



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

September 10, 1993

William R. Dorsey, M.D.
2591 Miamisburg-Centerville Road
Centerville, Ohio 45459

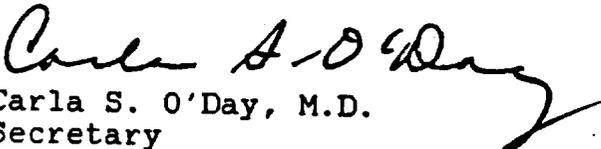
Dear Doctor Dorsey:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on September 9, 1993, including a Motion amending the Findings of Fact, amending the Conclusions of Law of the Hearing Examiner, and adopting an amended Order.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO


Carla S. O'Day, M.D.
Secretary

CS0:em

Enclosures

CERTIFIED MAIL RECEIPT NO. P 741 123 893,
RETURN RECEIPT REQUESTED

cc: Dennis A. Lieberman, Esq.

Kevin P. Byers, Esq.

CERTIFIED MAIL NO. P741 123 894
RETURN RECEIPT REQUESTED

CERTIFIED MAIL NO. P741 123 895
RETURN RECEIPT REQUESTED

Mailed 9/23/93



STATE MEDICAL BOARD OF OHIO

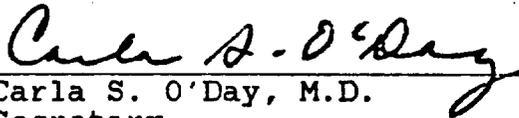
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CERTIFICATION

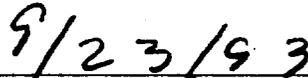
I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Wanita J. Sage, Attorney Hearing Examiner, State Medical Board; and an excerpt of Minutes of the State Medical Board, meeting in regular session on September 9, 1993, including a Motion amending the Findings of Fact, amending the Conclusions of Law of the Hearing Examiner, and adopting an amended Order, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of William Roscoe Dorsey, D.O., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)



Carla S. O'Day, M.D.
Secretary



Date



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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★

WILLIAM ROSCOE DORSEY, D.O.

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ENTRY OF ORDER

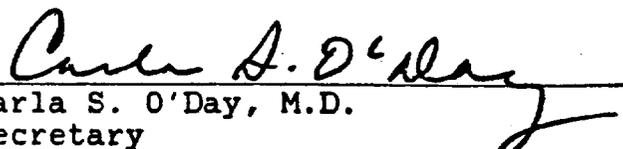
This matter came on for consideration before the State Medical Board of Ohio on the 9th day of September, 1993.

Upon the Report and Recommendation of Wanita J. Sage, Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that William Roscoe Dorsey, D.O., be and is hereby REPRIMANDED.

This Order shall become effective immediately upon approval by the State Medical Board of Ohio.

(SEAL)


Carla S. O'Day, M.D.
Secretary

9/23/93
Date

STATE MEDICAL BOARD
OF OHIO

REPORT AND RECOMMENDATION
IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O.

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The Matter of William Roscoe Dorsey, D.O., came on for hearing before me, Wanita J. Sage, Esq., Hearing Examiner for the State Medical Board of Ohio, on May 26, May 27, and June 22, 1993.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of January 13, 1993 (State's Exhibit #1), the State Medical Board notified William Roscoe Dorsey, D.O., that it proposed to take disciplinary action against his certificate to practice medicine and surgery in Ohio. The Board alleged that, on or about May 11, 1992, after performing a colposcopy on Patient 1 (identified on Patient Key, sealed to protect patient confidentiality), Dr. Dorsey intentionally rubbed and massaged Patient 1's clitoris in an attempt to produce an orgasm, and that Dr. Dorsey admitted to doing so when confronted by his practice partners. Such acts, conduct, and/or omissions were alleged to constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established", as that clause is used in Section 4731.22(B)(6), Ohio Revised Code; "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, "Sexual imposition"; and/or "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act involves moral turpitude", as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, "Sexual imposition." Dr. Dorsey was advised of his right to request a hearing in this Matter.
- B. By letter received by the State Medical Board on January 22, 1993 (State's Exhibit #2), Dennis A. Lieberman, Esq., requested a hearing on behalf of Dr. Dorsey.

II. Appearances

- A. On behalf of the State of Ohio: Lee I. Fisher, Attorney General, by Susan C. Walker, Assistant Attorney General, and Lili C. Kaczmarek, Assistant Attorney General

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- B. On behalf of the Respondent: Dennis A. Lieberman, Esq., and
Kevin P. Byers, Esq.

III. Testimony Heard

A. Presented by the State

1. Patient 1
2. Michael J. Clark, D.O.
3. Liam J. Duggan, D.O.
4. Terrence E. Casey, M.D.
5. Renae Ann Fettig
6. Mrs. Patient 1, mother of Patient 1
7. Mr. Patient 1, father of Patient 1, on rebuttal

B. Presented by the Respondent

1. Ronald Litvak, M.D.
2. William J. Seifer, D.O.
3. Mary L. Theodoras, D.O.
4. Cynthia Lucas
5. Kelley Bohman
6. Yvette Haber
7. Rhonda Began
8. Kathy Chappius
9. Mary Ann Cotter
10. Laura Jack
11. Lorraine McAninch Cazel
12. Duana Shawn Bunch
13. Christina Edwards

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14. William Roscoe Dorsey, D.O.
15. William Dorsey, father of Dr. Dorsey, on surrebuttal

IV. Exhibits Examined

In addition to State's Exhibits #1 and #2, noted above, the following exhibits were identified and admitted into evidence in this Matter:

A. Presented by the State

1. State's Exhibit #3: January 26, 1993, letter to Dennis A. Lieberman, Esq., from the State Medical Board, advising that a hearing initially set for February 5, 1993, was postponed pursuant to Section 119.09, Ohio Revised Code.
2. State's Exhibit #4: February 1, 1993, letter to Attorney Lieberman from the State Medical Board, scheduling the hearing for April 16, 1993.
3. State's Exhibit #5: State's February 25, 1993, motion for continuance.
4. State's Exhibit #6: March 3, 1993, Entry granting the State's motion for continuance and rescheduling the hearing for May 26 and May 27, 1993.
5. State's Exhibit #7: April 14, 1993, Entry setting forth the parties' agreement to commence the hearing at 9:00 A.M. and to stay as late as necessary on May 26 and May 27, 1993.
- * 6. State's Exhibit #8: April 3, 1993, letter to Fred Izenson, Esq., from Patient 1, advising that she did not wish to pursue a civil suit against Dr. Dorsey.
- * 7. State's Exhibit #9: Medical records of Patient 1 with regard to her treatment at Contemporary Obstetrics and Gynecology.
8. State's Exhibit #10: Curriculum vitae of Terrence E. Casey, M.D.
9. State's Exhibit #11: Copy of Section 2907.06, Ohio Revised Code, "Sexual imposition."

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10. State's Exhibit #12: Report of the Council on Ethical and Judicial Affairs, American Medical Association, entitled "Sexual Misconduct in the Practice of Medicine," reprinted in the Journal of the American Medical Association (November 20, 1991, Vol. 266, No. 19).
 - * 11. State's Exhibit #15: June 23, 1992, written statement of Patient 1.
- B. Presented by the Respondent
- * 1. Respondent's Exhibit C: June 16, 1992, letter to Kingsridge Family Practice from Fred M. Izenon, Esq., with regard to his representation of Patient 1.
 2. Respondent's Exhibits D-1 through D-26: Letters of support from professional colleagues of Dr. Dorsey.
 3. Respondent's Exhibits E-1 through E-5: Letters of support from individuals who are nurses and/or patients of Dr. Dorsey.
 4. Respondent's Exhibits F-1 through F-19: Letters of support from 18 patients and one spouse of a patient of Dr. Dorsey.
 5. Respondent's Exhibits G-1 through G-9: Letters of support from various community members.
 6. Respondent's Exhibit H: Curriculum vitae of William R. Dorsey, D.O.
 7. Respondent's Exhibit I: Curriculum vitae of Ronald Litvak, M.D.
 8. Respondent's Exhibit J: Curriculum vitae of William J. Seifer, D.O.
 9. Respondent's Exhibit K: Curriculum vitae of Mary L. Theodoras, D.O.
 10. Respondent's Exhibit L: Illustrative chart of the female reproductive organs.

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- * 11. Respondent's Exhibit N: Transcript of an interview between Patient 1 and Detective Moore, Miami Township Police Department, on May 19, 1992.

* NOTE: THOSE EXHIBITS MARKED WITH AN ASTERISK (*) HAVE BEEN SEALED TO PROTECT PATIENT CONFIDENTIALITY OR PATIENT IDENTITY.

V. Post-Hearing Admissions to the Record

The following additional exhibits are hereby admitted upon the Hearing Examiner's own motion:

- A. Board Exhibit #1: Respondent's May 18, 1993, demand for evidence.
- B. Board Exhibit #2: State's May 25, 1993, memorandum in opposition to Respondent's demand for evidence.
- C. Board Exhibit #3: State's May 24, 1993, motion to close the hearing.
- D. Board Exhibit #4: Respondent's May 25, 1993, memorandum in opposition to the State's motion to close part of the hearing. (NOTE: A LETTER FROM PATIENT 1'S ATTORNEY, SUBMITTED AS AN ATTACHMENT TO THE RESPONDENT'S MEMORANDUM, HAS BEEN SEALED TO PROTECT PATIENT CONFIDENTIALITY.)
- E. Board Exhibit #5: May 28, 1993, Entry scheduling June 22, 1993, as an additional day of hearing.
- F. Board Exhibit #6: Respondent's July 8, 1993, motion for contempt proceedings. (NOTE: THIS EXHIBIT HAS BEEN SEALED TO PROTECT THE CONFIDENTIALITY OF PATIENT 1'S IDENTITY.)
- G. Board Exhibit #7: State's July 15, 1993, memorandum in opposition to the Respondent's motion for contempt proceedings.
- H. Board Exhibit #8: July 16, 1993, Entry denying the Respondent's motion for contempt proceedings.
- I. Board Exhibit #9: July 19, 1993, Nunc Pro Tunc Entry, correcting an error in the July 16, 1993, Entry.

