amended/es

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

October 10, 2001

David M. Israelstam, M.D.
330 South Whitney Way, Suite 104
Madison, WI 53705

Dear Doctor Israelstam:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Daniel Roberts, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2001, including motions approving and confirming the Findings of Fact and Conclusions 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 must be taken to the Franklin County Court of Common Pleas.

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. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 2972
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.
CERTIFIED MAIL RECEIPT NO. 7000 0600 0024 5147 2965
RETURN RECEIPT REQUESTED

Mailed 11-6-01

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on October 10, 2001, including motions approving and confirming the Findings of Fact and Conclusions 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 David M. Israelstam, M.D., 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.

Anand G. Garg, M.D.
Secretary

(SEAL)

October 10, 2001
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

*

DAVID M. ISRAELSTAM, M.D. *

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on October 10, 2001.

Upon the Report and Recommendation of Daniel Roberts, State Medical Board Attorney Hearing Examiner, designated in this Matter 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 David M. Israelstam, M.D., be REPRIMANDED.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

Anand G. Garg, M.D.
Secretary

(SEAL)

October 10, 2001
Date

VER/SWM
Copy with readable date

STATE MEDICAL BOARD
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REPORT AND RECOMMENDATION
IN THE MATTER OF DAVID M. ISRAELSTAM, M.D.

The Matter of David M. Israelstam, M.D., was heard by Daniel Roberts, Attorney Hearing Examiner for the State Medical Board of Ohio, on July 13, 2001.

INTRODUCTION

I. Basis for Hearing

A. By letter dated April 11, 2001, the State Medical Board of Ohio [Board] notified David M. Israelstam, M.D., that it had proposed to take disciplinary action against his certificate to practice medicine and surgery in this state.

The Board alleged that the Wisconsin Medical Examining Board [Wisconsin Board] had entered a Final Decision and Order dated September 20, 2000, which reprimanded Dr. Israelstam for having engaged in unprofessional conduct, which tended to constitute a danger to a patient. The Wisconsin Board required that Dr. Israelstam complete a full-day program addressing health care provider-patient issues.

The Board alleged that the Wisconsin Board Final Decision and Order constitutes "'[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand,' as that clause is used in Section 4731.22(B)(22), Ohio Revised Code."

Accordingly, the Board advised Dr. Israelstam of his right to request a hearing in this matter. (State's Exhibit 1A)

B. On May 11, 2001, Kevin P. Byers, Esq., submitted a written hearing request on behalf of Dr. Israelstam. (State's Exhibit 1B)

II. Appearances

A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

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B. On May 11, 2001, Kevin P. Byers, Esq., submitted a written hearing request on behalf of Dr. Israelstam. (State's Exhibit 1B)

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A. On behalf of the State of Ohio: Betty D. Montgomery, Attorney General, by Rebecca J. Albers, Assistant Attorney General.

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B. On behalf of the Respondent: Kevin P. Byers, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

Presented by the Respondent:

David M. Israelstam, M.D.

II. Exhibits Examined

A. Presented by the State:

1. State's Exhibits 1A-1J: Procedural exhibits.

2. State's Exhibit 2: Certified copy of September 20, 2000, Final Decision and Order of the Wisconsin Medical Examining Board, *In The Matter Of The Disciplinary Proceedings Against David M. Israelstam, M.D.*

B. Presented by the Respondent:

1. Respondent's Exhibit A: Curriculum Vitae of David M. Israelstam, M.D.

2. Respondent's Exhibit B: June 1, 2001, letter to the Board from Marek J. Hann, M.D., on behalf of Dr. Israelstam.

3. Respondent's Exhibit C: June 6, 2001, letter to the Board from David R. Dati, CMFT, CICSW, on behalf of Dr. Israelstam.

4. Respondent's Exhibit D: June 2, 2001, letter to the Board from Heather Martin-Patti on behalf of Dr. Israelstam.

5. Respondent's Exhibit E: June 18, 2001, letter to the Board from Nadine Sweet, on behalf of Dr. Israelstam.

6. Respondent's Exhibit F: May 31, 2001, letter to the Board from Steven R. Stein, Ph.D., on behalf of Dr. Israelstam.

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SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information

1. David M. Israelstam, M.D., graduated from the Western Reserve University School of Medicine in June 1963. He subsequently completed a rotating internship at Presbyterian Medical Center, San Francisco in 1964 and obtained a Ph. D. in medical physics at the University of California, Berkley, in 1971. (Respondent's Exhibit [Resp. Ex.] A; Hearing Transcript [Tr.] at 10-11, 14-15)

   Dr. Israelstam testified that from 1971 until 1974 he had directed clinical research on Nutrasweet for G. D. Searle & Company. Dr. Israelstam then worked in a California hospital for the retarded from 1975 until 1977. He noted that he had returned to Chicago in 1978 to engage in nine months of training in nuclear medicine. From 1978 until 1982, Dr. Israelstam served on the staff of various public hospitals or mental health centers in Minnesota and Wisconsin. (Resp. Ex. A; Tr. 10, 12-13)

