

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	
COMPLAINT AND STATEMENT	)	DIA NO. 91DPHMB-1
OF CHARGES AGAINST)	
)	
FRANCIS A. VASQUEZ, M.D.	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent	)	DECISION AND ORDER

To: Francis A. Vasquez, M.D.

On February 23, 1989, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Complaint and Statement of Charges against Francis A. Vasquez, M.D. (Respondent) alleging he had made improper sexual contact while treating six female patients over a period of fourteen years.

On July 20, 1989, the Respondent and the Board entered into an informal settlement. On July 21, 1989, the Director of the Department of Public Health issued an Order, pursuant to the terms of the Informal Settlement. Respondent's license to practice medicine and surgery in the State of Iowa was indefinitely suspended, effective August 1, 1989.

An Application for Reinstatement, which was filed on October 8, 1990, was denied by the Board on January 25, 1991, following a hearing.

On April 9, 1992, the Respondent filed a second Application for Reinstatement. A hearing was held before the full Board on July 16, 1992, at 11:50 a.m. in the Urbandale-Johnston Room, Merle Hay Holiday Inn, 5000 Merle Hay Road, Des Moines, Iowa. Board members who were present were: C. L. Peterson, D.O., Board Chair; John Olds, M.D.; George Spellman, M.D.; Johanna Whalen, M.D.; James Catherine, M.D.; Edra Broich; Laura Stensrud, and Mary Hodges. The Respondent appeared and was represented by his attorney, Patrick Roby. The State was represented by Julie Pottorff, Assistant Attorney General. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided. Also present were Mrs. Rose Vasquez and William Vanderpool, Executive Director of the Board. The hearing was closed to the public at the request of the licensee, pursuant to Iowa Code section 258A.6(1).

After deliberating in closed session, pursuant to Iowa Code section 21.5(1)"f"(1991), the Board unanimously issues this decision.

THE RECORD

The record includes the Application for Reinstatement filed April 9, 1992; Order for Hearing; Notice of Serving Interrogatories; Motion for Production of Documents; Order Rescheduling Hearing; Answers to Interrogatories; Written Request for Closed Hearing; and the following exhibits:

- Exhibit A: Complaint and Statement of Charges (2/23/89)
- Exhibit B: Informal Settlement (7/20/89)
- Exhibit C: Director's Order (7/21/89)
- Exhibit D: Application for Reinstatement (10/8/90)
- Exhibit E: Findings of Fact, Conclusions of Law, Decision and Order (1/25/91)
- Exhibit F: Director's Order (1/25/91)
- Exhibit G: Application for Reinstatement (4/9/92)
- Respondent's Exhibit 1: Psychologist's notes 8/31/89
- 9/19/90
- Respondent's Exhibit 2: Psychologist's notes 9/19/90
- 7/8/92

FINDINGS OF FACT

1. The Respondent is a resident of Linn County, Iowa, and was issued license number 17373 to practice medicine and surgery in the State of Iowa on August 24, 1966. (official file)
2. On February 23, 1989, the Executive Director of the Iowa Board of Medical Examiners filed a Complaint and Statement of Charges alleging that Respondent made improper sexual contact with six different female patients between 1974 and September 1988. An informal settlement was signed on July 20, 1989. Respondent did not admit any wrongdoing, but agreed to an indefinite suspension of his license, effective August 1, 1989. Respondent's license was indefinitely suspended by an Order of the Director of the Department of Public Health, issued July 21, 1989. (official file)
3. On August 31, 1989, the Respondent began counseling with Paul A. Hauck, Ph.D., Rock Island, Illinois. Dr. Hauck has his Ph.D. in clinical psychology and has been in practice since 1953. He is the author of numerous books and journal articles. He is a diplomat of the American Board of Sex Counselors and Sex Therapists and the American Institute of Sexology. As of the date of the reinstatement

ment hearing, Respondent had had a total of 38 one-hour counseling sessions with Dr. Hauck, over a three year period. (testimony of Paul A. Hauck, Ph.D.)

