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1	BEFORE THE	VIIIWIIW	
2	BOARD OF MEDICAL EXAMINERS		
3	STATE OF OREGON		
4	In the Matter of) FINDINGS OF	FFACT	
5	JAMES F. NEWHALL, MD LICENSE NO. MD14113) CONCLUSION ORDER	F FACT, NS OF LAW AND	
7	This matter was heard on July 1, 1999, July 20, 1999, and A	august 16, 1999, before	
8	Richard J. Brownstein, a contract hearings officer assigned by the Board of Medical		
9	Examiners ("BME" or "Board"), in the BME offices in Portland, Oregon. The Board was		
10	represented by Warren Foote, Assistant Attorney General. James F. Newhall, MD, personally		
11	appeared and was represented by his attorney, Robert M. Keating. The proceedings were		
12	recorded by a court reporter.		
13	Based upon the evidence, the hearings officer proposes the following:		
14	WITNESSES		
15	FOR THE BOARD: James F. Newhall, MD; Magnus Lakovics	, MD; James S. Hicks, MD	
16	FOR THE LICENSEE: Ruth Parvin, PhD; Patient C; Gerald Fleish	nli, MD; and James F.	
17	Newhall, MD		
18	ISSUES		
19	Whether James F. Newhall, MD, is subject to discipline pur	suant to ORS 677.205 for	
20	violations of the Medical Practices Act, to wit, ORS 677.190(1) unprofessionl or dishonorable		
21	conduct, as defined in ORS 677.188(4)(a) and (c), and ORS 677.190(25), prescribing		
22	controlled substances without following proper procedures; and if so, the appropriate		
23	discipline.		
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ORIGINAL

FINDINGS OF FACT

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2	1. Dr. Newhall's History:
3	1.1 Dr. Newhall served for nearly three years as a medical corpsman in the
4	U.S. Army, including combat in Vietnam.
5	1.2 Motivated by his military service, he attended and graduated from medical
6	school at the University of California, Davis, in 1980. He had residency specialty training in
7	family practice at the University of Washington which he completed in 1983. He worked for
8	one year in emergency room service in the state of Washington.
9	1.3 He was admitted to practice in Oregon in 1984 and served for five years as
10	director of the emergency care service of the Kaiser organization.
11	1.4 He was employed as the student health physician (but not as the director) at
12	the Reed College Student Health Center from 1990 to 1995 and, as such, served as the
13	primary physician.
14	1.5 There were psychological consults in the same building but not in the same
15	office as Dr. Newhall.
16	1.6 He has no disciplinary record with the BME.
17	2. Patient A:
18	2.1 Patient A was psychotic. He had a bipolar disorder, schizophrenia, or both.
19	After enrolling at Reed in the fall of 1992, he was hospitalized at Portland Adventist Medical
20	Center on November 21, 1992, and dropped out of Reed for the remainder of that school year.
21	2.2 Patient A was readmitted for the 1993-94 school year based on a letter from
22	Robert L. James, MD, Ph.D., his Los Angeles psychiatrist. As a condition to his readmission,
23	Patient A subscribed to a letter from the Dean of Student Services as follows:
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1 You must remain compliant with your psychiatrist's recommendations for medication, continuing to take your lithium regularly and have a blood level 2 done the first week of each month, starting in October. In addition, if at any time your behavior raises concerns that you may need additional medication, a blood 3 level may be ordered on the spot. Refusal may be grounds for dismissal from the college. Your lithium blood level must remain in a therapeutic range. 4 5 2.3 On August 19, 1993, Dr. James wrote to Dr. Ruth Parvin, Director of 6 Counseling at Reed College, that he had been treating Patient A from the time of his return to 7 Los Angeles in November 1992 through his readmission to Reed in the fall of 1993. He 8 described his treatment of Patient A and recommended the course of continued treatment. 9 Although Dr. Newhall did not read Dr. James' report, it was fully explained 10 to him by Dr. Parvin. Dr. Newhall followed the recommended regimen (prescription of 11 lithium and monthly examinations). 12 2.5 In addition, on three occasions, Dr. Newhall prescribed twenty-four 30.25 13 grained tablets of Xanax over a period of seven months to relieve Patient A's anxiety, and 14 Cafergot for migraine headaches. Dr. Newhall performed a routine physical examination on 15 Patient A before he prescribed Xanax. 16 **2.6** Patient A nearly completed the 1993-94 school year without psychiatric 17 problems and with no adverse reaction to the Xanax prescriptions. Near the end of the school 18 year, he stopped taking his lithium and decompensated, whereupon a local psychiatrist was 19 consulted. He was re-admitted to Portland Adventist Medical Center on June 21, 1994. He 20 never returned to Reed. Approximately two years thereafter, Patient A committed suicide. 21 Dr. Newhall bears no responsibility therefor. 22 Dr. Newhall was not primarily responsible for controlling Patient A's 23 psychosis but was charged with administering Patient A's lithium, sampling his blood, and 24