   Dr. Israelstam completed a two-year residency in adult psychiatry at the Medical College of Wisconsin in July 1984. He subsequently completed a two-year fellowship in child and adolescent psychiatry at the University of Wisconsin in 1986. Dr. Israelstam testified that he had been board certified in psychiatry in 1988 and in child and adolescent psychiatry in 1990 by the American Board of Psychiatry and Neurology. He noted that these certifications are current. Dr. Israelstam has been engaged in the private practice of psychiatry since July 1986. (Resp. Ex. A; Tr. 11-12, 38-39)

   Dr. Israelstam testified that he had first been licensed in Ohio in 1962 and that he is currently licensed to practice medicine in the states of Wisconsin, Illinois, Minnesota, and California. He has allowed his Colorado license to lapse. Dr. Israelstam stated that he is current with all Continuing Medical Education [CME] requirements in all states in which he is licensed. (Tr. 13, 15-16, 34)

Wisconsin Board Action

2. By Final Decision and Order dated September 20, 2000, pursuant to a Stipulation entered into by Dr. Israelstam, the Wisconsin Board ordered that Dr. Israelstam be reprimanded for his conduct towards a psychiatric patient, Patient A. It further ordered that Dr. Israelstam complete a full day course addressing issues of health care provider-patient relationship boundaries. However, the Wisconsin Board found that courses Dr. Israelstam had already taken met this requirement. (State's Exhibit [St. Ex.] 2)

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The Wisconsin Board concluded that Dr. Israelstam's conduct had constituted violations of professional boundaries for psychiatrists and exposed Patient A to risk of harm. The Wisconsin Board further concluded that his conduct fell below the minimum standards of care. (St. Ex. 2)

3. In making its Final Decision and Order, The Wisconsin Board found that Patient A had been diagnosed with bi-polar affective disorder and post traumatic stress disorder. Dr. Israelstam had treated Patient A., without incident, from December 23, 1993, until August 10, 1995. On August 10, 1995, Dr. Israelstam conducted a Amytal Sodium interview with Patient A. Also present were a psychologist and a counselor who had been working with Patient A. Following this session Patient A overdosed on prescription medications "in a suicide attempt or gesture." As a result Patient A, was hospitalized at St. Mary's Hospital, Madison, Wisconsin, from August 10 until October 12, 1995. Dr. Israelstam provided inpatient psychiatric care to Patient A until September 26, 1995. (St. Ex. 2)

During the course of his treatment of Patient A at St. Mary's Hospital, Dr. Israelstam shared with Patient A information of a personal nature concerning problems in his relationships with members of his family. On several occasions Dr. Israelstam hugged Patient A. (St. Ex. 2)

The Wisconsin Board found that Patient A had alleged that on August 18, 1995, Dr. Israelstam had told Patient A that he found her to be a very attractive woman, there was a sexual energy between them, and that he found it difficult to be near her. (St. Ex. 2)

In response to the this allegation, Dr. Israelstam advised the Wisconsin Board that he had discussed sexuality with Patient A during the course of her treatment. However, he denied making the specific statements alleged by Patient A. Dr. Israelstam conceded that Patient A might have misunderstood the statements he did make. The Wisconsin Board made no explicit finding as to whether it believed Patient A or Dr. Israelstam. (St. Ex. 2)

The Wisconsin Board further found that, in late September 1995, Dr. Israelstam had met with Patient A and an Occupational Therapy Assistant [OTA] who had been working with Patient A on boundary issues. During this conversation, Dr. Israelstam told the OTA that he had shared with Patient A details about his personal life and that he respected Patient A's perspective, and enjoyed talking with her. The OTA suggested that the sharing of details about Dr. Israelstam's personal life could be counterproductive for Patient A. (St. Ex. 2)

In information provided to the Wisconsin Board, the OTA alleged that, during late September meeting, Dr. Israelstam had also stated that, during a therapy session "a few weeks earlier," he had felt a sexual attraction for Patient A. The OTA further alleged that Dr. Israelstam had discussed hugging and saying, "I love you" to Patient A. The OTA

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also alleged that she had expressed her concern that Dr. Israelstam's conduct would be confusing to Patient A. (St. Ex. 2)

Dr. Israelstam advised the Wisconsin Board that he denied the OTA's allegations. He told the Wisconsin Board that, during the late September meeting, he had clarified that his earlier comments could have been misinterpreted and that he had not been "hitting" on Patient A nor was there any possibility of sexual relationship with her. Dr. Israelstam told the Wisconsin Board that Patient A had stated that she understood that. The Wisconsin Board made no explicit finding as to whether it believed the Occupational Therapy Assistant or Dr. Israelstam. (St. Ex. 2)

The Wisconsin Board found that Dr. Israelstam had been notified by St. Mary's Hospital on September 26, 1995, that his privileges had been summarily suspended pending an investigation of his alleged comments to Patient A. Dr. Israelstam transferred the care of Patient A to another psychiatrist. (St. Ex. 2)

Dr. Israelstam's Testimony in Ohio

4. At hearing in Ohio, Dr. Israelstam testified that the incident which gave rise to his being disciplined by the Wisconsin Board occurred in 1995. He explained that he had been treating Patient A on an outpatient basis. However, in 1995, Patent A had been hospitalized and Dr. Israelstam had treated her in the hospital. A counselor who had been working with Patient A suggested that hypnotic sessions might be helpful. (Tr. 20)

