



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

January 3, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ann Gayle, Esq.
NYS Department of Health
5 Penn Plaza-Sixth Floor
New York, New York 10001

George Weinbaum, Esq.
11 Martine Avenue
White Plains, New York 10606

Robert B. Leader, Esq.
Route 52
Carmel, New York 10512

RE: In the Matter of Mark Bryant Morrison, M.D.

Dear Ms. Gayle, Mr. Weinbaum and Mr. Leader:

Enclosed please find the Determination and Order (No. 97-03) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt **or** seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Hedley Park Place
433 River Street - Fourth Floor
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

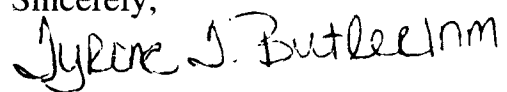
The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's
Determination and Order.

Sincerely,

Handwritten signature of Tyrone T. Butler in black ink.

Tyrone T. Butler, Director
Bureau of Adjudication

TTB:nm
Enclosure

COPY

IN THE MATTER
OF
MARK BRYANT MORRISON, M.D.

DETERMINATION
AND
ORDER

BPMC-97-03

MS. THEA GRAVES PELLMAN, Chairperson, HILDA RATNER, M.D. and HENRY PINSKER, M.D., duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(10)(e) and (12) of the Public Health Law. MICHAEL P. MCDERMOTT, ESQ., Administrative Law Judge, served as Administrative Officer for the Hearing Committee.

After consideration of the entire record, the Hearing Committee submits this DETERMINATION AND ORDER.

SUMMARY OF PROCEEDINGS

Commissioner's Order, Notice of Hearing and Statement of Charges:	July 22, 1996
Amended Statement of Charges:	August 12, 1996
Pre-Hearing Conference:	August 8, 1996
Hearing Dates:	August 20, 1996 August 23, 1996 August 30, 1996 September 20, 1996 October 1, 1996 October 28, 1996 October 29, 1996

Place of Hearing:

NYS Department of Health
Metropolitan Regional Office
5 Penn Plaza-Sixth Floor
New York, New York 10001

Date of Deliberations:

November 26, 1996
December 10, 1996

Petitioner Appeared By:

Henry M. Greenberg, Esq.,
General Counsel
NYS Department of Health
By: Ann Gayle, Esq.,
Associate Counsel,
of Counsel

Respondent Appeared By:

George Weinbaum, Esq.
11 Marine Avenue
White Plains, New York 10606

Robert Leader, Esq.
Route 52
Carmel, New York 10512

STATEMENT OF CHARGES

Essentially, the Statement of Charges charges the Respondent with Negligence on More than One Occasion; Gross Negligence; Fraudulent Practice; Engaging in Sexual Contact with a Patient; Moral Unfitness; Willfully Harassing, Abusing or Intimidating a Patient; and Failing to Maintain Accurate Records.

The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part of this **DETERMINATION AND ORDER.**

WITNESSES

For the Petitioner:

- 1) Patient A (Patient A was accompanied by her attorney Michael Eisenman, Esq., Miller, Friedman & Eisenman, 460 Park Ave. So., New York, New York 10016)
- 2) Patient B's mother
- 3) Patient C
- 4) Patient E
- 5) Patient B
- 6) Patient D
- 7) Patient G
- 8) Alfred B. Lewis, M.D.

For the Respondent:

- 1) Mark Bryant Morrison, M.D.

FINDINGS OF FACT

Numbers in parenthesis refer to transcript pages or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited. All Hearing Committee findings were unanimous unless otherwise specified.

GENERAL FINDINGS

1. Mark Bryant Morrison, M.D., the Respondent, was authorized to practice medicine in New York state on July 10, 1981, by the issuance of license number 146869, by the New York State Education Department (Pet's. Ex. 2).

FINDINGS AS TO PATIENT A

2. The Respondent, a psychiatrist, treated Patient A, a then 23 year old female, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately 1993 to July 1995. Patient A began treatment with the Respondent because of migraine headaches.

Patient A informed the Respondent that she had been raped when she was 14 years old and that she had been sexually abused as a child. She also discussed current problems she was having with her then boyfriend (Pet's. Exs. 3 and 4; Tr. 22-23, 28, 29, 32, 55-56, 86-92, 101-102, 107, 162-166, 174-176, 736-737). (Vote 2-1)
3. In order to describe her childhood sexual abuse to the Respondent, Patient A disassociated herself from those events by telling the Respondent that she had multiple (two other) personalities in order to cope. She was aware that she was doing this and she never thought or believed that she actually had different personalities. She also used this technique to cope with the fact that she was cheating on her then boyfriend when she engaged in sexual relations with the Respondent (Tr. 61-64, 133-138, 166-168). (Vote 2-1)
4. During the course of relaxation training, the Respondent instructed Patient A to visualize herself naked on a beach (Tr. 30).

