

IN THE MATTER OF
BRUCE T. KRAMER, L.AC.,
Respondent.

LICENSE NO. U00390

* BEFORE THE
* MARYLAND STATE BOARD
* OF ACUPUNCTURE
* CASE NO. 99-001

* * * * *

FINAL DECISION AND ORDER

BACKGROUND

On June 22, 2001, the Maryland Acupuncture Board (the "Board") filed charges against Bruce T. Kramer, L.Ac. (the "Respondent") for violating the Maryland Acupuncture Act, (the "Act"), Md. Health Occupations ("H.O.") Code Ann. §§ 1A-101 et seq. (2000 Repl. Vol.). Specifically, the Board issued charges against Respondent for violating H.O. § 1A-309(3), which provides the following:

Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture[;]

A Case Resolution Conference ("CRC") was scheduled for July 20, 2001, however Respondent declined to participate. Therefore, the CRC was cancelled.

A Prehearing Conference was held on November 1, 2001. At that time, dates were established for filing witness lists, exhibit lists and motions with the Board. A Prehearing Order memorializing this event was passed on November 12, 2001.



A contested case hearing was held pursuant to the Administrative Procedure Act, Md. State Gov't Code Ann. §§ 10-201 et seq., before a quorum of the Board on December 6, 7, 14 and 21, 2001. On January 11, 2002, the same quorum of the Board convened to deliberate and concluded by a preponderance of the evidence that Respondent had violated the aforementioned portion of the Maryland Acupuncture Act. The same quorum of the Board then voted to uphold the charges against the Respondent and to impose the sanctions contained in the Final Decision and Order. On May 14, 2002, the Board approved and adopted this Final Decision and Order on the affirmative vote of a majority of its full authorized membership, the same quorum of the Board that originally heard and decided this case.

SUMMARY OF THE EVIDENCE

A. Documents

The following documents were admitted into evidence:

- State's Exhibit No. 1 - Charges under the Maryland Acupuncture Act, June 22, 2001
- State's Exhibit No. 2 - Confidential Patient Identification List
- State's Exhibit No. 3 - Answer to Charges, July 11, 2001
- State's Exhibit No. 4 - Amended Answer to Charges Under the Maryland Acupuncture Practice Act, October 23, 2001
- State's Exhibit No. 5 - July 26, 2000 Investigative Report, without exhibits attached
- State's Exhibit No. 6 - August 6, 1999 telephone memo to Board file re: Patient A¹

¹For confidentiality purposes, patient names are not identified in this Final Decision and Order. The identity of the patients is known to the Respondent, and the Board maintains a list of patient names which corresponds to the alphabetical letters used.



- State's Exhibit No. 7 - Respondent's treatment records of Patient A
 - a. Respondent's office calendar of several dates in July 1999
 - b. Respondent's patient sign-in sheets for several dates in July 1999
 - c. Respondent's Daily Patient Summary
- State's Exhibit No. 8 - Correspondence re: Patient A's payments refund request
- State's Exhibit No. 9 - NOT ADMITTED²
- State's Exhibit No. 10 - Respondent's treatment records of Patient B
- State's Exhibit No. 11 - September 20, 1999 memo to Board file re: Patient C
- State's Exhibit No. 12 - April 6, 2000 letter from Respondent re: treatment records of Patient C
- State's Exhibit No. 13 - Bank Statements, billing records re: Patient C
- State's Exhibit No. 14 - Respondent's Daily Patient Summary Sheets re: Patient C
- State's Exhibit No. 15 - NOT ADMITTED³
- State's Exhibit No. 16 - NOT ADMITTED⁴
- State's Exhibit No. 17 - NOT ADMITTED⁵
- State's Exhibit No. 18 - WITHDRAWN
- State's Exhibit No. 19 - NOT ADMITTED⁶
- State's Exhibit No. 20 - April 4, 2001 subpoena for complete treatment and billing records of Patients D, E and F

² Memo to Board file written without any indication as to who the author was and regarding a patient who did not testify at the hearing.

³ Investigative interview wherein neither the investigator nor the witness testified at the hearing.

⁴ Investigative interview wherein neither the investigator nor the witness testified at the hearing.

⁵ Investigative interview wherein neither the investigator nor the witness testified at the hearing.

⁶ Investigative interview wherein neither the investigator nor the witness testified at the hearing.



- State's Exhibit No. 21 - April 17, 2001 response to subpoena re: Patients D, E and F, and May 21, 2001 response to allegations of Patients D, E and F
- State's Exhibit No. 22 - June 15, 2001 subpoena for complete treatment and billing records of Patients G and H
- State's Exhibit No. 23 - June 18, 2001 response to subpoena for complete treatment and billing records of Patients G and H
- State's Exhibit No. 24 - July 11, 2001 response to subpoena re: Patients G and H, and response to allegations of Patients G and H, with attachment
- State's Exhibit No. 25 - NOT ADMITTED⁷
- State's Exhibit No. 26 - Curriculum Vitae, S. Michael Plaut, Ph.D., November 2001
- Respondent's Exhibit No. 1 - Curriculum Vitae, Bruce T. Kramer, L.Ac., July 23, 2001

B. Testimony

The State of Maryland (the "State") presented the testimony of the following witnesses, listed in alphabetical order and not the order in which they testified:

1. Patient A
2. Patient C
3. Patient D
4. Patient E
5. Patient F
6. Patient G
7. Patient H

⁷ Investigative report wherein the investigator did not testify at the hearing.



8. S. Michael Plaut, Ph.D., who was accepted as an expert in the field of psychology generally, with expertise in professional/client boundaries, sexuality and sexual abuse.

The Respondent presented the testimony of the following witnesses:

1. Lauren Elaine Bryant, office manager for Respondent from March 1999 until March 2001.

2. Respondent Bruce T. Kramer, L.Ac.

C. Summary of Pertinent Witness Testimony

Patient A

Patient A was a patient of Respondent in June and July of 1999 and was forty-eight years old at the time. (T. 325, 336 and State's Ex. 8). Patient A stated that she heard about Respondent's acupuncture practice on the radio. (T. 317). She testified that she sought acupuncture treatment for carpal tunnel syndrome and bulging discs in her neck. (T. 317).

Patient A testified that at her first treatment, she was instructed to take her clothes off and that it was preferable not to wear a bra. (T. 318). She further testified that she understood that to mean to remove all of her clothing except her underpants, so that is what she did. (T. 319). She stated that she was provided with a sheet to cover herself. (T. 319). Patient A further stated that, along with the acupuncture, she also received facials. (T. 323, 344). Patient A testified that when she commented on the cost being more than she could afford, that Respondent mentioned taking it out in trade. (T. 323). Patient A testified that this had a sexual connotation. (T. 323).



Patient A testified that at one particular appointment, while laying on the acupuncture table, on her back, Respondent got on top of her and pushed her knees to her chest. (T. 325). She testified that she was laying flat on the table with her knees and thighs up against her chest when Respondent got on top of her with his chest on top of her legs. (T. 325-327). She further testified that due to the manner in which Respondent was laying on top of her and pushing toward her, his private parts were getting closer to her feet and her gluteus maximus, and this was causing her to become uncomfortable. (T. 328). Patient A stated that on another occasion, while laying on her stomach, Respondent pushed on her buttocks and commented on the tightness of them. (T. 326).

Patient A stated that she did not return for further treatments, and that she attempted to get a refund for her pre-paid appointments and contacted an attorney to facilitate this process. (T. 332). Correspondence between Patient A's attorney and Respondent's attorney indicates that Respondent offered to settle the dispute by paying Patient A a refunded amount of \$572.00 in exchange for a Full and Final Release of any and all claims, a Confidentiality Agreement, and an agreement that Patient A make no complaints to the Acupuncture Board, or agree to withdraw such a complaint if already made. (T. 335 and State's Ex. 8).

Patient C

Patient C met Respondent in approximately June 1997 when she was forty-two or forty-three years old. (T. 240, 257). They met at a church in Arbutus, Maryland, where Reiki was being provided to people. (T. 236). Patient C describes Reiki "as a

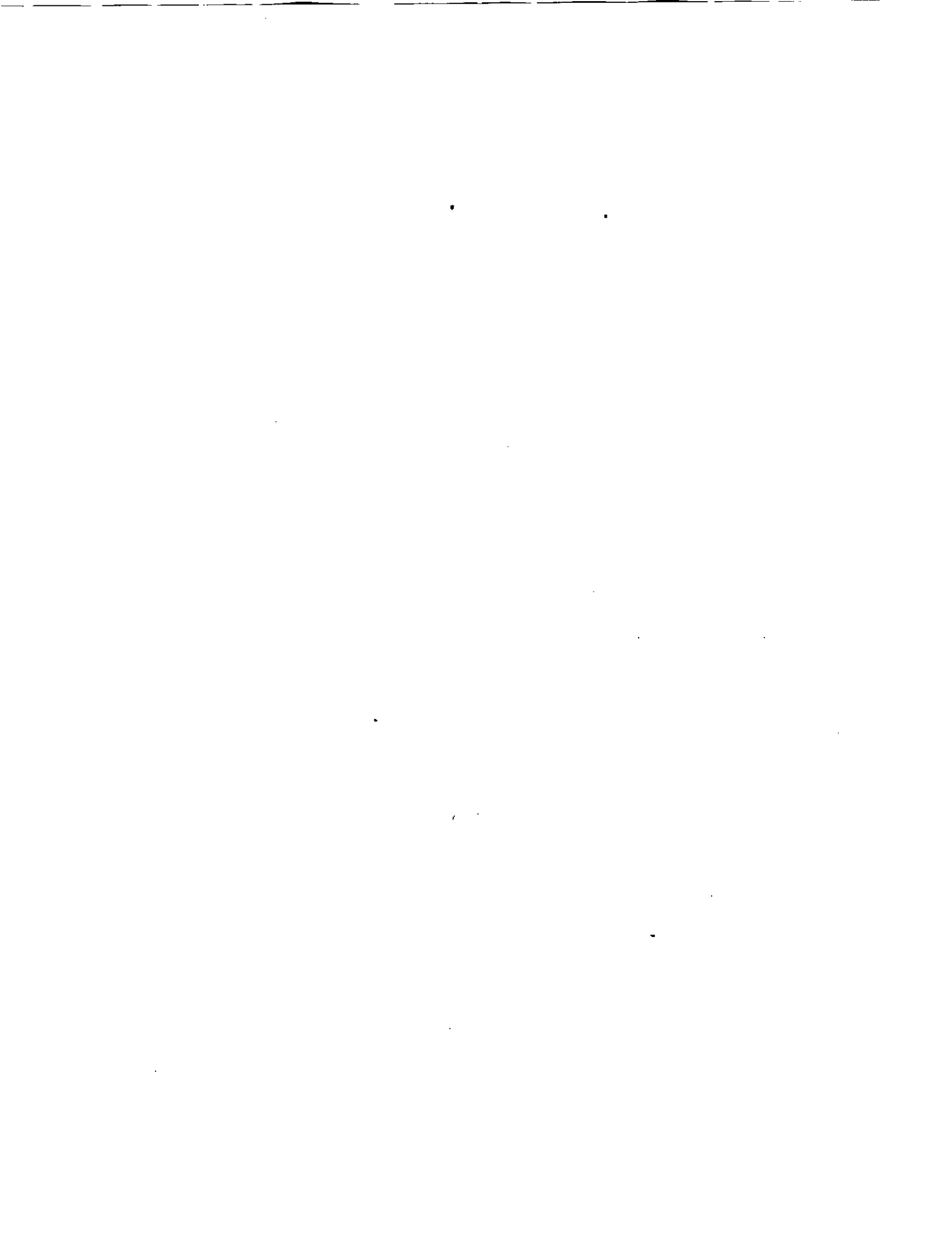


form of healing where you open yourself up as a channel and allow divine energy to come in and out of your hands." (T. 259).

Patient C testified that, when she met Respondent, he suggested that they should meet in order to discuss Patient C doing past life regressions in his office. (T. 237-238). While Respondent did not hire Patient C, she stated that Respondent called her at home within a week of their meeting to go out that same evening. (T. 239, 269). She stated that she was too ill with the flu to go out, so she accepted his offer to come over to her home and perform acupuncture on her. (T. 239). Patient C had never received acupuncture before this occasion. (T. 239).

Patient C testified that Respondent asked her to take her clothes off, so she removed everything except her underpants. (T. 240). She further testified that she was laying on her back on a massage table and covered with a sheet. (T. 242). Patient C stated that Respondent did not take a medical history from her before performing the acupuncture treatment. (T. 240). She then stated that Respondent asked her if she minded if he performed acupuncture on himself. (T. 241). Patient C explained that Respondent then took off his shirt and pants, placed needles in his own back and got on the table and under the sheet with Patient C. (T. 241-243). Patient C stated that she trusted Respondent. (T. 240, 243).

Patient C testified that she and Respondent had a dating relationship for about two-and-a-half months, and they became sexually intimate. (T. 245, 267, 274, 282, 283). She further testified that while they were dating, he performed acupuncture for free on her and that he told her that he performed acupuncture for free on everybody he dated. (T. 244). She stated that she always disrobed down to her underpants and



sometimes she did not have a bra on as well. (T. 246). She further stated that she was provided a sheet to cover herself. (T. 246). Patient C then described how Respondent lifted the sheet, allowing her to roll over, and did so in a manner which permitted him to view her breasts. (T. 247, 248). Patient C stated that she stopped receiving treatments from Respondent when the dating relationship ceased. (T. 248).

Patient D

Patient D met Respondent when she answered an advertisement to sublease office space from Respondent in the summer of 1999. (T. 169). Patient D was a thirty-one year old licensed acupuncturist at the time. (T. 167). Patient D testified that while subleasing office space from Respondent, he suggested that the two of them do an acupuncture treatment trade. (T. 172). Patient D further testified that when they did the trade, she received the treatment first. (T. 173). Patient D stated that Respondent advised her to take off her clothes, including her undergarments, and get under the sheet. (T. 174). She further stated that while under the sheet she felt exposed, uncomfortable and vulnerable. (T. 177, 192).

Patient D stated that when it was time for Respondent to receive his treatment from her, that he asked if she minded if he undressed in front of her and began to unbutton his pants. (T. 178). She stated that she told him that she did mind, and so she left the room to allow him to undress for treatment. (T. 178). Patient D testified that she specifically recalls treating Respondent on that occasion because she remembered him having a particularly hairy back and she never gave acupuncture to another man's back in that office. (T. 841).



Patient D further testified that she had a past medical history of depression for which she began receiving treatment from a psychiatrist beginning in January 1998. (T. 847, 848). She stated that the time that she received acupuncture treatment from Respondent in the summer of 1999, she was well-treated for her depression and was not suicidal. (T. 839, 840). She further stated that she shared this information about herself with Respondent because she trusted him. (T. 839).