Subsequently Dr. Lambert, a psychologist described by Dr, Israelstam as being adept at hypnosis, conducted hypnosis sessions. Subsequent to Patient A's release from the hospital, Dr. Lambert suggested the use of Amytal Sodium and Dr. Israelstam agreed. A "two-hour Amytal interview" was conducted at St. Mary's Hospital. As she was leaving the Hospital with her counselor, Patient A went into a restroom and attempted suicide by means of overdosing on pills already in her possession. (Tr. 21)

Patient A was admitted to the hospital and Dr. Israelstam saw her about once a week except for a week during which he was on vacation. Dr. Israelstam testified that he had hugged Patient A at the end of each session. He explained that the hugs were outside the treatment room in a public hallway. Dr. Israelstam testified that about a week before he had left for vacation he had met with Patient A and that, during this therapy session, Patient A had related a history of experimentation with sex and drugs. He further testified that during this discussion he had "said something stupid to the effect of, well, I don't know that we'll ever go to bed together, but I love you, meaning that I cared about her, not that I had a romantic love interest." (Tr. 21-22, 35-36)

Dr. Israelstam testified that while he had been on vacation, a friend of his had given him a book on the abuse of power. While reading this book, Dr. Israelstam became concerned

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that Patient A might have misconstrued his comments the previous week. On his first visit with Patient A after returning from vacation, Dr. Israelstam told Patient A that he wanted to "make sure that [she] understood that [he] was not hitting on [her] romantically or sexually [.]" Dr. Israelstam testified that Patient A responded that she "understood that." (Tr. 21-23)

Dr. Israelstam further testified that during the course of this conversation an OTA who had been working closely with Patient A walked past the room. Dr. Israelstam was aware that this OTA was very skilled at working with patients with a history of childhood abuse such as Patient A. Dr. Israelstam invited the OTA to join them. Dr. Israelstam then repeated his comments to Patient A about a possible misunderstanding. (Tr. 21-24)

At hearing, Dr. Israelstam stated that he had expressed to other patients "some kind of Judeo-Christian loving feelings and not some kind of romantic or sexual love." Dr. Israelstam also testified that he never had any relationship with Patient A beyond his therapeutic physician-patient relationship with her. (Tr. 27-28)

Dr. Israelstam testified that St. Mary's Hospital had summarily suspended him. He was subsequently advised that the hospital had been concerned about Dr. Israelstam's conduct with Patient A and whether Dr. Israelstam had healthy boundaries with Patient A or other patients. (Tr. 21-22, 24-27)

Dr. Israelstam explained that he had resigned from St. Mary's Hospital and another hospital where he had privileges after having been advised by his attorney that he could not win a fight with St. Mary's. He stated at hearing that he did not want to go through the investigation process at the second hospital. (Tr. 27-29)

Dr. Israelstam testified that he had engaged in self-scrutiny and remedial efforts on his own after being suspended by St. Mary's Hospital. Dr. Israelstam explained that he first attended an all day session on boundary issues led by a psychologist from the Minneapolis Walk In Clinic. He also attended a two-day conference at Harvard University on working with women in the psychiatric area, and several courses on boundary issues. (Tr. 29-30)

Dr. Israelstam testified that he had not attended CME courses on boundary issues with the intention of using such courses as mitigation against discipline by the Wisconsin Board. However, when the Wisconsin Board did impose discipline it took into consideration his efforts to remedy the problem by additional training. Dr. Israelstam stated that, at the time of the Wisconsin Board Order, he had completed 33.5 hours of Category 1 CME concerning boundary issues. Dr. Israelstam noted that these hours were not in addition to those required for continued licensure. (Tr. 30-31, 33-34, 40)

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Dr. Israelstam testified that he has learned to stop saying "I love you" and to top hugging clients. He has also learned to be more judicious and cautious in disclosing anything about his personal life to patients. (Tr. 30)

Additional Information

5. Dr. Israelstam submitted a packet of five letters of support from colleagues in Wisconsin. The State of Ohio did not have an opportunity to cross-examine these letter writers. However, each letter writer noted that he or she was aware that Dr. Israelstam had been disciplined by the State of Wisconsin. Further, each letter writer described his or her general impression of Dr. Israelstam without addressing the specific facts of the underlying allegations involving Patient A. (Resp Exs. B-F; Tr. 36-38)

   a. By letter dated June 1, 2001, Marek J. Hann, M.D., advised the Board that he had been acquainted with Dr. Israelstam for ten years and that they had practiced together from 1993 until 1998. Dr. Hann noted that he had worked with Dr. Israelstam in both inpatient and outpatient settings and that they had shared an emergency call schedule. He further noted that he continues to consult with Dr. Israelstam and to ask Dr. Israelstam to cover Dr. Hann's practice when he is out of town. Dr. Hann described Dr. Israelstam as professional and ethical. (Resp. Ex. B; Tr. 36-37)

