

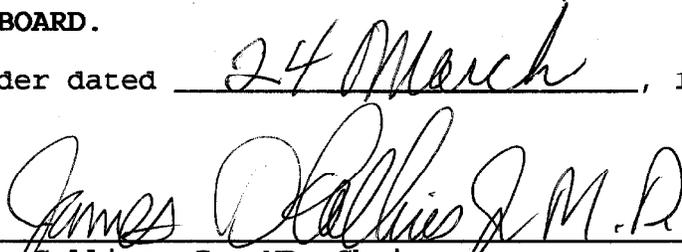
4. That on February 6, 1997, the Proposed Decision was served upon the Respondent via U. S. First Class restricted mail, return receipt requested.

5. That pursuant to 653 IAC 12.50(29), thirty (30) days having passed and no appeal of the Proposed Decision having been filed by the Respondent or any other party to the proceeding the Proposed Decision became a final order of the Board.

6. That pursuant to pertinent provisions of sections 148.6 and 148.7 of the 1997 Code of Iowa the undersigned, acting on the behalf of the Board, is authorized to enter an Order herein.

THEREFORE IT IS HEREBY ORDERED that the Proposed Decision, a copy of which is attached as Exhibit A, is a **FINAL DECISION** of the Board and the Decision and Order outlined therein is a **FINAL ORDER OF THE BOARD**.

This order dated 24 March, 1997.


James D. Collins, Jr, MD, Chairperson
Iowa Board of Medical Examiners
1209 East Court Avenue
Des Moines, IA 50319-0180
Phone 515-281-5171

c: Theresa O'Connell Weeg, Esq., Assistant Attorney General
Jerome P. Hager, MD, Respondent
Presiding Administrative Law Judge

DMC/* 03-21-97

a12/Hager-JP.FOr

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	) DIA NO. 96DPHMB-20
COMPLAINT AND STATEMENT	) CASE NO. 02-94-423
OF CHARGES AGAINST)
)
JEROME P. HAGER, M.D.	) FINDINGS OF FACT,
	) CONCLUSIONS OF LAW,
Respondent	) DECISION AND ORDER
	) OF THE PANEL

TO: JEROME P. HAGER, M.D.

On June 27, 1996, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Complaint and Statement of Charges against Jerome P. Hager, M.D., (Respondent) alleging that disciplinary sanctions had been imposed against the Respondent's license to practice medicine and surgery in the state of Texas. The Complaint further alleged that the Iowa Board was authorized to take disciplinary action against the Respondent pursuant to Iowa Code sections 148.6(1), (2)(d), and 653 IAC 12.4 (28).

An Original Notice and Order for Hearing were issued setting the hearing for September 18, 1996. The hearing was continued, and was later held on November 21, 1996. The Respondent did not appear, nor was he represented by counsel. The hearing was held before a panel of the Board which included: James Collins, Jr., M.D., Chairperson; Eddie DeHaan, M.D.; Laura Stensrud and Shirley Meisenheimer, public members. The state was represented by Theresa O'Connell Weeg, Assistant Attorney General. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge, presided and was instructed to prepare this decision of the panel, in accordance with their deliberations.

THE RECORD

The record includes the Complaint and Statement of Charges, the Original Notice, the Order for Hearing, Order Rescheduling Hearing, Returned Certified Mailings; Affidavits dated 9/11/96; Affidavit of Publication; the testimony of the witness, and the following exhibit:

State Exhibit A: Order of the Texas State Board of Medical Examiners, dated 4/16/94, Docket No. 503-93-807, certified copy

Exhibit A

A-1

FINDINGS OF FACT

1. The Respondent was issued license number 17026 to practice medicine and surgery in the State of Iowa on December 28, 1964, as recorded in the permanent records in the office of the Board. The Respondent's license is currently invalid due to expiration and nonrenewal. (Board file)

