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Dept.
1980
1348

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE
LICENSE OF

THOMAS C. KRONER, M.D.,

Respondent.

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

Hearings were held on the Complaints in the entitled matter on July 27, 1979; July 30, 1979; August 6, 1979; August 10, 1979; September 13, 1979; September 14, 1979 and September 19, 1979.

Complainant appeared by Attorney Gilbert C. Lubcke and the respondent in person and by his attorneys, Richard L. Cates and Richard V. Graylow. At the conclusion of the evidence, briefs were filed by the attorneys.

On March 7, 1980, the hearing examiner, William Dusso, filed a proposed decision including proposed findings of fact, proposed conclusions of law, proposed order and opinion. Thereafter, objections to the proposed decision were filed by both the attorney for the complainant and the attorneys for the respondent. Arguments were held before the Board on June 13, 1980, and the Board having read the record and the exhibits, the proposed decision, the objections of both parties and the briefs on file and being fully informed in the premises makes its own findings of fact, conclusions of law and order as follows:

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FINDINGS OF FACT

1. Respondent Thomas C. Kroner (Kroner) resides in West Bend, Wisconsin, and is licensed to practice medicine and surgery in the State of Wisconsin. Kroner's license bears number 15716 and was granted on August 10, 1966. Kroner was born June 28, 1939, and attended the University of Notre Dame and St. Louis University School of Medicine. He interned at Milwaukee County General Hospital and completed three years of residency in psychiatry at Milwaukee County Mental Health Center, North Division. After residency Kroner worked as a staff psychiatrist at Milwaukee County General Hospital. In 1971 he opened a medical office in downtown Milwaukee. In 1973 or early 1974, Kroner entered into an association of physicians under the name of the General Clinic of West Bend (Clinic). Between 1970 and 1976, Kroner also worked as a psychiatric consultant for Cedarcrest Girls Residence and Rosealie Manor. After moving to West Bend, Kroner began working at the Washington County Mental Health Center (Center), which is funded through Comprehensive Community Services Agency (CCSA), a county agency acting for Washington County's "51.42 Board." Kroner is now acting medical director at the Center and also maintains a private practice in the General Clinic of West Bend. He works about 20 hours per week at the Center, devoting most of his time there to inpatient care. In 1974 and 1975, Kroner had an office at the Center as well as an office at the Clinic.

2. Kroner specializes in the area of psychiatry. In out-patient treatment, Kroner uses, among other treatment methods, Gestalt therapy and transactional analysis.

3. In the fall of 1974, Kroner lived at 1830 Wallace Lake Road, West Bend, Wisconsin. He was married and had five children, then aged one through ten. At that time Kroner's life was changing. He felt he was growing apart from his wife, was more interested in nature and natural things such as gardening and was less interested in matters of status. He was trying to become less judgmental. He questioned some political, social, and religious values he previously had not questioned.

4. _____; resides at _____
_____ is employed at _____
_____ as an _____. She was
born April 6, 1944, in Austria. _____ immigrated to the United States from Austria when she was six years old. She graduated from high school and worked at several clerical jobs and as a keypunch operator and X-ray assistant. She married _____ on August 10, 1963. Shortly thereafter, he was called to active duty in the army reserve for six months. The _____ have four children: two girls born on February 22, 1965, and May 2, 1966, and twin boys born on June 6, 1969.

5. After her first child was born in 1965 and continuing through 1974, _____ engaged in intermittent spending sprees in which she charged clothes and other items. The _____ were unable

to pay all their bills and began to have arguments over money. Their relationship became strained. In 1971, left her husband, lived by herself for six months, and then returned to her husband. In the fall of 1972, moved with her family to West Bend. Her relationship with her husband did not improve. They then had a limited sexual relationship. spending sprees continued after the move to West Bend. Prior to 1974, had periods of depression, believing she was worthless, and that her responsibilities were too great for her.

6. At various times prior to 1974, sought help from psychiatrists. She was treated by Dr. Philip Stein in Milwaukee for a short time between 1969 and 1971 and by Dr. Braun at the Milwaukee Health Center for a brief period in 1971 or 1972. saw Dr. Stein because of her spending sprees and her marital difficulties. She received counseling from Stein for about seven or eight months but stopped seeing him because she did not believe she was making progress and because of the expense.