4. Dr. Hauck has diagnosed Respondent as cyclothymic, which is a lesser scale manic-depressive. Respondent was also diagnosed as having an adjustment disorder with a depressed mood and erectile dysfunction. In the opinion of Dr. Hauck, Respondent's compulsive sexual conduct is like an addiction. (testimony of Dr. Hauck)

5. Respondent has admitted to "affairs" with six patients over a twenty year period, and additional sexual contact with four to five others. At the prior reinstatement hearing, Respondent continued to blame his patients for instigating the sexual contact. Over the past year and a half, the Respondent has come to accept full responsibility for his actions, and acknowledges that he initiated the sexual relationships with his patients. (testimony of Dr. Hauck, Respondent; Exhibit 2; Exhibit E)

6. At the prior hearing, when asked if he thought he had harmed his patients, the Respondent replied "it is possible." The Respondent now acknowledges that he harmed his patients, and his actions were "exploitative and pathological" and "tantamount to incest". (testimony of Respondent; Exhibit E)

7. Respondent has been attending Sexual Addicts Anonymous in Iowa City on a weekly basis for the past year. Sexual Addicts Anonymous is a twelve step recovery program. Respondent has found this support group to be very helpful, and he has recently received a six month medal for sexual "sobriety". (testimony of Respondent)

8. Based on his best professional judgment, Dr. Hauck has concluded that Respondent is ready to return to the practice of medicine. In the opinion of Dr. Hauck, Respondent has accepted full responsibility for his prior actions and has made excellent progress in his psychotherapy. At this point, the risk of Respondent relapsing is very low, according to Dr. Hauck. (testimony of Dr. Hauck)

9. The Respondent would like to work for a governmental agency as a psychiatrist. Respondent would need an unrestricted license in order to work for a federal agency. Respondent does not believe that he poses a threat to female patients. (testimony of Respondent)

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code section 12.50(36) provides:

12.50(36) Reinstatement.

Any person whose license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, has been revoked, or suspended by the board, may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of not fewer than five members of the board. This order will be published as provided for in subrule 12.50(35).

2. The Respondent has made significant progress in his treatment during the past year and a half. It does appear that Respondent recognizes and accepts his full responsibility for his improper sexual conduct with his patients. In addition, Respondent now appears to appreciate that his patients were severely harmed by his actions. In contrast to the last hearing, Respondent is no longer in denial of his sexual problem. He has been more honest in his sessions with Dr. Hauck and has been diligent in his participation in Sexual Addicts Anonymous.

The Board is satisfied that the basis for the indefinite suspension of Respondent's license has been sufficiently improved to allow him to retain licensure with restrictions. As with other addictions,

there will always be a risk of relapse. In this case, the Board is not satisfied that Respondent is ready to treat female patients. Respondent's progress and insight into his problem, while commendable, is of relatively short duration compared to the long duration of his sexual and psychological problems. If there is a relapse, a patient will be severely harmed. For this reason, the Board concludes that it is not in the public interest to allow the Respondent to have an unrestricted license. Since Respondent's improper sexual behavior has been directed solely at female patients, it is in the public interest that his practice be restricted to male patients. The public interest also requires that Respondent practice only in a clinic or institutional setting, where he will presumably be subject to suspension or peer review. Finally, the board is not willing to allow Respondent to practice in a federal institution in another state, using his Iowa license. The Board would be unable to adequately supervise the Respondent if he was practicing outside of Iowa.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Application for Reinstatement of Licensure, filed by Francis A Vasquez, M.D., license number 17373, on April 9, 1992, is GRANTED, and is immediately placed on probation for an indefinite period, subject to the following terms and conditions:

1. The Respondent may not treat any female patients;
2. The Respondent must practice psychiatry in a clinic or institutional setting in Iowa;
3. If the Respondent leaves Iowa to reside outside the state, he must immediately notify the Board and surrender his license.
4. The Respondent shall, within thirty (30) days of the date of this Order, submit the names of three licensed psychiatrists or psychologists to the Board for their approval. The Respondent shall continue his counseling, as recommended by the counselor approved by the Board. The Respondent's counselor shall submit quarterly written reports to the Board.
5. The Respondent shall attend Sexual Addicts Anonymous on a weekly basis, and shall obtain verification of his attendance, which shall be included in his quarterly written reports to the Board.
6. The Respondent shall immediately notify the Board if he has a change of employment or change of address.

7. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Order.

8. The Respondent shall make appearances annually and/or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time, and place for the appearance.

9. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.

10. In the event the Respondent violates or fails to comply with the terms or provisions of this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in Iowa Code sections 148.6(1), 258A.3(2) and rule 653 - 12.2 of the Iowa Administrative Code.

11. The Board will not consider an application for an unrestricted license from the Respondent, for a minimum of five years from the date of this Order.

Dated this 3rd day of September, 1992.



C. L. Peterson, D.O.
Chairperson
Iowa Board of Medical Examiners

ML/jmm

cc: Julie Pottorff
Patrick Roby

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :

AND STATEMENT OF CHARGES AGAINST : ORDER

FRANCIS A. VASQUEZ, M.D. : 02-88-492

RESPONDENT :

* * * * *

NOW on January 25, 1991, the above
entitled matter having been filed with the Director of Public
Health of the State of Iowa, and the said Director of Public
Health having reviewed the file, and being fully advised in the
premises FINDS:

1. That Francis A. Vasquez, M.D. (hereafter the
Respondent), was issued license number 17373 to practice medicine
and surgery in the State of Iowa, on August 24, 1966, as evi-
denced in the permanent records in the office of the Iowa State
Board of Medical Examiners (hereafter the Board).