2. On or about October 12, 1993, the executive director of the Texas State Board of Medical Examiners filed a Complaint initiating a disciplinary action against the Respondent. The Complaint alleged that the Respondent was subject to discipline due to sexual misconduct, general unprofessional conduct and gross negligence. (Attachment to Statement of Charges)

a) The Respondent did not appear for the hearing before the Texas State Board of Medical Examiners, although he was properly served with notice of hearing. The Texas Board entered its Findings of Fact, Conclusions of Law, and Order.

b) In its Findings of Fact, the Texas Board stated that on December 19, 1992, the Medical Board of California accepted the surrender of the Respondent's Physician's and Surgeon's Certificate No. C039489, based on findings that the Respondent was guilty of sexual misconduct and sexual relations with patients, gross negligence and general unprofessional conduct. The Board made specific findings regarding the Respondent's conduct with patients DB and CH.

c) The Texas Board concluded that the Respondent's conduct with patients DB and CH was unprofessional and dishonorable conduct likely to injure the public and professional failure to practice medicine in an acceptable manner consistent with public health and welfare. The Texas Board revoked the Respondent's license to practice medicine in Texas.

(Testimony of Gail Beebe; State Exhibit A)

3. On July 1, 1996, the Statement of Charges, Notice of Hearing, and Original Notice were mailed to the Respondent by restricted certified mail at his last known address in Riverside, California. The letter was returned to the Board, stamped "Forwarding time expired." The Board subsequently mailed the above items to the Respondent at a post office box in Riverside, California, but that mailing was returned, marked "Box closed." On September 11, 1996, an Affidavit was prepared which stated that the Respondent's whereabouts were unknown. Another Affidavit was prepared which stated that the Statement of Charges, Order for Hearing, and Notice

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of Hearing were sent to the Respondent by ordinary mail. Notice was subsequently published in the Des Moines Register on September 23, 30, and October 1, 1996. (Returned Certified Mailings; Affidavits dated 9/11/96; Affidavit of Publication)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides that a written notice of hearing together with a statement of charges shall be served upon the licensee at least 30 days before the hearing in the manner required for the service of an original notice or by restricted certified mail, return receipt requested.

653 IAC 12.50(10) provides that if licensees have absented or removed themselves from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensees may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

653 IAC 12.50(21) provides that if a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The Respondent was properly served with the Complaint and Statement of Charges and Notice of Hearing but failed to appear. He is bound by the decision of the Board to the same extent as if he had appeared.

2. Iowa Code sections 148.6(1) and (2)(d) (1995) provide in relevant part:

148.6 Revocation.

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...
d. Having the license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

3. 653 IAC 12.4 (28) provides in relevant part:

653-12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

4. The preponderance of the evidence established that the Respondent's license to practice medicine and surgery in the state of Texas was revoked on April 16, 1994. The Respondent has violated Iowa Code section 148.6(2)(d)(1995) and 653 IAC 12.4(28).

DECISION AND ORDER

IT IS THEREFORE ORDERED, that if this Proposed Decision of the panel becomes a final decision, the Iowa medical license of Jerome P. Hager, M.D., license number 17026, shall be REVOKED.

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

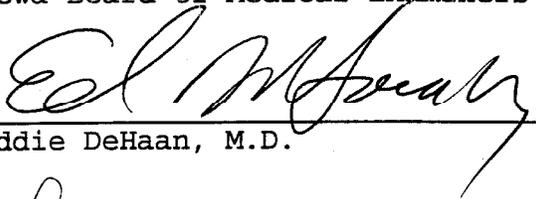
DIA No. 96DPHMB-20
Page 5

Dated this 12TH day of December, 1996.