Patient D testified that she did not take the treatment records of Respondent's treatment of her when she vacated Respondent's office suite. (T. 841).

Patient E

Patient E was a twenty-four year old pharmacy student when she met Respondent in the summer of 1997. (T. 197, 198, 213). Patient E stated that she suffered from migraines and was interested in the possibility of acupuncture helping her migraines. (T. 138, 139). She testified that Respondent offered to give her acupuncture treatment in exchange for her cleaning his house or grocery shopping for him. (T. 200).

Patient E testified that she went to Respondent's office for her first acupuncture treatment, and that he gave her a sheet and told her to get undressed. (T. 201). She stated that because Respondent did not tell her to leave any clothing on, she became fully unclothed for the treatment. (T. 201, 202). She further stated that the acupuncture treatment was very relaxing and a great first experience with acupuncture. (T. 201).

Patient E further testified that Respondent called her at home three or four days later and suggested that they go for a walk in the woods. (T. 203). She stated that Respondent then suggested that he would take her to his office at his house and perform an initial treatment for her migraines. (T. 203, 204). She stated that



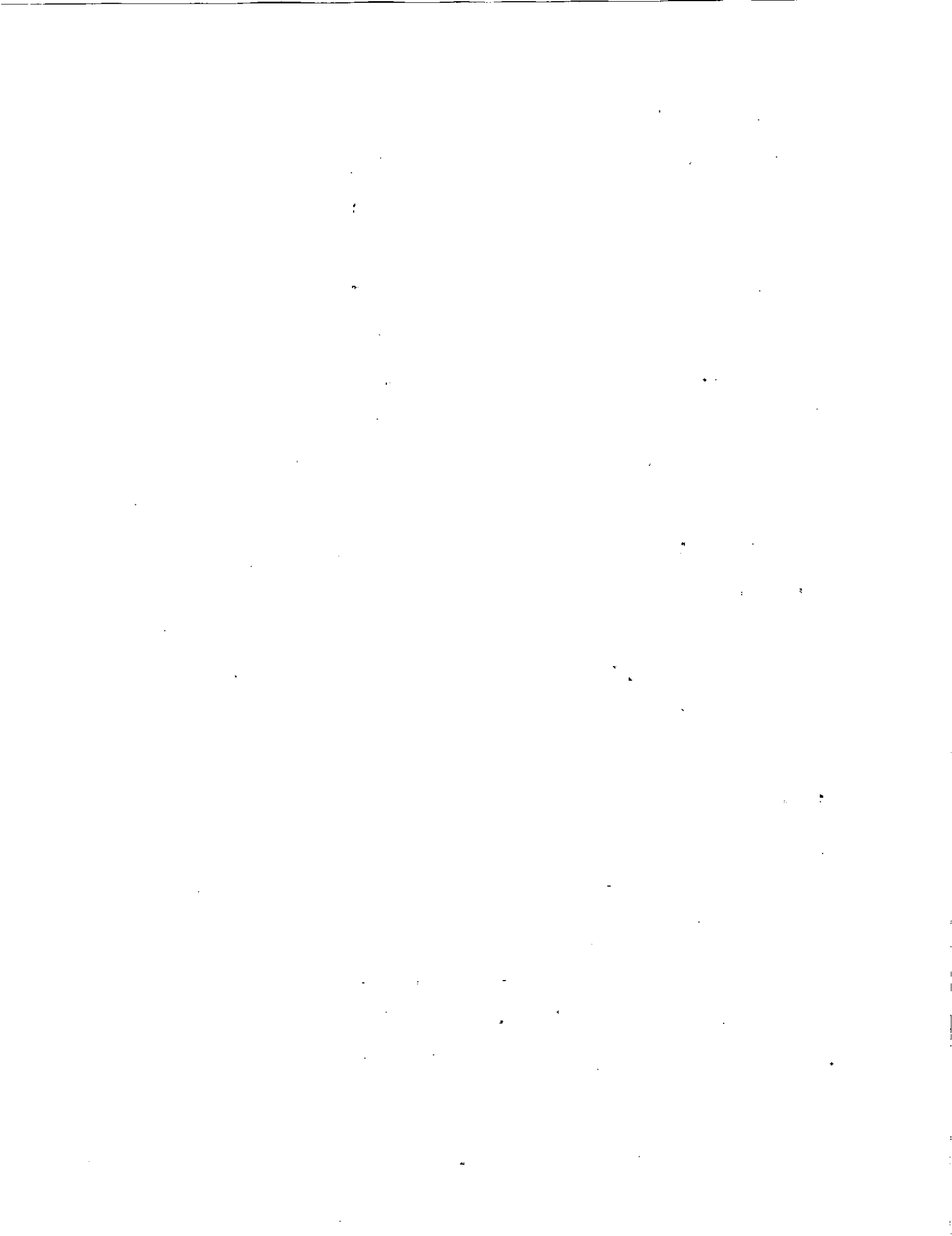
Respondent drove to Patient E's house that evening in Halethorpe, Maryland, picked her up, and drove her to a park area with wooded trails. (T. 204). Being from the eastern shore of Maryland, she did not know where this park was located. (T. 203, 204).

Patient E testified that after walking and hiking on the trails, and hugging trees, she and Respondent went to Respondent's house. (T. 205). She further testified that after talking for awhile, Respondent took her to his bedroom for an acupuncture treatment. (T. 208, 209). She stated that Respondent advised her to get undressed as she did before, so she got completely undressed and covered herself with a sheet. (T. 209). She then stated that at the conclusion of the treatment she expected Respondent to check her pulses at her wrist; instead, however, he laid on top of the bed next to her, over the sheet, and just held her hand. (T. 211, 212). She also stated that although she had been uncomfortable with the procedure, she never told this to Respondent because everytime she saw him afterwards, her stomach would tie up in knots. (T. 215, 218).

Patient E testified that she followed Respondent's instructions regarding getting completely undressed for the second treatment, despite that she was nervous and did not intend to become fully unclothed, because she felt mentally that "he was the doctor." (T. 209).

Patient F

Patient F was a twenty-four year old female acupuncture student at the Traditional Acupuncture Institute ("TAI") when she first became familiar with Respondent as he was married to a classmate of Patient F. (T. 72, 81). She further testified that she recalled an incident in the summer of 1992 where she and Respondent were at a pool party involving students and faculty of TAI. (T. 72). She stated that she

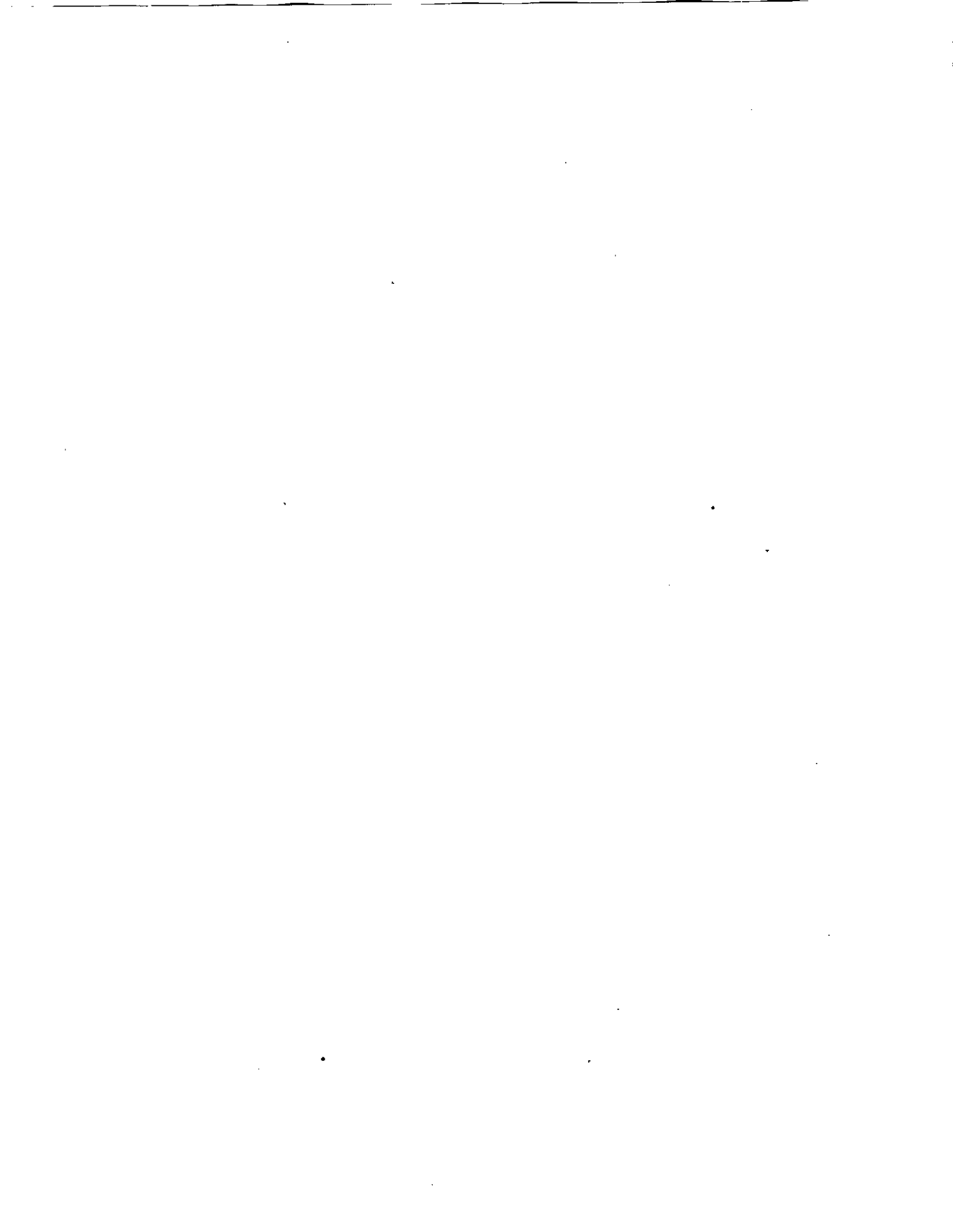


knew at the time that Respondent taught a business ethics course at TAI, which she later took as a student. (T. 73). She also stated that she was in the laundry room doing her laundry when Respondent entered the laundry room. (T. 73, 74). Patient F testified that while engaging her in conversation, Respondent took off his shirt and pants and began putting on his bathing suit in front of her. (T. 74). Patient F further testified that she immediately left the room. (T. 74).

Patient F testified that she was a student of Respondent's in his business ethics course at TAI in the spring of 1993. (T. 74, 75). She further testified that she and a classmate were invited by Respondent to observe him in his practice as part of the TAI curriculum. (T. 75). While observing Respondent in his practice, Patient F stated that she had a headache, and Respondent offered to treat her. (T. 76). Patient F testified that Respondent asked her to remove her shirt and her bra for the acupuncture treatment. (T. 76, 89, 90). She further testified that he gave her the acupuncture treatment while she sat on a table, and from the waist up she was completely exposed. (T. 76). Patient F stated that afterwards her classmate then draped her with a sheet. (T. 76).

Patient G

Patient G was a twenty-seven year old female massage therapist who began working for Respondent as an administrative assistant in December 1993. (T. 292). Patient G testified that while employed by Respondent, she received acupuncture treatments from him for headaches and anxiety. (T. 295). She testified that she was employed by Respondent for one or two months but that she continued to receive acupuncture treatment until September or October 1994. (T. 294, 303).



Patient G testified that on one occasion she and Respondent traded services when he gave her acupuncture followed by she giving him a massage. (T. 298). Patient G further testified that while she was sitting at the head of the table and massaging Respondent's neck, that he reached up and put his hands around her neck and her face in an affectionate way. (T. 299). Patient G stated that Respondent then asked her to lay down next to him on the table, which she did. (T. 300). She further stated this made her feel uncomfortable so she got up and sat on the edge of the bed. (T. 301). She then testified that Respondent sat next to her, leaned over and put his lips and tongue on her ear. (T. 301). Patient G further testified that this caused her to feel uncomfortable and she walked out of the room. (T. 301).

Patient G testified that she was upset and angry about what happened, and she concluded that she needed to confront Respondent with this. (T. 302). Patient G further testified that after she talked to Respondent on the telephone about what happened and her feelings, Respondent responded that he knew he needed to work on his boundaries. (T. 302).

Patient H

Patient H was a thirty-three year old female Registered Nurse who sought acupuncture treatment from Respondent in 1995 for an arm injury. (T. 96, 98-99, 141). Patient H stated that, due to problems in her personal life with her then fiancé, son and job, she was very emotional at that time and it was the worst time in her life. (T. 103, 104).

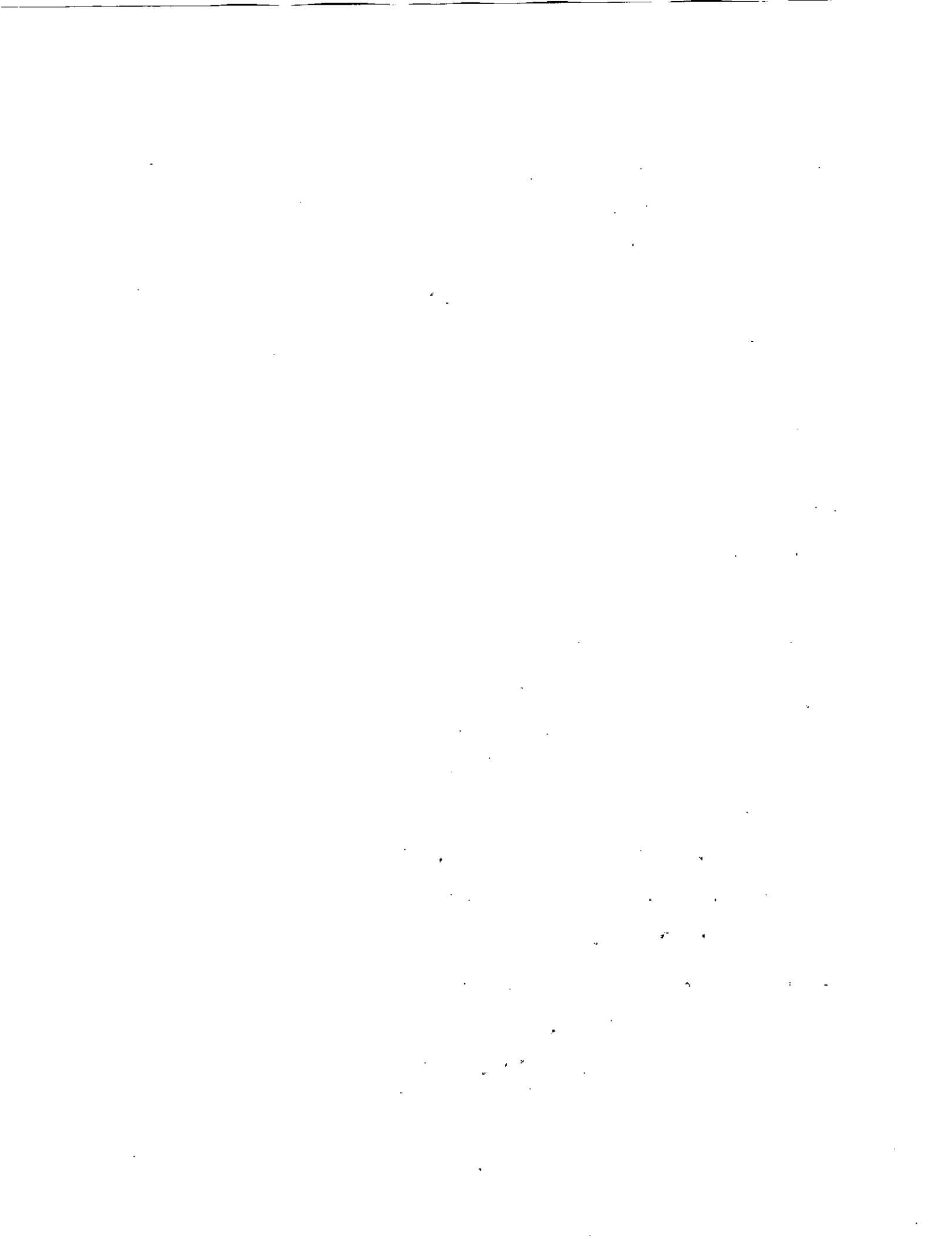
Patient H testified that on one occasion she was having an emergency with her arm injury and her emotional difficulties, and that she needed Respondent to treat her



immediately. (T. 110). She testified that she went to Respondent's office and they talked briefly before driving together to Kenny Rogers restaurant for something to eat. (T. 110,111). She stated that they ate dinner at the restaurant and talked about her emotional issues as well as some aspects of his personal life. (T. 111, 115-118). She further stated that she paid for her own dinner, and that Respondent drove her back to her car. (T. 118). Patient H testified that at her next appointment, Respondent performed an acupuncture treatment in Patient H's perineal area and that there was an assistant in the room with them when he did it. (T. 123-124, 158).