2. That a Complaint and Statement of Charges was filed
against the Respondent on February 23, 1989. The Respondent and
the Board entered into an Informal Settlement of the Complaint
and Statement of Charges on July 20, 1989. The said Informal
Settlement provided for the indefinite suspension of Respondent's
Iowa license to practice medicine and surgery. An Order indefi-
nitely suspending the Respondent's license to practice medicine
and surgery was issued on August 1, 1989.

3. That on October 8, 1990, the Respondent filed a peti-

tion seeking reinstatement of his Iowa license to practice medicine and surgery. On November 15, 1990 a hearing was held on the said petition before a four member panel of the Board.

4. That a Proposed Findings of Fact, Conclusions of Law, Decision and Order of The Panel was issued on November 29, 1990.

5. That on December 18, 1990 the Respondent filed Notice of Appeal of the panel's decision.

6. That on January 17, 1991 the Respondent's appeal of the Proposed Findings of Fact, Conclusions of Law, Decision and Order of The Panel was heard by the Board.

7. That on January 25, 1991, the Board issued its Findings of Fact, Conclusions of Law, Decision and Order.

8. That pursuant to Sections 148.6(1) and 148.7(7) of the 1989 Code of Iowa, as amended, and Rule 653-12.50(31), of the Iowa Administrative Code, the Director of Public Health is authorized to enter an Order herein.

9. THEREFORE IT IS HEREBY ORDERED:

A. That the petition for reinstatement of license to practice medicine and surgery in the State of Iowa, filed by the Respondent on October 8, 1990 is denied.

B. That the Board will not consider another petition for reinstatement of license from the Respondent for at least one year from the date of this Order.

Ronald D Eckoff
Ronald D. Eckoff, M.D., M.P.H.
Acting Director
Iowa Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	)	DIA NO. 91DPHMB-1
COMPLAINT AND STATEMENT)	
OF CHARGES AGAINST:	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
FRANCIS A. VASQUEZ, M.D.,	)	DECISION AND ORDER
Respondent)	

To: Francis A. Vasquez, M.D.

On February 23, 1989, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Complaint and Statement of Charges against Francis A. Vasquez, M.D. (Respondent) alleging he had made improper sexual contact while treating six female patients over a period of fourteen years.

On July 20, 1989, the Respondent and the Board entered into an informal settlement. On July 21, 1989, the Director of the Department of Public Health issued an Order, pursuant to the terms of the Informal Settlement. Respondent's license to practice medicine and surgery in the State of Iowa was indefinitely suspended, effective August 1, 1989.

On October 8, 1990, Respondent filed a Petition for Reinstatement of Licensure. An Order for Hearing set the hearing on the Petition for Reinstatement for November 15, 1990.

A hearing before a panel of the Board was held on November 15, 1990 at 8:30 a.m. in the east conference room, Iowa State Board of Medical Examiner Offices, 1209 E. Court Avenue, Des Moines, Iowa. The panel of the Board included Charlotte Cleavenger, D.O.; Robert Stickler, M.D.; Donna Drees, M.D.; and Edra Broich, public member. Edra Broich did not participate in the deliberations. The Respondent appeared and was represented by his counsel, Patrick Roby. The State was represented by Julie Pottorff, Assistant Attorney General. Present also were members of the staff of the Board, Rose Vasquez, and a court reporter. The hearing was closed to the public at the request of the licensee, pursuant to Iowa Code section 258A.6(1). Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided.

The panel issued its Decision and Order on November 29, 1990. On December 18, 1990, the Respondent filed Notice of Appeal of the panel's decision. In his Notice of Appeal, the Respondent stated the purpose of his appeal was not to appeal or challenge the findings and conclusions of the panel. Rather, the Respondent requested modification of the panel's decision to allow him to have a practice limited to providing psychiatric care and services to male patients in an institutional setting.

The hearing before the full Board was held on January 17, 1991 in the Urbandale/Johnston room, Merle Hay Holiday Inn, 5000 Merle Hay Road, Des Moines, Iowa. Board members who were present were: John R. Anderson, M.D., Board Chair; C. L. Peterson, D.O., Vice-Chair; Edra Broich; Charlotte Cleavenger, D.O.; Donna Drees, M.D.; John Olds, M.D.; Ann O'Neill; George Spellman, M.D.; and Robert Stickler, M.D. The parties agreed they would not appear nor present argument or briefs at the hearing. Amy Christensen Couch, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was instructed to prepare this decision. Also present were William Vanderpool and Rosemary Devine, staff of the Board.