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VI. Other Matters

- A. Respondent's Exhibit A and the testimony of Ellen Weprin, Esq., were not admitted, but were accepted as proffers.
- B. The hearing record is deemed closed as of July 16, 1993, the date of the Hearing Examiner's ruling on Respondent's motion for contempt proceedings.

FINDINGS OF FACT

1. William Roscoe Dorsey, D.O., currently has a private solo practice in obstetrics and gynecology. At all pertinent times, however, he was a practice partner in Contemporary Obstetrics and Gynecology, Inc., at Kingsridge Medical Center, Centerville, Ohio. His practice partners were Dr. Michael J. Clark, Dr. Liam Duggan, and Dr. Kim Warren.

These facts are established by the testimony of Dr. Dorsey, Respondent's Exhibit H, the testimony of Dr. Michael J. Clark (Tr. I at 163-165), and the hearing record throughout.

2. Patient 1, a then 21-year-old mother of one, first saw Dr. Dorsey on April 1, 1992. At that time, she complained of abdominal pain and requested testing for sexually-transmitted diseases. She explained to Dr. Dorsey that she had never been sexually active with anyone but her husband, whom she had divorced in December, 1991. She wanted to be tested for sexually-transmitted diseases because her husband had had an affair while they were married. When Patient 1 told him this, Dr. Dorsey sat down, took Patient 1's hands in his, and talked to her about her relationship with her ex-husband and various other personal matters, including religious preferences, Patient 1's child, and how Patient 1's parents felt about her ex-husband. Although Patient 1 was not entirely comfortable with his holding her hands, she felt that Dr. Dorsey was very nice, concerned, and compassionate. After their conversation, Dr. Dorsey examined Patient 1, taking a Pap smear and various specimens for culture. During the pelvic examination, Dr. Dorsey discovered a possible left ovarian cyst. He scheduled Patient 1 for an ultrasound, and instructed her to return in two weeks.

These facts are established by the testimony of Patient 1 (Tr. I at 24-28, 31, 97-103), the testimony of Dr. Dorsey (Tr. III at 30-37), State's Exhibits #9 and #15, and Respondent's Exhibit N.

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3. Approximately one week later, Patient 1 called Contemporary Obstetrics and Gynecology, Inc., explaining that she had a chance to go on vacation with her family, but first wanted to check with Dr. Dorsey since she had not yet received the ultrasound results. The person to whom Patient 1 talked said that she would call Patient 1 back after checking with Dr. Dorsey. Later that day, Dr. Dorsey himself called Patient 1 from his car phone. He informed her that the ultrasound and other tests had come back negative, and that the office would notify her when the Pap smear results came in. Dr. Dorsey then engaged Patient 1 in personal conversation, during which he made recommendations regarding various movies he had seen or heard about. He suggested that she take her boyfriend to see a movie. When she replied that she did not have a boyfriend, he asked what a pretty girl like her was doing without a boyfriend. Their conversation lasted approximately five to 10 minutes.

These facts are established by the testimony of Patient 1 (Tr. I at 28-31, 103-115), the testimony of Dr. Dorsey (Tr. III at 37-41), State's Exhibit #15, and Respondent's Exhibit N.

4. After Patient 1 returned from vacation just before Easter, someone (presumably, a medical assistant) from Dr. Dorsey's office notified her by phone that her Pap test result was abnormal and that she needed to come in for a biopsy. In response to Patient 1's questions, the medical assistant explained that a colposcopy would be done and that it might be a little painful. She also explained that an abnormal Pap result could mean several things, including possible cancer.

The colposcopy was scheduled for May 11, 1992. During the interim, Patient 1 was anxious about the procedure, and both she and her family were very upset about the possibility that she might have cancer. Patient 1 discussed with her mother who would raise her one-year-old son if anything happened to her.

These facts are established by the testimony of Patient 1 (Tr. I at 31-34), the testimony of Patient 1's mother (Tr. I at 299-303), State's Exhibit #15, and Respondent's Exhibit N.

5. On May 11, 1992, Patient 1 went to Dr. Dorsey's office for the colposcopy with biopsies. A medical assistant was in the room while Dr. Dorsey performed the procedure, but left afterwards to take the four tissue specimens to the lab.

Dr. Dorsey remained in the room after the medical assistant left, and engaged Patient 1 in personal conversation. He asked her whether she had a boyfriend yet and how things were going with her ex-husband. Patient 1 told him that her ex-husband was then watching her son in the waiting room because her parents hadn't been able to come with her. Dr. Dorsey asked how often she saw her ex-husband, and told her that she was wise not to see him alone if

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she didn't want to be sexually active with him. Dr. Dorsey suggested that it had been awhile since Patient 1 had been sexually active, and that she must miss it. Patient 1 indicated that she didn't really miss it. Dr. Dorsey asked whether it had been an enjoyable experience for her. When she didn't answer, he asked her whether she had ever had an orgasm during sex while she was married. Patient 1 was very uncomfortable with the discussion at this point, and did not answer. Dr. Dorsey continued to pursue the subject, asking her questions, such as whether she knew that an orgasm was an "outside thing," not an "inside thing."

At that point, Patient 1 indicated that she knew about such things. She stated it was probably just her, she was probably just "built funny." Patient 1 testified that she had been trying by that remark only to end the conversation without being rude. She had not intended to imply that she was nonorgasmic, but now realized that Dr. Dorsey may have taken her remark to mean that.

Dr. Dorsey replied that Patient 1 was built just fine. He told her to lie back on the table, scoot up, and put her feet in the props. Patient 1 did as she was told, though she did not know what Dr. Dorsey intended to do. Dr. Dorsey reached for a glove, which Patient 1 never saw him put on or take off. Then, without explaining what he was going to do, Dr. Dorsey touched Patient 1's clitoral area and began to rub it. He continued to massage that area, asking her if it was stimulating her. He asked several times, and Patient 1 indicated that she did not think it was going to happen.

Patient 1 felt very uncomfortable. She did not know whether Dr. Dorsey was doing something a doctor was supposed to do, or what she should do.

Dr. Dorsey had been standing down at the corner of the table, close to Patient 1's knees. After Patient 1 indicated that she didn't feel stimulated, he moved up to her right side and explained that the clitoral fold (sic) sometimes covers the clitoris to where it can't be stimulated. He indicated that he was going to pull back Patient 1's clitoral fold. He did so with his other, ungloved hand while still massaging Patient 1's clitoral area with the other. Patient 1 could feel the fingernails on Dr. Dorsey's ungloved hand pinching her. She tried to sit up, but Dr. Dorsey told her to lie back down and relax. He suggested that she close her eyes, as frame of mind had a lot to do with it. Patient 1 did not close her eyes, but turned her head and looked at the wall. She indicated that she did not feel stimulated, and repeated that she was probably just built different. Dr. Dorsey then said that he had yet to meet a woman he couldn't bring to orgasm. When he said that, Patient 1 sat up and told him that she must be the exception.

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Dr. Dorsey turned red and gave an embarrassed laugh. He hugged Patient 1 from the side, then went over and selected a chart that contained illustrations of the female anatomy. He proceeded to show Patient 1 on the chart the clitoral area and the clitoral fold, explaining what happens when that area is stimulated. Dr. Dorsey then picked up his papers and headed toward the door. On his way out, he told Patient 1 that he would help her pray about "this." He also said that he didn't know what the Bible said on the subject, but he would suggest that she try to stimulate herself when she was home alone. He again suggested that she pray, indicating that God would not know her needs unless she asked for what she needed. He then reminded Patient 1 to make an appointment to return in one week, and left the room.

Patient 1 remained sitting on the table for a short while, then left the room. She stopped at the desk to make the return appointment, but then told the receptionist that she had changed her mind and didn't want another appointment. She hurried toward the door, grabbed her baby, and walked out of the office.

These facts are established by the testimony of Patient 1 (Tr. I at 34-58, 115-120, 135-156), State's Exhibit #15, and Respondent's Exhibit N.

6. Dr. Dorsey documented the visit of May 11, 1992, in Patient 1's medical record as follows: "She was in, colposcopy was performed. Biopsies were taken at 5:00, 7:00 and 12:00 as well as an ECC. We will see her back in 2 wks."

This fact is established by State's Exhibit #9 (pg. 30).

7. After Patient 1 left Dr. Dorsey's office on May 11, 1992, she went straight home, without stopping at her mother's as she was supposed to. She did not call her mother after she got home. Later that night, Patient 1's mother called her to find out how things had gone. Patient 1 told her that the procedure had not been painful. Her mother could tell that Patient 1 was upset, however, and asked her what was wrong. Patient 1 told her mother that she just didn't want to go back to Dr. Dorsey; she thought he was weird and just had a bad feeling about him. When her mother tried to find out why she felt that way, Patient 1 said she did not want to talk about it.

The next day, Patient 1 did not have to go to work. She felt as though she needed to talk to someone about what had happened, so she called her friend Renae. Patient 1 cried when she told Renae what had happened. She asked Renae whether she had done something wrong and whether a doctor had ever done anything like that to Renae. Renae assured her that what Dr. Dorsey had done was wrong, and encouraged Patient 1 to tell her mother.

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Although Patient 1's testimony did not so indicate, she apparently told her mother the day after she talked to Renae (see * below). She called her mother at work and asked her to come over. Patient 1 was crying, and told her mother that she didn't want to talk over the phone. She asked her mother to come by herself. After her mother arrived, Patient 1 told her what had happened. Her mother comforted her, then became angry and said that Dr. Clark needed to know about this. Patient 1's mother called Dr. Clark's office, but was told that he was busy. She asked that he call her back that day, as soon as possible. Dr. Clark called back within a short time, and insisted that Patient 1's mother tell him why she needed to see him. When she told him, he indicated that he didn't know what to say, but would call her back. After awhile, his office called back and gave her a time to meet with Dr. Clark later that day.