Patient H testified that in March 1995 she attended a week-long retreat known as Quadrinity Process in Virginia at Respondent's recommendation. (T. 115, 127-128). She further testified that at the end of the retreat, she was very shocked to see that Respondent was present at the commencement dinner, as she was not expecting him. (T. 128). Patient H stated that after the dinner she and Respondent were talking outside when Respondent put his arm around Patient H, moved closer to her, and his beard made contact with her lips. (T. 135-137).

Patient H further stated that Respondent then told her that she was very beautiful. (T. 136). Patient H testified that she removed herself from that situation and joined another person who was also at the retreat. (T. 138). Patient H further testified that when she went to her bedroom that night, which she shared with two other women, Respondent was in the top bunk of the set of bunk beds in which she was in the bottom bunk. (T. 139, 143-144). Patient H stated that Respondent was there when she went to sleep but gone when she awoke the next morning. (T. 139, 144). She further stated that she did not return to Respondent for acupuncture treatment. (T. 140).

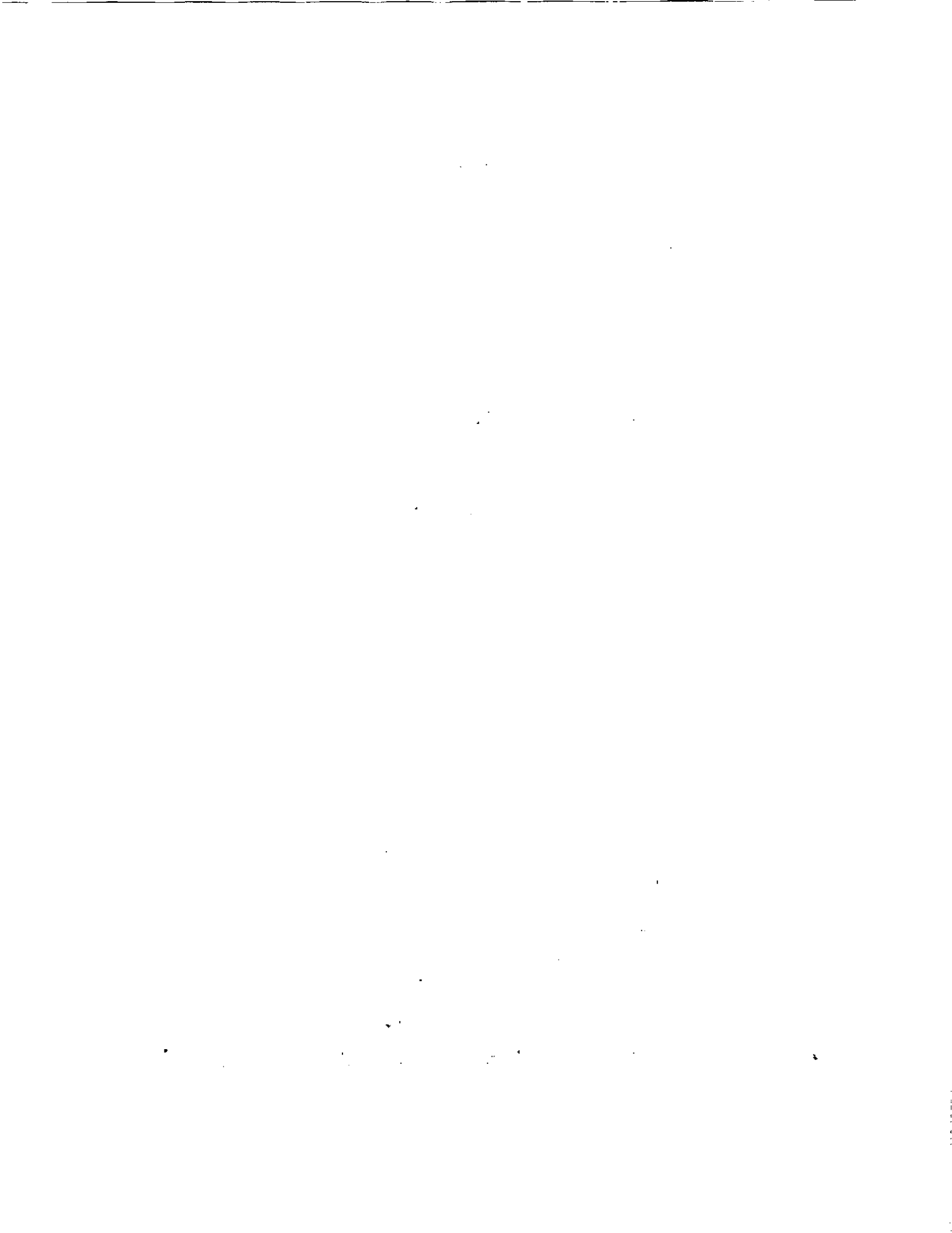


S. Michael Plaut, Ph.D.

S. Michael Plaut, Ph. D. was qualified and accepted as an expert in the field of psychology generally, with expertise in professional/client boundaries, sexuality and sexual abuse. Dr. Plaut testified that he reviewed the charges, the Maryland Acupuncture Society's Ethics Compendium, copyright date 1990, and other documents, when reviewing the allegations of this case and prior to formulating any opinions. (T. 400, 406).

Dr. Plaut testified that professional boundaries reflect a certain level of separateness that a professional person is expected to maintain between himself and not only a patient but other people over whom he or she has authority. (T. 423). Dr. Plaut further testified that a boundary violation is something which the profession feels is inappropriate under its ethical guidelines or laws of a particular jurisdiction, or the policies of an institution. (T. 424). Dr. Plaut stated that the source of professional ethics is a consensus based on what a profession feels is appropriate for professional behavior, either in terms of the image the profession wants to have with the public, or the duty that it has to the people it's serving.

Dr. Plaut was present for the testimony given by Patients A, C and G. It was Dr. Plaut's opinion, based upon a reasonable degree of scientific certainty, that Respondent's behavior with Patients A, C and G was a violation of professional/client boundaries. (T. 431, 437-438, 445). With regard to Patients D, E, F and H, Dr. Plaut stated that, assuming hypothetically the allegations made in the Charges were true, and assuming the testimony of each patient as reiterated by the Administrative Prosecutor was also true, it was his opinion, based upon a reasonable degree of scientific certainty,



that Respondent's behavior was a violation of professional/client boundaries. (T. 449, 455, 464, 465).

Lauren Elaine Bryant

Lauren Elaine Bryant was employed by Respondent as an office manager from March 1999 until March 2001. (T. 516-518). Ms. Bryant testified that her job duties included answering the telephone, managing patient files, receiving payments and scheduling appointments. (T. 518). She further testified part of her job duties involved making the treatment rooms ready for patients and to escort patients to the treatment rooms. (T. 520).

Ms. Bryant testified that she recalled that Patient A was frequently late for her appointments or broke her appointments at the last minute or without notice. (T. 529). She further testified that she wrote a letter to Patient A giving her an account history and refund for the balance of her payment for a discount program. (T. 532-533 and State's Ex. 7). Ms. Bryant stated that when Patient A called the office she was upset and hostile. (T. 533 and State's Ex. 7).

Ms. Bryant testified that patients usually undressed for treatment, leaving on the bra and underpants, and that she usually gave these instructions. (T. 553). She further testified that patients would then lie on the table and cover themselves with a twin-size sheet. (T. 534-553). She stated that there were pillowcases for additional coverage on the top if the sheet needed to be pulled down for treatment on the stomach. (T. 534). She also stated that she ordered gowns for patient coverage at the request of Patient D. (T. 538). Ms. Bryant further stated that she was never in the room while Respondent was providing acupuncture treatment to a patient. (T. 542).



Bruce T. Kramer, L.Ac.

The Respondent testified on his own behalf. The Respondent testified that he received training at the Traditional Acupuncture Institute and became licensed to practice acupuncture in Maryland in 1991. (T. 558). He testified that he held a faculty position at the Traditional Acupuncture Institute from 1991 until 1994, teaching a business and ethics course. (T. 559 and Respondent's Ex. 1). He further testified that this course involved the ins and outs of running a practice, marketing a practice and going over the Maryland Acupuncture Society Ethics Compendium. (T. 559).

Respondent further testified that he was a member of the Maryland Acupuncture Society Ethics Committee, and that prior to 1999, he was using the Ethics Compendium as a guide in his own practice. (T. 829, 830). Respondent testified that prior to 1999, he determined what was usual and customary in the practice of acupuncture based on his own experience of what was appropriate and based on the conduct of the people who were his mentors, his acupuncturists and his instructors. (T. 813, 814). Respondent testified that, prior to 1999, he was not aware of anything that prohibited dual relationships between practitioners and clients, involving professional as well as non-professional relationships. (T. 815-816). Respondent further testified that, prior to 1999, he had triple relationships with his own acupuncturists as client, friend and student. (T. 816). Respondent testified he was aware that a sexual relationship with a patient was prohibited. (T. 823).

Respondent testified that when he first treated Patient A that she was in terrible shape physically and in a lot of pain and discomfort. (T. 691). Respondent testified that he did a stretching treatment on Patient A at her first treatment only, but that he did not



climb on top of her. (T. 692, 693). Respondent testified that he did not remember if Patient A had her bra on or not but that she probably was under the sheet in her underwear. (T. 697, 698). Respondent further testified that the manner in which Patient A was draped for her treatments was no different than the manner in which his other patients were draped. (T. 714).

Respondent testified that Patient A was very unreliable and was not showing up for appointments. (T. 703, 707). Respondent testified that there came a point when he no longer wanted to do business with Patient A, so he wanted to refund to her money and refer her to another acupuncturist. (T. 707). Respondent further testified that he did not suggest performing acupuncture on Patient A and then taking it out in trade. (T. 703).

Respondent testified that he had a dating relationship, a dual relationship, with Patient C. (T. 640). Respondent testified that he saw Patient C socially three times within a three or four week period before he gave her her first acupuncture treatment. (T. 643, 644). Respondent further testified that he and Patient C were at her house and had spent the whole day and evening together there when Patient C then asked Respondent if he would give her an acupuncture treatment. (T. 644). Respondent testified that Patient C did not have flu-like symptoms but she may have had a headache at the time. (T. 644). Respondent testified that he did not write down a history but that he asked her some questions. (T. 645). Respondent testified that he asked Patient C to take off her top and lay on her chest, covered up with a sheet. (T. 648).



Respondent testified that he gave her this acupuncture treatment while she was on a massage table in the basement of her house. (T. 648-649). Respondent testified that while laying on her stomach Patient C was covered with a sheet from her waist to her feet and her back was bare. (T. 648-649). Respondent testified that after he gave her the acupuncture treatment, he and Patient C kissed. (T. 649). Respondent further testified that he did not perform acupuncture on himself at that time or at any time while with Patient C. (T. 649-650).

Respondent testified that there were four more acupuncture treatments with Patient C in his office. (T. 650). Respondent further testified that contemporaneous with Patient C's acupuncture treatments, Respondent and Patient C were seeing each other socially and were intimate with each other. (T. 656). Respondent testified that with the exception of the first treatment in his office, Patient C was not charged for her acupuncture treatments. (T. 650,651). Respondent also testified that he had maintained treatment records for Patient C but that his office help must have misplaced or destroyed them because he cannot locate them. (T. 659, 660).

Respondent testified that he had given an acupuncture treatment to Patient D because he was very concerned with Patient D's emotional condition and she seemed very depressed. (T. 617-618). Respondent testified that Patient D told him that she was on medication, was seeing a psychiatrist, and had suicidal feelings from time to time. (T. 618). Respondent testified that before performing the acupuncture treatment on Patient D he told her to get however she feels comfortable, as far as getting disrobed, but he testified that he did not tell her to remove all of her clothes. (T. 619-620). Respondent testified that he was surprised to find her completely unclothed under the sheet. (T.



619). Respondent testified that Patient D did not perform an acupuncture treatment on him. (T. 623).

Respondent also testified that he made treatment records of his treatment on Patient D but that they are gone now. (T. 624). Respondent testified that he believes that either Patient D took the treatment records when she vacated his office suite or they were thrown away accidentally. (T. 624). Respondent testified that when he treated Patient D, she was in an emergency because she had suicidal tendencies at the time, and he had concerns about her safety. (T. 820).

Respondent testified that the first time he treated Patient E, he advised her to get undressed down to her underwear. (T. 626). Respondent testified that Patient E took all of her clothes off because she did not remember what Respondent had told her. (T. 626). Respondent also testified that he had no memory of Patient E taking off all of her clothes in his office. (T. 761). Respondent testified that he also told Patient E that if they got into a patient/client relationship, there existed the option of her providing a service for his office in exchange for his professional services. (T. 627). Respondent further testified that he did not suggest that she clean his house or buy his groceries. (T. 627, 628).