5. From approximately June 1994 through May 1995, while Patient A was the Respondent's patient, the Respondent engaged in sexual relations with Patient A (Tr. 34-42, 115-133, 138, 141-146, 170-171). (Vote 2-1)
6. The aforesaid sexual relations occurred during that part of the therapy session wherein the Respondent deeply relaxed Patient A (Tr. 27). (Vote 2-1)
7. When the Respondent engaged in sexual relations with Patient A, he told her that this would make her sex life better (Tr. 41-43). (Vote 2-1)
8. Ativan/Lorazepam is a medication of the benzodiazepine family used to treat anxiety. Its risks, cautions and/or side effects are dependency and addiction (Tr. 713-715).
9. Addiction is a dependency on a drug that is such that when the person ceases taking the drug, he/she experiences withdrawal symptoms or has a craving for the drug. The withdrawal symptoms can be psychological, physiological, or both, depending on the drug. Dependency is a constant need for the drug in order to feel comfortable and in order to function. The difference between dependency and addiction is primarily a matter of degree, although there might not be significant withdrawal symptoms when someone ceases to take a drug upon which he/she is dependent (Tr. 867-870).
10. The Respondent's prescribing of Ativan for Patient A was appropriate, and there was no pattern of overprescribing or overdosing.
At the time Patient A did overdose on Ativan, the Respondent's response was appropriate (Tr. 922, 1227).

11. The Respondent allowed Patient A to use his office when neither he nor anyone else was present. There is no evidence that other patient's records were available to Patient A on those occasions. However, other patient's telephone calls were heard by Patient A (Tr. 46).
12. Patient A reported that she had had sexual relations with the Respondent to her ex-boyfriend, her current boyfriend, and both of her parents within one week of her last session with the Respondent in July 1995. She reported them to the Office of Professional Medical Conduct in June 1996 (Tr. 140, 147-149, 168-169).
13. The Respondent failed to maintain a record for Patient A which accurately reflects the care and treatment rendered to the patient (Pet's. Exs. 3 and 4A; Tr. 1219-1221).

FINDINGS AS TO PATIENT B

14. The Respondent treated Patient B, a then 16 year old female, at his home/office from approximately March 1994 to August 1994.
Patient B had been sexually abused by her half brother and both she and her school counselor believed that she should seek professional help (Pet's. Exs. 5 and 6; Tr. 178-179, 196, 379-381, 448-450, 455-461),
15. During Patient B's first session with the Respondent, she sat on the couch and he sat at his desk. Some few sessions later, he sat on a chair, and eventually he sat on the couch next to the patient (Pet's. Exs. 5 and 6; Tr. 384-385).

16. On several occasions during the course of his treatment of Patient B, the Respondent performed a physical examination using a stethoscope which had a shorter than average hose. While conducting these examinations he inappropriately touched Patient B's breasts (Pet's Exs. 5 and 6; Tr. 388-397, 441-443, 452).
17. In approximately June 1994, during the course of relaxation training, the Respondent instructed Patient B to visualize herself naked and asked her questions about himself, such as, where was he in the picture. This line of conversation progressed until Patient B refused to continue (Tr. 400-403, 1152-1153).
18. The Respondent offered to have Patient B stay overnight at his home if she had problems at her own home. He also told her about his girlfriend including the fact that they "had sex" (Pet's Exs. 5 and 6; Tr. 194, 412-413).
19. Restoril/Temazepam is a sleep medication of the benzodiazepine family. Its risks, cautions and/or side effects are dependency and addiction (Tr. 717-719, 867).
20. The Respondent prescribed various drugs, including Restoril, for Patient B. Patient B reported that she sometimes hoarded her Restoril and would take more than the prescribed amount on subsequent days. The Respondent did not ask the patient how much of the hoarded medication she took on those occasions, and he continued to prescribe it for her (Pet's Exs. 5 and 6; Tr. 386-388, 410-412, 752-757). (Vote 2-1)

21. Although the Respondent suspected that Patient B's drug use had worsened after April 15, 1994, he continued to prescribe Restoril/Temazepam for her. The Respondent's record shows that he prescribed Restoril/Temazepam on two additional occasions (April 29 and June 1, 1994) and the computer printout from the pharmacy shows that it was filled on three additional occasions (April 18, May 11 and June 30, 1994) (Pet's. Exs. 5 and 6; Tr. 1172-1183).
22. During the course of ongoing psychotherapy, Patient B's mother told the Respondent that Patient B was abusing drugs and "stockpiling" her medication. The Respondent told Patient B's mother that "all kids use drugs and they all experiment with drugs. . .and not to worry about it". He told Patient B's mother that Patient B was his patient so he wasn't supposed to discuss her daughter's treatment with her. At one point the Respondent did lower Patient B's Restoril medication, but on her next visit he increased it at the patient's request. He failed to document a medical reason for increasing the dose of Restoril and he later prescribed it again at the increased strength (Pet's. Exs. 5 and 6; Tr. 185-191, 213-216, 386-388, 454-455, 757-763, 932-934).
23. In approximately June 1994, Patient B told the Respondent that she would be attending a wedding at which she would be drinking alcohol. The Respondent told her that she could have a drink and relax at the wedding reception.
- At the wedding Patient B combined taking her Restoril with drinking alcohol and overdosed. She was taken to the Emergency Room of a nearby hospital. (Pet's. Exs. 5 and 6; Tr. 191-195, 403-406, 427-437, 452-454, 763-765, 930). (Vote 2-1)

24. During the course of ongoing psychotherapy, Patient B told the Respondent that she smoked marijuana. He instructed her to smoke marijuana prior to attending a future session and she complied (Pet's. Exs. 5 and 6; Tr. 398-400, 420, 443-447, 765-767).
25. Patient B reported the aforesaid incidents to her school counselor shortly after she ceased treatment with the Respondent in August 1994, and she told her parents that same year (Pet's. Exs. 5 and 6; Tr. 198-199, 408-409).
26. Patient B is currently enlisted in the United States Army as a private first class. She is a parachute rigger (she packs parachutes), and she takes college classes at night (Pet's. Exs. 5 and 6; Tr. 203, 377-379, 446-447).
27. Patient B stopped seeing the Respondent for treatment because she did not think that the manner in which he examined her with a stethoscope was proper. In addition, he didn't return her parents' telephone calls; and a counselor at school suggested that she stop seeing him (Pet's. Exs. 5 and 6; Tr. 407).