These facts are established by the testimony of Patient 1 (Tr. I at 58-63), the testimony of Renae Ann Fettig (Tr. I at 291-298), the testimony of Patient 1's mother (Tr. I at 299-309), and State's Exhibit #15. *(The colposcopy was done on Monday, May 11, 1992, and the conversation with Renae took place the next day [Tr. I at 294]. The testimony of Dr. Clark [Tr. I at 166] and the testimony of Mr. Patient 1 [Tr. III at 96] established that the meeting with Dr. Clark took place on a Wednesday. The meeting took place the day Patient 1 told her mother.)

8. After her mother left and Patient 1 was getting ready to go to the meeting with Dr. Clark, Dr. Dorsey called her. He said he understood that her mother had called Dr. Clark that morning. According to Patient 1, he asked if Patient 1 had told her mother about what had happened "yesterday." Patient 1 said that she had. She told Dr. Dorsey not to call back, and hung up the phone. Patient 1 was surprised that Dr. Dorsey knew about her mother's call, because Dr. Clark had asked her mother not to discuss the situation with anyone until after they had met. Approximately 15 minutes later, Dr. Dorsey again called Patient 1. This time, she hung up on him immediately and left to meet her mother at Dr. Clark's office.

These facts are established by the testimony of Patient 1 (Tr. I at 63-64) and State's Exhibit #15.

9. Dr. Michael J. Clark testified that, after meeting with Patient 1 and her mother, he called a meeting of the practice partners. Dr. Liam Duggan, Dr. Kim Warren, Dr. Dorsey, himself, and Beverly Bell, the office manager, attended. Dr. Clark related what Patient 1 had told him. Dr. Dorsey was very upset and emotional. He cried and apologized. He said he was sorry and would do anything, including getting counseling if that's what Patient 1 wanted.

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Dr. Dorsey told the partners his account of what had happened on May 11, 1992. He told them that, after he had completed the colposcopy with biopsies, Patient 1 had initiated a conversation about being nonorgasmic. Dr. Dorsey said that he had told her it was a physical situation, and that he could show her and then she could go home and learn to have an orgasm. He had asked her to lie back. Dr. Dorsey stated that he had then put on a glove with lubricant, unhooded Patient 1's clitoris, removed smegma, and rubbed her clitoris. Dr. Dorsey did not indicate to the partners that he had attempted to stimulate Patient 1 to orgasm. He said that he had been trying to help Patient 1 as a Christian so that she could achieve orgasm for her next marriage. He had felt that, as one Christian to another, she would understand what he was trying to do.

Dr. Clark stated that it had been his experience that women having colposcopies were very anxious about the procedure, the possible pain, and the possibility of cancer. He had never known a woman to be interested in discussing sexual dysfunction just after a colposcopy. He stated that most women wanted the procedure done and over, then they wanted an answer. Dr. Clark also stated that he was familiar with Dr. Dorsey's training. Dr. Dorsey has no specialized training with regard to sexual dysfunctions. Dr. Clark would himself usually refer a patient who indicated that she was nonorgasmic to a specialist, after discussing the problem with her.

These facts are established by the testimony of Dr. Clark (Tr. I at 162-216).

10. Dr. Liam J. Duggan testified that he had learned of the incident regarding Dr. Dorsey and Patient 1 prior to the partners' meeting. Dr. Dorsey had called Dr. Duggan from his car phone while Dr. Duggan was at the hospital, and had told him that a patient of Dr. Dorsey had complained to Dr. Clark. When Dr. Duggan asked what had happened, Dr. Dorsey told him that, after he had done a colposcopy, he had had a discussion with Patient 1 where she admitted that she had not had an orgasm in all the time she had been married. Dr. Dorsey said that Patient 1 was a Christian and that he, being a Christian, had wanted to help her. Therefore, he had asked her to lie down, and had then put on a glove with lubricant, unhooded her clitoris, and rubbed her clitoris to show her where it was and how to have an orgasm. Dr. Dorsey did not tell Dr. Duggan that he had tried to stimulate Patient 1 to orgasm. He did state that he had advised her to repeat the activity in the privacy of her own bedroom and to have an orgasm so that if she got married again she would know what it was and be able to satisfy her husband. Dr. Duggan indicated that Dr. Dorsey had given a similar explanation later at the partners' meeting. Dr. Duggan stated that Dr. Dorsey had been tearful at the meeting, and had seemed quite

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frightened by the whole series of events. In fact, Dr. Dorsey had been so upset that Dr. Duggan had driven him home in Dr. Dorsey's car after the meeting.

Dr. Duggan also indicated that patients were usually anxious about a colposcopy procedure and the possibility of cancer. He stated that, after such procedure, a patient generally does not want to stay and discuss sexual dysfunction problems.

These facts are established by the testimony of Dr. Duggan (Tr. I at 217-240).

11. Dr. Michael Clark and Dr. Liam Duggan both recalled that Dr. Dorsey had stated at the partners' meeting in Dr. Clark's office that he had "rubbed" Patient 1's clitoris. Dr. Dorsey had also said in his prior conversation with Dr. Duggan that he had "rubbed" Patient 1's clitoris. However, at a later meeting of the partners in an attorney's office, Dr. Dorsey adamantly denied that he had rubbed Patient 1's clitoris. He stated that he had been giving her an "anatomy lesson," and had merely "touched" her clitoris to show her where it was.

These facts are established by the testimony of Dr. Clark (Tr. I at 213-215) and the testimony of Dr. Duggan (Tr. I at 228-230).

12. In the opinion of Terrence E. Casey, M.D., who testified as an expert in obstetrics and gynecology on behalf of the State, a physician's trying to stimulate a patient by massaging the clitoral area is a "big step away from the standard of care." Dr. Casey stated that it would be appropriate for a physician to point out the clitoris if the patient so requested or didn't know that the clitoral area was a source of sexual stimulation, but to rub or massage the area is absolutely unacceptable.

Dr. Casey felt that it would be not only unusual, but also inappropriate, for a physician to have a conversation with a patient about sexual dysfunction following a colposcopy with biopsies, as patients are generally anxious about the procedure and the possibility of cancer. In view of the patient's concern about another medical factor, it would definitely be inappropriate for the physician to initiate such discussion. If the patient brought up sexual dysfunction, the physician might express concern, but arrange another time to discuss it.

Dr. Casey noted that Dr. Dorsey had not documented anything with regard to sexual problems in Patient 1's medical records. In Dr. Casey's opinion, minimal standards of care would require a treating gynecologist to document a patient's complaint of sexual dysfunction and any ensuing discussion, treatment, or referral.

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These facts are established by the testimony of Dr. Casey (Tr. I at 242-275) and State's Exhibit #10.

13. Dr. Dorsey's at-hearing account of his interactions with Patient 1 prior to May 11, 1992, did not differ significantly from that of Patient 1. Dr. Dorsey admitted that he had discussed personal matters, including religion and Patient 1's relationship with her ex-husband, at Patient 1's initial visit on April 1, 1992. He stated that he routinely discussed things other than strictly medical matters with patients. He said that he didn't "ram Christianity down patients' throats," but if he had an opportunity to "witness" to them or to show them something they had never realized, he felt as though he were doing them a favor and doing his duty as a Christian. He also admitted that he had discussed movies with Patient 1 on the phone when he had called to give her the ultrasound result, but denied that he had talked about the specific movies that Patient 1 mentioned in her testimony.

With regard to the events of May 11, 1992, the accounts of Dr. Dorsey and Patient 1 varied significantly. Dr. Dorsey admitted that he had initiated a personal conversation with Patient 1 after the medical assistant left the room following the colposcopy procedure. He recalled having asked her about her relationship with her ex-husband, and having advised her not to let her decision-making become clouded by being sexually active with him at this point. According to Dr. Dorsey, Patient 1 had then indicated that sex had not been enjoyable while she was married. When he had asked her what she meant by that, she had been hesitant about answering, so he had asked her whether she had ever had an orgasm during sex while she was married. She had admitted that she had not, and had indicated that she thought her anatomy was different. He had then asked her to lie back on the table. Dr. Dorsey claimed that he had told her at that point that he would explain her anatomy so she would know for sure that she was not abnormal.

Dr. Dorsey also claimed that he had then done a standard sexological examination, showing Patient 1 her labia, clitoral hood and clitoris. He had retracted the clitoral hood with one hand and touched the clitoris with the other. Dr. Dorsey initially stated that he had touched Patient 1's clitoris only to the point where she could feel what he was doing, as a means of making sure she was neurologically intact; that he had asked her if she could feel the sensation of his touching her; and that she had indicated that she could, then sat up. Later, however, Dr. Dorsey said that, when he had retracted the clitoral hood, he had found smegma above the clitoris and under the hood, which he had wiped off. Dr. Dorsey claimed that the entire "sexological examination" had taken about 20 seconds. Afterward, he had taken a chart showing the female anatomy, and had gone over it with Patient 1, explaining what

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happened during sexual activity and mentioning that certain positions may or may not give more stimulation to the clitoral area. Although Dr. Dorsey maintained that he had performed a legitimate sexological exam in response to Patient 1's complaint of sexual dysfunction, he offered no explanation as to why he did not document such complaint and exam in the patient record for Patient 1 (see Finding of Fact #6, above).

Dr. Dorsey stated that his only intention in performing such examination was to educate Patient 1 on her anatomy and alleviate her fears about not being anatomically normal. He denied that he had attempted to manipulate Patient 1's clitoris to orgasm. He also denied having said that he had never met a woman he couldn't bring to orgasm, or any words to that effect. Dr. Dorsey denied that he had ever mentioned masturbation to Patient 1, but stated that he had told her that she needed to know where and what on her body would produce an orgasm so that if she remarried she could have a normal sex life with her husband.

Dr. Dorsey claimed that he had not known why Patient 1 was upset when he learned of her complaint to Dr. Clark. The office manager had called and told him that Patient 1 was upset and that she and her mother were going to meet with Dr. Clark. He claimed that he had then tried to call Patient 1 because he hadn't known what she was upset about. That claim is rebutted by the testimony of Dr. Liam Duggan concerning Dr. Dorsey's phone call to him at the hospital; Dr. Dorsey not only informed Dr. Duggan that Patient 1 had complained to Dr. Clark, but also told Dr. Duggan his version of what had happened between Patient 1 and himself on May 11, 1992 (see Finding of Fact #10, above).