The hearing was closed to the public pursuant to Iowa Code section 258A.6(1) (1989).

After deliberating in closed session pursuant to Iowa Code section 21.5(1)"f" (1989), the Board unanimously issues this decision.

The record in this case includes the complete record made before the panel; the Proposed Findings of Fact, Conclusions of Law, Decision and Order of the Panel; the request by the Respondent that the hearing be closed to the public; the Notice of Appeal filed by Respondent; the Order for Hearing setting the hearing before the full Board for January 17, 1991; and the tape recording of the appeal hearing held on January 17, 1991.

FINDINGS OF FACT

1. The Respondent is a resident of Linn County, Iowa, and was issued license number 17373 to practice medicine and surgery in the State of Iowa on August 24, 1966. (official file).
2. On February 23, 1989, the Executive Director of the Iowa Board of Medical Examiners filed a Complaint and Statement of Charges alleging that Respondent made improper sexual contact with six different female patients between 1974 and September 1988. An informal settlement was signed on July 20, 1989. Respondent did not admit any wrongdoing, but agreed to an indefinite suspension of his license, effective August 1, 1989. Respondent's license was indefinitely suspended by an Order of the Director of the Department of Public Health, issued July 21, 1989. (official file).
3. On August 31, 1989, the Respondent began counseling with Paul A. Hauck, Ph.D., Rock Island, Illinois. Dr. Hauck has his Ph.D. in clinical psychology and has been in practice since 1953. He is the author of numerous books and journal articles. As of the date of the reinstatement hearing, Respondent had had a total of 16 one-hour counseling sessions with Dr. Hauck, over a 15-month period. The purpose of the counseling was to understand the dynamics behind Respondent's behavior and to teach him how to

control his behavior. In Dr. Hauck's opinion, Respondent was open and candid during their sessions. (Respondent's Exhibit A).

4. Dr. Hauck stated that Respondent suffered from extremely low self-esteem. Respondent's inappropriate sexual contact and behavior occurred with dependent, weak, histrionic female patients. Through counseling, Dr. Hauck sought to teach Respondent the principles of good self-discipline and to stop rating himself on whether other people found him attractive or approved of him. Dr. Hauck stated that he is satisfied with Respondent's progress, and he is comfortable with Respondent's license being reinstated, so long as Respondent is required to continue counseling. According to Dr. Hauck, Respondent needs to be exposed to the situations that give him difficulties, so that he can put into practice what he has learned. (Respondent's Exhibit A).

5. Dr. Hauck has diagnosed Respondent as cyclothymic, which means that he experiences more ups and downs than is considered normal, but they do not approach the manic-depressive level. Respondent was also diagnosed as having an adjustment disorder with depressive mood. (Respondent's Exhibit A).

6. Respondent has told Dr. Hauck that it was his patients who instigated the sexual contact with him. It is clear from Respondent's characterization of the inappropriate sexual contacts that he has not fully accepted his total responsibility for his actions. (Respondent's Exhibit A; testimony of Respondent).

7. In his testimony, Respondent stated that his inappropriate conduct could have been harmful to his patients. This response demonstrates that Respondent has not fully appreciated the negative impact of his behavior on his patients. (Testimony of Respondent).

8. The Respondent has still not accepted the fact that he has a problem. Respondent still views the problem as being with his female patients. He testified his patients "came onto him" and that caused his involvements. Respondent still minimizes the serious harm he caused his patients. The Respondent has had only sixteen one-hour counseling sessions to deal with his problem, which is of long standing duration. He presented an inadequate record as to his rehabilitation. He has not come very far in his counseling. He is still in denial. Respondent's improper relationships with patients were not isolated incidents. They were harmful to his patients. The public is still at risk from the Respondent if he were allowed to practice psychiatry. The risk to the public is not only to female patients. Since the Respondent has still not accepted that he is the person with the problem, and has not adequately dealt with his own problem, he cannot competently or adequately treat male patients with the same or similar problems. (Testimony of the Respondent; Respondent's Exhibit A).

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code section 12.50(36) provides:

12.50(36) Reinstatement.

Any person whose license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, has been revoked, or suspended by the board, may apply to the board for reinstatement in accordance with the terms and conditions of the order or revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the Board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of not fewer than five members of the board. This order will be published as provided for in subrule 12.50(35).