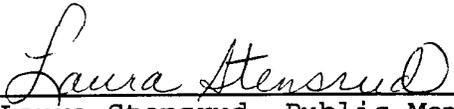
THE PANEL:



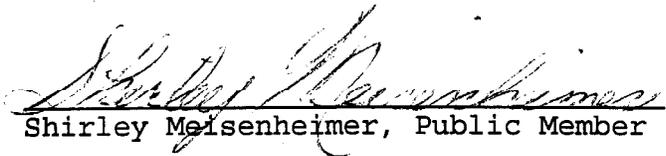
James Collins, Jr., M.D.
Chairperson
Iowa Board of Medical Examiners



Eddie DeHaan, M.D.



Laura Stensrud, Public Member



Shirley Meisenheimer, Public Member

cc: Theresa O'Connell Weeg
Assistant Attorney General

In accordance with 653 IAC 12.50(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 this proposed decision. The Board may also review a proposed decision on its own motion.

A-5

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	) DIA NO. 96DPHMB-20
COMPLAINT AND STATEMENT	) CASE NO. 02-94-423
OF CHARGES AGAINST)
)
JEROME P. HAGER, M.D.	) FINDINGS OF FACT,
	) CONCLUSIONS OF LAW,
Respondent	) DECISION AND ORDER
	) OF THE PANEL

TO: JEROME P. HAGER, M.D.

On June 27, 1996, the Executive Director of the Iowa Board of Medical Examiners (Board) filed a Complaint and Statement of Charges against Jerome P. Hager, M.D., (Respondent) alleging that disciplinary sanctions had been imposed against the Respondent's license to practice medicine and surgery in the state of Texas. The Complaint further alleged that the Iowa Board was authorized to take disciplinary action against the Respondent pursuant to Iowa Code sections 148.6(1), (2)(d), and 653 IAC 12.4 (28).

An Original Notice and Order for Hearing were issued setting the hearing for September 18, 1996. The hearing was continued, and was later held on November 21, 1996. The Respondent did not appear, nor was he represented by counsel. The hearing was held before a panel of the Board which included: James Collins, Jr., M.D., Chairperson; Eddie DeHaan, M.D.; Laura Stensrud and Shirley Meisenheimer, public members. The state was represented by Theresa O'Connell Weeg, Assistant Attorney General. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1). The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge, presided and was instructed to prepare this decision of the panel, in accordance with their deliberations.

THE RECORD

The record includes the Complaint and Statement of Charges, the Original Notice, the Order for Hearing, Order Rescheduling Hearing, Returned Certified Mailings; Affidavits dated 9/11/96; Affidavit of Publication; the testimony of the witness, and the following exhibit:

State Exhibit A: Order of the Texas State Board of Medical Examiners, dated 4/16/94, Docket No. 503-93-807, certified copy

FINDINGS OF FACT

1. The Respondent was issued license number 17026 to practice medicine and surgery in the State of Iowa on December 28, 1964, as recorded in the permanent records in the office of the Board. The Respondent's license is currently invalid due to expiration and nonrenewal. (Board file)

2. On or about October 12, 1993, the executive director of the Texas State Board of Medical Examiners filed a Complaint initiating a disciplinary action against the Respondent. The Complaint alleged that the Respondent was subject to discipline due to sexual misconduct, general unprofessional conduct and gross negligence. (Attachment to Statement of Charges)

a) The Respondent did not appear for the hearing before the Texas State Board of Medical Examiners, although he was properly served with notice of hearing. The Texas Board entered its Findings of Fact, Conclusions of Law, and Order.

b) In its Findings of Fact, the Texas Board stated that on December 19, 1992, the Medical Board of California accepted the surrender of the Respondent's Physician's and Surgeon's Certificate No. CO39489, based on findings that the Respondent was guilty of sexual misconduct and sexual relations with patients, gross negligence and general unprofessional conduct. The Board made specific findings regarding the Respondent's conduct with patients DB and CH.

c) The Texas Board concluded that the Respondent's conduct with patients DB and CH was unprofessional and dishonorable conduct likely to injure the public and professional failure to practice medicine in an acceptable manner consistent with public health and welfare. The Texas Board revoked the Respondent's license to practice medicine in Texas.