Although Dr. Dorsey admitted that he had called Patient 1 twice the day he had learned of her allegations, his account of these calls differed from Patient 1's. According to Dr. Dorsey, Patient 1 had hung up the first time he called, so he had immediately called her back and told her who he was. Patient 1 had told him that she didn't want to talk to him and hung up, so he had not attempted to contact her again. This account is inconsistent with Patient 1's testimony that he had called back after she had told him not to the first time he called. Dr. Dorsey's account raises questions as to why Patient 1 would have hung up without knowing who was calling the first time, then given him a chance to identify himself the second time.

Dr. Dorsey characterized his upset state at the partners' meeting that day as a normal reaction to a patient's either blatantly misjudging or blatantly lying about a situation and making it into something it wasn't. Dr. Dorsey could not recall whether or not he had said he was sorry. He thought he might have said it within a

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particular context. He might have meant that he was sorry that Patient 1 had misinterpreted what he had done during the "sexological examination," when he had only intended to describe her anatomy to her. He might have meant that he was sorry that allegations had been made against him. Dr. Dorsey stated that, whatever he had said, he had not intended to admit that what Patient 1 alleged was correct. He asserted that what she had said was not correct, and that he had never admitted otherwise.

These facts are established by the testimony of Dr. Dorsey (Tr. III at 21-60).

14. William J. Seifer, D.O., and Mary L. Theodoras, D.O., both testified that sexological examinations constitute acceptable medical practice, if indicated by a complaint of sexual dysfunction. Such examinations involve the physician's going through and explaining the different sex organs, actually touching the sexual parts so that the patient can tell exactly where they are located.

Dr. Theodoras, a former family practitioner who has served full-time as a Regional Assistant Dean at the Ohio University College of Osteopathic Medicine and Surgery since 1986, knew Dr. Dorsey personally from his days as a medical student. She stated that all of Dr. Dorsey's evaluations during his junior and senior years had been good to excellent. He had since been involved with teaching her medical students, and she had always had a good relationship with him.

Dr. Seifer, who testified as an expert in obstetrics and gynecology on behalf of the Respondent, had known Dr. Dorsey as a student, as well as an intern and resident. Dr. Seifer was one of Dr. Dorsey's chief trainers during Dr. Dorsey's residency. Dr. Seifer had since had opportunity to observe Dr. Dorsey as a practicing physician. In Dr. Seifer's opinion, Dr. Dorsey was a very good, ethical physician with high moral character, who was well liked by most of the professional staff.

Dr. Theodoras indicated that, if a patient complained of being nonorgasmic, she would first do a bimanual pelvic examination to make sure that there was no obstruction or abnormality causing the problem. If she found no physical cause, she would then find out whether the patient knew what actually brought on orgasm and was aware of areas that could be stimulated. If the patient were unsure, she would show the patient a chart of the female anatomy, then let the patient view the patient's own clitoral area with a mirror. While the patient watched in the mirror, Dr. Theodoras would pull back the clitoral hood to expose the clitoris. Depending on how the patient was accepting the examination, Dr. Theodoras might lightly touch the clitoris to make sure the patient knew exactly where it was and what she was talking about.

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Dr. Seifer indicated that, in doing a sexological examination of a female, he would touch the clitoris to make sure it was not hooded and that there was no smegma, and might also rub a finger on it to see if sensitivity were present. Although Dr. Seifer would himself use a chart prior to doing a sexological examination so that the patient would know exactly what he was going to touch, such chart could be used after the examination, as long as the patient knew what the physician was doing. Dr. Seifer stated that the physician should explain to the patient before the examination what would be done and what would be touched. He later stated, however, that doing a sexological exam without a prior explanation of what would be done, would not constitute practice below minimal standards of care if there had been a prior discussion of sexuality and the patient had stated that she must be "funny down there."

The responses of Dr. Seifer and Dr. Theodoras to the different hypothetical fact patterns presented by the Respondent's attorney and the State's attorney indicated that their opinions as to whether or not Dr. Dorsey's conduct on May 11, 1992, conformed to minimal standards of care would depend on what actually happened. Both physicians agreed that it would not be proper for a physician to rub or massage a patient's clitoris and ask her whether she was being stimulated to orgasm. Dr. Seifer indicated that any sexual stimulation would constitute inappropriate medical practice. Dr. Seifer and Dr. Theodoras, neither of whom had reviewed Dr. Dorsey's medical records for Patient 1, agreed that minimal standards would require that the physician document the fact that a sexological exam had been performed.

Dr. Seifer stated that he had never been asked questions about sexual dysfunction or done a sexological examination of a patient immediately after a colposcopy with biopsies, because patients were generally very concerned about what was going on with the colposcopy. He indicated, however, that whether or not it would be inappropriate to discuss sexual dysfunction at such a time would depend on the patient.

These facts are established by the testimony of Dr. Seifer (Tr. II at 49-88) and the testimony of Dr. Theodoras (Tr. II at 92-119).

15. Ronald Litvak, M.D., who practices psychiatry with a subspecialty in forensic psychiatry, testified with regard to his two-hour examination of Dr. Dorsey, done at Dr. Dorsey's request on April 29, 1993. Dr. Litvak's examination did not include physical examination or psychological testing. Dr. Litvak performed a mental status examination, which consisted of interviewing Dr. Dorsey and observing his behavior and responses during that interview. Dr. Litvak obtained a detailed history from Dr. Dorsey regarding the circumstances that had led to the State Medical

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Board's allegations, as well as comprehensive background information about Dr. Dorsey's life, physical health, family relationships, education, religious upbringing, and occupation.

Prior to examining Dr. Dorsey, Dr. Litvak reviewed various documents, including the Board's allegation letter (State's Exhibit #1), the report of Patient 1's interview with a detective (Respondent's Exhibit N), the medical records of Patient 1 (State's Exhibit #9), and a deposition of Dr. Dorsey. Although Dr. Litvak considered all of this information, he relied on Dr. Dorsey's version of events to a great extent in formulating his opinion.

For purposes of accuracy at hearing, Dr. Litvak referred to his notes regarding Dr. Dorsey's version of the events of May 11, 1992. Dr. Dorsey told Dr. Litvak that, after the colposcopy, he had had a discussion with Patient 1 involving sexuality in general, religious feelings, her feelings about her ex-husband, and her concerns about being nonorgasmic and feeling anatomically different than most women. Dr. Dorsey had asked her lie back and had "appropriately" touched various areas of her vaginal area, with his gloves on, to point out that she was anatomically normal. He had then had her sit up so that he could show her these areas on a chart and explain her physiology to her. Dr. Litvak testified that Dr. Dorsey adamantly denied having experienced any type of sexual arousal with Patient 1 or any other patient. He denied having tried to induce an orgasm or having done anything erotic in nature with regard to Patient 1. Dr. Dorsey told Dr. Litvak that Patient 1 had appeared comfortable during his examination. Before she had left, Dr. Dorsey had given her what he had felt to be an appropriate and innocent hug around the shoulders while she was sitting on the table. He had reassured her that things would work out and told her that she should pray. Dr. Dorsey also told Dr. Litvak that Patient 1 had asked before she left about getting an AIDS test; Dr. Dorsey had told her that she was not in a high-risk group, but that such test could be obtained later if she continued to have concern. There is no evidence that Dr. Dorsey mentioned this latter detail in any of his prior or subsequent accounts of the events of May 11, 1992.

Dr. Dorsey also told Dr. Litvak that he had never acknowledged having done anything wrong to Dr. Clark; he had merely told Dr. Clark that he had examined Patient 1. In addition, Dr. Dorsey told Dr. Litvak that he had found out some things about Patient 1 that cast some doubt on her credibility.

Dr. Litvak stated that there had been no indication that Dr. Dorsey was being deceitful with him during their interview. Dr. Dorsey had come across as forthright. His affect had been appropriate, with appropriate eye contact and normal rate of speech. He had spoken spontaneously and offered detailed information.

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Dr. Litvak testified that he had been unable to decide what significance to give the fact that Dr. Dorsey made no mention of Patient 1's alleged complaint of sexual dysfunction or his own activities regarding that complaint in Patient 1's medical records. Dr. Litvak felt that there could be several explanations. It was possible that Dr. Dorsey did not make any patient record entry with regard to these events because he had done what Patient 1 had alleged and knew it was improper. However, it was also possible that he had simply neglected to document something that varied from usual gynecological examination or treatment.

Based on his mental status examination of Dr. Dorsey and his review of extrinsic documentation, it was Dr. Litvak's opinion that Dr. Dorsey did not exhibit any diagnosable mental or psychiatric disorder. There was also no indication in Dr. Dorsey's history that he suffered from any sexual abnormality, dysfunction, or problem. Dr. Litvak found no evidence to cause him to suspect Dr. Dorsey's competence, compassion, or abilities. Dr. Litvak felt that Dr. Dorsey was psychiatrically fit to practice medicine in Ohio.

These facts are established by the testimony of Dr. Litvak (Tr. II at 6-47) and Respondent's Exhibit I.

16. Six of Dr. Dorsey's patients testified on his behalf. They all indicated that he was a warm, compassionate physician whom they trusted.

Three of these patients, Kelley Bohman, Rhonda Began, and Laura Jack knew at the time they became patients of Dr. Dorsey that allegations had been made against him by a patient. Ms. Bohman and Ms. Began indicated that Dr. Dorsey had been highly recommended to them by people they trusted. Ms. Jack, who is a nurse, had known Dr. Dorsey professionally for seven to eight years. Ms. Jack indicated that, aside from the fact that she felt Dr. Dorsey to be a very caring physician, one of the reasons she had decided to become his patient was because she had felt it unfair of his practice partners not to have stood by Dr. Dorsey after a patient made allegations against him. She did not think it possible that they had any good reason for letting him go.