1 generally observing him. He assisted appropriately in responding to Patient A's June 21, 2 1994, decompensation. 3 2.8 Dr. Newhall caused no patient harm to Patient A, but his charting was 4 deficient by failing to note consultations. 5 Patient B: 3. 6 Patient B was treated by Dr. Newhall primarily for back pain. Prior to 7 prescribing, he observed and examined her for low back pain. 8 3.2 Dr. Newhall prescribed Valium, (a controlled substance) Robaxin, Parafon 9 Forde, and Soma at various times for Patient B without a thorough physical or formal 10 diagnosis. 11 3.3 Dr. Newhall prescribed increasing amounts of Valium to Patient B, 12 including prescriptions for 100 tablets on February 23, April 10, and May 3, 1995. While 13 earlier and lesser prescriptions were arguably justified, the hundred tablet prescriptions were 14 clearly excessive. 15 3.4 Dr. Newhall recognized that he had lost control of Patient B upon giving her 16 the last 100 tablet prescription. He consulted a psychiatrist and determined that, under the 17 circumstances, she would suffer no withdrawal symptoms if she was terminated from valium. 18 Despite her request, he did not prescribe further Valium after the May 3, 1995. Although he 19 testified that he observed abnormal behavior, this observation was not recorded until 20 September 1995. 21 3.5 Dr. Newhall lost control of Patient B in his over-prescription of Valium. 22 She manipulated him. He volunteered this information to the Board in (1) its interview with 23 him; (2) his July 16, 1996, written response to the BME's initial notice of investigation; and 24 (3) his testimony in this hearing.

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1	3.6 Dr. Newhall caused no patient harm to Patient B.
2	4. Patient C:
3	4.1 Dr. Newhall treated Patient C primarily for dysmenorrhea. Commencing in
4	1991, he prescribed Tylenol III to her, a controlled substance.
5	4.2 Prior to, and contemporaneously with, his treatment of Patient C, she was
6	treated by Dr. Ross Anderson, a gynecologist at Laurelhurst Women's Clinic.
7	4.3 Upon Dr. Newhall's inquiry, Patient C denied she was being seen by another
8	physician.
9	4.4 Dr. Newhall never performed a pelvic examination. He did perform general
10	physical examinations and diagnosed her as having dysmenorrhea. Some examinations were
11	related to other complaints.
12	4.5 On September 25, 1992, Dr. M. Bazelle conducted a pelvic examination and
13	reported that the patient had "possible endometriosis."
14	4.6 Patient C was intermittently enrolled at Reed, over a period of five years.
15	During that period, Dr. Newhall prescribed Tylenol III upon her request.
16	4.7 Tylenol III was also prescribed by Dr. Anderson.
17	4.8 Dr. Newhall discouraged Patient C from using Tylenol III. As a result of a
18	social relationship that has continued subsequent to Dr. Newhall's dismissal, she is no longer
19	addicted.
20	4.9 Dr. Newhall caused no patient harm to Patient C.
21	5. Charting:
22	5.1 Charting is one of the bases of good medical care. It is incumbent upon a
23	physician to leave a record in such a state that, if he or she is no longer caring for the patient,
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1 that care can be taken over by another physician. Further, the original physician may need to 2 refer back for purposes of determining further treatment. 3 5.2 Dr. Newhall's charts for the three subject patients were sketchy and 4 incomplete. They were universally criticized by all medical witnesses (including 5 Dr. Newhall). 6 Dr. Newhall was forthright with regard to his deficient charting. 7 5.4 When a patient is treated at a student health clinic for a chronic problem, the 8 treating physician must provide the patient the same level of care as would be expected by 9 any primary care physician in the medical community, to include conducting an appropriate 10 history and physical for the patient's condition. 11 **Review of Overall Record:** 12 During the period of approximately five years that Dr. Newhall served as a 13 student health physician at Reed College, he consulted with and treated scores of students. 14 DISCUSSION 15 General: 16 1.1 Dr. Newhall served as a "student health physician" during all relevant 17 periods. Among the expert witnesses, only Dr. Gerald Fleishli, the Director of the University 18 of Oregon Health Center, is a student health physician. He is qualified in family practice and 19 public health service and has practiced at a student health center of a university for at least 20 25 years. He is a surveyor for the Accreditation Association for Ambulatory Health Care. 21 This Association accredits college health centers and Dr. Fleishli has participated in 15 or 20 22 surveys thereof. 23 1.2 Dr. Fleishli testified that Dr. Newhall's care for his patients was acceptable. 24 with some limitations; that he was a compassionate physician.

