient A's attorney. Patient A reported she has been diagnosed with Bipolar Disorder, Post Traumatic Stress Disorder, Attention Deficit Disorder, and Anorexia.
4. Patient A reported that she been referred to Respondent sometime in 2003 by her primary physician after Patient A had been hospitalized for an intentional overdose.
5. Patient A reported that she was so medically frail when she first began seeing Respondent that she required her mother's assistance to sign the medical release form.
6. In her first session with Respondent, Patient A informed Respondent that when residing in another state, she had had an affair with her treating psychiatrist. According to Patient A, Respondent focused on this relationship during his first few sessions with Patient A.
7. Patient A reported that some weeks after she began seeing Respondent, Respondent would hug Patient A and reassure her that the hugs were not of a sexual nature.
8. Patient A reported that in December of 2003 Respondent came to Patient A's apartment and stated his intention to make love to her. Patient A reported that they then went to Patient A's bedroom where she and Respondent had sexual intercourse.

9. Patient A reported that she and Respondent had a sexual relationship from December of 2003 until February of 2005. Respondent would see Patient A socially an average of three times a week. Patient A reported that between December of 2003 and February of 2005, she and Respondent would engage in a sexual relationship approximately twice a week.
10. Respondent took Patient A on his boat in Mallett's Bay and also took her camping in Newport. Patient A also spent at weekend at Respondent's home when Respondent's wife was in Florida.
11. Respondent gave gifts to Patient A including clothing, sunglasses and a gold heart necklace. Respondent also gave Patient A an air conditioner which he installed in Patient A's apartment.
12. Between December of 2003 and February of 2005, Respondent's records indicate that Respondent was also Patient A's treating psychiatrist. Patient A reported that Respondent told her that she did not need to see other physicians and that he could fulfill all her medical needs.
13. Patient A reported that Respondent would ask Patient to engage in degrading practices as part of their sexual relationship such as wearing dog collars. Patient A felt uncomfortable and refused. Respondent would sometimes require Patient A to engage in sexual acts before he would write prescriptions for her.

14. On May 31, 2005, Werneke, Ciotti, and another investigator from MFRAU interviewed Respondent at his office, which is part of Respondent's residence. During the interview Respondent at first denied having a sexual relationship with Patient A . Respondent did admit seeing Patient A socially.
15. As the interview with Respondent was concluding Werneke asked when Respondent would be available to comply with a Non Testimonial Order requiring Respondent to submit to a swabbing to obtain a sample of his DNA. At this point Respondent admitted to the investigators that he had had a sexual relationship with Patient A that lasted approximately one year and that he had engaged in unprofessional conduct.
16. After his admission, Respondent was arrested for violation of 33 V.S.A. §6902 (Sexual Act with a Vulnerable Adult) and cited to appear in Chittenden District Court on the morning of June 1, 2005 for arraignment. Respondent pleaded not guilty to the charges.

#### COUNTS OF UNPROFESSIONAL CONDUCT

#### COUNT I

17. The State hereby incorporates the allegations in Paragraphs 1-16, above.
18. Respondent's conduct as alleged above constitutes unprofessional conduct as defined at 26 V.S.A. §1354 (a)(7) as conduct evidencing unfitness to practice medicine.

## COUNT II

19. The State hereby incorporates the allegations in Paragraphs 1-16, above.

20. Respondent's conduct as alleged above constitutes unprofessional conduct as defined at 26 V.S.A. §1354 (a)(22) as gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful, and prudent physician.

## COUNT III

21. The State hereby incorporates the allegations in Paragraphs 1-16, above.

22. Respondent's conduct as alleged above constitutes unprofessional conduct as defined at 26 V.S.A. §1354 (b)(1) as performance of unsafe or unacceptable patient care.

## COUNT IV

23. The State hereby incorporates the allegations in Paragraphs 1-16, above.

24. Respondent's conduct as alleged above constitutes unprofessional conduct as defined at 26 V.S.A. §1354 (b)(2) as failure to conform to the essential standards of acceptable and prevailing practice.

**COUNT V**

25. The State hereby incorporates the allegations in Paragraphs 1-16, above.

26. Respondent's conduct as alleged above constitutes unprofessional as defined at 26 V.S.A. §1398 as immoral or dishonorable conduct.

WHEREFORE, the State of Vermont moves the Board to take such action against Respondent's license permitted by 26 VSA §1361(b) as the Board determines is proper.

Dated at Montpelier, Vermont this 10<sup>th</sup> day of June, 2005.

**WILLIAM SORRELL  
ATTORNEY GENERAL  
STATE OF VERMONT  
BY**



Joseph L. Winn  
Assistant Attorney General