Two of the six patients, Cynthia Lucas and Rhonda Began, had had occasion to discuss sexually-related matters with Dr. Dorsey. Ms. Lucas knew Dr. Dorsey as a friend and a client of her hair design business, as well as a physician. She had been his patient for approximately five years, seeing him at least annually. She stated that once, when Dr. Dorsey had examined her because of a complaint of pain, he had asked her whether she had pain during "relations." When she had referred to what he called "relations" as "sex", Dr. Dorsey's face had gotten red. She felt that their

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discussion had embarrassed him more than her. The other patient, Rhonda Began, had been referred to Dr. Dorsey by the Pregnancy Crisis Center when she was unwed and pregnant. She stated that Dr. Dorsey had lectured her, telling her that premarital sex was wrong and that she should have waited until she was married. He had told her, however, to "hang in there" and he would see her through the pregnancy and she would get along fine. Ms. Began stated that Dr. Dorsey had not made her feel bad about herself. She had asked for his opinion, and she had agreed that she should not have had premarital sex.

These facts are established by the testimony of Cynthia Lucas (Tr. II at 124-132), the testimony of Kelley Bohman (Tr. II at 133-141), the testimony of Yvette Haber (Tr. II at 141-148), the testimony of Rhonda Began (Tr. II at 149-154), the testimony of Kathy Chappius (Tr. II at 155-160), and the testimony of Laura Jack (Tr. II at 166-171).

17. Mary Anne Cotter, R.N., testified that she had known Dr. Dorsey for approximately eight years. In her 30 years of nursing, she has had opportunity to watch many physicians. In her current position as clinical manager of the operating room at Southview Hospital, she would be obligated to report any inappropriate or substandard practices that she or any of her nurses witnessed. She had never had any occasion to report Dr. Dorsey. In Ms. Cotter's opinion, Dr. Dorsey was an excellent physician and surgeon. She and the other nurses felt that he was beyond reproach, reliable, and honest. In addition, he had very good rapport with his patients.

These facts are established by the testimony fo Ms. Cotter (Tr. II at 161-165).

18. Various letters submitted on Dr. Dorsey's behalf from patients, colleagues, and members of the community also indicated that Dr. Dorsey is held in high regard both as a person and as a physician.

These facts are established by Respondent's Exhibits D-1 through D-26, E-1 through E-5, F-1 through F-19, and G-1 through G-9.

19. Lorraine Cazal and Duana Shawn Bunch testified on behalf of the Respondent regarding Patient 1. Both were apparently concerned about the fact that Patient 1 did not have a marriage license when her wedding took place in August, 1990. They indicated that Patient 1 had gotten married without a license because she had thought that doing so would allow her to remain covered under her father's insurance plan. Their apparent belief that such conduct was illegal, lacks legal merit.

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Ms. Cazal, who indicated that she would not say such a thing to Patient 1's face, testified that she thought that Patient 1 was "not very truthful" because of problems she had had with boyfriends and the fact that she had had a wedding but "didn't really get married." (Tr. II at 177-178, 185). Ms. Cazal was not aware prior to hearing that Patient 1 had been granted a decree of divorce by the Montgomery County Common Pleas Court in December, 1991. Ms. Cazal claimed that Patient 1 had told her before the wedding that she was getting married with a legal license, but had told her after the wedding that she had not had a license.

Ms. Bunch, on the other hand, testified that Patient 1 had told her before the wedding that she was not going to get a license. Ms. Bunch had felt that Patient 1's marriage was illegal, and had later reported Patient 1's father, who was a pastor, to his state supervisor for having performed the "fake wedding." Patient 1's father, who testified as a rebuttal witness for the State, indicated that he had been exonerated after his supervisor investigated Ms. Bunch's complaint.

These facts are established by the testimony of Ms. Cazal (Tr. II at 171-193), the testimony of Ms. Bunch (Tr. II at 199-215), and the testimony of Patient 1's father (Tr. III at 75-119).

20. By letter dated April 3, 1993, Patient 1 notified her personal attorney that she did not wish to pursue a civil action against Dr. Dorsey. When asked at hearing why she did not wish to sue Dr. Dorsey, Patient 1 stated: "Because what he did to me isn't going to go away. It's already been done. And the reason why I'm here is not so that I can get money but so that I feel like I've done my part, and so that he can get help, and so that maybe it won't happen to the next patient. I don't feel like money is something I should get for being treated that way. I don't want his money. I don't want any part of him, nothing."

These facts are established by the testimony of Patient 1 (Tr. I at 69-70) and State's Exhibit #8.

CONCLUSIONS

1. The acts, conduct, and/or omissions of William Roscoe Dorsey, D.O., as set forth in Findings of Fact #1 through #12, above, constitute: "A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established", as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

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The testimony and evidence presented in this Matter establish that, on May 11, 1992, after performing a colposcopy with biopsies on Patient 1, Dr. Dorsey rubbed and massaged Patient 1's clitoris in an attempt to sexually stimulate her. As stated by the State's expert, Dr. Terrence Casey, such behavior constitutes a "big step away from the standard of care."

Dr. Dorsey's attempts to deny and recharacterize his improper conduct are not convincing. Patient 1's account of what happened on May 11, 1992, is entirely credible and well-corroborated. Despite suggestions by Respondent's counsel to the contrary, there are no significant inconsistencies between Patient 1's at-hearing account and her interview with a police detective a few days after the event. It was obvious from Patient 1's demeanor at hearing that it was still difficult, over a year after the event, for her to talk about what had happened. She had no reason to fabricate such events. In fact, her testimony indicated that she liked and trusted Dr. Dorsey as a physician before he sexually molested her. The testimony of Patient 1's mother and Ms. Fettig, indicating that Patient 1 was traumatized by what happened in Dr. Dorsey's office, tends to corroborate the testimony of Patient 1. Further, the testimony of Dr. Dorsey's former practice partners, Dr. Michael Clark and Dr. Liam Duggan, corroborates Patient 1's testimony. Dr. Dorsey initially told his practice partners that he had rubbed Patient 1's clitoris. He later changed his story. Shortly after he learned of Patient 1's complaint to Dr. Clark, Dr. Dorsey told Dr. Duggan that he had rubbed Patient 1's clitoris to show her where it was and how to have an orgasm. Later that same day, Dr. Dorsey told Dr. Clark and the other practice partners that he had rubbed Patient 1's clitoris because he had been trying to help her as a Christian so that she could achieve orgasm for her next marriage. A few days later, at a meeting of the partners in an attorney's office, Dr. Dorsey denied that he had rubbed Patient 1's clitoris, claiming that he had merely touched it to show her where it was. Dr. Dorsey's subsequent claim that he had only conducted a legitimate sexological examination in response to Patient 1's complaint of sexual dysfunction is firmly rebutted by his failure to document any such complaint or examination in the patient record.

The attempts of Ms. Cazel and Ms. Bunch to instill doubt about the honesty and integrity of Patient 1 were less than impressive. In fact, the testimony of Ms. Bunch indicated that Patient 1 was totally honest with her about the circumstances of her wedding. Both of these witnesses were upset by the fact that Patient 1 had a wedding ceremony, but no marriage license. That these two witnesses did not approve of Patient 1's conduct does not make it illegal or dishonest. No evidence was offered to substantiate the innuendos that Patient 1 attempted or intended to attempt to

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collect insurance benefits by providing false information on an insurance claim. Even if such evidence were available, it would not support a conclusion that Patient 1 fabricated the events of May 11, 1992, in view of the reliable corroborative testimony of Patient 1's mother, Ms. Fettig, Dr. Clark, and Dr. Duggan, plus the corroborative fact that Dr. Dorsey failed to document any complaint or examination related to sexual dysfunction in his medical records for Patient 1.

2. The acts, conduct, and/or omissions of Dr. Dorsey, as set forth in Findings of Fact #1 through #12, above, further constitute "commission of an act that constitutes a misdemeanor in this State regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice", as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, "Sexual imposition."

The testimony and evidence established that Patient 1 came to the office of Dr. Dorsey, her physician, for a colposcopy with biopsies to determine whether or not she had cancer. Despite such medical concerns, Dr. Dorsey initiated a conversation after the procedure regarding Patient 1's relationship with her ex-husband. In answer to Dr. Dorsey's questions, Patient 1 indicated that she was not having and did not wish to have sexual relations with her ex-husband at this point. Dr. Dorsey knew from previous conversations that Patient 1 had never had sexual relations with anyone other than her ex-husband, and had not been sexually active since their divorce. He suggested that she must miss it. When Patient 1 responded negatively, Dr. Dorsey asked how their sexual relationship had been while they were married. By his own admission, Dr. Dorsey could tell that Patient 1 was hesitant about answering. He proceeded to ask her whether she had ever had an orgasm during sex while married. Although Patient 1 testified that she had not meant to convey that she was nonorgasmic, she acknowledged that her response to Dr. Dorsey's question reasonably gave him the impression that she had not had an orgasm. She told him that she thought she was "just built funny." At that point, without telling this naive, 21-year-old patient what he intended to do, Dr. Dorsey asked her to lie back on the examining table and put her feet in the stirrups. After she complied, he proceeded to rub her clitoral area for a prolonged period of time. He asked her several times if it was stimulating her. Patient 1 was very uncomfortable with this, but was uncertain as to whether this was something that a physician was supposed to do. When she indicated that she did not feel stimulated and tried to sit up, Dr. Dorsey told her to lie back down and close her eyes. He stated that frame of mind had a lot to do with it. He then retracted her clitoral hood, continuing to massage her clitoral area. It was not until

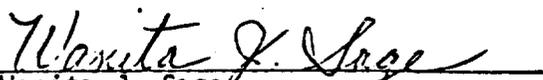
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Dr. Dorsey stated that he had never met a woman he couldn't bring to orgasm that Patient 1 realized that what he was doing was improper, or at least wrong for her. She abruptly sat up and let him know that she would be the exception. Dr. Dorsey became embarrassed and proceeded to show her an anatomical chart, giving her a clinical explanation of what he had done.