7. On October 3, 1974, requested psychiatric help from the Center and was admitted there as an outpatient by Isabel Messman, a psychiatric social worker. saw Messman again on October 9 and 16, 1974. Messman prepared a "Psychological Study" which reports information about , as follows:

Mrs. the 30 year old, married mother of four children, 9 to 5 years of age, was seen because of her concern about her compulsive 'wild spending sprees'. Her repeated episodes of buying clothing on charge accounts with \$400 to \$500 spent at one time has kept the family in constant debt and threatened the marriage.

Self-destructive impulses of 'driving off a bridge or into a tree' have been controlled, Mrs. said, because of her religious beliefs.

Information was secured from two interviews with Mrs. on October 9 and 16, 1974.

Married for 10 years, Mr. had initiated a legal separation in 1971 with the couple living apart for four to six months. At this time, the had had marital counselling from Dr. Stein, psychiatrist, Milwaukee. There had been a reconciliation after the wife had begged for 'another chance'.

An unusual childhood was described by Mrs. She had been born in Austria, her parents first child, a month after the death of her father in World War II. The mother and child had come to the United States when Mrs. was 5 years of age. With the mother employed as a maid the home of a West Allis family, Mrs. had been accepted in some ways as a foster child, sharing activities with the employers' own daughter of similar age. A sense of inferiority had developed, as Mrs. s clothing had been hand-me-downs, and she sensed that she had been unduly criticized and suspected of misbehavior by the lady of the household. The husband had been 'an understanding man' whom Mrs. has continued to admire.

The mother's second marriage, when Mrs. was about 12, is recalled as having resulted in further unhappiness. Overly strict in his controls, the step-father was said to have been punitive to both Mrs. and her mother.

In discussing her marriage, Mrs. told of having eloped when 19 years old, as her husband's relatives had disapproved. Eager for her first baby, she had found care of the child to be burdensome. Jealous of her husband's attention to the infant, Mrs. told of having had violent temper outbursts 'throwing and breaking things'. Stress had continued with additional pregnancies, with twin boys born in the third confinement. Mrs. described her husband as an outgoing man who is 'good at everything'. Academically successful as a student, Mr. has continued an interest in sports. The wife feels that she is intellectually inferior, although a high school graduate.

Maintaining her love for her husband, Mrs. related that they have a limited sexual relationship, with intervals of months between intercourse. On at least two occasions, Mrs. has believed herself to be in love with other men, who have been unaware or uninterested.

A slender woman, with long straight hair, Mrs. mentioned her preference for informal clothing in spite of her purchases of expensive articles. Frequently, the clothing is unworn, but unreturnable as tags have been removed.

Mrs. talked in a soft voice, presenting herself as helpless to alter her maladaptive behavior patterns. With low self-esteem fostered in childhood circumstances, Mrs. 's immaturity is adversely influencing her performance of the adult roles of wife and mother.

Plan: Mrs. accepted an appointment with Dr. Kroner on Wednesday, October 23, 1974, at 2:30 p.m., for psychiatric evaluation and planning for continued service."

Messman's "Psychological Study," above, was provided to and read by Kroner before October 30, 1974.

8. first therapy session with Kroner occurred on October 3, 1974, in Kroner's Center office. told Kroner about her spending sprees and about her childhood. She indicated that she and her husband were not having a good sexual relationship. Among other details, described to Kroner an incident from her childhood when she was reprimanded and embarrassed by a teacher who spanked her. Kroner suggested during this session that the school incident be reenacted. He gave her a text to read and when she made a mistake he corrected and spanked her. At the conclusion of the session, Kroner briefly hugged

9. In notes on October 30, 1974, session, Kroner wrote, among other things, that was: " ... an insecure girl who has not decided to become her own person. She is going through life with very little joy and fun. She lacks confidence and allows people to discount her. She also engages in a considerable amount of discounting herself as an important person."