Respondent testified that he called Patient E and suggested that they get together on a Saturday because Patient E was interested in learning more about acupuncture. (T. 628). Respondent testified that, on that particular Saturday, he picked her up from her residence and drove them to Oregon Ridge Park in northern Baltimore County. (T. 628-629). Respondent testified that while walking at Oregon Ridge, he was trying to recreate the educational experience that he had as a student at the Traditional

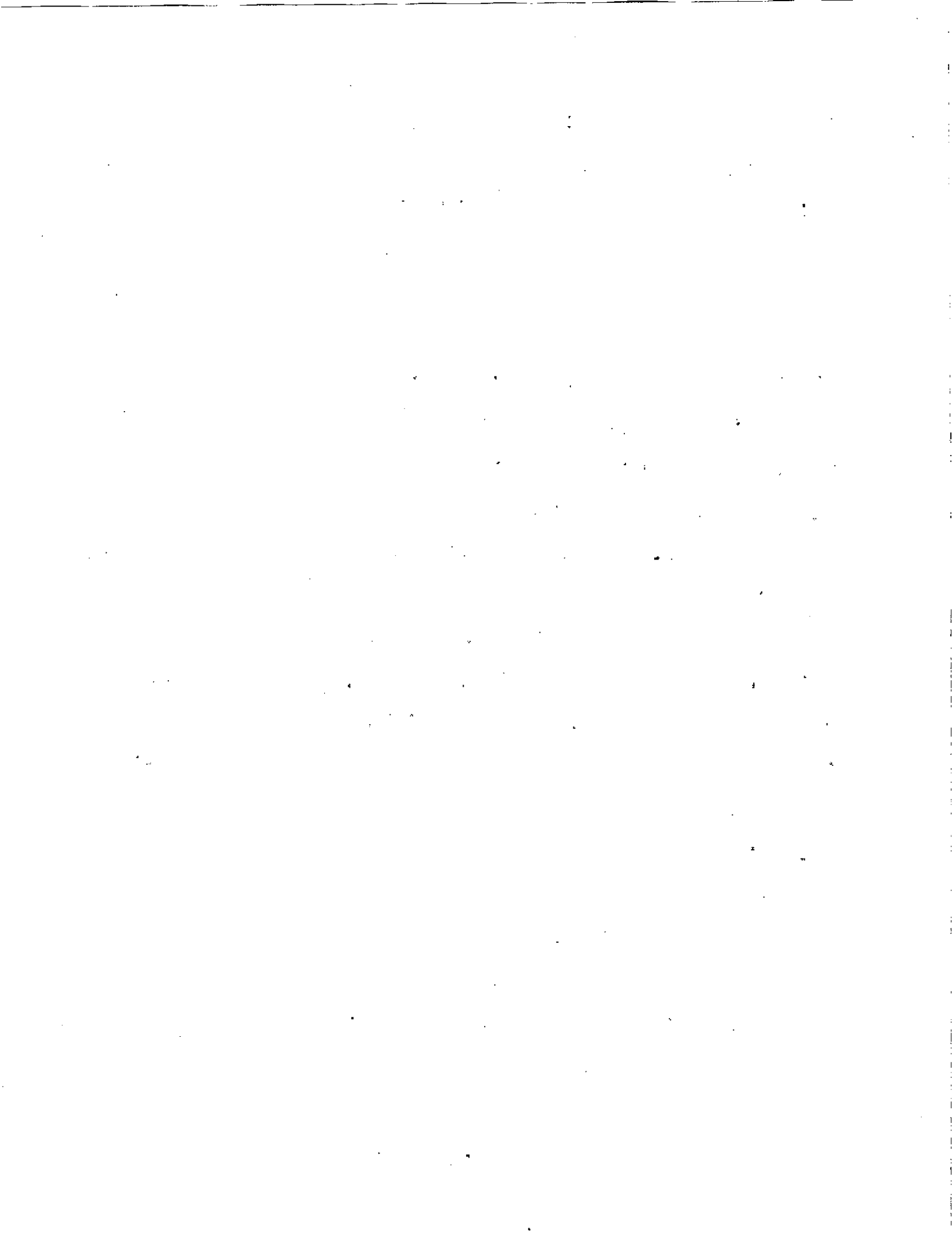


Acupuncture Institute. (T. 630). Respondent further testified that his purpose in doing this was to spend time together, to talk, and "to the end of two colleagues, two people in the healthcare business, sharing with each other." (T. 629-630).

Respondent testified that after leaving Oregon Ridge, he and Patient E went to his house and sat and talked. (T. 631). Respondent testified that after some time passed, Patient E asked if Respondent would give her another acupuncture treatment. (T. 631). Respondent testified that he agreed to do so, and they proceeded to his bedroom. (T. 633). Respondent testified that he gave her a sheet and asked Patient E to get undressed down to her underwear. (T. 633). Respondent testified that Patient E then either had taken off her bra or was not wearing one initially. (T. 633). Respondent also testified that he did not know if Patient E took off all of her clothes at this house. (T. 761-762).

Respondent testified that following the treatment, he sat on the edge of the bed and took her pulses from both of her wrists. (T. 636). Respondent testified that he did not lay down on the bed next to her and did not hold her hand. (T. 635). Respondent testified that he did not create a patient record of his treatment of Patient E. (T. 637). Respondent further testified that, in retrospect, after hearing Patient E's testimony, he would not have treated Patient E in his house and would have created a patient file on her. (T. 639).

Respondent testified that he recalled that Patient F and a student of his observed his practice on a particular day. (T. 583 584). Respondent testified that he became aware that Patient F was feeling very ill, and he offered to treat her. (T. 584,585). Respondent testified that he asked Patient F whether she would feel comfortable



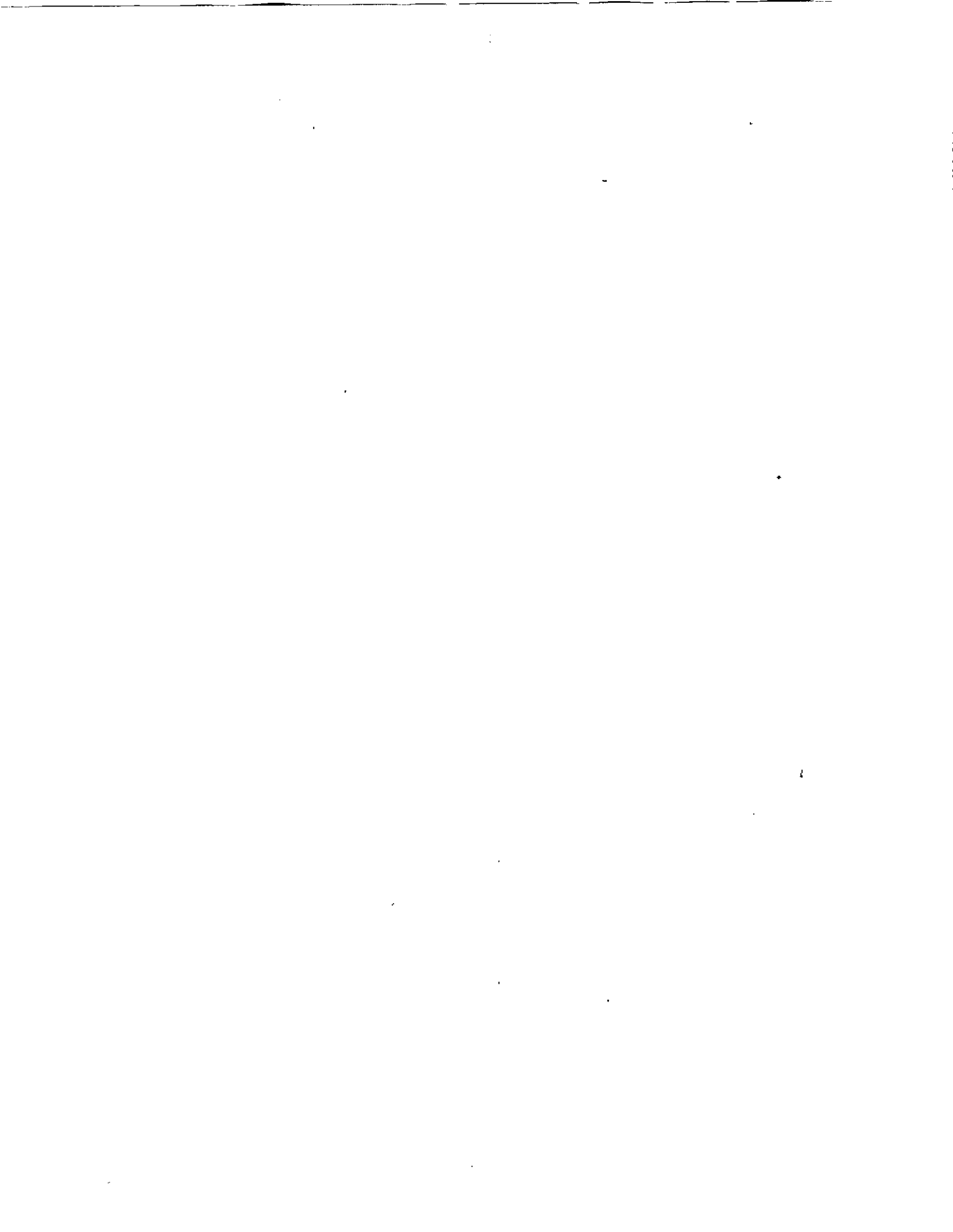
disrobing from the waist up, but that he did not ask her to take off her bra. (T. 585, 586). Respondent also testified that he remembered asking Patient F to remove her shirt but he did not remember if he asked her to remove her bra. (T. 735).

Respondent testified that he gave Patient F acupuncture treatment only that one time. (T. 588). Respondent further testified that he did not prepare a written history and a written file for Patient F. (T. 588). Respondent testified that he considered his treatment of Patient F a teaching demonstration. (T. 589). Respondent testified that he did not consider Patient F to be his patient. (T. 736-737).

Respondent testified that he hired Patient G to be an assistant to his office manager in November 1993. (T. 661, 662). Respondent testified that Patient G had no more than four or five acupuncture treatments from Respondent. (T. 665). Respondent testified that they discussed Patient G offering massage treatment in exchange for acupuncture treatment. (T. 666).

Respondent testified that Patient G began to give him one massage, but that Respondent stopped Patient G after five minutes or less of doing the massage. (T. 670-671). Respondent testified that Patient G's touch during the massage was very sharp and jagged and that Respondent did not feel as though Patient G was feeling his energy. (T. 671). Respondent testified that Patient G was not the type of massage practitioner that he felt comfortable working with, so Respondent asked Patient G to sit down next to him on the table so that they could talk. (T. 671).

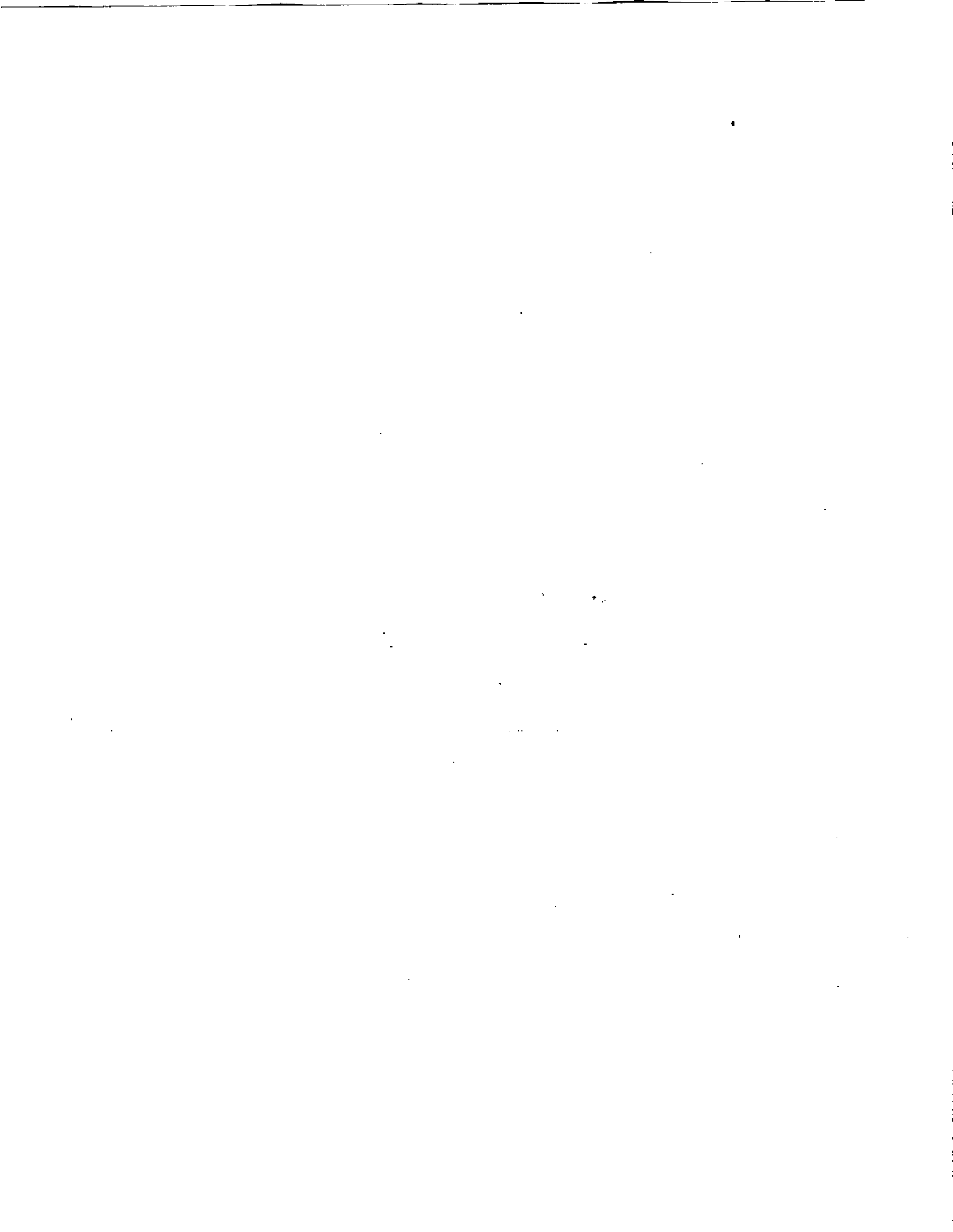
Respondent testified that he was not unclothed for the massage. (T. 666, 667). Respondent testified that during the massage he did not put his hands on Patient G's neck or her head, or put his lips next to her head, or put his tongue in her ear. (T. 666).