(Testimony of Gail Beebe; State Exhibit A)

3. On July 1, 1996, the Statement of Charges, Notice of Hearing, and Original Notice were mailed to the Respondent by restricted certified mail at his last known address in Riverside, California. The letter was returned to the Board, stamped "Forwarding time expired." The Board subsequently mailed the above items to the Respondent at a post office box in Riverside, California, but that mailing was returned, marked "Box closed." On September 11, 1996, an Affidavit was prepared which stated that the Respondent's whereabouts were unknown. Another Affidavit was prepared which stated that the Statement of Charges, Order for Hearing, and Notice

of Hearing were sent to the Respondent by ordinary mail. Notice was subsequently published in the Des Moines Register on September 23, 30, and October 1, 1996. (Returned Certified Mailings; Affidavits dated 9/11/96; Affidavit of Publication)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides that a written notice of hearing together with a statement of charges shall be served upon the licensee at least 30 days before the hearing in the manner required for the service of an original notice or by restricted certified mail, return receipt requested.

653 IAC 12.50(10) provides that if licensees have absented or removed themselves from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensees may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

653 IAC 12.50(21) provides that if a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The Respondent was properly served with the Complaint and Statement of Charges and Notice of Hearing but failed to appear. He is bound by the decision of the Board to the same extent as if he had appeared.

2. Iowa Code sections 148.6(1) and (2)(d) (1995) provide in relevant part:

148.6 Revocation.

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

d. Having the license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

3. 653 IAC 12.4 (28) provides in relevant part:

653-12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

4. The preponderance of the evidence established that the Respondent's license to practice medicine and surgery in the state of Texas was revoked on April 16, 1994. The Respondent has violated Iowa Code section 148.6(2)(d)(1995) and 653 IAC 12.4(28).

DECISION AND ORDER

IT IS THEREFORE ORDERED, that if this Proposed Decision of the panel becomes a final decision, the Iowa medical license of Jerome P. Hager, M.D., license number 17026, shall be REVOKED.

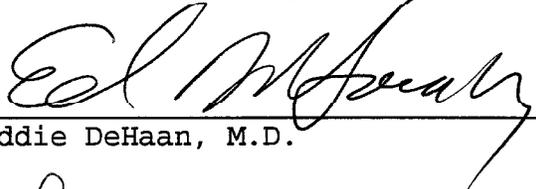
IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this 12TH day of December, 1996.

THE PANEL:



James Collins, Jr., M.D.
Chairperson
Iowa Board of Medical Examiners



Eddie DeHaan, M.D.



Laura Stensrud, Public Member



Shirley Meisenheimer, Public Member

cc: Theresa O'Connell Weeg
Assistant Attorney General

In accordance with 653 IAC 12.50(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 this proposed decision. The Board may also review a proposed decision on its own motion.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JEROME P. HAGER, MD, RESPONDENT

No. 02-94-423

STATEMENT OF CHARGES

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (the Board), on June 27, 1996, and at the direction of the Board files this Statement of Charges against Jerome P. Hager, MD (the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; Laura J. Stensrud, Vice Chairperson; Teresa A. Mock, MD, Secretary; James M. Caterine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Dale R. Holdiman, MD; Donna M. Norman, DO; and Allen J. Zagoren, DO, are the duly appointed, qualified and acting members of the Board.
2. That the Respondent was issued license number 17026 to practice medicine and surgery in Iowa on December 28, 1964.
3. That the Respondent's license is currently invalid for practice due to expiration and non-renewal.
4. That the Respondent has been the subject of a disciplinary action by the medical licensing authority of another state.
5. That on or about October 12, 1993, the executive director of the Texas State Board of Medical Examiners filed a Complaint initiating a disciplinary action against the Respondent before the

Texas board. The Complaint, a copy of which is attached as Exhibit A, alleged that the Respondent was subject to discipline due to sexual misconduct, general unprofessional conduct and gross negligence.