   b. By letter dated June 6, 2001, David R. Dati, CMFT, CICSW, addressed the Board. Mr. Dati is a state certified marriage and family therapist as will as a state certified independent clinical social worker. Mr. Dati stated that he had worked with Dr. Israelstam since November of 1998. He described Dr. Israelstam as professional, competent and effective in his care of patients and in his relationships with coworkers. (Resp. Ex. C; Tr. 37)

   c. Heather Martin-Patti addressed the Board by letter dated June 2, 2001. Ms. Martin-Patti stated that she had been Dr. Israelstam's office manager from 1994 until 1998. She described Dr. Israelstam as an excellent physician willing to go the extra mile for his patients. (Resp. Ex. D; Tr. 37)

   d. By letter dated June 18, 2001, Nadine Sweet advised the Board that she had worked with Dr. Israelstam as an office manager since 1998. She observed that Dr. Israelstam is professional and competent with staff, colleagues, and patients. She noted that he is liked and respected by both patients and staff. (Resp. Ex. E; Tr. 37)

   e. Steven R. Stein, Ph.D., addressed the Board by letter dated May 31, 2001. Dr. Stein is a Psychologist in practice with the Northstar Counseling Center in Madison, Wisconsin. Dr. Stein noted that he had been in practice with

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Dr. Israelstam from 1989 until 1997. He further noted that he continues to consult with Dr. Israelstam on difficult cases. Dr. Stein described Dr. Israelstam as demonstrating compassion and great competency. He also described Dr. Israelstam as being extremely creative and occasionally provocative in challenging his patients to take responsibility for their emotional lives. Dr. Stein stated that he had always found Dr. Israelstam to be "professional and boundaried" (sic) in his relationships with both Dr. Stein's and his own patients. (Resp Ex. F; Tr. 38)

6. Dr. Israelstam testified that he has not been the subject of any other investigations relating to boundary issues. He noted that in early 2001, he had agreed to a public reprimand in California based on the Wisconsin action. Dr. Israelstam stated that he has been notified by the State of Minnesota that they would not take any further action based on the Wisconsin action. (Tr. 31-33)

Dr. Israelstam described his current practice as involving patients between the ages of five and eighty. He noted that he provides medication management and supportive psychotherapy. Dr. Israelstam also noted that he provides outpatient services at Boscobel Area Hospital, Boscobel, Wisconsin and has courtesy privileges at that facility. However, he has not used those privileges to admit any patients to Boscobel. (Tr. 12, 16-18)

Dr. Israelstam testified that he was willing to cooperate with the Board in pursing additional focused CME if the Board thought it appropriate. (Tr. 39)

FINDINGS OF FACT

By Final Decision and Order dated September 20, 2000, the Wisconsin Medical Examining Board reprimanded David M. Israelstam, M.D., for unprofessional conduct for having engaged in conduct, which tended to constitute a danger to a patient. The Wisconsin Board required that Dr. Israelstam complete a full-day program addressing the issue of health care provider-patient issues.

CONCLUSIONS OF LAW

The Wisconsin Board Final Decision and Order concerning David M. Israelstam, M.D., described in the Findings of Facts, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or

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reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

PROPOSED ORDER

It is hereby ORDERED that:

A. **SUSPENSION, PROBATION:** The certificate of David M. Israelstam, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of six months. Upon reinstatement, Dr. Israelstam's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Requests for Modification**: Dr. Israelstam shall not request modification of the terms, conditions, or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.

2. **Laws in State Where Practicing**: Dr. Israelstam shall obey all federal, state and local laws, all rules governing the practice of medicine and surgery in the state in which he is practicing.

3. **Appearances**: Dr. Israelstam shall appear in person for interviews before the full Board or its designated representative during the third month following the month in which probation becomes effective and upon his request for termination of the probationary period, and/or as otherwise requested by the Board.

4. **Quarterly Declarations**: Dr. Israelstam shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of probation. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which probation becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

5. **Refrain From Practice in Ohio**: Dr. Israelstam shall refrain from commencing practice in Ohio without prior written Board approval.

6. **Additional Terms After Commencing Practice In Ohio**: Should Dr. Israelstam commence practice in Ohio, the Board may place his certificate under additional probationary terms, conditions, or limitations, including the following:

    a. **Appearances**: Dr. Israelstam shall appear in person for interviews before the full Board or its designated representative during the third month

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following the month in which he resumes practice in Ohio. Subsequent personal appearances must occur every third month thereafter, upon Dr. Israelstam's request for termination of the probationary period, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

7. **Absence from Ohio**: In the event that Dr. Israelstam should leave Ohio for three consecutive months, or reside or practice outside the State, Dr. Israelstam must notify the Board in writing of the dates of departure and return. Periods of time spent outside Ohio will not apply to the reduction of this probationary period, unless otherwise determined by motion of the Board in instances where the Board can be assured that the purposes of the probationary monitoring are being fulfilled.

8. **Violation of Probation; Discretionary Sanction Imposed**: If Dr. Israelstam violates probation in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

B. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Israelstam's certificate will be fully restored.

C. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Israelstam shall provide a copy of this Order by certified mail to all employers or entities with which he is under contract to provide health care services or is receiving training, and the Chief of Staff at each hospital where Dr. Israelstam has privileges or appointments. Further, Dr. Israelstam shall provide a copy of this Order by certified mail to all employers or entities with which he applies or contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where Dr. Israelstam applies for or obtains privileges or appointments. Further, Dr. Israelstam shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

D. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES**: Within thirty days of the effective date of this Order, Dr. Israelstam shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Israelstam shall also provide a copy of this Order by certified mail, return receipt requested, at the time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Israelstam shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

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EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon mailing of notification of approval by the State Medical Board of Ohio.

Daniel Roberts
Attorney Hearing Examiner

State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF OCTOBER 10, 2001

REPORTS AND RECOMMENDATIONS

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

Dr. Bhati asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of Mounir B. El-Badewi, M.D.; Rory Jaye Friedman, D.P.M.; David M. Israelstam, M.D.; Rosemary W. McLaughlin, M.D.; and Stacey E. Wiggins, L.M.T. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati 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:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- aye
	Dr. Buchan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- aye
	Dr. Steinbergh	- aye
	Dr. Bhati	- aye

Dr. Bhati noted that, in accordance with the provision in Section 4731.22(F)(2), 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 Supervising Member must abstain from further participation in the adjudication of these matters.

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

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

.....

DAVID M. ISRAELSTAM, M.D.

Dr. Bhati directed the Board's attention to the matter of David M. Israelstam, M.D. He advised that objections were filed to Hearing Examiner Roberts' Report and Recommendation and were previously distributed to Board members.

Dr. Bhati continued that a request to address the Board has been timely filed on behalf of Dr. Israelstam. Five minutes would be allowed for that address.

Dr. Israelstam was accompanied by his attorney, Kevin P. Byers.

Mr. Byers stated that he would like to highlight for the Board's benefit that Dr. Israelstam, although here on a boundary issue related to underlying discipline in his home state of Wisconsin, stands in stark contrast to the two cases the Board just adjudicated. He hopes that Board members have had the chance to study the record and realize that. What is even more astounding is that the complaint in Wisconsin was initiated by an occupational therapist whom he brought into a therapeutic setting with the patient to whom he said, "I love you." The occupational therapist heard this. That's where the complaint initiated. The patient never complained about Dr. Israelstam's statement or conduct during the therapeutic relationship. The occupational therapist then went forward and filed a frivolous lawsuit against the doctor for emotional distress. Obviously she didn't win that lawsuit. The Board must look with suspicion on why this individual got involved in this after hearing Dr. Israelstam tell his patient that he loved her, obviously meaning it in a platonic fashion.

Mr. Byers concluded his statement by stating that he's sure the Board members have seen the objections he filed on August 27.

Dr. Israelstam thanked the Board for the opportunity to address it, and also thanked the Board for rescheduling his appearance from September.

Dr. Israelstam stated that he attended medical school in Ohio and graduated in 1963. He's proud of getting

his first medical license after sitting for the Ohio examination. He admits that he made a mistake and said something stupid to this person. He has never been sued by a patient in 38 years of practicing medicine. He has taken steps to learn about better physician/patient boundaries. Those are listed in the papers before the Board. Dr. Israelstam stated that he believes he's learned from this experience and moved on. He's disappointed that the Hearing Examiner did not recommend a reprimand, as Wisconsin did five years after the incident, which occurred in September 1995. The State of Minnesota, where he is also licensed, reviewed this matter and decided to informally close the case with no adverse action. Dr. Israelstam stated that he's disappointed at the harshness of the Hearing Examiner's recommendation. In terms of the Report and Recommendation, the Proposed Order stated that probation would not count when he's outside the State of Ohio. He's confused about that portion of the recommendation. Dr. Israelstam stated that he would be happy to answer any questions Board members might have.

Dr. Bhati asked whether the Assistant Attorney General wished to respond.

Ms. Albers stated that Dr. Israelstam was reprimanded by the Wisconsin Board for unprofessional conduct for having engaged in conduct that tended to constitute a danger to the patient. The Hearing Examiner did a thorough job of setting out the findings of the Wisconsin Board in the Report and recommendation. Ms. Albers asked that the Board adopt the Hearing Examiner's Report and Recommendation in this matter.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF DAVID M. ISRAELSTAM, M.D. MR. BROWNING SECONDED THE MOTION.

Dr. Bhati stated that he would now entertain discussion in the above matter.

Dr. Steinbergh stated that this was also a case to which she couldn't necessarily say "yes" or "no" in terms of the Proposed Order. She does believe the Proposed Order in this case is somewhat harsh. Although she feels confident that Dr. Israelstam stepped outside the bounds, it's also clear that he has taken it upon himself to re-evaluate himself, to reassess his professional and psychiatric relationships with his patients, and to step back and put some distance between himself and his patients. His conduct would be confusing to the patient, and she thinks that Dr. Israelstam understands that and appreciates it. He admits that he's done wrong.

Dr. Steinbergh stated that her heartfelt feeling about this is that this particular Order is much too harsh. She would be in favor of a reprimand in this case.