Dr. Dorsey's sexual contact with Patient 1 was offensive to her, and he was reckless in assuming that it would not be. She at no time asked him to touch or massage her clitoral area, and he did not tell her that he intended to do so. Further, Dr. Dorsey knew or should have known that his professional position and the patient's trust in him as a physician impaired Patient 1's ability to appraise the nature of or control his conduct. When he stimulated her clitoral area, Patient 1 did not know what she should do. She thought perhaps this was something that a physician was supposed to do. Because she was uncertain about the nature of the unwanted contact, she continued to submit until Dr. Dorsey's comment made her realize that his conduct was wrong. Dr. Dorsey's attempt to sexually stimulate Patient 1 by rubbing and massaging her clitoral area would constitute sexual imposition, a misdemeanor offense in violation of Section 2907.06(A)(1), (A)(2), and/or (A)(3), Ohio Revised Code. Dr. Dorsey's unlawful acts were committed in the course of practice. Consequently, they constitute violation of Section 4731.22(B)(12).

3. Further, Dr. Dorsey's acts, conduct, and/or omissions constitute "commission of an act that constitutes a misdemeanor in this State regardless of the jurisdiction in which the act was committed, if the act involves moral turpitude", as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, "Sexual imposition."

Dr. Dorsey took advantage of personal information he obtained during the course of the physician-patient relationship to make inappropriate sexual contact with Patient 1. At a time when Patient 1's paramount concern was the possibility that she had cancer, Dr. Dorsey delved into her relationship with her ex-husband. He knew she had limited sexual experience, and his inquiries went well beyond the casual or the concerned. He asked about Patient 1's and her ex-husband's former sexual relationship, persisting despite Patient 1's obvious reticence and discomfiture. When she appeared to confirm that she was nonorgasmic, he did not bother to discuss the "problem" with her, but rather undertook to resolve it by stimulating her to orgasm. Patient 1 at no time asked Dr. Dorsey questions about orgasm. Nor did she ask him to show her or touch her clitoral area. She did not know what he intended to do when he asked her to lie back on the table. Patient 1 submitted to unwanted sexual contact because of her trust in


Wanita J. Sage
Attorney Hearing Examiner



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EXCERPT FROM THE MINUTES OF SEPTEMBER 8 & 9, 1993

REPORTS AND RECOMMENDATIONS

Dr. Agresta announced that the Board would now consider the findings and orders appearing on the Board's agenda.

Dr. Agresta asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of: David B. Axelson, M.D.; William R. Dorsey, D.O.; Mitch S. Wagner, M.D.; and Earl T. Hoffman, M.D. A roll call was taken:.

ROLL CALL:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Agresta	- aye

Dr. Agresta asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Agresta	- aye

In accordance with the provision in Section 4731.22(C)(1), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and the Supervising Member must abstain from further participation in the adjudication of this matter.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.



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EXCERPT FROM THE MINUTES OF SEPTEMBER 8 & 9, 1993
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.....
REPORT AND RECOMMENDATION IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O.

Dr. Agresta stated that if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and order in the above matter. No objections were voiced by Board members present.

Dr. Agresta advised that a motion for a one-day continuance or, alternatively, postponement until the October meeting, has been filed by Mr. Byers and Mr. Lieberman, Dr. Dorsey's attorneys.

Dr. Gretter noted that the reason for the request is that Dr. Dorsey and Mr. Lieberman, one of Dr. Dorsey's counsel, are unavailable today.

DR. STEINBERGH MOVED TO GRANT DR. DORSEY'S REQUEST FOR A ONE-DAY CONTINUANCE. DR. GARG SECONDED THE MOTION.

Dr. Heidt suggested that the matter be tabled until October.

Dr. Steinbergh spoke in favor of the one-day continuance, adding that she didn't want to delay deciding this matter another month.

Dr. Garg agreed with Dr. Steinbergh.

A roll call vote was taken on Dr. Steinbergh's motion:

ROLL CALL VOTE:	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

.....
(September 9, 1993)

DR. STEINBERGH MOVED TO REMOVE THE MATTER OF WILLIAM R. DORSEY, D.O., FROM THE TABLE. DR. STIENECKER SECONDED THE MOTION. A roll call vote was taken:



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ROLL CALL VOTE:

Mr. Albert	- aye
Dr. Stienecker	- aye
Dr. Gretter	- aye
Dr. Heidt	- aye
Dr. Buchan	- aye
Ms. Noble	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.

Dr. Agresta asked whether each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and order, and any objections filed in the matter of William R. Dorsey, D.O. A roll call was taken:

ROLL CALL:

Mr. Albert	- aye
Dr. Stienecker	- aye
Dr. Gretter	- aye
Dr. Heidt	- aye
Dr. Buchan	- aye
Ms. Noble	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye
Dr. Agresta	- aye

Dr. Agresta asked Mr. Albert whether he understood that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. Mr. Albert indicated that he did.

Dr. Agresta advised Mr. Byers that there is not a court reporter present, but instead the Board's minutes serve as the Board's official record of the meeting. Mr. Byers stated that he did not have any objection to the absence of a court reporter.

Dr. Agresta reminded Mr. Byers that the Board members have read the entire hearing record, including the exhibits and any objections filed. He added that the Board will not retry the case at this time, and that pursuant to Section 4731.23(C), Revised Code, oral arguments made at this time are to address the proposed findings of fact and conclusions of the hearing examiner. Dr. Agresta stated that Mr. Byers would be allotted approximately five minutes for his address.

At this time Mr. Byers introduced Mr. Lieberman to the Board, and stated that both



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Mr. Lieberman and Dr. Dorsey would be addressing the Board.

Mr. Lieberman stated that he is the attorney representing Dr. Dorsey. He added that he will make his comments brief. Basically, without retrying the case, the question arises as to whether Dr. Dorsey is a sexual predator as described in the Findings of Fact and Conclusions, or whether he performed a sexological examination, based upon what Dr. Dorsey believed was the patient's consent. Mr. Lieberman noted that the Board will find many inconsistencies in the complainant's testimony in the transcript of this case. There are also inconsistencies in the complainant's past behavior. The fake wedding in which she was a participant is an example of this, although the Hearing Examiner did not see its importance. The complainant, without any motivation or reason, put on a wedding on which a lot of money was spent, when the complainant didn't have a marriage license. Nor was there any intent to obtain a marriage license. This is a form of fraud or deceit which should be taken into consideration. This type of evidence needs to be considered to see what type of person the complainant is.

Mr. Lieberman continued that he is certain that the Board has had previous cases where physicians have been accused of being sexual predators. In those cases, especially when there has been media attention as in this case, complainants come out of the woodwork claiming that the physician also behaved inappropriately with them. That has not happened in this case. Not another complaint has arisen as a result of media attention in this case.

Mr. Lieberman asked that the Board weigh the credibility in this case. He noted that Dr. Dorsey testified at hearing, was not cross examined by the State's attorney, and did not have any inconsistencies in his statements.

Mr. Lieberman at this time deferred to Dr. Dorsey.

Dr. Dorsey stated that he appreciates the Board's giving him the opportunity to appear before it. He also thanked the Board for continuing their deliberations to today. Dr. Dorsey stated that the past year and four months have been difficult for him. He has undergone a lot of change. He is no longer in a group practice, but has a solo practice of his own. At the time of the incident, he was involved in a group practice. He did perform a sexological examination on the patient. He would not perform such an examination again under the same circumstances without having a third party in the room. However, when he joined the group practice, its protocol was established, and that protocol did not require that a nurse be present. Dr. Dorsey stated that he will never again examine another female without having an attendant in the room with him. He will not put himself or his family through this again. It would not be fair to them or to himself.

Dr. Dorsey noted that there was widespread media attention concerning this case in



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the Dayton area. His family stuck with him. This incident could have destroyed a lot of lives as well as his marriage. His wife has been with him through the entire time. Dr. Dorsey denied any wrongdoing beyond using poor judgment in not having a third party present during the examination. In his solo practice he does have a third party present during all such examinations.

Dr. Agresta asked Ms. Walker whether she wished to make any statements.

Ms. Walker stated that it is important for the Board to note that Dr. Dorsey claims to have used poor judgment. There was no mention in the patient's record that Dr. Dorsey performed a sexological examination. The patient testified that she never had complaints concerning sexual function. The patient was seeing Dr. Dorsey for a colposcopy and biopsy. She was terrified of the pain, and terrified that she might have cancer. As it turned out, the patient did have cancer. The patient testified at length about her state of mind at the time of the examination. The Board members have read the record. The evidence is clear. The patient had no reason to come forward with this complaint. She took a lot of abuse on the stand, but testified because she didn't want this type of thing to happen to anyone else. Ms. Walker urged adoption of the Report and Recommendation.

DR. GARG MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O. DR. HEIDT SECONDED THE MOTION.

Dr. Agresta asked whether there were any questions concerning the proposed findings of fact, conclusions, and order in the above matter.

Dr. Stienecker stated that this case comes down to a question of credibility. He referred to the section of the Revised Code which defines sexual imposition, and which states that it cannot be determined by unsupported testimony. Dr. Stienecker stated that the testimony in this case is relatively unsupported.

DR. STIENECKER MOVED THAT THE FINDINGS OF FACT IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., BE AMENDED BY DELETING THE FOLLOWING SENTENCE FROM FINDING OF FACT #19:

"Their apparent belief that such conduct was illegal, lacks legal merit."

HE FURTHER MOVED THAT THE CONCLUSIONS IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

On March 8, 1989, the State Medical Board of Ohio adopted a position paper regarding the performance of physical examinations by physicians. The position paper notes that patient complaints of sexual misconduct by



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physicians are the most sensitive and difficult cases the Board investigates. The incidents are rarely witnessed. Allegations of sexual misconduct are particularly difficult to prove and can lead to public humiliation for both the patient and the involved physician.