6. That on or about April 16, 1994, an Order was issued by the Texas State Board of Medical Examiners which resolved the pending disciplinary action. The Order revoked the Respondent's Texas medical license. A copy of the Order is attached as Exhibit B.

7. The Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1), 148.6(2) and 148.6(2)d of the 1995 Code of Iowa and 653 IAC 12.4 and 12.4(28) which state in whole or in part:

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection ...

148.6(2) - Pursuant to this section, the Board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

148.6(2)d - Having the license to practice medicine and surgery ... revoked or suspended, or having other disciplinary action taken by a licensing authority of another state ...

653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

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

WHEREFORE the undersigned charges that pursuant to the provisions of the Iowa Code sections and Iowa Administrative Code rules outlined herein, the Respondent is subject to disciplinary action by the Board. The undersigned prays that the Board enter an order fixing a time and place of hearing for

the Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on December 28, 1964, and for such other relief as the Board deems just in the premises.

IOWA STATE BOARD OF MEDICAL EXAMINERS

A handwritten signature in cursive script, reading "Ann M. Martino", is written over a horizontal line.

Ann M. Martino, PhD
Executive Director
1209 East Court Avenue
Des Moines, IA 50319-0180
Telephone: (515) 281-5171

Exhibit A

NO. 503-93-807
D-2233

IN THE MATTER OF THE	) (	BEFORE THE
COMPLAINT AGAINST	) (	TEXAS STATE BOARD
JEROME P. HAGER, M.D.	) (	OF MEDICAL EXAMINERS

COMPLAINT

TO THE HONORABLE TEXAS STATE BOARD OF MEDICAL EXAMINERS:

COMES NOW, the Texas State Board of Medical Examiners (the "Board"), by and through its Hearings Division, making this Complaint against Jerome P. Hager, M.D., (the "Respondent"), concerning his violation of the Medical Practice Act (the "Act"), Article 4495b of the Revised Civil Statutes of the State of Texas. This relief is necessary to protect the health of the citizens of the State of Texas as mandated by Section 1.02 of the Act, and in support thereof would show the following:

I

The Respondent was previously issued a Texas medical license, number D-2233, by the Texas State Board of Medical Examiners, which was in full force and effect at all times relevant to this proceeding. All jurisdictional events required prior to the filing of this Complaint have been satisfied.

II

The Texas State Board of Medical Examiners is informed and believes, and upon such information and belief, charges and alleges that:

Count I

According to the certified copy of the record of the Medical Board of California, Division of Medical Quality, Department of Consumer Affairs, State of California, which is attached and incorporated by reference, Respondent was disciplined as follows:

By Stipulation in Settlement date August 10, 1992, and Decision and Order of the Board dated November 19, 1992, Respondent surrendered his license (Physician's and Surgeon's Certificate Number C039489) to practice medicine in California. The Parties stipulated the following as true:

1. An Accusation No. D-4560, is currently pending against Jerome Hager, M.D. ("Respondent"), before the Board. The Accusation, together with all other statutorily required documents, was duly served on the Respondent on or about June 21, 1991, and Respondent filed his Notice of Defense (contesting the Accusation) on or about July 1, 1991. A copy of Accusation No. D-4560 is attached as Attachment "A" and incorporated by reference as if fully set forth.

2. At all times relevant herein, Respondent has been licensed by the Medical Board of California under Physician's and Surgeon's Certificate No. C039489.

3. Respondent is represented by counsel James O. Heiting, Esq. in this matter. Respondent has fully and completely discussed with counsel the effects of this stipulation.

4. Respondent understands the nature of the charges alleged in the accusation and that the charges and allegations constitute cause for imposing discipline upon his license to practice medicine. Respondent is fully aware of his right to a hearing on the charges and allegations contained in said Accusation, his right to reconsideration, appeal and all other rights accorded pursuant to the California Business and Professions Code and Government Code and freely and voluntarily waives such rights.