FINDINGS AS TO PATIENT C

28. The Respondent, treated Patient C, a then 33 year old female, at his home/office, from approximately January 1991 to August 1994. She initially sought treatment due to anxiety and marital problems.

Patient C knew the Respondent prior to receiving treatment from him. She worked with him at a group home where she was a nurse and he was a staff psychiatrist/medical director (Pet's. Ex. 7; Tr. 223-227, 249, 251-255, 294).

29. On or about August 19, 1994, in the course of conducting a physical examination, the Respondent sat close to Patient C on a couch, and while examining her with a shorter than average stethoscope, he inappropriately touched her breast (Pet's. Ex. 7; Tr. 230-236, 267-288, 292-295, 772-776).
30. A few days prior to August 19, 1994, Patient C called the Respondent and advised him that she was very upset and had taken several Ativans and had consumed alcohol. The Respondent inappropriately advised Patient C to drive to his home/office to see him (Pet's. Ex. 7; Tr. 228-229, 243-246, 768-772).
31. On various occasions during the course of treatment, the Respondent offered to let Patient C stay at his home. He also invited her to visit him socially (Pet's. Ex. 7; Tr. 237-239, 246-250, 302-305).
32. Patient C reported what happened with the Respondent to her supervisor approximately three days after the incident. She also reported it to her attorney; to another psychiatrist and to her marriage counselor within a week and a half (Pet's. Ex. 7; Tr. 241-242, 259-260).

FINDINGS AS TO PATIENT D

33. The Respondent, treated Patient D, a then 26 year old female, for agoraphobia, at his home/office from approximately August 1985 to October 1990 (Pet's. Exs. 8 and 9; Tr. 498-500, 505-507, 581-583, 587-590, 593-597, 601).

34. In approximately December 1985, the Respondent permitted Patient D's therapy sessions to last beyond the one-hour time period, wherein the Respondent and Patient D discussed personal matters, and this continued in subsequent sessions (Pet's. Exs. 8 and 9; Tr. 501-505, 788-792).
35. During a session in approximately early October 1986, Patient D informed the Respondent that she would be leaving her husband. The Respondent offered to help Patient D find an apartment and hugged her at the end of the session while she cried. He also offered to have her stay overnight at his home (Pet's. Exs. 8 and 9; Tr. 507-510, 583-584, 784-787).
36. In approximately April 1987, Patient D called the Respondent and told him that she was uncomfortable with continuing therapy with him because of her feelings toward him. The Respondent instructed her to meet him at his home, and they met there from approximately 10:00 p.m. until after midnight. During this meeting he prepared dinner. The Respondent also offered to have her stay overnight at his home, and told her that he wanted to have sex with her but that he would not do so because they still had issues to work out in therapy (Pet's. Exs. 8 and 9; Tr. 513-518, 792-796).
37. In approximately the summer of 1987, Patient D was having back problems and the Respondent massaged her back at the end of the session. Subsequent "therapy" sessions lasted until approximately midnight or later, and included back massages and kissing. By approximately October 1987, the Respondent and Patient D had a sexual relationship and beginning in December 1987 she would spend the night with him (Pet's. Exs. 8 and 9; Tr. 518-531, 579-580, 590-592, 796-805).

38. In July 1989, the Respondent and Patient D got married. He did not refer her to another therapist but continued treating her himself, despite her requests for a referral to another therapist..

In approximately March 1990, Patient D began treatment with a psychologist and the Respondent expressed anger that she had done so (Pet's. Exs. 8 and 9; Tr. 533-535, 537-539, 541-543, 554, 805-810).

39. The Respondent prescribed medications, including Xanax, for his spouse, Patient D, during the period February 1990 to October 1990 (Pet's. Exs. 8 and 9; Tr. 532-540, 543-545, 596-597, 811-812, 907-909, 924).

FINDINGS AS TO PATIENT E

40. The Respondent treated Patient E, a then 29 year old female, at his home/office in approximately late 1984 and from July 1987 to January 1988. Patient E saw the Respondent for treatment of depression.

Initially, the Respondent prescribed Pamelor for Patient E, but when this medication made her hypomanic he discontinued it. He continued to prescribe Restoril as needed and also Xanax. The Pamelor was prescribed again toward the end of treatment (Tr. 310, 312-315, 331-332, 338, 1054).

41. On or about December 3, 1987, Patient E called the Respondent several times to advise him that she did not believe that she could keep her appointment. The Respondent instructed her take an extra Xanax and go to his home/office. When she met him there, the Respondent handed her samples of Pamelor. He then squatted or knelt in front of her and patted her thighs. When they stood up, he called her to him and hugged her for a period of time. He

then walked her to her car with his arm around her, and told her she could spend the night at his home if she could not drive (Tr. 314-321, 329-330, 332-333, 338, 339-340-343, 812-815). (Vote 2-1)

42. The following night, Patient E telephoned the Respondent and told him she believed that he had "crossed the border between patient-doctor". She also repeated several times that he "should have known better". Also, when the Respondent asked Patient E how the events of the previous evening made her feel, she told him that it made her feel "toyed with". She also told him that she "might have wanted" him, to which he replied, "Freud would have loved you" and he laughed. Patient E felt that the incident (of December 3, 1987) was going in a romantic direction which she did not want.