Respondent testified that he recalled that following this massage, Patient G called him on the telephone and told him that she was angry with him for the way that respondent behaved during the massage. (T. 669, 670). Respondent testified that he did not tell Patient G that he needed to work on his boundaries. (T. 669). Respondent testified that Patient G told him that she felt like he was inappropriate with her. (T. 670). Respondent testified that it was a mistake having Patient G sit next to him on the table to talk. (T. 673).

Respondent testified that Patient H was referred to him by Dr. Art Milholland at the University of Maryland Pain Center for pain and problems with Patient H's right arm. (T. 591-592). Respondent testified that on Patient H's third visit with Respondent, he performed a C.V.G.V. block on Patient H. (T. 594). Respondent testified that the points that he needed for the C.V.G.V. block on Patient H were the perineum, the middle of the chin, near the tailbone and above the two front teeth on the gum. (T. 595). Respondent testified that the procedure was chaperoned. (T. 596).

Respondent testified that he did not recall Patient H calling Respondent and then coming to his office due to an emergency. (T. 601, 604). Respondent testified that he recalled telling Patient H, after treating her on one occasion, that if she had additional questions about the Quadrinity Process, she could stop in at Kenny Rogers restaurant, where he was going to have his dinner. (T.602). Respondent testified that he walked alone to Kenny Rogers restaurant. (T. 603). Respondent testified that Patient H arrived at the restaurant and sat and spoke with Respondent about the Quadrinity Process. (T. 604).



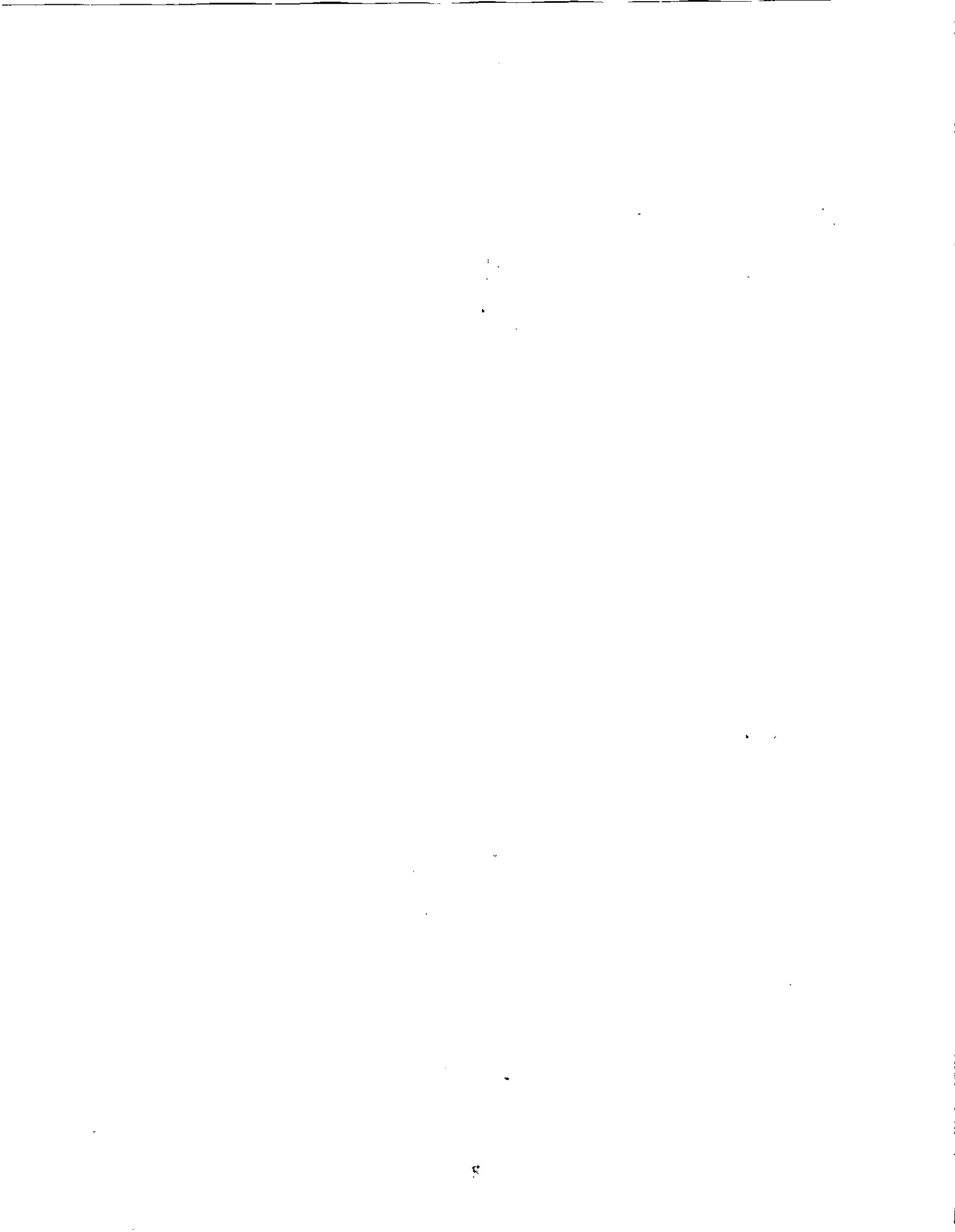
Respondent testified that he attended the Quadrinity Process in Virginia, as a graduate of the Process, while Patient H was there. (T. 607). Respondent testified that he went up to Patient H, put his arm around her, said congratulations, and gave her "a peck on the cheek, like a French peck." (T. 607). Respondent testified that this was the extent of his physical contact with Patient H. (T. 607-608). Respondent testified that he told Patient H that she looked radiant from the process. (T. 608).

Respondent testified that he was talking to other participants in the Process when he and the others moved into a bedroom to continue their conversation. (T. 610). Respondent testified that he did not know that the room was also that of Patient H at the time. (T. 610-611). Respondent testified that he had "a little catnap" for fifteen minutes in the room and that he left somewhere between 1:30 a.m. and 2:00 a.m. (T. 612).

FINDINGS OF FACT

Based upon the testimony and documentary evidence presented at the evidentiary hearing, the Board finds the following facts are true:

1. Respondent was at all relevant times licensed to practice acupuncture in the State of Maryland. (Respondent's Ex. 1).
2. Respondent taught Business and Ethics at Traditional Acupuncture Institute from 1991 through 1994. (Respondent's Ex. 1).
3. Respondent was a member of the Maryland Acupuncture Society from 1991 through 1998 and a member of the Maryland Acupuncture Society Ethics Committee from 1991 until 1992. (Respondent's Ex. 1).
4. At all relevant times, Respondent maintained an office for the practice of acupuncture in Baltimore County. (Respondent's Ex. 1).



Patient A

5. Patient A, a forty-seven or forty-eight year old female at the time, contacted Respondent for acupuncture treatment in June or July of 1999 after hearing an advertisement for Respondent's practice on the radio. (Test. Patient A and State's Ex. 8).

6. Patient A sought acupuncture treatment for problems she was suffering as a result of carpal tunnel syndrome and bulging discs in her neck (Test. Patient A).

7. Patient A trusted Respondent. (Test. Patient A and State's Ex. 8).

8. Patient A participated in an Acupuncture Discount Program whereby Patient A paid a \$572.00 retainer and received a 20% discount on all acupuncture treatments thereafter. (State's Ex. 7).

9. Patient A received facials along with the acupuncture treatments. (Test. Patient A).

10. Patient A removed all of her clothing, except her underpants for acupuncture treatment. (Test. Patient A).

11. At one particular acupuncture treatment session, while Patient A was laying on her back, under a sheet, Respondent got on top of her and pushed Patient A's knees to her chest. (T. 325). Respondent laid on top of Patient A with his chest on top of her legs, and pushed toward her. (Test. Patient A and State's Ex. 8).

12. Patient A felt that Respondent was trying to get her legs apart to expose her private parts, or trying to get his private parts to touch Patient A. (Test. Patient A and State's Ex. 8).



13. On another occasion, in negotiating a price for Patient A's treatment, Respondent offered take it out in trade. (Test. Patient A and State's Ex. 8).

14. After discontinuing her treatment with Respondent, Patient A contacted an attorney and the Maryland Acupuncture Board with regard to Respondent's behavior toward her, which she felt was inappropriate and unprofessional. (Test. Patient A and State's Ex. 8).

15. In order to settle the matter, Respondent's attorney, on behalf of Respondent, wrote a letter to Patient A's attorney offering a full refund of Patient A's payments in exchange for a Full and Final Release of any and all claims, a confidentiality agreement, and an agreement by Patient A not to make complaints to the Maryland Acupuncture Board, or to withdraw any complaint previously filed (Test. Patient A and State's Ex. 8).

Patient C

16. Patient C, a forty-two or forty-three year old female at the time, met Respondent at a church in Arbutus, Maryland where the practice of Reiki⁸ was being provided to people. (Test. Patient C and Resp.). This was in approximately June of 1997. (Test. Patient C and Resp.).

17. Patient C and Respondent began seeing each other socially and had an intimate, dating relationship. (Test. Patient C and Resp.).

18. Respondent and Patient C engaged in sexual intercourse on more than one occasion. (Test. Patient C and Resp.).

19. Patient C trusted Respondent. (Test. Patient C).

⁸ Reiki is believed by those who practice it to be hands-on healing based on the theory that it increases energy, reduces pain, produces deep relaxation and a general feeling of well-being.



29. Prior to meeting Respondent, Patient D had a past medical history of depression and suicidal feelings. (Test. Patient D and Resp.).

30. There are no acupuncture treatment records for Patient D. (Test. Resp.).

Patient E

31 Patient E, a twenty-four year old female pharmacy student at the time, met Respondent in the summer of 1997. (Test. Patient E and Resp.).

32. Patient E suffered from migraine headaches and was interested in the prospect of acupuncture relieving them. (Test Patient E and Resp.).

33. Patient E got completely undressed for her first acupuncture treatment, which was in Respondent's office. (Test. Patient E and Resp.).

34. Respondent proposed a trade of services should Patient E choose to continue acupuncture treatment with him. (Test. Patient E and Resp.). Respondent suggested Patient E could clean Respondent's house or buy his groceries instead of paying a fee for the acupuncture. (Test. Patient E).

35. Subsequently, Respondent called Patient E at home and suggested they go for a walk in the woods. (Test. Patient E and Resp.).

36. Respondent drove to Patient E's residence in Halethorpe, Maryland, picked her up, and drove to Oregon Ridge Park in northern Baltimore County. (Test. Patient E and Resp.).

37. At Oregon Ridge Park, Respondent and Patient E walked the trails and hugged trees. (Test. Patient E and Resp.).

38. After leaving Oregon Ridge Park, Respondent drove Patient E to his house. (Test. Patient E and Resp.).



39. At Respondent's house, Respondent and Patient E talked for awhile, and then Respondent took Patient E to his bedroom for acupuncture treatment. (Test. Patient E and Resp.).

40. Patient E got fully unclothed for this acupuncture treatment. (Test. Patient E and Resp.).

41. Following the acupuncture treatment, Respondent laid on top of the sheet, on the bed, next to Patient E. (Test. Patient E).

42. Respondent did not create a treatment record of his treatment of Patient E. (Test. Resp.).

Patient F

43. Patient F, then a twenty-four year old acupuncture student at the Traditional Acupuncture Institute ("TAI"), was acquainted initially with Respondent because Patient F and Respondent's wife were classmates at TAI. (Test. Patient F and Resp.).

44. Patient F and a fellow classmate of TAI observed Respondent in his practice on one occasion, as part of the TAI curriculum. (Test. Patient F and Resp.).

45. While observing Respondent in his practice, Patient F had a headache, and Respondent offered to give her an acupuncture treatment. (Test. Patient F and Resp.).

46. Patient F removed her shirt and her bra for the acupuncture treatment. (Test. Patient F and Resp.).

47. Patient F was completely exposed from the waist up for the acupuncture treatment. (Test. Patient F and Resp.).

48. Respondent did not make a treatment record of his treatment of Patient F. (Test. Resp.).



Patient G

49. Patient G, then a twenty-seven year old female massage therapist, began working for Respondent in December 1993. (Test. Patient G and Resp.).

50. Patient G and Respondent agreed to trade acupuncture and massage services. (Test. Patient G and Resp.).

51. In the course of Patient G giving Respondent a massage, while Patient G was sitting at the head of the table and massaging Respondent's neck, Respondent reached up and touched Patient G's neck and face with his hands. (Test. Patient G).

52. Respondent asked Patient G to lay down next to him on the table, which Patient G did. (Test. Patient G).

53. Feeling uncomfortable, Patient G sat up on the edge of the bed. (Test. Patient G).

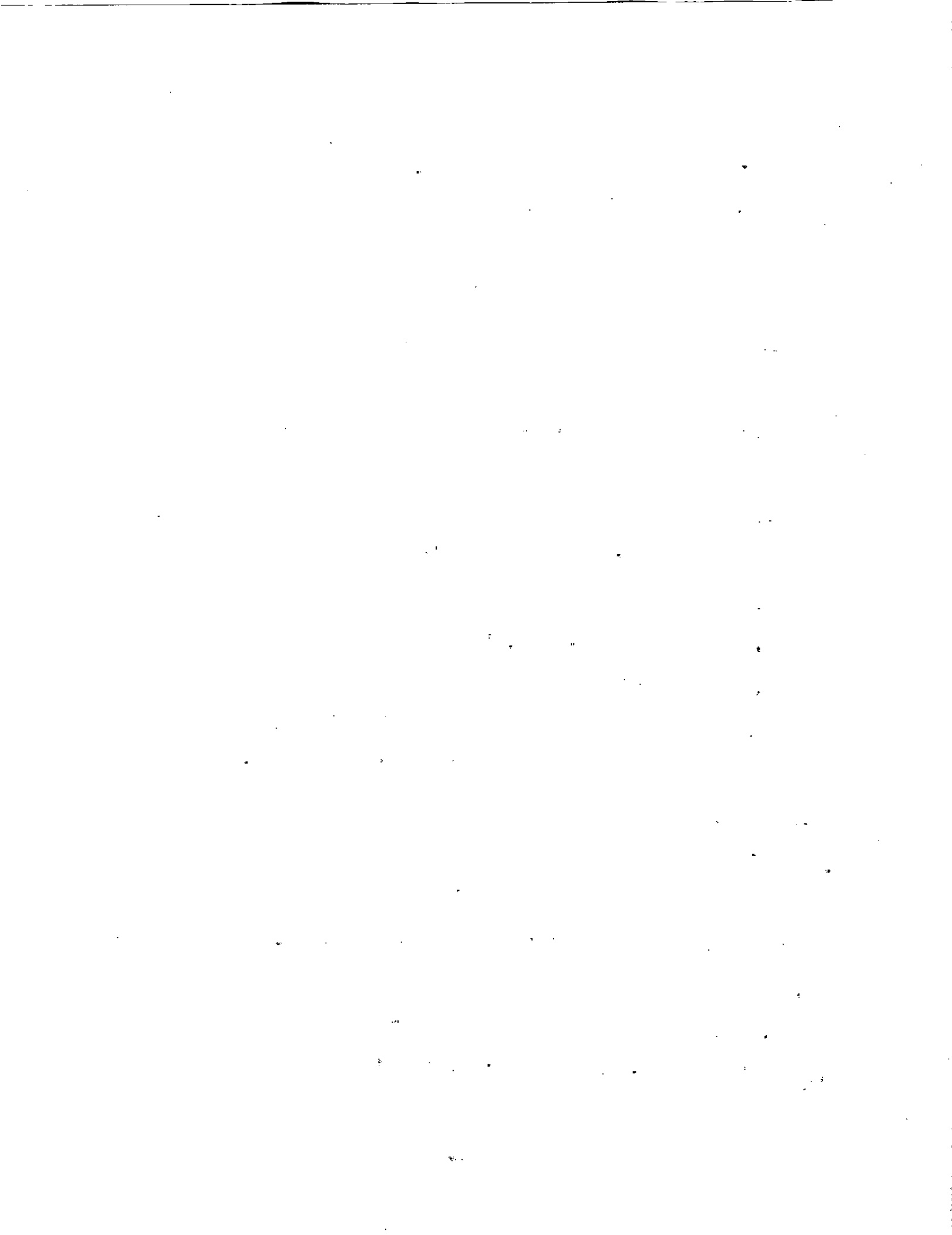
54. Respondent sat up next to Patient G and put his lips and tongue on Patient G's ear. (Test. Patient G).