Dr. Egner stated that she tempers this with the knowledge that the doctor is a psychiatrist. She doesn't want to hold him to a different standard, but on the other hand, as a trained psychiatrist, it's hard for her to understand that he did not know how inappropriate his statements were. This wasn't just an off-the-cuff comment. These were multiple statements made to the patient in terms of his sexual attraction, in terms of sexual activity with the patient; it wasn't just telling her "I love you" in a non-sexual way. She doesn't know that this was as innocent as being put forth today.

Dr. Egner continued that, on the other hand, she can't help but be influenced by what the Board has done in the first two cases today. If the Board imposed a 30-day suspension in the first case, and a three-month suspension in the second, it would be inconsistent to impose a six-month suspension in this case. She does take what Dr. Israelstam said to his patient very seriously, and especially as a psychiatrist, in that physician/patient relationship. Dr. Israelstam didn't start practicing yesterday. He should have known for a very long time how inappropriate this was.

Dr. Buchan stated that he feels that this is a difficult case. The fact that Dr. Israelstam was subject to self-scrutiny and remedial efforts on his own spoke volumes to where he thinks Dr. Israelstam is going and the likelihood of this not re-occurring. Dr. Buchan stated that he felt the Proposed Order was harsh, and he agreed that a reprimand would not be out of line.

Dr. Stienecker agreed. He added that for an occupational therapy assistant to make a decision that what a doctor is doing to a patient is counterproductive to the patient's well-being is an unusual overstepping of bounds. It might have been confusing conduct to the occupational therapy assistant, but the Board doesn't really know what the patient's thought was. Did the assistant interpret it as it has been interpreted by this Board? Dr. Stienecker stated that he would go along with a reprimand in this case.

Dr. Somani stated that he doesn't believe that the Board should suspend Dr. Israelstam's license for six months, but he's not willing to back down to a simple reprimand. There were inconsistent statements by Dr. Israelstam on the record. It doesn't make sense for the Board to accept Dr. Israelstam's word. He would be in favor of staying the suspension and placing Dr. Israelstam on probation.

DR. SOMANI MOVED TO AMEND THE PROPOSED ORDER TO STAY THE ORDERED SUSPENSION, AND TO LOWER THE TERM OF PROBATION TO THREE YEARS. MR. BROWNING SECONDED THE MOTION.

Dr. Bhati stated that he would now entertain further discussion.

Dr. Agresta stated that he's not sure what is going to be accomplished by this motion. The incident occurred in 1995 and he was reprimanded in Wisconsin. What would the Board accomplish by putting this man on probation in Ohio? Dr. Agresta agreed that what Dr. Israelstam said was inappropriate, and he believes Dr. Israelstam understands that. The Board is having a problem interpreting what Dr. Israelstam meant by what he said. To suspend his license and put him on probation for something this Board is having trouble trying to interpret is inappropriate. He deserves a reprimand. He knows what he did was wrong. Dr. Agresta stated that he won't be returning to Ohio to practice. Why give the Board extra work that doesn't accomplish anything?

Dr. Steinbergh asked how the Board knows he's not returning to Ohio at some time in the future.

Dr. Agresta stated that the Board never knows that, but the chances are more likely than not that he won't.

Dr. Steinbergh stated that that would be the reason to impose a probationary term, in the event he returns to this state.

Dr. Agresta stated that this is overkill. The Board did less for people who were involved in actual sexual contact.

Dr. Bhati urged that the Board be consistent.

Dr. Stienecker spoke against the amendment, and stated that he would back Dr. Agresta's recommendation.

A vote was taken on Dr. Somani's motion:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- nay
Dr. Talmage	- nay
Dr. Somani	- aye
Dr. Buchan	- nay
Mr. Browning	- nay
Ms. Sloan	- nay
Dr. Stienecker	- nay
Dr. Agresta	- nay
Dr. Garg	- abstain
Dr. Steinbergh	- nay
Dr. Bhati	- aye

The motion failed.

DR. STEINBERGH MOVED TO AMEND THE PROPOSED ORDER BY SUBSTITUTING AN ORDER OF REPRIMAND. DR. STIENECKER SECONDED THE MOTION. A vote was taken:

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- aye
Dr. Somani	- nay
Dr. Buchan	- aye
Mr. Browning	- aye
Ms. Sloan	- aye
Dr. Stienecker	- aye
Dr. Agresta	- aye
Dr. Garg	- abstain
Dr. Steinbergh	- aye

Dr. Bhati	- nay

The motion carried.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. ROBERTS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER, AS AMENDED, IN THE MATTER OF DAVID M. ISRAELSTAM, M.D. DR. STIENECKER SECONDED THE MOTION. A vote was taken:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Somani	- nay
	Dr. Buchan	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Stienecker	- aye
	Dr. Agresta	- aye
	Dr. Garg	- abstain
	Dr. Steinbergh	- aye
	Dr. Bhati	- nay

The motion carried.

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

April 11, 2001

David M. Israelstam, M.D.
5705 Arbor Vitae Place
Madison, Wisconsin 53705

Dear Doctor Israelstam:

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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

(1) The Wisconsin Medical Examining Board (hereinafter "the Wisconsin Board") entered a Final Decision and Order dated September 20, 2000, adopting the attached Stipulation. This Order reprimanded you for unprofessional conduct for having engaged in conduct which tended to constitute a danger to a patient. The Board further required that you complete a full-day program addressing the issue of health care provider-patient issues.