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1 **Charting:** There is little question that Dr. Newhall failed to keep records that 2 would have permitted another physician to pick up the cases of the three subject patients and 3 known with particularity the history of Dr. Newhall's care of that patient or his treatment plan. 4 The practice of proper charting runs through all aspects of medical practice. Dr. Hicks' 5 extensive involvement in the review of physicians' performances qualifies him to give expert 6 testimony on the subject of proper charting. 7 **Patient A:** Although Dr. Lakovics was quite critical of Dr. Newhall's treatment 8 of Patient A, he is a psychiatrist rather than a student health physician (or family practitioner). 9 He did not have the full record respecting Patient A before him at the time that he testified. 10 Dr. Fleishli stated that, under the circumstances, Dr. Newhall had sufficient information with 11 which to treat Patient A, as directed, during the school year and that his handling of Patient A 12 after his breakdown at the end of the 1993-94 school year was "appropriate." 13 4. Patient B: Dr. Fleishli's criticism of Dr. Newhall's treatment of Patient B was 14 that he was "overly compassionate." The drugs that were prescribed were appropriate up to 15 the point of over-prescription. Dr. Fleishli noted that Dr. Newhall had cautioned her against 16 dependency. Dr. Fleishli approved of Dr. Newhall's refusal to Patient B's request for 17 additional Valium. 18 Patient C: Dr. Fleishli expressed the greatest concern with respect to Patient C 19

5. Patient C: Dr. Fleishli expressed the greatest concern with respect to Patient C and the repeated prescriptions of Tylenol III without a physical examination; however, in view of Dr. Anderson's identical prescription, a physical examination would probably have resulted in a Tylenol III prescription.

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CONCLUSIONS OF LAW

1. ORS 677.190(1) allows the Board to discipline a licensee for unprofessional or dishonorable conduct.

l	2. ORS 677.188(4)(a) defines "unprofessional or dishonorable conduct, as:		
2	Conduct unbecoming of person licensed to practice medicine or podiatry, or detrimental to the best interest of the public and includes:		
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4	(a) Any conduct or practice contrary to recognized standards of ethics of the medical or podiatric profession or		
5	any conduct or practice which does or might constitute a danger to the health or safety of a patient		
6	3. ORS 677.190(25) further provides that a physician may be disciplined for:		
7	prescribing controlled substances without a legitimate purpose, or		
8	prescribing controlled substances without following accepted procedures for examination of patients, or prescribing controlled		
9	substances without following accepted procedures for record keeping		
10	4. Dr. Newhall violated these provisions in regard to the three identified patients		
11	primarily though deficient patient charting.		
12	5. Dr. Newhall's conduct with respect to Patient B was contrary to generally		
13	recognized standards of ethics of the medical profession and, when committed and during the		
14	period of February 23 to May 3, 1995, constituted a danger to the health or safety of that		
15	patient.		
16	6. The Board has the authority to prescribe standards for charting applicable to		
17	student health physicians. It has made findings of fact based upon those standards. It may		
18	judge Dr. Newhall against those standards.		
19	7. Dr. Newhall is subject to discipline for unprofessional conduct by reason of his		
20	deficient charting practices.		
21	ORDER		
22	It is hereby ordered that James F. Newhall, MD, be placed on probation for a		
23	maximum period of five years, to be terminated prior thereto if Dr. Newhall, through course		
24	study, mentoring, or such other method as may be determined or approved by the Board's		

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1	Investigative Committee, demonstrates to	the satisfaction of the Board that he is fully
2	knowledgeable in the techniques of patien	t charting and has practiced them for a period of not
3	less than one year. Dr. Newhall shall repo	ort in person to the Board at each of its quarterly
4	meetings at the scheduled times for a prob	ationer interview, unless otherwise directed by the
5	Board or the Investigative Committee.	
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7	IT IS SO ORDERED this	27 ¹⁴ day of <u>January</u> , 2000.
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9		BOARD OF MEDICAL EXAMINERS State of Oregon
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11		Lucys H. Failer, MD
12		GEORGE A. PORTER, MD Chairman of the Board
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