55. Subsequently, Patient G called Respondent on the telephone and expressed that she was angry and upset about Respondent's behavior during the massage. (Test. Patient G and Resp.).

Patient H

56. Patient H, a thirty-three year old female Registered Nurse at the time, sought acupuncture treatment from Respondent in 1995 for a right arm injury. (Test. Patient H and Resp.).

57. Patient H also was experiencing emotional and personal problems at the time due to issues with her job, her son and her then fiancé. (Test. Patient H).



58. On one occasion, Patient H and Respondent met at Kenny Rogers restaurant, located near Respondent's office. Discussion involved either Patient G's emotional issues or the Quadrinity Process, a week-long retreat in Virginia. (Test. Patient H and Resp.).

59. At one acupuncture treatment session, Respondent performed a C.V.G.V.⁹ block on Patient H. (Test. Resp.).

60. The points utilized for the C.V.G.V. block on Patient H were the perineum, the middle of the chin, near the tailbone and above the two front teeth on the gum. (Test. Resp.).

61. While Respondent performed acupuncture in Patient H's perineal area, a female staff person also was present in the room. (Test. Patient H and Resp.).

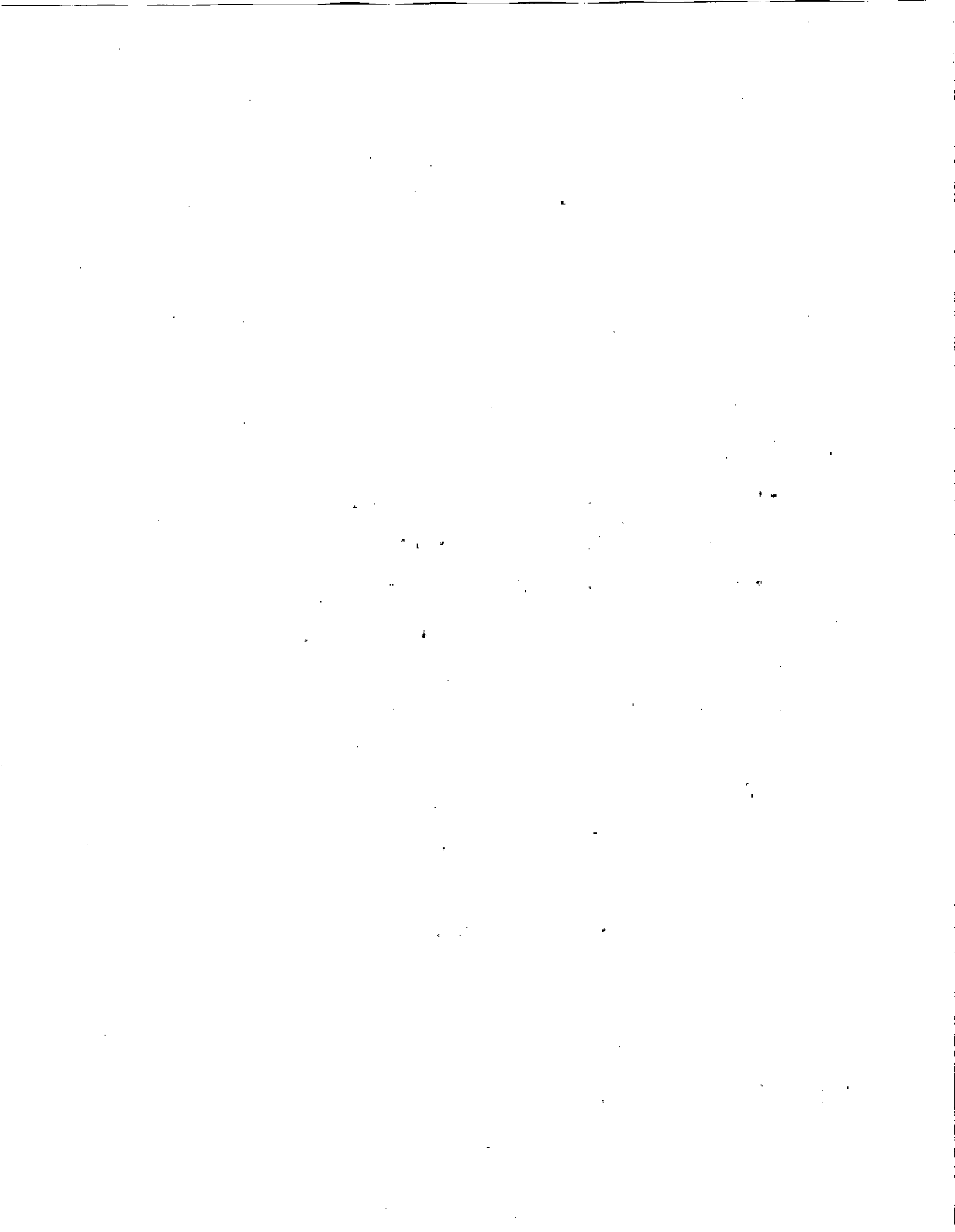
62. In March of 1995, Patient H attended the Quadrinity process retreat in Virginia at Respondent's recommendation. (Test. Patient H and Resp.).

63. As a prior graduate of the Quadrinity Process, Respondent attended the commencement dinner at which Patient H also was present. (Test. Patient H and Resp.).

64. At one point, Patient H and Respondent were talking, and Respondent put his arm around Patient H and kissed Patient H. (Test. Patient H and Resp.).

65. Later that same evening, Patient H entered her sleeping quarters and found Respondent sitting on one of the beds talking with her roommates. (Test. Patient H and Resp.).

⁹ Conception Vessel Governor Vessel



66. When Patient went to sleep in her bed that night, Respondent was in her room. When Patient H awoke the next morning, Respondent was gone. (Test. Patient H and Resp.).

**OPINION AND FURTHER SPECIFIC FINDINGS AS TO
CREDIBILITY AND ON THE ISSUE OF PROFESSIONALISM**

The Code of Ethics in the Maryland Acupuncture Act was not promulgated until 1999. To determine what type of behavior would be considered "unprofessional" prior to 1999, the Board used its own expertise and knowledge with regard to the acupuncture community at that time. The Board looked to the Maryland Acupuncture Society's Ethics Compendium, as well. Respondent admitted that he not only used the Ethics Compendium as a guide in his practice but also as a teaching tool in his instruction of Business and Ethics to acupuncture students at the Traditional Acupuncture Institute. Additionally, as a member of the Maryland Acupuncture Society ("M.A.S.") from 1991 until 1998, and the M.A.S. Ethics Committee from 1991 until 1992, Respondent was familiar with the Code of Ethics established by the M.A.S.

In Respondent's case before the Board, the following provisions of the M.A.S. Code of Ethics, Commitment to Patient, are relevant and applicable:

1. The acupuncturist acts, speaks and performs services with the welfare and best interests of the patient in mind.
2. The acupuncturist refrains from knowingly acting, speaking, or performing services which may result in mental, emotional, or physical harm to the patient, or which may in any way harm the legal or civil status of the patient.



Patient A

Patient A trusted Respondent in the way that all patients or clients should trust their healthcare providers. Patient A trusted that Respondent had her health, welfare and best interests in mind when he treated her.

Patient A was wearing only her underpants and was covered by a sheet, when Respondent climbed on top of her and pressed his body on top of hers. Patient A was in a vulnerable situation in her state of undress, and became even more so when Respondent had her lie on her back with her knees to her chest, and then he climbed on top of her and pushed his body onto her legs. This caused Patient A to feel uncomfortable.

Patient A's description of the incident is credible and consistent with her description of it to her attorney on August 4, 1999. On the other hand, Respondent's explanation of performing a stretching treatment on Patient A is not credible. If Respondent had been standing innocently next to Patient A on a stool to stretch her, as he testified, it is not likely that he would have offered her a refund for the unused portion of her discount program package in exchange for a Confidentiality Agreement and an agreement by Patient A not to file a complaint with the Acupuncture Board for his conduct. Moreover, such a procedure does not fall within the practice of acupuncture. Respondent clearly violated Patient A's boundaries and behaved unprofessionally in this instance. Respondent's conduct further resulted in physical and emotional harm to Patient A.

Respondent's suggestion that he take his treatment of Patient A out in trade was a common occurrence with Respondent. While it may not rise to the level of unprofessional conduct in and of itself, the frequency with which Respondent



encouraged a trade of services with his patients is concerning. In Patient A's case where her profession was as a wholesale distributor of eyeglass frames, an actual trade of services did not take place.

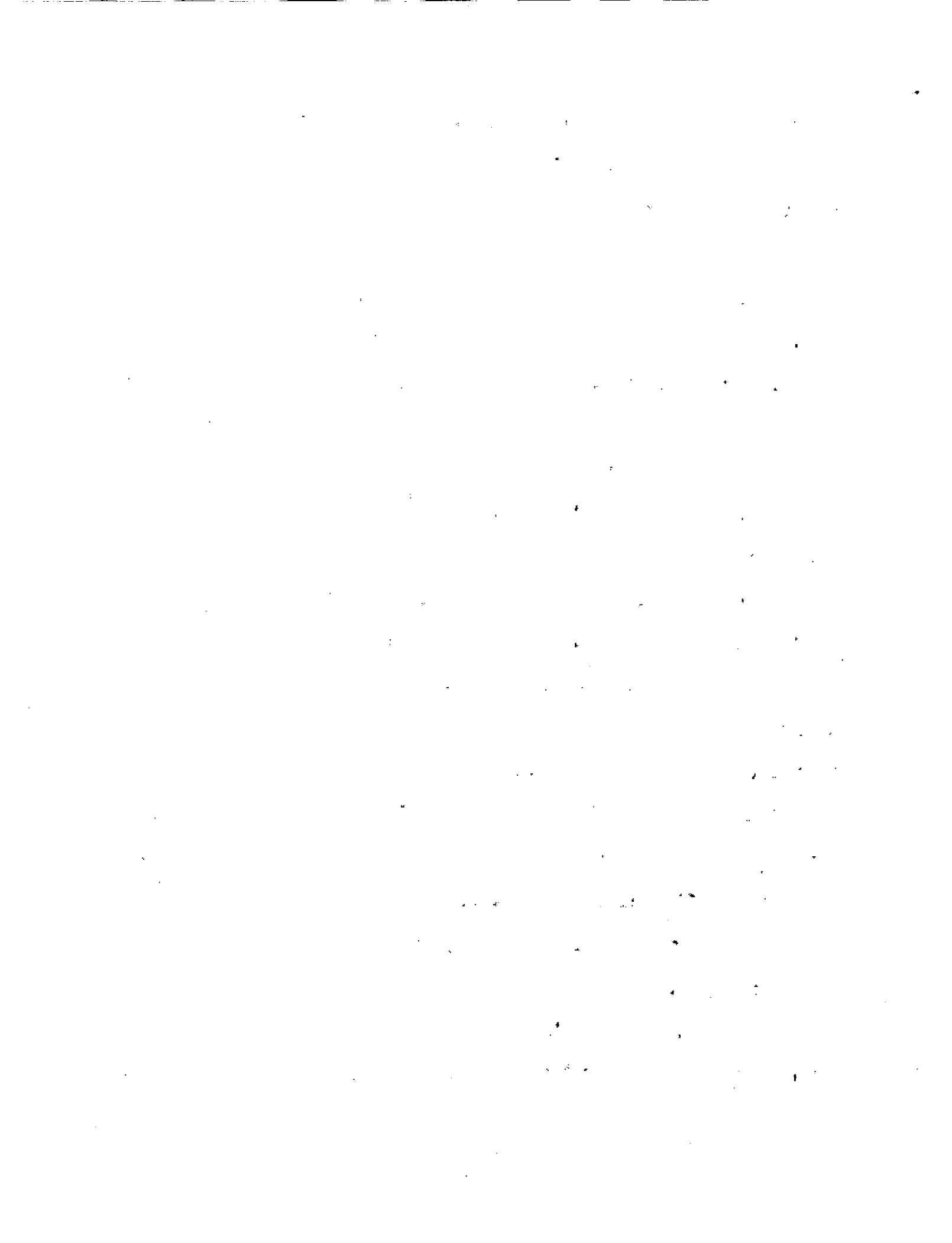
Patient C

It is undisputed that Respondent maintained a romantic and sexual relationship with Patient C while she was his patient. A romantic and sexual relationship between an acupuncturist and a patient may jeopardize that patient's care. An acupuncturist's romantic involvement with a patient may result in the acupuncturist's needs or gratification interfering with the efforts to address the needs of the patient. A patient seeking acupuncture treatment must be able to completely trust the acupuncturist's dedication solely to the patient's welfare.

It is undisputed that Respondent maintained a romantic and sexual relationship with Patient C concurrent with his treating Patient C. Respondent did so while aware that such a relationship was prohibited by the acupuncture community. There is no question that Respondent knowingly violated Patient C's boundaries and that his behavior was unprofessional and unethical.

Additionally, maintaining records of a patient's evaluation, plan, treatment and progress is vital for an acupuncturist. Furthermore, pursuant to Md. Health General Code Ann. § 4-403 (b), unless a patient is notified, a healthcare provider may not destroy a medical record or laboratory or x-ray report about a patient for 5 years after the record or report is made.

Respondent testified that he had maintained treatment records for Patient C, but that he could no longer locate them. He believed that they were misplaced or destroyed.