5. Respondent admits the truth of each and every allegation of the Accusation No. D-4560 and agrees that Respondent has thereby subjected his license to discipline.

6. As a result of this admission, Respondent, subject to acceptance of this stipulation by the Board, will surrender and cause to be delivered to the Board both his license (Physician's and Surgeon's Certificate No. C039489) and wallet certification.

Respondent understands that when the Board accepts this stipulation, he will no longer be permitted to practice as a physician and surgeon in California.

7. Admissions made by Respondent herein are for purposes of this proceeding, for any other disciplinary proceedings by the Board, and for any petition for reinstatement, or application for relicensure (which application shall be deemed a petition for reinstatement), and shall have no force or effect in any other case or proceeding. In the event this settlement is not adopted by the Board, the stipulation will not become effective and may not be used for any purpose.

8. In consideration of the foregoing admissions and findings, the parties agree that the Board shall, without further notice of formal proceeding, issue and enter an Order as follows:

IT IS HEREBY ORDERED that the surrender of Physician's and Surgeon's Certificate number C039489 issued to Jerome Hager, M.D. is hereby accepted.

The Decision and Order of the Board provided as follows:

The foregoing Stipulation and Order, in No. D-4560, is hereby adopted as the Order of the California Medical Board of California, Division of Medical Quality. An effective date of December 19, 1992, has been assigned to this Decision and Order.

The surrender of Respondent's license was based on the following allegations, which Respondent admitted were true, contained in the above pending accusation filed on or about June 21, 1991, by the Medical Board of California, Department of Consumer Affairs, State of California, which alleges that Respondent is guilty of sexual misconduct, general unprofessional conduct, and gross negligence:

a. D.B. was a patient of the Respondent from August 26, 1988 to December 29, 1988. D.B. was seeing the Respondent for

depression. During a regularly scheduled therapy appointment on November 7, 1988, D.B. advised the Respondent that she had had a sore throat for the last two weeks. She asked if the Respondent could check her lungs to determine what was wrong with her. Respondent picked up his stethoscope, walked over to D.B., grabbed the bottom of her blouse, and started raising it. D.B. reached up and held the bottom of her bra. D.B. then asked the Respondent, "Doctor isn't there another way you can check my lungs?". Respondent replied, "What's the matter" as D.B. was saying, "I guess I'm bashful.". Then the Respondent squeezed D.B.'s right breast and continued saying, "Don't you have a bra on?". Respondent was interrupted by a telephone call and afterwards returned to D.B. and proceeded to examine her lungs. Respondent advised D.B. that she had laryngitis and prescribed an antibiotic for her.

b. C.H. was a patient of the Respondent from approximately September 12, 1988, to August 17, 1989. She sought psychiatric care from the Respondent because it was her desire to get off using Xanax. During the approximate one year of treatment with the Respondent, C.H. met every two weeks with Respondent in therapy sessions which lasted approximately 2 1/2 hours. Her appointments with the Respondent were scheduled in the later afternoon, usually at 4:00 or 5:00 p.m. At one time C.H. questioned the Respondent concerning the late hour of her appointments and he replied, "I want to save the best for last.". At the end of the therapy sessions, Respondent hugged C.H. and, after a time, a kiss was added to the hugs. The relationship between C.H. and Respondent became more intimate around the first part of 1989. Eventually Respondent told C.H. that he loved her and at the end of one therapy session he asked her, "will you marry me?". In approximately May or June, 1989, Respondent called C.H. at her home and asked her if she would make love with him; she refused. During a therapy session in July, 1989, Respondent engaged in sexual intercourse with C.H. in his office.

The aforementioned acts which were the basis for the sister-state action are similar to acts that would be a violation of Sections 3.08(4) and/or 3.08(18) of the Medical Practice Act. Based on the foregoing, Respondent has violated Section 3.08(21) of the Medical Practice Act ("the Act").