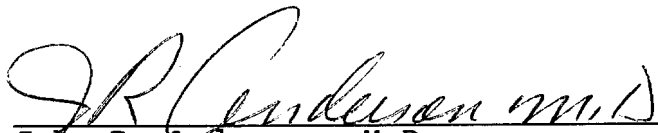
2. The Respondent failed to establish that the basis for the indefinite suspension of his license no longer exists. Respondent had a 14-year pattern of inappropriate sexual contact with several female patients. He did not seek counseling until his license was suspended, and has had only 16 counseling sessions. This has not been sufficient treatment to correct his long-term problem. Respondent has not yet fully appreciated the harm he has done to his patients by his inappropriate behavior. Respondent has committed a total violation of patient trust. In addition, Respondent has not yet accepted full responsibility for his actions. He remains in denial.

3. Respondent failed to establish that it is in the public interest for his license to be reinstated. The public would still be at risk if Respondent's license is reinstated at this time.

DECISION AND ORDER

IT IS HEREBY ORDERED that the director of the Department of Public Health of the State of Iowa shall enter an appropriate order providing that the Petition to Reinstate the medical license of Francis A. Vasquez, license number 17373, is DENIED. It is further ORDERED that the Board will not consider another Petition for Reinstatement from the Respondent for at least one year from the date of the issuance of this decision.

Dated this 25TH day of January, 1991.


John R. Anderson, M.D.
Board Chair


Amy Christensen Couch
Administrative Law Judge

ML/jmm

cc: Patrick Roby
Julie Pottorff

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	)	DIA NO. 90DPHMB-40
COMPLAINT AND STATEMENT	)	NO. 02-88-492
OF CHARGES AGAINST:	)	PROPOSED FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
FRANCIS A. VASQUEZ, M.D.,	)	DECISION AND
Respondent	)	ORDER OF THE PANEL

To: Francis A. Vasquez, M.D.

On February 23, 1990, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Complaint and Statement of Charges against Francis A. Vasquez, M.D. (Respondent) alleging he had made improper sexual contact while treating six female patients over a period of fourteen years.

On July 20, 1989 the Respondent and the Board entered into an informal settlement. On July 21, 1989, the Director of the Department of Public Health issued an Order, pursuant to the terms of the Informal Settlement. Respondent's license to practice medicine and surgery in the State of Iowa was indefinitely suspended, effective August 1, 1989.

On October 8, 1990, Respondent filed a Petition for Reinstatement of Licensure. An Order for Hearing set the hearing on the Petition for Reinstatement for November 15, 1990.

The hearing was held on November 15, 1990 at 8:30 a.m. in the east conference room, Iowa State Board of Medical Examiner Offices, 1209 E. Court Avenue, Des Moines, Iowa. The panel of the Board included Charlotte Cleavenger, D.O.; Robert Stickler, M.D.; Donna Drees, M.D.; and Edra Broich, public member. Edra Broich did not participate in the deliberations. The Respondent appeared and was represented by his counsel, Patrick Roby. The State was represented by Julie Pottorff, Assistant Attorney General. Present also were members of the staff of the Board, Mrs. Rose Vasquez, and a court reporter. The hearing was closed to the public at the request of the licensee, pursuant to Iowa Code section 258A.6(1). Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was instructed to prepare this decision of the panel.

THE RECORD

The record includes the Complaint and Statement of Charges filed February 23, 1989, the Answer, the Informal Settlement dated July 20, 1989, the Order of the Director of the Department of Public

Health dated July 21, 1989, the Petition for Reinstatement, the Order for Hearing on the Petition for Reinstatement, the testimony of the witnesses, and the following exhibits:

Respondent's Exhibit A: Deposition of Paul A. Hauck, Ph.D.

FINDINGS OF FACT

1. The Respondent is a resident of Linn County, Iowa, and was issued license number 17373 to practice medicine and surgery in the State of Iowa on August 24, 1966. (official file).
2. On February 23, 1989, the Executive Director of the Iowa Board of Medical Examiners filed a Complaint and Statement of Charges alleging that Respondent made improper sexual contact with six different female patients between 1974 and September 1988. An informal settlement was signed on July 20, 1989. Respondent did not admit any wrong doing, but agreed to an indefinite suspension of his license, effective August 1, 1989. Respondent's license was indefinitely suspended by an Order of the Director of the Department of Public Health, issued July 21, 1989. (official file).
3. On August 31, 1989, the Respondent began counseling with Paul A. Hauck, Ph.D., Rock Island, Illinois. Dr. Hauck has his Ph.D. in clinical psychology and has been in practice since 1953. He is the author of numerous books and journal articles. As of the date of the reinstatement hearing, Respondent had had a total of 16 one-hour counseling sessions with Dr. Hauck, over a 15-month period. The purpose of the counseling was to understand the dynamics behind Respondent's behavior and to teach him how to control his behavior. In Dr. Hauck's opinion, Respondent was open and candid during their sessions. (Respondent's Exhibit A).
4. Dr. Hauck stated that Respondent suffered from extremely low self-esteem. Respondent's inappropriate sexual contact and behavior occurred with dependent, weak, histrionic female patients. Through counseling, Dr. Hauck sought to teach Respondent the principles of good self-discipline and to stop rating himself on whether other people found him attractive or approved of him. Dr. Hauck stated that he is satisfied with Respondent's progress, and he is comfortable with Respondent's license being reinstated, so long as Respondent is required to continue counseling. According to Dr. Hauck, Respondent needs to be exposed to the situations that give him difficulties, so that he can put into practice what he has learned. (Respondent's Exhibit A).
5. Dr. Hauck has diagnosed Respondent as cyclothymic, which means that he experiences more ups and downs than is considered normal, but they do not approach the manic-depressive level. Respondent was also diagnosed as having an adjustment disorder with depressive mood. (Respondent's Exhibit A).