A copy of the Wisconsin Board Final Decision and Order is attached hereto and incorporated herein.

The Wisconsin Board Final Decision and Order, as alleged in paragraph (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatry, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

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, if you timely request a hearing, 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

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of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, effective March 9, 1999, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG/jag
Enclosures

CERTIFIED MAIL # 7000 0600 0024 5140 0623
RETURN RECEIPT REQUESTED

3305 Whitney Way, Suite 104
Madison Wisconsin 53705

CERTIFIED MAIL # 7000 0600 0024 5140 0593
RETURN RECEIPT REQUESTED

Kevin F. Milliken, Esq.
Hurley, Burish & Milliken, S.C.
301 North Broom Street
Madison, Wisconsin 53703-2087

CERTIFIED MAIL # 7000 0600 0024 5140 0616
RETURN RECEIPT REQUESTED

STATE
JAN - 8 2001

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	Case No. LS0009203 MED
DAVID M. ISRAELSTAM, M.D., RESPONDENT.	:	

FINAL DECISION AND ORDER

The parties to this action for the purposes of § 227.53, Stats., are:

David M. Israelstam, M.D.
5705 Arbor Vitae Place
Madison, WI 53705

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Wisconsin Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. David M. Israelstam, M.D., Respondent, date of birth July 20, 1939, is licensed and currently registered by the Medical Examining Board to practice medicine and surgery in the state of Wisconsin, pursuant to license number 17772, which was first granted October 21, 1971.

2. Respondent's last address reported to the Department of Regulation and Licensing is 5705 Arbor Vitae Place, Madison, WI 53705.

3. Respondent specializes in the area of psychiatry.

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4. Ms. A was 36 years old when Respondent first provided professional services to her on December 3, 1993 at Grand Teton Mental Health Consultants. Mental health care professionals had previously diagnosed Ms. A with: bi-polar affective disorder, post traumatic stress disorder and borderline personality disorder. Ms. A was also an alcoholic in recovery.

5. Respondent diagnosed Ms. A with: bi-polar affective disorder and post traumatic stress disorder and began treating her with medication. Respondent had medication check sessions with Ms. A on January 20, February 17, March 17, April 15, May 12, June 16, August 12, September 1, October 13, November 29, and December 29, 1994. During that time, Ms. A was also receiving therapy from a professional counselor in Stoughton.

6. During the December 29, 1994 meeting, Respondent and Ms. A discussed Ms. A having a hypnotherapy session with a psychologist who worked with Respondent for the purpose of recovering childhood memories. They agreed to have such a session and that her counselor would also be present.

7. Ms. A's first hypnotherapy session by the psychologist was held on January 23, 1995, with Respondent and the counselor present. The purpose of the session was childhood memory retrieval. On that occasion, Respondent charted that Ms. A appeared to be a good subject and that she was able to recall fear and sensations at age two of squeezing on her chest while in the basement.

8. A second hypnotherapy session was held by the psychologist on February 2, 1995, with the counselor present, but without Respondent. The psychologist noted that Ms. A "seemed to feel that her mother was abusive to her and perhaps some sexual activity went on also either by the mother or grandfather." It was determined that those issues would be worked on in therapy with the counselor and that there would be no more hypnotherapy sessions at that time.

9. Ms. A continued in therapy with the counselor and attended a "survivors group." Ms. A began to have more memories and dreams of possible childhood abuse. Her third hypnotherapy session with the psychologist was held on May 18, 1995. Ms. A saw Respondent for a medication check session on June 2, 1995.

10. Ms. A had a fourth hypnotherapy session with the psychologist on June 19, 1995. The psychologist described Ms. A as having "a massive block in terms of going into trance." The psychologist then discussed Ms. A with Respondent, who agreed to set up a sodium amytal interview of Ms. A as an outpatient on August 10, 1995.

11. A two hour sodium amytal interview took place on August 10, 1995 with the psychologist, the counselor and Respondent present. Following the session, Ms. A overdosed on prescription medications, in a suicide attempt or gesture. She was admitted to St. Mary's Hospital that day and remained hospitalized until her discharge on October 12, 1995.

12. Respondent conducted Ms. A's admission psychiatric evaluation on August 10, 1995 and provided inpatient psychiatric care to Patient A through September 26, 1995.

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13. While hospitalized, Ms. A discussed with Respondent her history of having been sexually abused and continued to report suicidal and depressed feelings.

14. During therapy sessions, Respondent shared information with Ms. A of a personal nature. He told Ms. A about relationship problems Respondent had with his mother and his ex-wife, and about relationship problems he was having with his daughter. Respondent contends that at the time he disclosed this information, he believed that such disclosure of limited personal information was therapeutic.

15. Respondent and Ms. A hugged on several occasions in the hospital. Respondent contends that Ms. A requested the hugs and that all hugs were in public areas of the hospital where they could be observed by others.

16. Ms. A contends that during a session on August 18, 1995, Respondent told her:

- There was a sexual energy between them.
- He found her to be a very attractive sexual woman and it was difficult being close to her.