At their next session the Respondent provided Patient E with personal information about himself (Tr. 322-325, 359-360, 362- 366)

43. In approximately September 1987, Patient E discussed an incident involving her boyfriend with the Respondent and the Respondent inappropriately stated or implied that she should have bitten off her boyfriend's penis (Tr. 331, 358-359, 360-362, 820-822, 926-927).
(Vote 2-1)

44. Throughout the course of therapy, the Respondent revealed personal information about himself. He also offered to be a job reference and to help her find a place to live and to find a car (Tr. 325-329, 362-366, 815-820).

45. Patient E reported the aforesaid incidents to the Office of Professional Medical Conduct in approximately May 1988 (Pet's. Ex. 15; Tr. 337, 343-345).

46. As a result of the facts alleged in Paragraph E(1)(a) of the instant Statement of Charges, the Respondent was issued an Administrative Warning from the Board of Professional Medical Conduct, dated July 10, 1989, advising him that a third party should be present when he physically examines patients, but he failed to comply (Pet's. Ex. 15; Tr. 31, 182-184, 242-243, 264-265, 383-384, 611-612).

FINDINGS AS TO PATIENT F

47. The Respondent treated Patient F, a then 25 year old male, for manic depressive illness, at his home/office from approximately February 1984 to April 1995 (Pet's. Exs. 12, 12-A).
48. Patient F did not testify at the instant hearings.
49. There is insufficient evidence in the record for the Hearing Committee to make any findings regarding the allegation that the Respondent caused Patient F to socialize with him or to work on his home and property.
50. On or about March 9, 1991, the Respondent caused Patient F to assist him in gaining entrance to his estranged wife's (Patient D) home while their separation/divorce was pending (Pet's. Ex. 12; Tr. 547-551, 576, 833-837).

FINDINGS AS TO PATIENT G

51. The Respondent treated Patient G, a then 32 year old female, at his home/office from approximately July 1993 to May 1995. Patient G's therapist, who was not a medical doctor and therefore could not prescribe medication for her, had referred her to the Respondent. The Respondent treated Patient G with therapy and medications for severe depression

including suicidal ideations; grief of approximately a one and a half year duration surrounding her father's death; sexual abuse as a child; difficulty functioning; and marital problems (Pet's. Exs. 16 and 17; Tr. 606-609, 612-613, 644-645, 655-659, 654-672, 687-689, 692-695).

52. From approximately November 1993 through April 1994, while she was his patient, the Respondent engaged in sexual relations with Patient G (Pet's. Exs. 16 and 17; Tr. 630-638, 640-643, 645-655, 682, 838-845).
53. On several occasions throughout the course of treatment, while using a stethoscope in performing a physical examination, the Respondent inappropriately touched Patient G's breasts (Pet's. Exs. 16 and 17; Tr. 619-621, 625-627, 633-635, 845-848).
54. In approximately October 1993, the Respondent permitted Patient G's therapy sessions to last beyond the allotted half-hour time period, and the Respondent and Patient G discussed personal matters. During the discussion the Respondent revealing personal information about himself. These personal discussions continued in subsequent sessions (Pet's. Exs. 16 and 17; Tr. 631, 848-849).
55. Beginning in approximately October 1993, and in subsequent sessions, Patient G told the Respondent that she was uncomfortable in continuing therapy with him because of her feelings toward him. Initially the Respondent told her that he wanted to have sex with her but that he would not do so because it was improper and he could lose his license. He encouraged Patient G to continue treatment with him (Pet's. Exs. 16 and 17; Tr. 613-619, 635-636, 849-852).

56. During Patient G's third or fourth session with the Respondent, when she first told him that she was having feelings of a sexual nature toward him, the Respondent told her that "if he could, he would pick [her] up in his arms right now and take [her] to his room right now and make love to [her], but that wasn't possible". At the end of that session, he walked her to her car, and on the way he brought her into his barn and showed her his sports car and told her to "slide [her] 'tushie' in and have a seat" (Tr. 618-619).
57. The Respondent noted in Patient G's medical record that he had discussed the possibility of referral to another psychiatrist with her on more than one occasion (Pet's. Ex. 16).
58. On the first occasion on which the Respondent and Patient G engaged in sexual relations (approximately mid-November 1993), the Respondent asked Patient G not to discuss it with anyone, and Patient G complied with this for some time. However in approximately 1994, Patient G told her therapist, but to protect the Respondent, she said that the person was a rabbi. Then in approximately February 1995, she told a man she was dating (without mentioning Respondent by name). In approximately August 1995, Patient G revealed the Respondent's identity to her therapist, and in approximately August 1996, she reported the Respondent to the Office of Professional Medical Conduct (Pet's. Exs. 16 and 17; Tr. 638, 656, 659-661, 676-686, 695-701).

CONCLUSIONS OF THE HEARING COMMITTEE AS TO THE

CREDIBILITY OF THE PETITIONER'S WITNESSES

During the course of the hearing, the Hearing Committee had the opportunity of listening to the testimony of the witnesses, observing them during direct and cross examination, and asking them questions directly.