6. Respondent has told Dr. Hauck that it was his patients who instigated the sexual contact with him. It is clear from Respondent's characterization of the inappropriate sexual contacts that he has not fully accepted his total responsibility for his actions. (Respondent's Exhibit A; testimony of Respondent).

7. In his testimony, Respondent stated that his inappropriate conduct could have been harmful to his patients. This response demonstrates that Respondent has not fully appreciated the negative impact of his behavior on his patients. (Testimony of Respondent).

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code section 12.50(36) provides:

12.50(36) Reinstatement.

Any person whose license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, has been revoked, or suspended by the board, may apply to the board for reinstatement in accordance with the terms and conditions of the order or revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the Board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such fact shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law and must be based upon the affirmative vote of not fewer than five members of the board. This order will be published as provided for in subrule 12.50(35).

2. The evidence presented by the Respondent at the hearing was insufficient to establish that the basis for the indefinite suspension of his license no longer exists. Respondent had a 14 year pattern of inappropriate sexual contact with several female patients. He did not seek counseling until his license was suspended, and has had only 16 counseling sessions. The panel is not convinced that this has been a sufficient amount of counseling to correct a long-term problem. He has submitted the opinion of one psychologist that he is ready to resume the practice of psychiatry.

Respondent has not yet fully appreciated the harm he has done to his patients by his inappropriate behavior. Respondent has committed a total violation of patient trust. In addition, Respondent has not yet accepted full responsibility for his actions.

3. Respondent has failed to establish that it is in the public interest for his license to be reinstated. The panel is not convinced that the public would be sufficiently protected if Respondent's license is reinstated at this time.


DECISION AND ORDER

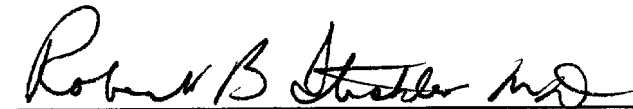
IT IS HEREBY ORDERED that when this proposed decision becomes final, the director of the Department of Public Health of the State of Iowa shall enter an appropriate order providing that the Petition to Reinstate the medical license of Francis A. Vasquez, license number 17373, is DENIED. It is further ORDERED, that the Board will not consider another Petition for Reinstatement for at least one year.

In accordance with 653 Iowa Administrative Code 12.40(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving a notice of appeal on the executive director within thirty (30) days after service of the proposed decision. The Board may also review a proposed decision on its own motion.

Dated this TH29 day of November, 1990.

THE PANEL:


Donna Drees, M.D.


Robert S. Stickler, M.D.


Charlotte Cleavenger, D.O.

ML/jmm

cc: Julie Pottorff
Patrick Roby

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : ORDER
FRANCIS A. VASQUEZ, M.D. : 02-88-492
RESPONDENT :

* * * * *

NOW on July 21, 1989, the above entitled
matter having been filed with the Director of Public Health of
the State of Iowa, and the said Director of Public Health having
reviewed the file, and being fully advised in the premises FINDS;

A. That the Respondent was issued a license to practice
medicine and surgery, on August 24, 1966, as evidenced by certifi-
cate number 17373, which is recorded in the permanent records
in the office of the Iowa State Board of Medical Examiners.

B. That a Complaint and Statement of Charges was filed
against the Respondent, Francis A. Vasquez, M.D. on February 23,
1989 and was scheduled to be heard before the Iowa State Board of
Medical Examiners.

C. That the Iowa State Board of Medical Examiners has
jurisdiction of the parties and the subject matter herein:


D. That the Director of Public Health is authorized to
enter an order herein under the provisions of sections 148.6(1)
and 148.7(7), of the 1989 Code of Iowa and rule 653-12.50(31), of
the Iowa Administrative Code.