17. Respondent denies making the statements set out in paragraph 16. He recalls that on one occasion, presumably August 18, 1995 they had a discussion about sexuality and sexual attraction. Respondent contends that these discussions did not intend to express his sexual interest or attraction toward Ms. A. However, Respondent recognizes that Ms. A may have misunderstood the intent and purpose of their discussions.

18. On September 25, 1995, Respondent asked an occupational therapy assistant (OTA), who had been working with Ms. A on boundary issues, to meet with Respondent and Ms. A. During that meeting, with Ms. A present:

- Respondent told the OTA that he had been sharing with Ms. A details about his life, including his relationship with his daughter.
- The OTA said she thought that might distract the patient's work on her own issues and might make the patient feel like Respondent's caretaker.
- Respondent said he did not expect Ms. A to be his therapist, but that he respected her perspective on issues and enjoyed talking with her.

19. The OTA contends that in addition during the September 26, 1995 meeting:

- Respondent then said that he and Ms. A had a meaningful session a few weeks earlier during which he felt connected to her. He said that there was an outpouring of love on his part and a sexual attraction to her. He said that he did not know if he would ever have a sexual relationship with Ms. A, but the feelings were there.

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- Respondent discussed hugging Ms. A at the end of sessions and his saying "I love you" to Ms. A, which he felt was innocent but he was concerned that staff might misinterpret his intentions.
- The OTA responded that she felt that hugs and expressing feelings of love and sexuality would be confusing to a patient who was struggling with issues of safety and boundaries.

20. Respondent denies that the exchange set out in paragraph 19 occurred and contends the following occurred:

- Respondent stated that at an earlier session he made a statement to Ms. A which may have caused Ms. A to believe he was sexually attracted to Ms. A, and he had not clearly stated that he would never have a sexual relationship with Ms. A because of their doctor/patient relationship.
- Respondent clarified with the OTA and Ms. A that Respondent was not hitting on Ms. A and that Ms. A stated that she understood that.

21. On September 26, 1995, Respondent was notified by St. Mary's Hospital Medical Center that his clinical privileges were summarily suspended, until such time as the alleged comments made to Ms. A could be investigated. Respondent's privileges remained suspended until Respondent resigned the privileges for personal reasons.

22. On September 28, 1995, Ms. A agreed to transfer of her care from Respondent to another psychiatrist for the remainder of her hospitalization.

23. Respondent's conduct, as set out above constitutes violations of professional boundaries for psychiatrists, exposed Ms. A to an unreasonable risk of harm and falls below the minimum standards of the profession.

24. Subsequent to the above events, Respondent voluntarily took and competed the following continuing education courses, which relate to concerns about Respondent's conduct during the events:

a. "Learning From Women," a 14, category 1 credit course, offered by the Department of Continuing Education of Harvard Medical School, on April 26-27, 1996.

b. "Professionals at Risk: Boundaries in Human Service, a 6 hour course, offered by the University of Wisconsin – Extension, on August 20, 1996.

c. "Boundaries: A Discussion About Relationships Between Mental Health Providers and Consumers," a 5.5 contact hour course, offered by Mendota Mental Health Institute on November 6, 1997.

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d. "Professionals at Risk: The Ethical Dilemma," an 8 hour course offered by the University of Wisconsin – Extension, on October 21, 1999.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to § 448.02(3), Stats.

2. The Wisconsin Medical Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. That Respondent has committed unprofessional conduct as defined by Wis. Adm. Code § MED 10.02(2)(h) for having engaged in conduct which tends to constitute a danger to a patient and is subject to discipline pursuant to § 448.02(3), Stats.

ORDER

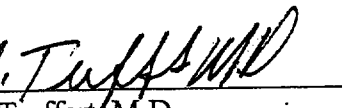
1. David M. Israelstam, M.D., is hereby REPRIMANDED for the above conduct.

2. Within 90 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a full-day program addressing the issue of health care provider - patient relationship boundaries.

3. The courses taken and completed by Respondent, which are set out in Finding of Fact 24, satisfy the requirement of paragraph 2 of this order.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 20th day of September, 2000.



Darold A. Treffert, M.D.
Secretary
Wisconsin Medical Examining Board

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STATE MEDICAL BOARD
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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	Case No.
DAVID M. ISRAELSTAM, M.D. RESPONDENT.	:	

STIPULATION

It is hereby stipulated and agreed, by and between David M. Israelstam, M.D., Respondent; Kevin F. Milliken of Hurley, Burish and Milliken, attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent by the Department of Regulation and Licensing, Division of Enforcement, on behalf of the Wisconsin Medical Examining Board (file 95 MED 368).

2. Respondent understands that by the signing of this Stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent is aware of his right to seek legal representation prior to signing this Stipulation, and has done so.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. The parties waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

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6. The parties to this Stipulation agree that the Respondent, Respondent's attorney, the member of the Board appointed as the investigative advisor in these matters, and an attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.

7. The parties agree to waive all costs of the investigation and this proceeding.

Dated this 28th day of August, 2000.

David M. Israelstam, M.D.
Respondent

Dated this 29th day of August, 2000.

Kevin F. Milliken
Hurley, Burish and Milliken
Attorneys for Respondent

Dated this 1st day of ~~August~~ September, 2000.

John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

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