The Hearing Committee unanimously (3-0) concludes that Patient B, Patient B's mother, Patient C, Patient D and Patient G were all credible witnesses. A majority of the Hearing Committee reached the same conclusion as to the testimony of Patients A and E.

There is no evidence that the patients knew each other. They testified about independent incidents and they had no apparent reason to conspire against the Respondent. Their testimony was consistent and remained so during extensive direct and cross examination.

It seems incredible to the Hearing Committee that independent witnesses could concoct incidents which were so similar in nature.

For Example:

a) Patients A, D and G all testified that they had sexual relations with the Respondent while they were his patients.

b) Patient A testified that during relaxation training, the Respondent instructed her to visualize herself naked on a beach. Patient B testified that during relaxation training the Respondent instructed her to visualize herself naked and asked her questions about himself, such as where was he in the picture.

c) Patients B, C and G testified that while he was conducting a physical examination, using a stethoscope with a shorter than average hose, the Respondent inappropriately touched their breasts. Patient C is herself a nurse, and was in the best position to judge the inappropriateness of the Respondent's touching.

d) Patients B, C, D and E testified that the Respondent had offered to have them stay overnight at his home. Patient C also testified that the Respondent invited her to visit him socially.

e) Patients B, D, E and G testified that during therapy sessions, the Respondent revealed personal information about himself.

f) The Respondent admitted leaving Patient A alone in his office and admitted failing to maintain a medical record for her, thus confirming, at least in part, portions of Patient A's testimony.

g) The testimony given by Patient B's mother substantially supports the testimony given by Patient B.

Patient D was a credible witness despite her obvious anger at the Respondent.

CREDIBILITY OF THE RESPONDENT

The Respondent's testimony was heavily weighed toward a reiteration as to what a good person he is. It was unctious and sanctimonious, and although it was consistent, it was not convincing in light of the credible contradictory testimony of Patients A, B, C, D, E and G and Patient B's mother.

The Hearing Committee also concludes that there is no reason for a psychiatrist/psychopharmacologist to examine a patient's heart beyond the initial workup. Also, the type and pertinence of the cardiac examinations in these patients is extremely questionable.

The patients' records indicate that the Respondent recorded heart rates many times. Recording a patient's heart rate is appropriate, but using a stethoscope in the manner described by the patients and demonstrated by the Respondent is not.

The Respondent's defense that he had a neurological condition which made it difficult to take a pulse with his right hand was not persuasive. There are other ways to check a patient's heart rate without using a stethoscope.

The Respondent made frequent references to the fact that his secretary was present in an adjoining office, and because of the thinness of the walls separating the offices, she would be aware of what was going on. However, he never produced her as a witness to contradict the testimony of any of the patients who testified against him.

In fact, although he testified that he had the support of his other patients, the local medical community and his employer, the Westchester County Department of Community Mental Health, he did not produce a single witness, factual or character, to testify on his behalf.

OTHER CONCLUSIONS

The Respondent did not hypnotise any of these patients, but he did engage in relaxation training.

VOTE OF THE HEARING COMMITTEE

(All Votes Were Unanimous Unless Otherwise Specified)

The charges specified in Paragraph G(2) of the Statement of Charges were **WITHDRAWN** by the Petitioner.

Although they are cited separately, the Hearing Committee determines that the charges specified in Paragraphs A(1)(a)(i) of the Statement of Charge are only one charge.

FIRST SPECIFICATION: NEGLIGENCE ON MORE THAN ONE OCCASION

SUSTAINED as to those charges specified in Paragraphs A(1)(a)(i) (vote 2-1), A(1)(b) (vote 2-1), A(3), A(4); B(1)(a), B(1)(b), B(1)(c), B(2) (vote 2-1), B(3) (vote 2-1), B(4) (vote 2-1), B(5); C(1)(a), C(1)(b), C(1)(c); D(1)(a), D(1)(b), D(1)(c), D(1)(d), D(1)(e); E(1)(a) (vote 2-1), E(1)(b) (vote 2-1), E(1)(c); F(2); G(1)(a), G(1)(b), G(1)(c), G(1)(d) and G(1)(e) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in Paragraphs A(1)(c), A(2); D(2) (vote 2-1); E(2) and F(1) of the Statement of Charges.

SECOND THROUGH EIGHTH SPECIFICATIONS: GROSS NEGLIGENCE

SUSTAINED as to those charges specified in Paragraphs A(1)(a) (vote 2-1); B(1)(a), B(1)(b) (vote 2-1), B(1)(c) (vote 2-1), B(4) (vote 2-1), B(5) (vote 2-1); C(1)(a), C(1)(c) (vote 2-1); D(1)(b) (vote 2-1), D(1)(c) (vote 2-1), D(1)(d); E(1)(a) (vote 2-1); G(1)(a) and G(1)(b) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in Paragraphs A(1)(c), A(2), A(3), A(4); B(2), B(3); C(1)(b); D(1)(a), D(1)(b), D(1)(e), D(2) (vote 2-1); E(1)(b), E(1)(c), E(2); F(1), F(2); G(1)(c), G(1)(d) and G(1)(e) of the Statement of Charges.

NINTH THROUGH TWELFTH SPECIFICATIONS: FRAUDULENT PRACTICE

SUSTAINED as to those charges specified in Paragraphs A(1)(a) (vote 2-1), A(1)(b) (vote 2-1); B(1)(a) (vote 2-1); C(1)(a) (vote 2-1); G(1)(a) (vote 2-1) and G(1)(b) (vote 2-1) of the Statement of Charges.

THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS:

ENGAGING IN SEXUAL CONDUCT WITH A PATIENT

SUSTAINED as to those charges specified in Paragraphs A(1)(a)(i) (vote 2-1), A(1)(b) (vote 2-1); B(1)(a); C(1)(a); D(1)(d) and G(1)(a) of the Statement of Charges.

EIGHTEENTH THROUGH TWENTY FOURTH SPECIFICATION:

MORAL UNFITNESS

SUSTAINED as to those charges specified in Paragraphs A(1)(a)(i) (vote 2-1), A(1)(b) (vote 2-1); B(1)(a), B(1)(c), B(1)(c), B(5) (vote 2-1); C(1)(a), C(1)(c); D(1)(c), D(1)(d); G(1)(a), G(1)(b) and G(1)(d) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in Paragraphs A(1)(c), A(2), A(3), A(4); B(2), B(3), B(4); C(1)(b); D(1)(a), D(1)(b); E(1)(a) (vote 2-1), E(1)(b) (vote 2-1), E(1)(c), E(2); F(1), F(2); G(1)(c) and G(1)(e) of the Statement of Charges.

TWENTY FIFTH THROUGH THIRTY FIRST SPECIFICATIONS:
WILLFUL HARASSING, ABUSING OR INTIMIDATING OF PATIENTS

SUSTAINED as to those charges specified in Paragraphs A(1)(a) (vote 2-1), A(1)(b) (vote 2-1); B(1)(a), B(1)(b); C(1)(a); D(1)(b) (vote 2-1), D(1)(c) (vote 2-1), D(1)(d); E(1)(a) (vote 2-1), E(1)(b) (vote 2-1); G(1)(a), G(1)(b) and G(1)(d) (vote 2-1) of the Statement of Charges.

NOT SUSTAINED as to those charges specified in Paragraphs A(1)(c); B(1)(c) (vote 2-1), B(2), B(3), B(4), B(5); F(1) and F(2) of the Statement of Charges.

THIRTY-SECOND AND THIRTY-THIRD SPECIFICATIONS:
FAILING TO MAINTAIN ACCURATE RECORDS

SUSTAINED As to the charge specified in Paragraph A(4) of the Statement of Charges.

ON THE ISSUE OF IMMINENT DANGER

The Hearing Committee has issued an Interim Report, dated December 18, 1996, finding that the Respondent's practice of medicine constitutes an imminent danger to the health of the people of the State of New York and recommending that the Commissioner's Summary Order continue in effect until a final decision has been rendered by the Committee or, if a review is sought, by the Administrative Review Board.

DETERMINATION OF THE HEARING COMMITTEE

The overwhelming weight of the credible evidence in this case leads to the inescapable conclusion that the Respondent is a sexual predator who represents a very serious danger to his female patients.

The Hearing Committee unanimously (3-0) determines that the Respondent's license to practice medicine in the State of New York should be **REVOKED**.

ORDER

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Respondent's license to practice medicine in the State of New York is hereby **REVOKED.**
2. This **ORDER** shall be effective upon service on the Respondent or his attorney by personal service or by certified or registered mail.

DATED: *W. Hemp* New York
Dec 30 1996


MS. THEA GRAVES PELLMAN (Chairperson)

**HILDA RATNER, M.D.
HENRY PINSKER, M.D.**

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IN THE MATTER
OF
MARK BRYANT MORRISON, M.D.

AMENDED
STATEMENT OF
CHARGES

Mark Bryant Morrison, M.D., the Respondent, was authorized to practice medicine in New York State on or about July 10, 1981, by the issuance of license number 146869, by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, a Psychiatrist, treated Patient A, d.o.b. 5/2/70, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately 1993 to July 1995. (The identities of Patients A and the other patients are disclosed in the attached Appendix.)
1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient A as follows:
 - a. From approximately June 1994 through July 1995, while Patient A was Respondent's patient, Respondent engaged in sexual relations with Patient A.
 - i. The aforesaid sexual relations occurred during that part of the therapy session wherein Respondent hypnotized/deeply relaxed Patient A.
 - ii. During the course of Respondent's engaging in sexual relations with Patient A, during therapy sessions, he informed her that this would make her

sex life better

- c. Respondent instructed Patient A that if she told anyone about the foregoing, she would be locked up and her son would be taken from her
 - 2. Despite Respondent's awareness that Patient A overdosed several times on her Ativan, Respondent failed to take appropriate action.
 - 3. Respondent allowed Patient A to use his office when neither he nor anyone was present, even though other patients' records were accessible and other patients' telephone messages could be heard by Patient A.
 - 4. Respondent failed to maintain a record for Patient A which accurately reflects the care and treatment rendered to Patient A.
- B. Respondent, a Psychiatrist, treated Patient B, a 16 year old girl, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately March to August 1994.
- 1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient B as follows:
 - a. On several occasions throughout the course of treatment, Respondent, in the course of a purported physical examination, but not for a proper medical purpose, when examining Patient B with a stethoscope, inappropriately touched Patient B's breast(s).
 - b. In approximately June 1994, during a psychotherapy session, Respondent attempted to hypnotize/deeply relax Patient B; while she was in this state,

Respondent instructed Patient B to visualize herself naked, and he also asked her questions about himself such as where he was in the picture, this transpired until Patient B refused to continue.