E. That pursuant to the provisions of sections 17A.10 and 258A.3(4) of the 1989 Code of Iowa, the Respondent and the Iowa State Board of Medical Examiners have entered into an Informal Settlement providing that the undersigned should enter an Order imposing discipline against the Respondent's license to practice medicine and surgery, in the state of Iowa.

THEREFORE IT IS HEREBY ORDERED;

1. That license number 17373 issued to the Respondent, Francis A. Vasquez, M.D. on August 24, 1966, to practice medicine and surgery in the state of Iowa, shall be indefinitely suspended effective August 1, 1989.

2. That the Respondent may file an application for reinstatement of his license to practice medicine and surgery under 653 Iowa Administrative Code section 12.50(36) one year after the date of this Order. On any application for reinstatement the Respondent shall allege and bear the burden of proof to establish facts which will be sufficient for the Board to determine that the basis for this suspension no longer exists and it will be in the public interest for the license to be reinstated. Any reinstatement, if granted, may be under terms and conditions of probation.



Mary R. Ellis, Director
Iowa Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	
)	
COMPLAINT AND STATEMENT)	
)	
OF CHARGES AGAINST	)	NO. 02-88-492
)	
FRANCIS A. VASQUEZ, M.D.,)	
	)	INFORMAL SETTLEMENT
RESPONDENT.)	

COME NOW the Iowa Board of Medical Examiners [the Board] and Francis A. Vasquez [the Respondent] and, pursuant to Iowa Code §§ 17A.10 and 258A.3(4), enter into the following Informal Settlement of the contested case currently on file:

1. The Respondent was issued license no. 17373 to practice medicine and surgery in Iowa on August 24, 1966, as recorded in the permanent records in the office of the Board.

2. A Complaint and Statement of Charges was filed against the Respondent on February 23, 1989.

3. The Board has jurisdiction of the parties and the subject matter.

4. The Director of Public Health shall take appropriate action to suspend the Respondent's license to practice medicine and surgery indefinitely effective on August 1, 1989.

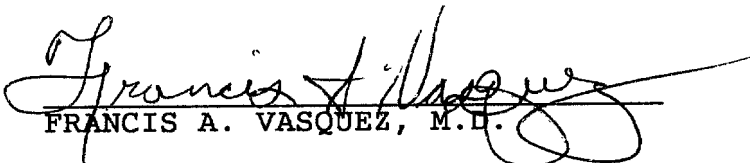
5. The Respondent may file an application for reinstatement of his license to practice medicine and surgery under 653 Iowa Administrative Code § 12.50(36) one year after the date of the Director's Order. On any application for reinstatement the

Respondent shall allege and bear the burden of proof to establish facts which will be sufficient for the Board to determine that the basis for this suspension no longer exists and it will be in the public interest for the license to be reinstated. Any reinstatement, if granted, may be under terms and conditions of probation.

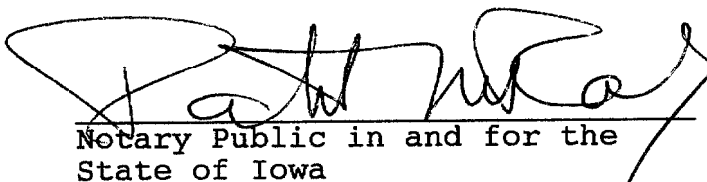
6. Execution of this Informal Settlement by the Respondent does not constitute an admission of wrongdoing.

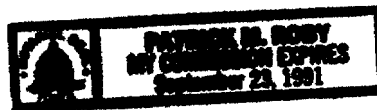
7. This Informal Settlement is subject to approval of the Board. If the Board fails to approve this Informal Settlement, it shall be of no force or effect to either party.

8. This Informal Settlement is voluntarily submitted on this 20th day of July, 1989.


FRANCIS A. VASQUEZ, M.D.

Subscribed and sworn to before me on this 21 day of June, 1989.


Notary Public in and for the
State of Iowa



This Informal Settlement is accepted by the Iowa Board of Medical Examiners on the 20th day of July, 1989.

John R Anderson M.D.
JOHN ANDERSON, M.D., Chairman
Iowa Board of Medical Examiners

Subscribed and sworn to before me on this 20th day of July, 1989.