Patient D

Patient D, also an acupuncturist, was a colleague of Respondent as well as his patient. With her role reversed as a patient, Patient D trusted Respondent, and she removed all of her clothing as Respondent requested. While there was no evidence that Respondent behaved inappropriately with Patient D when he treated her, there also was no evidence that his treatment of her required her to be completely unclothed. From a clinical standpoint, his requirement to have Patient D completely unclothed was unnecessary and brought about Patient D feeling exposed, uncomfortable and vulnerable. This abuse of Patient D's trust caused her emotional harm and is unprofessional conduct.

Patient D's description of her performing an acupuncture treatment on Respondent was very exact and clear, and the Board finds her to be more credible than Respondent. Furthermore, other than Respondent's testimony, there is no evidence that Patient D's mental health was in a state of emergency at the time of Respondent's treatment of Patient D.

This, again, is a case wherein Respondent does not maintain patient records to document his treatment of his patient. The Board does not accept Respondent's explanation that Patient D may have taken her treatment records with her when she vacated his office suite. Respondent simply has failed his legal responsibility to maintain patient records.

Patient E

Patient E was very clear and exact in her testimony that she became completely undressed for both of her acupuncture treatments with Respondent because Respondent told her to get undressed. Patient E testified that she felt as if Respondent



"was the doctor," and therefore she trusted Respondent. Patient E was very credible and was without motive to be untruthful. Despite her embarrassment at her own naiveté, she was very forthcoming in her testimony.

Respondent calling Patient E on the telephone, picking her up at her home, and driving her to Oregon Ridge Park to go walking in the woods was not appropriate behavior for Respondent as Patient E's acupuncturist. Respondent was crossing the line from professional relationship to personal relationship, which then can jeopardize the patient's treatment and progress. Moreover, Respondent's treatment of Patient E in his bedroom, when there was no emergency, also was inappropriate. Respondent clearly then violated Patient's E's boundaries when he lay on the bed next to her after he treated her. This conduct was unprofessional and unethical and caused Patient E emotional harm.

Respondent admitted he did not record his treatment of Patient E and admitted that he should have done so. Again, the creating and maintaining of treatment records is vital in the acupuncture profession, and Respondent has failed his legal and professional responsibility to do so.

Respondent also suggested a trade of services to Patient E, if he were to continue to treat her. Respondent's offer to have Patient E clean his house or shop for groceries for him in exchange for acupuncture treatment is highly inappropriate. A trade of services did not take place between Patient E and Respondent.

Patient F

Patient F was ill with a headache, and Respondent treated her in the hope of relieving her pain. Therefore, Patient F was Respondent's patient, even if just for that



one occasion. Respondent should have created and maintained a record of Patient F's treatment, but he did not.

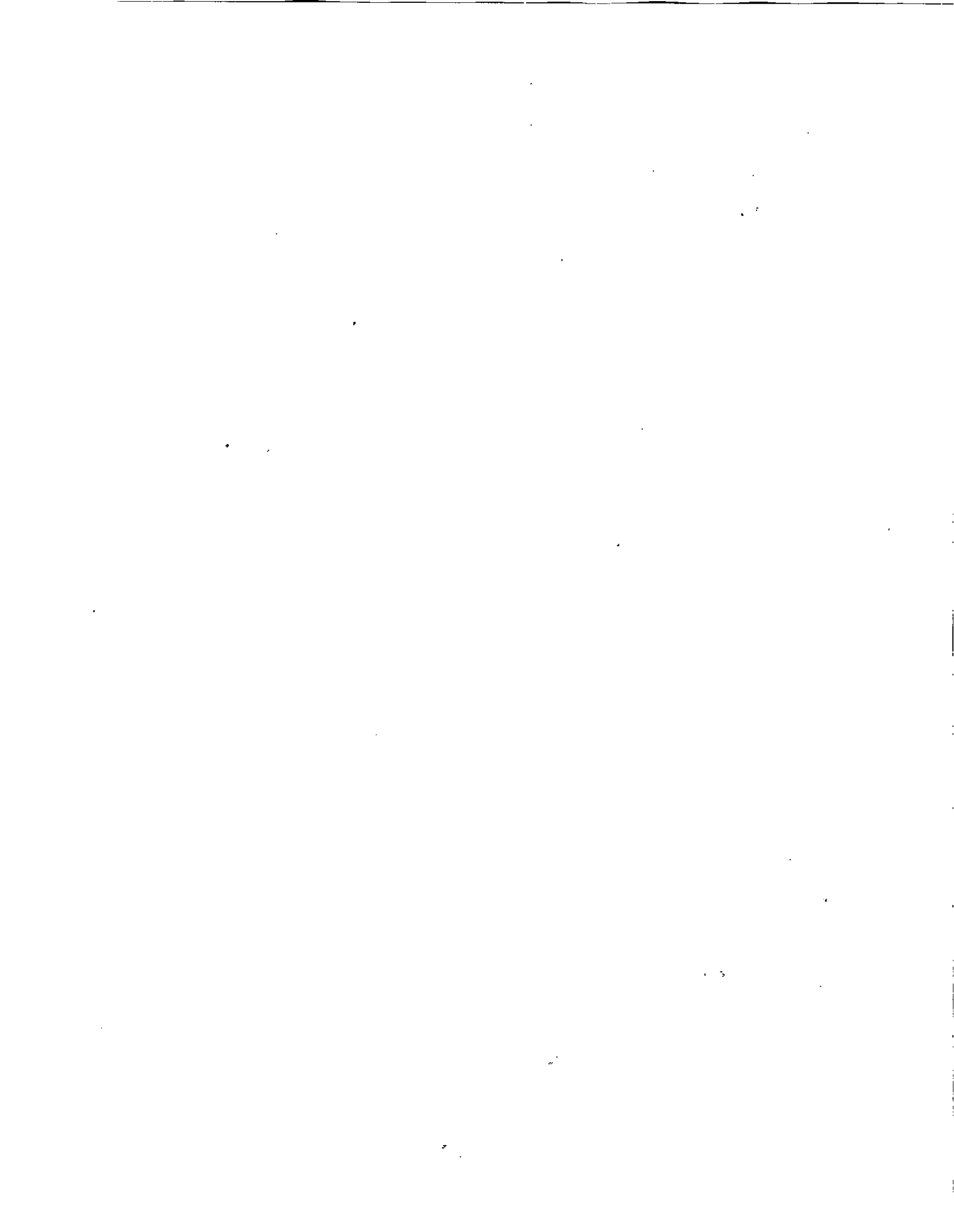
Patient F was very clear and exact in her memory that Respondent asked her to remove her shirt and her bra for the acupuncture treatment. Patient F was credible and without motive to be untruthful. Respondent, on the other hand, appeared less credible. On direct examination, Respondent testified that he did not ask Patient F to remove her bra. On cross-examination, however, Respondent stated he could not remember if he asked Patient F to remove her bra or not. Furthermore, there was no evidence that there was any clinical indication for Patient F's breasts to be exposed for he treatment. As such, this was a violation of Patient F's boundaries and was unprofessional conduct on the part of Respondent.

Patient G

Patient G and Respondent had a triple relationship: Patient G was Respondent's patient, Respondent's employee and Respondent's massage therapist.

At Respondent's suggestion, Patient G and Respondent engaged in a trade of services. Respondent was to provide acupuncture to Patient G in exchange for Patient G providing massages to Respondent. On the only occasion that Patient G massaged Respondent, Respondent touched Patient G's neck and face with his hands. Respondent then asked Patient G to lie down next to him, which she did.

The multiple relationship situation is concerning because it confuses the boundaries for the parties involved. Regardless, Respondent's behavior while receiving the massage was highly inappropriate. This occurred in Respondent's office, while Patient G is still trusting Respondent as her acupuncturist. Respondent took advantage



of that trust to violate Patient G's boundaries. Respondent's behavior was unprofessional and unethical.

Patient H

Patient H was experiencing emotional and personal problems at the time she sought treatment from Respondent. There was no evidence presented that Respondent's treatment of Patient H with a C.V.G.V. block was not clinically indicated or performed inappropriately. On the contrary, the Board found Respondent's explanation of the necessity of the procedure to help Patient H through her emotional issues to be credible.

Respondent's conduct with Patient H at the Quandrinity Process was inappropriate and violated her boundaries as his patient. Respondent's physical contact with Patient H, putting his arm around her and kissing her, may have been with innocent intention, but were boundary violations nonetheless. Additionally, Respondent being in Patient H's bedroom when she went to sleep also is a boundary violation against Patient H.

Respondent admitted that he knew that he was not allowed to be in the bedroom or stay overnight at the Quandrinity Process because it was against the rules of the Quandrinity Process. Moreover, Respondent crossed the line that separated him from Patient H as her acupuncturist and as a figure of authority over Patient H. The culmination of Respondent's behavior with Patient H was unprofessional conduct.

SUMMATION

As acupuncture is a relatively new profession in the United States, it is the responsibility of all acupuncturists to behave in a manner that is ethical and professional so as to protect the integrity of the profession. A set of written regulations,



or a written code, is not necessary for an individual to know what behavior constitutes unprofessional conduct.

In each of the patients' cases presented, Respondent used his position of authority as the patients' acupuncturist to cross the line that exists between professional and patient. That line exists because the patient trusts that the acupuncturist has his or her best interests and welfare in mind at all times that they are interrelating. That line exists because the acupuncturist has a disproportionate amount of influence over the patient. That line existed prior to 1999 and prior to the Code of Ethics in the Maryland Acupuncture Act being promulgated, and Respondent crossed that line over and over again with Patients A, C, D, E, F, G and H.

Respondent expressed no remorse for the patients who testified that due to his actions they felt exposed, uncomfortable, upset and vulnerable. Respondent only regretted his "bad judgment" in the cases of Patient E and G. Respondent also attempted to use the indiscretions and inappropriate behavior of fellow practitioners to excuse his own unprofessional conduct.

Considering all of the evidence presented in each of the cases, the Board concludes that Respondent knowingly used his position of power over Patients A, C, D, E, F, G, and H to their physical, mental or emotional detriment, and that he did not have their health, welfare and best interests in mind as their acupuncturist.

CONCLUSIONS OF LAW

Based upon the foregoing Summary of Evidence, Findings of Fact and Opinion, the Board concludes as a matter of law that Respondent has violated H.O. § 1A-309 (3) which provides the following:

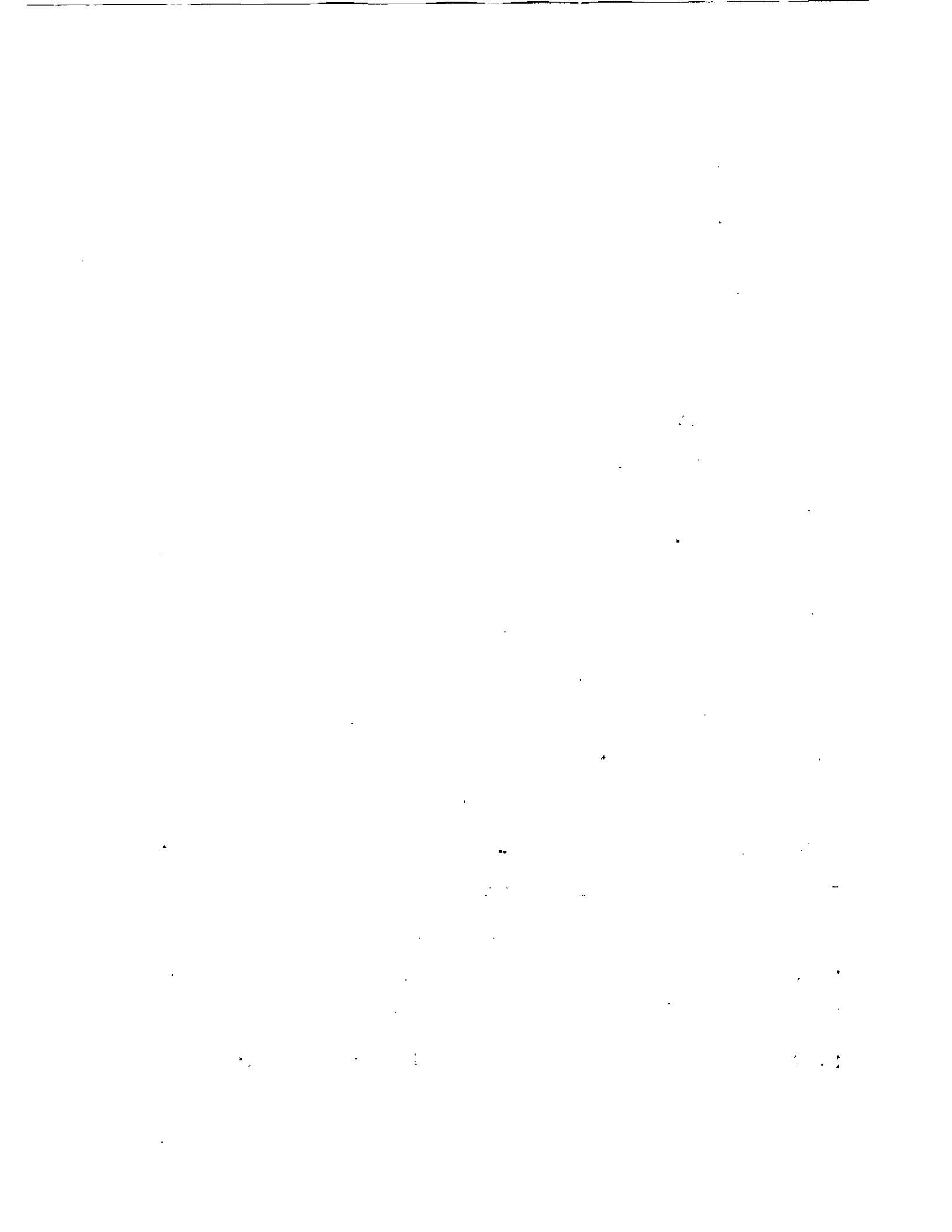


Subject to the hearing provisions of § 1A-310 of this subtitle the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture [;]

SANCTIONS

Given the Respondent's complete lack of understanding or remorse regarding the harm to his patients' mental and emotional health caused by his unprofessional conduct, the Board concludes that it is necessary to suspend him to protect the health and welfare of potential patients. However, the Board does believe that there is a possibility that the Respondent may once again safely practice acupuncture after a sustained period of education and treatment regarding boundary violations. Should the Respondent choose to undergo such a process, he may apply for termination of the suspension eighteen (18) months after the effective date of this Final Order, once he successfully completes this educational and treatment process. The Board will then consider the recommendations of a Board-approved independent psychotherapist evaluator regarding whether, and under what circumstances, the Respondent may again safely treat female patients. Based on these considerations, the Board will decide whether to terminate the suspension and place the Respondent's license on probation. The Board finds that absent successful completion of the educational and treatment process outlined in the Board's Order herein, the Respondent is likely to again engage in similar unprofessional conduct to the detriment of the mental and emotional health of potential patients, making it necessary to suspend his license to protect the public.