- c. Respondent offered to allow Patient B, a minor, to stay overnight at his home if she had problems at home.
2. Respondent prescribed various drugs, including but not limited to Restoril, to Patient B. On multiple occasions, when Patient B reported to Respondent that she had forgotten to take her medication, Respondent inappropriately instructed her to take the missed doses together with the doses she was prescribed for that day.
3. During the course of ongoing psychotherapy between Respondent and Patient B, when Patient B's mother stated to Respondent that Patient B was allegedly abusing drugs and alcohol and "stockpiling" her medication, Respondent failed to take appropriate action.
4. In approximately June 1994, when Patient B informed Respondent that she would be attending a wedding at which she would be drinking alcohol, Respondent failed to take appropriate action. When Patient B combined taking her medication and drinking alcohol, as aforesaid, she overdosed on same.
5. During the course of ongoing psychotherapy between Respondent and Patient B, Patient B informed Respondent that she smoked marijuana; during one of their sessions. Respondent

instructed Patient B to smoke marijuana prior to attending a future session. Patient B complied and Respondent failed to take appropriate action.

C. Respondent, a Psychiatrist, treated Patient C, d.o.b. 12/26/58, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately January 1991 to August 1994.

1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient C as follows:

a. On or about August 19, 1994, in the course of a purported physical examination, but not for a proper medical purpose, when examining Patient C with a stethoscope, Respondent inappropriately touched Patient C's breast.

b. A few days prior to August 19, 1994, when Patient C called Respondent and informed him that she was very upset and had taken several Ativans and had consumed alcohol, Respondent inappropriately advised Patient C to drive to his home/office to see him.

c. On various occasions during the course of treatment, Respondent offered to let Patient C stay at his home, and he invited her to visit him socially.

D. Respondent, a Psychiatrist, treated Patient D, d.o.b. 10/7/59, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately August 1985 to October 1990.

1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient D as follows:

- a. In approximately December 1985, Respondent permitted Patient D's therapy sessions to last beyond the one-hour time period, wherein Respondent and Patient D discussed personal matters, and this continued in subsequent sessions
- b. During a session in approximately early October 1986, when Patient D informed Respondent that she would be leaving her husband, Respondent offered to help Patient D find an apartment; he also hugged Patient D at the end of the session while she cried, and offered to have her stay overnight at his home. At the following session, when Patient D informed Respondent that she felt "cared for" when he hugged her, he asked her, in words to the effect of "what did you do with that thought", and he expressed anger when she responded, in words to the effect that she "had not done anything with it".
- c. In approximately April 1987, when Patient D called Respondent to inform him that she was uncomfortable with continuing therapy with him because of her feelings toward him, Respondent instructed her to meet him at his home, where they met from approximately 10.00 p.m. until after midnight. During this session, they had dinner, Respondent offered to have her stay overnight at his home, and he informed Patient D that he wanted to have sex with her but that he would not because they

still had issues to work out in therapy.

d. In approximately the summer 1987, when Patient D was having back problems, Respondent massaged her back at the end of the session, subsequent "therapy" sessions lasted until approximately midnight or later, and included back massages and kissing. By approximately October 1987, Respondent and Patient D had become sexually involved with one another, and by approximately December 1987, Respondent and Patient D continued to meet for therapy sessions, but Patient D would then spend the night with Respondent.

e. In July 1989, Respondent and Patient D got married, but Respondent did not refer Patient D to another psychiatrist, despite Patient D asking for same on many occasions throughout her treatment. In approximately March 1990, when Patient D began treatment with a psychologist, Respondent expressed anger toward her for so doing.

2 Respondent inappropriately prescribed medications, including but not limited to Xanax, to Patient D from approximately February 1990 to October 1990.

E. Respondent, a Psychiatrist, treated Patient E, d.o.b. 2/14/55, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, in approximately late 1984 and from approximately July 1987 to January 1988.

1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient E as follows:

- a. On or about December 3, 1987, when Patient E called Respondent several times to inform him that she did not believe that she could make her appointment, he instructed her to take an extra Xanax and go to his home/office; when she met him at his home/office, Respondent handed Patient E samples of Pamelor, then he squatted or knelt in front of her and patted her thighs, when they stood up, he called her to him then hugged her for a period of time. He then walked her to her car with his arm around her, and he told her she could spend the night at his home if she could not drive.
 - b. In approximately September 1987, when Patient E discussed an incident involving her boyfriend, Respondent inappropriately stated or implied that she should have bitten off her boyfriend's penis.
 - c. Throughout the course of therapy, Respondent revealed personal information about himself during sessions, and he offered to be a job reference and to help her find an apartment and a car.
2. In approximately January 1988, when Patient E informed Respondent that she would no longer attend therapy sessions with him, he informed her that he would be her "doctor by phone" until she found another psychiatrist, but for a period of approximately 10 weeks in the Spring 1988, Respondent returned only one of Patient E's numerous phone calls to him.
 3. As a result of the facts alleged in Paragraph E1a, on July 10,

1989, pursuant to Public Health Law Section 230(10)(m)(ii) Respondent was issued an Administrative Warning, advising him that a third party should be present when he physically examines patients, but to this date, Respondent has failed to comply with same.

F. Respondent, a Psychiatrist, treated Patient F, d.o.b. 12/23/59, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately February 1984 to April 1995.

1. During the course of ongoing therapy, Respondent caused Patient F to socialize with Respondent and to work on Respondent's home and property.
2. On or about March 9, 1991, Respondent caused Patient F to go to Patient D's home to harass her while Patient D's and Respondent's separation/divorce was pending.