Jennet Carr
Notary Public in and for the
State of Iowa

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : COMPLAINT AND STATEMENT
FRANCIS A. VASQUEZ, M.D. : OF CHARGES
RESPONDENT : 02-88-492

* * * * *

COMES NOW William S. Vanderpool, Executive Director of the Iowa State Board of Medical Examiners, on the 23rd day of February 1989, and files this Complaint and Statement of Charges against Francis A. Vasquez, M.D. a physician licensed pursuant to Chapter 147, Code of Iowa and alleges:

1. That Mary Ellis is the duly appointed and qualified Director of Public Health of the State of Iowa.

2. That John R. Anderson, M.D., Chairman; C.L. Peterson, D.O., Vice Chairman; Ann O'Neill, Secretary; Charlotte Cleavenger, D.O.; John W. Olds, M.D.; Edra Broich; Hormoz Rassekh, M.D. and Robert B. Stickler, M.D., are the duly appointed and qualified officers and members of the Iowa State Board of Medical Examiners.

3. That the Respondent is a resident of Linn County, Iowa, and was issued license number 17373 to practice medicine and

surgery in the State of Iowa on August 24, 1966, as recorded in the permanent records in the office of the Iowa State Board of Medical Examiners.

4. That the Respondent's license is current until February 1, 1991.

5. That on numerous occasions between the years 1974 through 1979 inclusive, the Respondent, while treating female patient number 1, made improper sexual contact with said female patient.

6. That in August, or early September 1988, the Respondent, while treating female patient number 2, made improper sexual contact with said female patient.

7. That in August 1988, the Respondent, while treating female patient number 3, made improper sexual contact with said female patient.

8. That on numerous occasions from the years 1979 through 1982, inclusive, the Respondent, while treating female patient number 4, made improper sexual contact with said female patient.

9. That during the year 1982, approximately, the Respondent, while treating female patient number 5, made improper sexual contact with said female patient.

10. That on numerous occasions during the months of January through May 1982 inclusive, the Respondent, while treating female patient number 6, made improper sexual contact with said female patient.

11. That the Iowa State Board of Medical Examiners is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1), 148.6(1)(g) and 148.6(1)(i) of the Code of Iowa which state in whole or in part:

148.6(1) - "In addition to the provisions of sections 147.58 to 147.71, the medical examiners after due notice and hearing may direct the director of public health to issue an order to revoke or suspend a license to practice medicine and surgery...or to discipline a person licensed to practice medicine and surgery...if, after a hearing, the medical examiners determine that a physician licensed to practice medicine and surgery...is guilty of any of the following acts or offenses:"

148.6(1)(g) - "...the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without this state."

148.6(1)(i) - "Willful or repeated violation of lawful rule or regulation promulgated by the board..."

12. That the Iowa State Board of Medical Examiners is authorized to take disciplinary action against the Respondent pursuant to the provisions of Rules 653-12.4, 653-12.4(3), 653-12.4(3)(b), 653-12.4(13), 653-12.4(18) and 653-12.4(28) of the Iowa Administrative Code which state in whole or in part:

653-12.4 - "Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 653-12.4 including

civil penalties in an amount not to exceed \$1000., when the board determines that the licensee is guilty of any of the following acts or offenses:"

653-12.4(3) - "...engaging in unethical conduct...."

653-12.4(3)(b) - "Engaging in unethical conducts includes, but is not limited to a violation of the standards and principals of medical ethics and code of ethics as set out in rules 13.10 and 13.11 as interpreted by the board."

653-12.4(13) - "...the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of his/her practice or otherwise, and whether committed within or without this state."

653-12.4(18) - "Making suggestive, lewd, lascivious or improper remarks or advances to a patient."

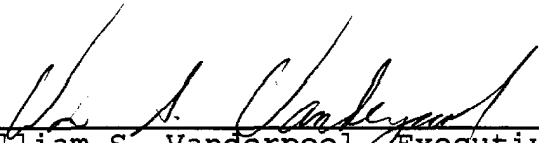
653-12.4(28) - "Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections...148.6."

13. That paragraphs 11 and 12 constitute grounds for revocation of the license to practice medicine and surgery issued to the Respondent, Francis A. Vasquez, M.D., on August 24, 1966.

WHEREFORE the Respondent, Francis A. Vasquez, M.D., is subject to disciplinary action pursuant to sections 148.6(1), 148.6(1)(g) and 148.6(1)(i) of the Code of Iowa and rules 653-12.4, 653-12.4(3), 653-12.4(3)(b), 653-12.4(13), 653-12.4(18) and 653-12.4(28) of the Iowa Administrative Code and the undersigned prays that the Board enter an order fixing a time and place of hearing for the Complaint and Statement of Charges. The

undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to suspend or revoke the license to practice medicine and surgery issued to the Respondent, Francis A. Vasquez, M.D., on August 24, 1966, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS



William S. Vanderpool Executive Director
State Capitol Complex
Executive Hills West
Des Moines, Iowa 50319
Telephone: (515) 281-5171