Among the guidelines advocated in the position paper, in order to prevent misunderstandings and protect physicians and their patients from allegations of sexual misconduct, is the recommendation that a third party be actually present when a physician performs an examination of a patient's sexual and reproductive organs or rectum. The position paper also recommends that the purpose and the components of that examination be explained to the patient in order to minimize the patient's apprehension and possible misunderstanding. Finally, the position paper cautions the physician not to exploit the physician/patient relationship for sexual or any other purposes.

The details of the incident that occurred between Dr. Dorsey and Patient 1 have been the subject of much supposition and scrutiny. Yet, only Dr. Dorsey and Patient 1 know precisely what transpired, and their perceptions differ. It is impossible to now whether Dr. Dorsey did, in fact, fall below acceptable standards of care by inappropriately touching Patient 1 in the guise of an undocumented "sexological examination", or whether Patient 1 simply misunderstood what Dr. Dorsey intended to be a legitimate instructional and evaluative exercise.

What cannot be controverted is that Dr. Dorsey placed himself and his medical license in extreme jeopardy by failing to follow the guidelines adopted by the Board to address precisely the situation that gave rise to these proceedings. This Board has every reason to be critical of Dr. Dorsey's judgment throughout this matter.

It is clear from the record created at hearing that the State Medical Board's initiation of formal action in this matter was substantially justified. Nevertheless, the facts established by the testimony and evidence presented do not rise to the level necessary to conclude that Dr. Dorsey's actions violated the Medical Practices Act. Failure to follow the guidelines espoused in a Medical Board policy statement, while regrettable, is not, in and of itself, a basis for disciplinary action by this Board.

DR. STIENECKER FURTHER MOVED THAT THE PROPOSED ORDER IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that the allegations against William Roscoe Dorsey,



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D.O., as set forth in the citation letter issued by the State Medical Board of Ohio on or about January 13, 1993 be and are hereby DISMISSED.

This Order shall become effective immediately upon approval by the State Medical Board of Ohio.

DR. STEINBERGH SECONDED THE MOTION.

Dr. Heidt stated that, while he is in agreement with most of the proposed amendment, he does not feel that the 600 plus pages of the hearing record are completely devoid of any content of problems. There was undoubtedly a situation that was momentarily a problem. Dr. Dorsey got himself into a situation he shouldn't have. Dr. Heidt stated that he does not feel this matter is near to meriting revocation, but he does not feel that it can be overlooked either. Dr. Dorsey should at least receive a reprimand, and Dr. Heidt added that he will not support anything less than a reprimand in this case.

Dr. Steinbergh stated that she also reviewed the volumes of data, and she believes that Dr. Dorsey knows that he made a grievous error in judgment in this case. He underestimated the maturity of the patient. Regardless of who started conversations, the patient was not at the time of the examination sophisticated enough to understand and deal with the type of examination taking place. There was not enough explanation to the patient at the time of the examination that would have allowed that patient to say yes or no to it. Dr. Steinbergh stated that, in his desire to wholly treat the patient, Dr. Dorsey stepped beyond the patient's ability to understand and deal emotionally and psychologically with the examination. Dr. Dorsey now understands that he should have had a third party in the room to protect himself from this type of allegation.

Dr. Steinbergh referred to the letters of support the Board has received from other physicians, nursing staffs and members of the community demonstrating that Dr. Dorsey is a very caring man who has shown no evidence of misconduct up to the date of the incident in question. No charges have been leveled against him by the local medical ethics committee.

Dr. Steinbergh stated that she is in favor of dismissing this case or, if necessary, reprimanding Dr. Dorsey in such a way as to bring to his attention what has been done. She added that if Dr. Dorsey wants to assure the patient in question that this type of activity won't happen to other patients, the Board might ask Dr. Dorsey to undertake postgraduate training in sexological examinations. The Board might also require Board appearances to be sure that the education has been done.

Mr. Bumgarner stated that, in terms of focusing discussion, it is important to make a determination as to whether or not a statutory standard has been violated before



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imposing any sanction. Upon such determination, the Board can move into the arena of what sanction, if any, should be imposed. He noted that Dr. Stienecker's proposed amendment states that standards haven't been violated, and therefore the matter should be dismissed.

Dr. Stienecker again referred to the Revised Code's language on sexual imposition. The law states that a person cannot be convicted based solely on uncorroborated testimony. Dr. Stienecker maintained that the dismissal of this case is appropriate.

Ms. Noble agreed with Dr. Stienecker. She suggested that that Board might suggest to Dr. Dorsey that he take a C.M.E. course in proper recordkeeping since he failed to document the examination in the patient's record.

Dr. Gretter stated that he didn't believe C.M.E. in recordkeeping is indicated in this case.

Ms. Noble spoke in support of Dr. Stienecker's amendment, stating that she doesn't feel there was enough evidence against Dr. Dorsey to support anything but dismissal. Had Dr. Dorsey been a physician who did this periodically with other women, that would have come out and would speak against him. None of that has occurred. That tells her that this was an isolated incident wherein Dr. Dorsey used poor judgment.

Mr. Albert asked whether the Board could impose a training requirement and require a third party presence during examinations if the Board agreed that there was no violation.

Mr. Bumgarner stated that as a prerequisite for imposing a penalty, the Board must determine that there has been a violation of statutory standards. If a violation is identified, then the Board can impose an appropriate sanction in response to the finding of a violation.

Ms. Berry stated that the Hearing Officer's conclusions list a number of different violations, including violation of minimal standards of care and acts constituting a misdemeanor in the course of practice.

Dr. Steinbergh stated that she doesn't think that Dr. Dorsey needs a course in medical recordkeeping. Dr. Dorsey knows that he didn't put the notes in the record. Every practicing physician knows that there are times when that happens. The omission could have been a simple error. There should have been some type of note that that type of examination was performed. His failure to make such note doesn't mean he needs to take a course on charting. Dr. Steinbergh stated that she believes Dr. Dorsey knows how to appropriately chart.



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Dr. Steinbergh continued that, regarding requiring a third party to be present during examinations, Dr. Dorsey is now aware of the fact that the Board has a position paper on this subject, and she trusts that he will never again examine a female patient without a third party in the room. Dr. Dorsey has indicated that he never will. Dr. Steinbergh stated that she doesn't think it is necessary for the Board to require it.

Dr. Heidt stated that sexual imposition doesn't take place at the corner of Broad and High. The fact that there were no witnesses to the incident does not make the situation null and void.

Ms. Walker stated that the statutes require corroborative evidence. There was such evidence in the hearing record. The statute does not qualify the type of corroborative evidence needed.

Dr. Gretter stated that the transcript basically consists of two individuals with differing stories. There was an effort to present additional evidence that more than a sexological examination occurred. That evidence was hearsay. There was discussion concerning what Dr. Dorsey allegedly said to his partners. It is difficult to know how much weight should be given to hearsay testimony. There was a lot of effort made to try to credit and discredit the hearsay testimony.

Dr. Gretter continued that the Board must also consider the medical record. There is nothing in the medical record regarding the sexological examination. Nor is there any evidence that Dr. Dorsey performs sexological examinations in his routine practice.

Dr. Steinbergh stated that she felt comfortable with her knowledge that the examination happened. Dr. Dorsey admitted that he performed the examination. What is uncertain is who started the conversation and how far the conversation went in terms of the discussion of orgasm. Dr. Steinbergh stated that she believes that because the discussion didn't stand out in the patient's mind immediately, the patient has attempted to embellish the case. Dr. Steinbergh added that she has reviewed every letter included in the record and she feels comfortable with her belief. She stated that she doesn't know Dr. Dorsey personally, but does know some of the individuals who wrote on Dr. Dorsey's behalf. She believes that Dr. Dorsey is a good physician. She also does not believe that there was enough evidence to prove that Dr. Dorsey gave the patient substandard care. It is true, he didn't have a third party present during the examination, nor did he document it. Although Dr. Dorsey used poor judgment in performing the examination that day on that patient, she doesn't feel that his care was substandard.

Dr. Gretter commented regarding the testimony on the hearing record and the letters that were written in support of Dr. Dorsey and his contribution to medical care.



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Dr. Gretter added that the timing of the sexological examination, immediately following a colposcopy on the patient, was terrible. Dr. Gretter stated that there was ample testimony that there were other things on the patient's mind. This raises questions in his mind.

Dr. Garg stated that Dr. Steinecker's amendment is well formed, but he still has some concern about it. Dr. Dorsey did use poor judgment, especially in his timing of the examination. Dr. Garg stated that he is not sure whether Dr. Dorsey had the patient's consent, whether explicit or implicit, to perform the examination. Dr. Garg noted that many times a physician may not wish to write things in a chart that is open to office staff review. However, in those instances, the physician will keep some kind of separate chart. This may be a lesson to Dr. Dorsey to improve his system. It has also been suggested that Dr. Dorsey undergo training in sexology. One of those testifying on Dr. Dorsey's behalf is a sexologist. Dr. Garg stated that training in sexology would not serve any purpose in this case.

Dr. Garg stated that he would prefer that a reprimand be imposed, rather than dismissal of this case, in view of the timing of the examination and the lack of judgment in performing the examination.

Dr. Heidt stated that the Board exists to sit in judgment on what it believes are errors in medical judgment, whether they are major or minor. In this case there has been a transgression of the Board's rules. He added that this may be a minor point to an extent. There was no major sexual imposition, but there is evidence in the testimony of a problem. From all indications, Dr. Dorsey is a very fine physician who made, perhaps, one small error, a minor transgression. But it was a transgression, and it must be noticed. Some disciplinary action must be imposed by the Board. Dr. Heidt stated that Dr. Stienecker's amendment to the conclusions is very good. He added that he feels that a reprimand is in order in this case rather than a dismissal. The Board needs to tell the public that it thinks there was a problem in this case that needs recognition. Dr. Dorsey does not need special courses or C.M.E. He has had a jolt from the proceedings he's been through, but the conclusion should be that Dr. Dorsey did something that wasn't quite what it should be and was reprimanded for it.

Dr. Agresta asked Dr. Heidt whether he believed there was a violation of minimal standards. Dr. Heidt stated that he did.