G. Respondent, a Psychiatrist, treated Patient G, d.o.b. 11/3/61, at his home/office, which is located at RFD #6 Old Road, Patterson, New York, from approximately July 1993 to May 1995.

1. In the course of ongoing psychotherapy, Respondent acted inappropriately toward Patient G as follows:
 - a. From approximately October 1993 through April 1994, while Patient G was Respondent's patient, Respondent engaged in sexual relations with Patient G.
 - b. On several occasions throughout the course of treatment, Respondent, in the course of a purported physical examination, but not for a proper medical purpose, when examining Patient G with a

stethoscope inappropriately touched Patient G's breast(s).

- c. In approximately October 1993, Respondent permitted Patient G's therapy sessions to last beyond the half-hour time period, wherein Respondent and Patient G discussed personal matters, including Respondent revealing personal information about himself, and this continued in subsequent sessions.
 - d. Beginning in approximately October 1993, and continuing in subsequent sessions, when Patient G informed Respondent that she was uncomfortable with continuing therapy with him because of her feelings toward him, Respondent informed Patient G that he wanted to have sex with her but that he would not because it was improper and he could lose his license, and he encouraged Patient G to continue treatment with him.
 - e. On several occasions throughout the course of treatment, Patient G asked Respondent to refer her to another psychiatrist, but Respondent failed to do so. During one psychotherapy session in which Respondent hypnotized/deeply relaxed Patient G, he suggested to her, while she was in the hypnotized/deeply relaxed state, that she not to go to another psychiatrist for treatment.
2. Respondent failed to maintain a record for Patient G which accurately reflects the care and treatment rendered to Patient G.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(3)(McKinney Supp. 1996) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. Paragraphs A and A1 and A1a, A1a(i) A1b-c and/or A2, 3, and/or 4, B and B1 and B1a-c, and/or B2, 3, 4, and/or 5, C and C1 and C1a-c, D and D1 and D1a-e and/or D2, E and E1 and E1a-c and/or E2, F and F1 and/or F2, G and G1 and G1a-e and/or G2.

SECOND THROUGH EIGHTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(4)(McKinney Supp. 1996) by practicing the profession of medicine with gross negligence as alleged in the facts of the following:

2. Paragraphs A and A1 and A1a, A1a(i) A1b-c and/or A2, 3, and/or 4.
3. Paragraphs B and B1 and B1a-c, and/or B2, 3, 4, and/or 5.
4. Paragraphs C and C1 and C1a-c.
5. Paragraphs D and D1 and D1a-e and/or D2.
6. Paragraphs E and E1 and E1a-c and/or E2.
7. Paragraphs F and F1 and/or F2.
8. G and G1 and G1a-e and/or G2.

NINTH THROUGH TWELFTH SPECIFICATIONS

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law §6530(2)(McKinney Supp. 1996) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

9. Paragraphs A and A1 and A1a and/or b.
10. Paragraphs B and B1 and B1a.
11. Paragraphs C and C1 and C1a.
12. G and G1 and G1b.

THIRTEENTH THROUGH SEVENTEENTH SPECIFICATIONS

ENGAGING IN SEXUAL CONDUCT WITH A PATIENT

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(44)(McKinney Supp. 1996) by engaging in physical contact of a sexual nature with a patient, as alleged in the facts of:

13. Paragraphs A and A1 and A1a and/or b.
14. Paragraphs B and B1 and B1a.
15. Paragraphs C and C1 and C1a.
16. Paragraphs D and D1 and D1d.
17. G and G1 and G1a.

EIGHTEENTH THROUGH TWENTY-FOURTH SPECIFICATIONS

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(20)(McKinney Supp. 1996) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as

alleged in the facts of the following.

18. Paragraphs A and A1 and A1a, A1a(i), A1b-c and/or A2, 3, and/or 4.
19. Paragraphs B and B1 and B1a-c, and/or B2, 3, 4, and/or 5.
20. Paragraphs C and C1 and C1a-c.
21. Paragraphs D and D1 and D1a-e and/or D2.
22. Paragraphs E and E1 and E1a-c and/or E2.
23. Paragraphs F and F1 and/or F2.
24. G and G1 and G1a-e and/or G2.

**TWENTY-FIFTH THROUGH THIRTY-FIRST SPECIFICATIONS
WILLFULLY HARASSING, ABUSING OR INTIMIDATING A PATIENT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(31)(McKinney Supp. 1996) by willfully harassing, abusing, or intimidating a patient either physically or verbally, as alleged in the facts of

25. Paragraphs A and A1 and A1a, A1a(i), and/or A1b-c.
26. Paragraphs B and B1 and B1a-b, and/or B2, 3, 4, and/or 5.
27. Paragraphs C and C1 and C1a.
28. Paragraphs F and F2.
29. Paragraphs D and D1 and D1b-e.
30. Paragraphs E and E1 and E1a-b.
31. G and G1 and G1a, b and/or d.

**THIRTY-SECOND AND THIRTY-THIRD SPECIFICATIONS
FAILING TO MAINTAIN ACCURATE RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(32)(McKinney Supp. 1996) by failing to maintain a record for

each patient which accurately reflects his evaluation and treatment of the patient, as alleged in the facts of:

- 32. Paragraphs A and A4
- 33. G and G2.

DATED: August 1996
New York, New York

ROY NEMERSON
Deputy Counsel
Bureau of Professional
Medical Conduct