III

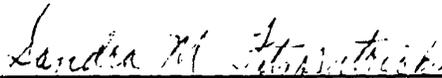
The Respondent's violation of Section 3.08(21) of the Act is grounds for cancellation, revocation or suspension of the Respondent's license to practice medicine in the State of Texas pursuant to Section 4.01 of the Act.

The Respondent's violation of Section 3.08(21) of the Act is grounds for the Board to enter an order imposing other means of discipline upon the Respondent pursuant to Section 4.12 of the Act.

The Respondent's violation of Section 3.08(21) of the Act is grounds for cancellation, revocation or suspension of the Respondent's Texas medical license or the imposition of other means of discipline which may be probated pursuant to Section 4.11 of the Act.

WHEREFORE, PREMISES CONSIDERED, it is prayed that a hearing on this complaint be held before the Texas State Board of Medical Examiners and that the Board enter its order herein to (1) cancel, revoke or suspend the Respondent's medical license; (2) impose other means of discipline, or (3) probate the cancellation, revocation, or suspension of the Respondent's Texas medical license, or the imposition of other means of discipline.

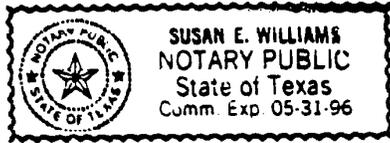
Respectfully submitted,



Sandra M. Fitzpatrick
Staff Attorney

THE STATE OF TEXAS)(
)
COUNTY OF TRAVIS)(
)

SUBSCRIBED AND SWORN to before me by the said Sandra M. Fitzpatrick on this the 12th day of October, 1993.



Susan E. Williams
Notary Public, State of Texas

Filed with the Texas State Board of Medical Examiners on this the 12th day of October, 1993.

M. R. Goehrs
Homer R. Goehrs, M.D.
Executive Director
Texas State Board of Medical
Examiners

Exhibit B

DOCKET NO. 503-93-807
D-2233

IN THE MATTER OF	) (	BEFORE THE
) (
THE COMPLAINT AGAINST	) (	TEXAS STATE BOARD
) (
JEROME PETER HAGER, M.D.	) (	OF MEDICAL EXAMINERS

ORDER

On this the 16th day of April, 1994, came on to be heard before the Texas State Board of Medical Examiners ("the Board"), duly in session, the matter of the complaint against Jerome Peter Hager, M.D. ("Respondent"). The Board was represented by Sandra M. Fitzpatrick. Respondent was not represented by legal counsel and he failed to appear.

The matter was heard in public hearing on November 17, 1993, before the Honorable Barbara C. Marquardt, Administrative Law Judge.

After consideration of the Proposal for Decision submitted to the Board by the Administrative Law Judge and argument of counsel, the Board makes the following Findings of Fact and Conclusions of Law and enters its Order below:

PROPOSED FINDINGS OF FACT

1. Service of proper and timely notice of the intention to institute disciplinary action and of the hearing was effected upon Dr. Hager. The notice of hearing contained: a statement of the time, place, and nature of the hearing; a statement of the jurisdiction under which the hearing was to be held; a reference to the particular sections of the statute involved; and a statement of the matters asserted against Dr. Hager.

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2. Dr. Hager was issued Texas medical license D-2233 by the Board, and that license was current and in full force and effect at the time of the hearing in this matter.

3. Dr. Hager was licensed on November 10, 1980, to practice medicine in California under Physician's and Surgeon's Certificate No. CO39489.

4. Effective December 19, 1992, the Medical Board of California accepted the surrender of Dr. Hager's Physician's and Surgeon's Certificate No. CO39489, based on findings that Dr. Hager was guilty of sexual misconduct and sexual relations with patients, gross negligence and general unprofessional conduct. This disciplinary action was taken based on Dr. Hager's treatment of the following patients:

a. D.B., a patient of Dr. Hager from August 26, 1988 to December, 29, 1988, was seeing him for depression.