ORDER

Based upon the foregoing Findings of Fact, Opinion and Conclusions of Law, it is this ____ day of _____, 2002, by a majority of the full authorized membership of the Board, hereby

ORDERED, in lieu of license revocation, that the Maryland acupuncture license of respondent, Bruce T. Kramer, is SUSPENDED for a period of eighteen (18) months from the effective date of this Final Decision and Order; and it is further

ORDERED, that Respondent shall be suspended under the following terms:

EDUCATION

1. Within sixty (60) days of the date of this Final decision and Order, Respondent shall notify the Board in writing that he has enrolled in a Board-approved individual educational tutorial in professional ethics, specifically focused on boundary violations by healthcare providers;
2. Respondent shall ensure that the tutor submit to the Board an assessment at the completion of the educational tutorial, which includes a report of attendance, participation and completion of assignments, including a copy of any essay or other written assignment, if any, that Respondent is required to write;
3. Respondent shall successfully complete the individual tutorial in professional ethics;

THERAPY

4. Within ninety (90) day of this Final Decision and Order, Respondent shall be evaluated by a Board-approved psychotherapist who specializes in boundary violations by healthcare providers. The entire investigative file in this case, including the investigative interviews, investigative reports (excluding medical records), the charging



document and this Final Decision and Order, shall be made available to the evaluating psychotherapist prior to the evaluation.

5. If recommended by the evaluating psychotherapist, Respondent shall undergo treatment with a Board-approved psychotherapist who specializes in treating healthcare providers who have engaged in boundary violations with patients. The entire investigative file in this case, including the investigative interviews, investigative reports (excluding medical records), the charging document and this Final Decision and Order, shall be made available to the treating psychotherapist.

6. Respondent shall ensure that the treating psychotherapist submits quarterly reports to the Board of Respondent's progress in treatment.

7. Respondent shall authorize the treating psychotherapist to send reports to and to communicate with any health professional providing an educational tutorial and a psychiatric or psychological evaluation of Respondent.

8. Respondent shall remain in treatment as long as is recommended by the Board-approved treating psychotherapist; and it is further

ORDERED, that after eighteen (18) months from the effective date of this Final Decision and Order, Respondent may petition the Board for TERMINATION of his SUSPENSION if he successfully completes the Conditions of Suspension, numbers 1 through 8, delineated above, as well as meets the following conditions:

1. After completing Conditions of Suspension numbers 1 through 8, Respondent shall undergo an independent evaluation by a Board-approved psychotherapist who specializes in boundary violations by healthcare providers, to determine whether, and under what circumstances, it is appropriate for Respondent to



resume treating female patients and to make recommendations to the Board regarding further treatment, education, or additional conditions of probation, if necessary;

2. The evaluating psychotherapist shall review the assessments of the tutor and the reports from the treating psychotherapist, and the Respondent shall complete all necessary releases to allow the evaluating psychotherapist to consult with these professionals, in the course of evaluating Respondent; and it is further

ORDERED, that termination of suspension of Respondent's license is at the Board's discretion; and it is further

ORDERED, that upon termination of suspension of Respondent's license, Respondent's license shall be REINSTATED and placed on PROBATION for three (3) years, with the following conditions:

1. Respondent shall not treat female patients unless recommended by Respondent's treating psychotherapist and by the evaluating psychotherapist, and approved by the Board;

2. If Respondent is approved to treat female patients, Respondent may only treat female patients under the conditions recommended by the treating psychotherapist and the evaluating psychotherapist, and as approved by the Board;

3. Within thirty (30) days of the reinstatement of Respondent's license, respondent shall begin participation in evaluative supervision of the treatment of his patients with a Board-approved licensed acupuncture supervisor, who is not connected with Respondent through any current or past collegial, professional or academic affiliation, or personal relationship, who will monitor Respondent's practice, including review of Respondent's treatment plans, record keeping and acupuncture practice in general;



4. The supervisor shall be provided with the entire investigative file in this case, including the investigative interviews, investigative reports (excluding medical records), the charging document and this Final Decision and Order, as well as the reports from the tutor and all of the treating and evaluating psychotherapists;

5. Respondent sign all necessary releases to allow the supervisor to send reports to and communicate with any health professional providing an individual tutorial to and psychiatric/psychological evaluation and treatment of Respondent;

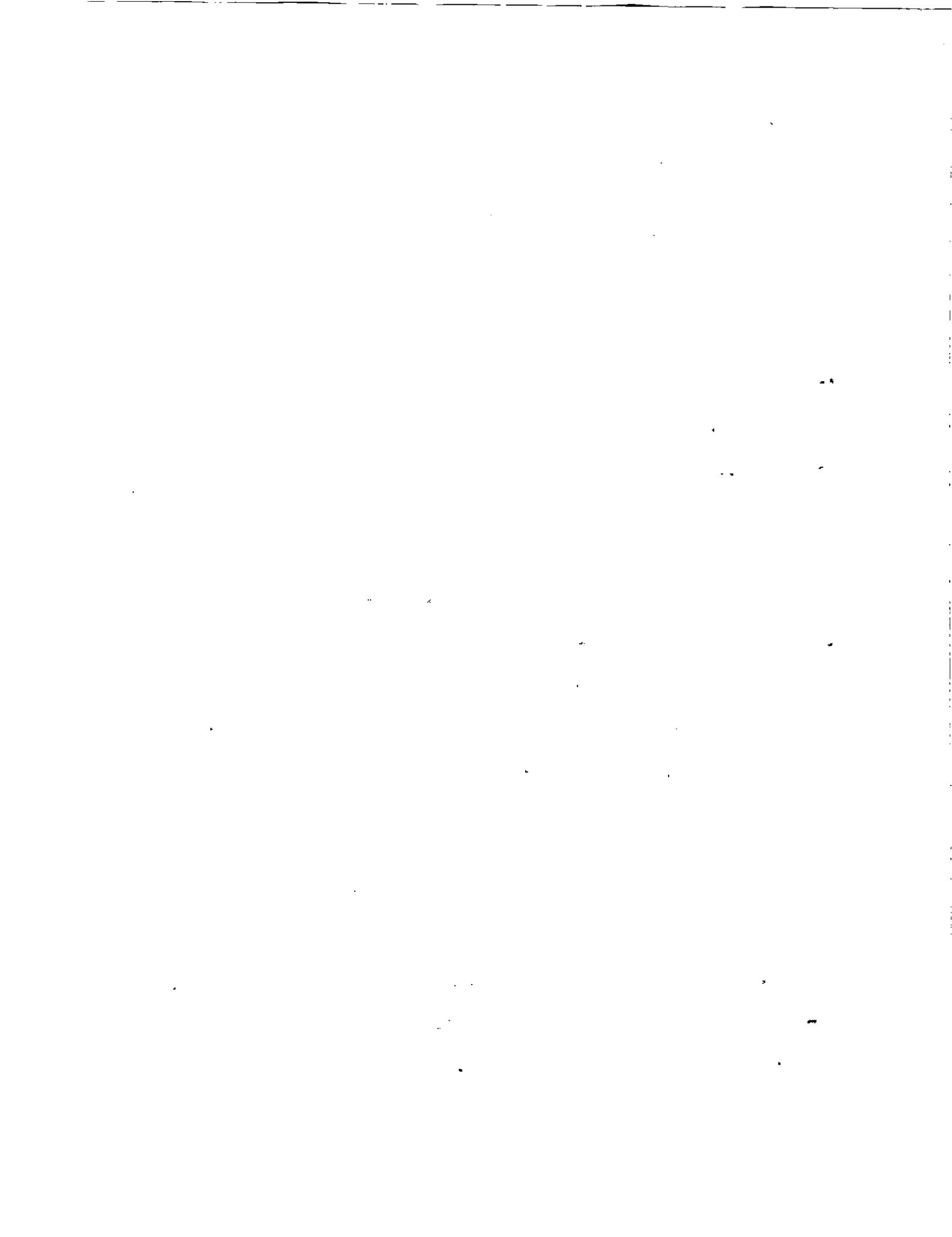
6. The Respondent shall ensure that the supervisor submits quarterly reports to the Board regarding Respondent's participation in the evaluative supervision, and the first quarterly report shall be due to the Board with ninety (90) days of the date of reinstatement of Respondent's license;

7. Respondent may petition the Board after one (1) year of the reinstatement of Respondent's license for termination of evaluative supervision;

8. Termination of evaluative supervision is at the Board's discretion;

9. Respondent shall continue to participate in individual psychotherapy with a Board-approved psychotherapist as recommended by the treating and evaluating psychotherapists and as required by the Board. The entire investigative file in this case including the investigative interviews, investigative reports (excluding medical records), the Charging document and this Final Decision and Order, shall be made available to the treating psychotherapist;

10. Respondent shall not establish a personal, business/professional, employer/employee, teaching, supervisory or mentoring relationship with any individual for whom Respondent is providing acupuncture;



11. Respondent shall be responsible for all costs associated with fulfilling the terms and conditions of probations under this Final Decision and Order;

12. There shall be no early termination of probation;

13. Respondent shall obey all laws governing the practice of acupuncture in Maryland; and it is further

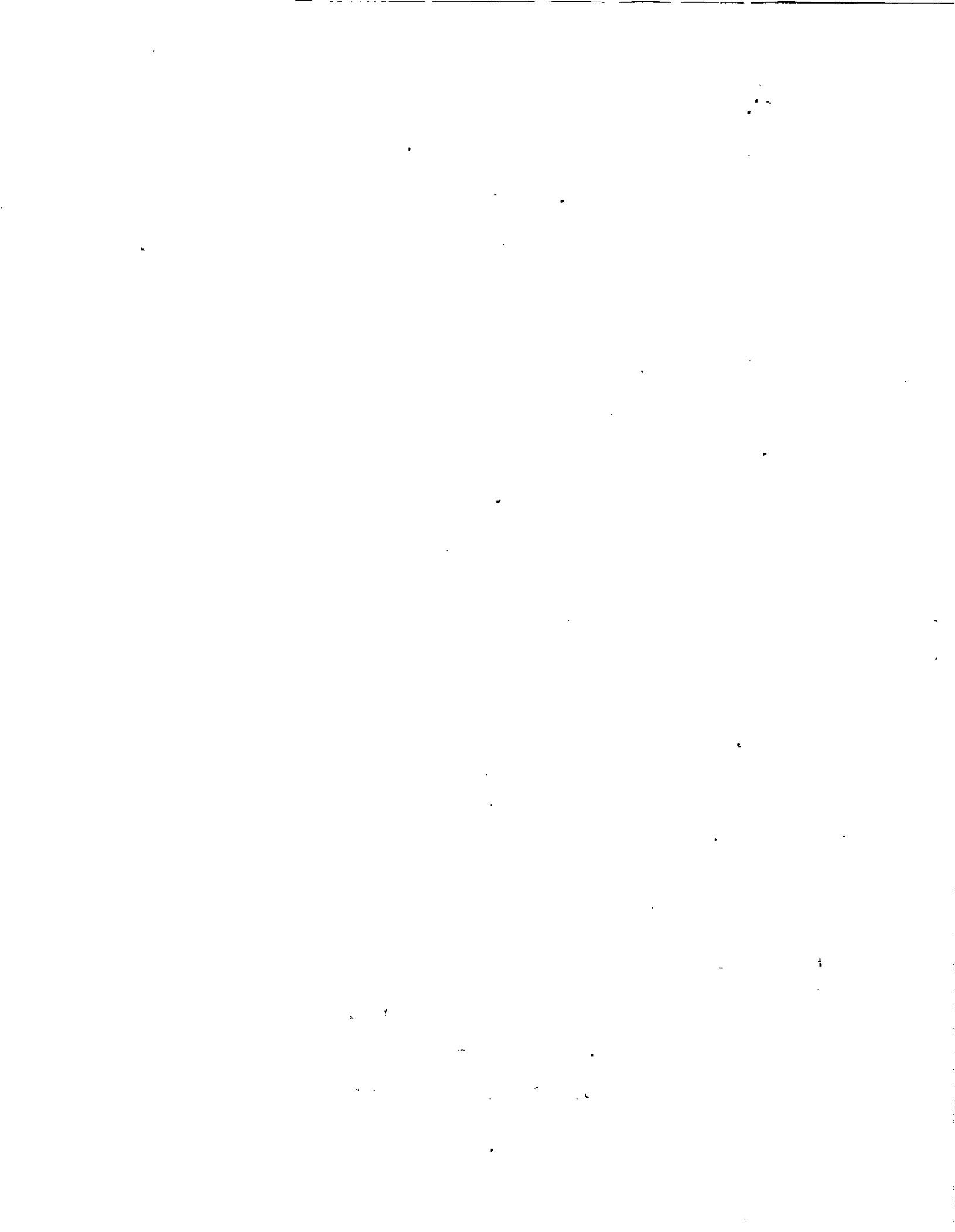
ORDERED, that three (3) years from the date that Respondent's suspension is lifted and his license is reinstated and on probation, Respondent may petition the Board for termination of probation and for full reinstatement of his license, provided that Respondent has satisfactorily complied with all conditions of probation, there are no outstanding complaints or other disciplinary action pending against Respondent, and the Board-approved treating and evaluation psychotherapists agree that Respondent may resume the unrestricted practice of acupuncture; and it is further

ORDERED, that if Respondent violates any of the terms of this Final Decision and Order or fails to comply with the terms of probation, the Board may, after providing Respondent with appropriate notice and process, impose any disciplinary sanction it deems appropriate; and it is further

ORDERED, that Respondent is responsible for all costs associated with the hearing of the matter and with carrying out provisions of this Final Decision and Order; and it is further

ORDERED, that any violation of any of the terms of this Final Decision and Order by Respondent shall constitute unprofessional conduct; and it is further

ORDERED, that if the Board has probable cause to believe that Respondent presents a danger to the public health, safety or welfare, the Board, WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR A HEARING, MAY SUMMARILY SUSPEND




THE RESPONDENT'S LICENSE, provided that Respondent is given notice of the Board's action and an opportunity for a hearing within thirty (30) days after requesting same, in accordance with Md. State Code Ann. § 10-226 (c) (2000 Supp.); and it is further

ORDERED, that this is a Final Order of the Maryland Acupuncture Board and, as such, is a PUBLIC DOCUMENT and is reportable to any entity to which the Board is obligated by law to report, and is disclosable under the Maryland Public Information Act, Md. State Gov't Code Ann. §§ 10-611 et seq.

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 1A-311 (b), you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days (30) from your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann. §§ 10-201 et seq., and Title 7, Chapter 200 of the Maryland Rules.

MAY 14, 2002
Date

 *Chari*
Robert B. Brown, L.Ac.
Board Chairman