Dr. Stienecker stated that he appreciates Dr. Heidt's feelings, but he doesn't think that Dr. Dorsey transgressed a Board rule. What he transgressed was a recommendation in a position paper which was created to provide an outline to keep physicians out of trouble. In terms of remedial action, he believes Dr. Dorsey now understands and it is unlikely that he will miss the Board's point. Dr. Dorsey now realizes that he is vulnerable to others. Anything beyond that is superfluous.



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Dr. Stienecker stated that he doesn't believe a transgression occurred. Dr. Dorsey had a lack of judgment, but it wasn't one that fell below minimal standards of care. The type of practice his partners had was below the conduct recommended in the position paper, but Dr. Stienecker opined that it is the common practice of physicians across the state not to have a third party present. Dr. Stienecker spoke in support of dismissal of the charges.

Dr. Gretter stated that if the Board goes along with Dr. Stienecker's proposal that there was no transgression and that the examination was appropriate, there is no evidence of minimal standards of care. The only thing supporting a violation of minimal standards is the lack of documentation in the patient's record. This is a single incident. Dr. Gretter stated that he doesn't think the Board can go forward and say that Dr. Dorsey's actions were below minimal standards of care when there was evidence of only one thing left out of the record.

Mr. Albert stated that he does not support revocation, but he does believe that Dr. Dorsey's patient care fell below minimal standards by his not fully explaining the examination to the patient, and by his lack of recording of the examination. He would therefore not support dismissing the charges.

Dr. Buchan stated that while he appreciates Dr. Stienecker's amendment, this is not just a matter of Dr. Dorsey breaking the rules. It is apparent that Dr. Dorsey broke the rules. He didn't document the examination, he didn't have a third party present during the examination, and he didn't explain anything to the patient before the examination. The question is to what happened during the 20-second evaluation or the 10-minute evaluation. Dr. Buchan stated that he believes, after going through the documents, that the standard of care was below what is acceptable and some reprimand is in order. For that reason he would not support the proposed amendment.

Dr. Steinbergh asked Dr. Buchan how he personally arrived at the conclusion that the care fell below minimal standards when Dr. Buchan does not practice medicine and hasn't been taught to perform these examinations.

Dr. Buchan stated that in reviewing the evidence, he felt that Dr. Dorsey's conduct and examination were simply not appropriate. He added that he cannot ignore the documentation.

Dr. Steinbergh disagreed, stating that the physical examination wasn't necessarily inappropriate. Dr. Dorsey just chose a poor time to perform it and he misjudged the patient upon whom he was performing the examination. There was no evidence that the type of examination performed was inappropriate. There was expert testimony that the examination was appropriate. Dr. Dorsey did not properly explain to the patient what he was going to do, nor did he perform the examination at the right time. The



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patient was not prepared. It was bungled. The examination itself didn't fall below minimal standards.

DR. HEIDT MOVED TO AMEND THE PROPOSED AMENDMENT TO REPRIMAND DR. DORSEY RATHER THAN TO DISMISS CHARGES.

Dr. Gretter asked upon what the reprimand would be based.

Dr. Heidt stated that Dr. Dorsey's care fell below minimal standards. An examination was made without a notation in the patient's chart. Without some documentation, a problem has to be assumed.

DR. GARG SECONDED THE MOTION.

Dr. Agresta suggested that the Board table the matter so that language could be prepared for the Board's consideration.

DR. GARG MOVED TO TABLE THE MATTER OF WILLIAM ROSCOE DORSEY, D.O. MR. ALBERT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- nay
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- nay

The motion carried.

.....
DR. GRETTOR MOVED TO REMOVE THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., FROM THE TABLE. DR. STIENECKER SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye



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The motion carried.

In response to Dr. Garg's questions, Dr. Agresta stated that there is a proposed amendment to a proposed amendment on the floor. If the amendment to the amendment fails, the Board will vote on Dr. Stienecker's amendment. He noted that Ms. Lubow is still in the process of assisting Dr. Heidt in preparation of his proposed amendment.

MR. ALBERT MOVED TO TABLE THE REPORT AND RECOMMENDATION IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O. DR. STEINBERGH SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

.....

DR. GARG MOVED TO REMOVE THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., FROM THE TABLE. DR. STIENECKER SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye

The motion carried.

DR. HEIDT MOVED THAT THE DR. STIENECKER'S PROPOSED AMENDMENT TO THE CONCLUSIONS IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O., BE AMENDED BY SUBSTITUTING THE FOLLOWING:

On March 8, 1989, the State Medical Board of Ohio adopted a position paper regarding the performance of physical examinations by physicians. The



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position paper notes that patient complaints of sexual misconduct by physicians are the most sensitive and difficult cases the Board investigates. The incidents are rarely witnessed. Allegations of sexual misconduct are particularly difficult to prove and can lead to public humiliation for both the patient and the involved physician.

Among the guidelines advocated in the position paper, in order to prevent misunderstandings and protect physicians and their patients from allegations of sexual misconduct, is the recommendation that a third party be actually present when a physician performs an examination of a patient's sexual and reproductive organs or rectum. The position paper also recommends that the purpose and the components of that examination be explained to the patient in order to minimize the patient's apprehension and possible misunderstanding. Finally, the position paper cautions the physician not to exploit the physician/patient relationship for sexual or any other purposes.

The details of the incident that occurred between Dr. Dorsey and Patient 1 have been the subject of much supposition and scrutiny. Yet, only Dr. Dorsey and Patient 1 know precisely what transpired, and their perceptions differ. It is impossible to know whether Dr. Dorsey did, in fact, massage Patient 1's clitoris inappropriately in the guise of an undocumented "sexological examination", or whether Patient 1 simply misunderstood what Dr. Dorsey intended to be a legitimate instructional and evaluative exercise.

What cannot be controverted is that Dr. Dorsey placed himself and his medical license in extreme jeopardy by failing to follow the guidelines adopted by the Board to address precisely the situation that gave rise to these proceedings. This Board has every reason to be critical of Dr. Dorsey's judgment throughout this matter.

It is clear from the record created at hearing that the State Medical Board's initiation of formal action in this matter on the basis of each one of the charges set forth in the January 13, 1993 citation letter was substantially justified. Nevertheless, the facts established by the testimony and evidence presented do not rise to the level necessary to conclude that Dr. Dorsey's actions violated Section 4731.22(B)(12) or Section 4731.22(B)(14), Ohio Revised Code.

The testimony and evidence do demonstrate that Dr. Dorsey exercised poor judgment in choosing to perform a sexological examination at such an inappropriate time, failed to adequately inform the patient of what to expect, and neglected his responsibility to document the sexological



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examination in the patient's medical record. Dr. Dorsey's actions and inaction in this regard fall below minimal standards of care, thereby constituting a basis for action by this Board pursuant to Section 4731.22(B)(6), Ohio Revised Code.

HE FURTHER MOVED THAT DR. STIENECKER'S PROPOSED AMENDMENT TO THE PROPOSED ORDER IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O. BE AMENDED BY SUBSTITUTING THE FOLLOWING:

It is hereby ORDERED that William R. Dorsey, D.O., be and is hereby REPRIMANDED.

This Order shall become effective immediately upon approval by the State Medical Board of Ohio.

MR. ALBERT SECONDED THE MOTION.

Dr. Garg objected to the phrase, "the guise of," in paragraph three, and asked whether Dr. Heidt would be willing to remove it.

Dr. Stienecker noted that it was also used in his original motion. He agreed to the phrase's removal, as did Dr. Heidt. Mr. Albert, as second to Dr. Heidt's motion, agreed to removal of the phrase.

A roll call vote was taken on Dr. Heidt's motion to amend the amendment:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- nay
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- nay

The motion carried.

A roll call vote was taken on Dr. Stienecker's motion to amend, as amended:

ROLL CALL VOTE:	Mr. Albert	- aye
	Dr. Stienecker	- aye
	Dr. Gretter	- aye
	Dr. Heidt	- aye
	Dr. Buchan	- aye
	Ms. Noble	- aye



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF SEPTEMBER 8 & 9, 1993
IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O.

Page 16

Dr. Garg - aye
Dr. Steinbergh - aye

The motion carried.

DR. STIENECKER MOVED TO APPROVE AND CONFIRM MS. SAGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF WILLIAM ROSCOE DORSEY, D.O. DR. HEIDT SECONDED THE MOTION. A roll call vote was taken:

ROLL CALL VOTE:

Mr. Albert	- aye
Dr. Stienecker	- aye
Dr. Gretter	- aye
Dr. Heidt	- aye
Dr. Buchan	- aye
Ms. Noble	- aye
Dr. Garg	- aye
Dr. Steinbergh	- aye

The motion carried.



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January 13, 1993

William Roscoe Dorsey, D.O.
8940 Kingsridge Drive
Centerville, OH 45458

Dear Doctor Dorsey:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about May 11, 1992, after performing a colposcopy on Patient 1, as identified in the attached Patient Key (Key to be withheld from public disclosure), you intentionally rubbed and massaged Patient 1's clitoris in an attempt to produce an orgasm. You subsequently admitted to this when confronted by your practice partners.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively constitute "a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "commission of an act that constitute a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice," as that clause is used in Section 4731.22(B)(12), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual imposition.

Further, your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act involves moral turpitude," as that clause is used in Section 4731.22(B)(14), Ohio Revised Code, to wit: Section 2907.06, Ohio Revised Code, Sexual imposition.

Mailed 1/14/93

January 13, 1993

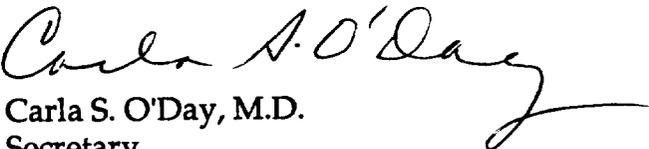
Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice osteopathic medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Carla S. O'Day, M.D.
Secretary

CSO:jmb

Enclosures:

CERTIFIED MAIL #P 055 328 816
RETURN RECEIPT REQUESTED

cc: Dennis A. Lieberman, Esq.