1) On November 7, 1988, at a regularly scheduled therapy session, D.B. asked Dr. Hager if he could check her lungs to see what was causing the sore throat she had for the last two weeks. Dr. Hager picked up his stethoscope, grabbed the bottom of D.B.'s blouse, and started raising it.

2) D.B. held the bottom of the blouse, before he raised it higher than the bottom of her bra. She then asked: "Doctor, isn't there another way you can check my lungs?" Dr. Hager replied, "What's the matter?" as D.B. was saying, "I guess I'm bashful." Then Dr. Hager squeezed D.B.'s right breast and continued saying, "Don't you have a bra on?"

- 3) Dr. Hager was interrupted by a telephone call, and afterwards he returned to D.B. and proceeded to examine her lungs. Dr. Hager advised D.B. she had laryngitis and prescribed an antibiotic for her.
- b. C.H., a patient of Dr. Hager from September 12, 1988 to August 17, 1989, was receiving psychiatric care from him in order to stop using Xanax. Her appointments were every two weeks for approximately 2 1/2 hours therapy sessions in the later afternoon - 4:00 to 5:00 p.m.
- 1) When C.H. questioned the late hour of her appointments, Dr. Hager replied: "I want to save the best for last." At the end of the therapy sessions, Dr. Hager hugged C.H., and eventually a kiss was added to the hugs.
 - 2) Their relationship became more intimate around the first part of 1989. Eventually, Dr. Hager told C.H. he loved her, and at the end of one therapy session he asked her to marry him.
 - 3) In May or June 1989, Dr. Hager called C.H. at her home and asked if she would make love with him; she refused. During a therapy session in July, 1989, Dr. Hager engaged in sexual intercourse with C.H. in his office.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 4.01 and 4.12 of the Medical Practice Act, Tex. Rev. Civ. Stat. Ann., art. 4495b.

2. Dr. Hager received proper and timely notice of the intent to take disciplinary action pursuant to Tex. Rev. Civ. Stat. Ann., art.

6252-13a, §18(c), and of the hearing pursuant to the Administrative Procedure Act, 73rd Leg., R.S., ch. 268 §1, 1993 Tex. Sess. Law Serv. 742 (Vernon) [formerly Tex. Rev. Civ. Stat. Ann., art. 6252-13a §13, to be codified at TEX. GOV'T. CODE ANN., ch. 2001].

3. Dr. Hager's activities with patients D.B. and C.H. was unprofessional and dishonorable conduct likely to injure the public, as contemplated in Tex. Rev. Civ. Stat. Ann., art. 4495b, §3.08(4).

4. Dr. Hager's conduct with patients D.B. and C.H. constituted professional failure to practice medicine in an acceptable manner consistent with public health and welfare, as contemplated in Tex. Rev. Civ. Stat. Ann., art. 4495b, §3.08(18).

5. Dr. Hager has surrendered his license to practice medicine in California, based on acts similar to acts described in Tex. Rev. Civ. Stat. Ann., art. 4495b, §3.08, as contemplated in Tex. Rev. Civ. Stat. Ann., art 4495b, §3.08(21).

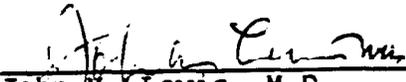
6. Dr. Hager's medical license should be revoked, pursuant to Tex. Rev. Civ. Stat. Ann., art 4495b, §4.01(a) and 4.12.

ORDER

IT IS ORDERED, ADJUDGED AND DECREED that:

1. Respondent's license to practice medicine in Texas is hereby REVOKED.
2. All costs of appeal and filing of the transcript are assessed against the Respondent.

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 16th day of April, 1994.



John M. Lewis, M.D.
President, Texas State Board of
Medical Examiners