10. continued to see Kroner after October 30, 1974, at treatment sessions held at the Center on November 13, 20, and

27, 1974; December 4, 11, and 18, 1974; at least twice in January, 1975; and at other sessions held in Kroner's Clinic office such that, in total, therapy sessions were held about once each week. Kroner made progress notes for most of the sessions he had with [redacted] during this time. In his notes for these treatment sessions, Kroner stated, among other things, that [redacted] continued to do well in the therapy sessions, that she was able to identify her maladaptive patterns and relate them to how they were formed during her early developmental years. The conclusion or diagnosis common to the notes is that [redacted] was insecure, that she felt inadequate and unworthy of attention, and was rarely complimented for being herself. Kroner believed that [redacted] needed to develop feelings of being okay, of being at least as important as everybody else, of becoming her own person. Kroner continued to hug [redacted] after each appointment and occasionally kissed her on the cheek. When [redacted] asked why he did this, Kroner explained that he hugged all his patients in order to make them feel wanted, cared for, and listened to. Kroner's hugs eventually lasted longer than a minute and in January, 1975, [redacted] began to relax and return Kroner's hugs.

11. Kroner knew or should have known prior to January, 1975, through his professional doctor-patient relationship with [redacted] that significant characteristics of [redacted] personality included being immature and highly dependent upon other people, having a low

sense of self-esteem, feeling inadequate, utilizing indirect means of expressing anger and resentment rather than direct confrontation, needing to please others, not expressing her own feelings, shyness, timidity, and that she had thoughts of committing suicide.

12. In January, 1975, Kroner and realized that they had strong personal feelings toward one another. In late January or early February, 1975, during a therapy session held between 6:00 and 8:00 p.m. at Kroner's Clinic office, Kroner and discussed their feelings for one another. Kroner asked if she wanted to be intimate with him. answered yes. Kroner and had sexual intercourse on the floor of Kroner's office. After engaging in sexual intercourse, Kroner and discussed the reasons why they were attracted to each other. They agreed on guidelines for their relationship: they would be honest with each other; they didn't know where the relationship was going; and they would not attempt to continue the relationship if one of them wanted to end it. Kroner expressed uneasiness about the fact that was his patient. indicated she would stop being his patient.

13. Between February, 1975, and July, 1977, Kroner and had an intense love affair. Throughout most of this period, Kroner and communicated in person or by telephone four or five times per week. They discussed intimate details of their lives. In conversations in this period, told Kroner that she loved him;

Kroner told that he loved her. Both Kroner and enjoyed their love affair. During this affair, continued to live with her family. Kroner lived with his family until June, 1977.

14. Between January, 1975, and April, 1977, Kroner and engaged in acts of sexual intercourse and sexual intimacy between thirty and forty times at Kroner's Clinic office, once or twice at Kroner's Center office, and at other locations. Kroner's associates and staff at the Clinic and Center were not aware that Kroner and were involved in a personal and physically intimate relationship. Kroner was able to hide his personal relationship with from others because of the original physician-patient relationship.

15. In late January or early February, 1975, at the time that Kroner and first had sexual intercourse, Kroner and had a professional doctor-patient relationship in which Kroner was her psychiatrist.

16. Between 8:00 and 9:00 a.m. on November 6, 1975, took approximately ten capsules, 30 mg. of Dalmane. called Kroner and told him what she had done. Kroner called husband, , who returned home and took to St. Joseph's Community Hospital in West Bend, Wisconsin. Richard F. Sorensen, the attending physician, examined in the hospital emergency

room. Sorensen does not believe that [redacted] had actually attempted to kill herself but he does believe she behaved recklessly and endangered her health. Sorensen prepared a history of noting, among other things, that [redacted] "... has been under the care of Dr. Kroner, a psychiatrist, intermittently for several years, although she has not been very good in her followup care lately." Kroner visited [redacted] in the hospital on November 6, 1975, and personally noted in the "Doctors' Record, Progress Notes," among other things, that [redacted] "Now states wants to continue working on her problems. Tell she is still a suicidal risk. Will follow her closely prior to discharge and post-hospital. Feel she could leave in AM if cleared medically. Will give her appointment for outpatient soon." Sorensen noted in the Progress Notes on November 11, 1975, that [redacted], "Awake, alert this AM. Talks pleasantly; greeted husband warmly today. Ready for psychotherapy." [redacted] - was discharged from St. Joseph's Community Hospital on November 7, 1975, after spending about twenty-two hours in the hospital.

17. Between February, 1975, and July, 1977, Kroner never informed physicians who treated [redacted] of the fact that Kroner was having a love affair with [redacted] and that he was not therapist. Between November, 1975, and July 1, 1977, Kroner did not secure or attempt to secure psychiatric treatment for [redacted]

18. During the period of hospitalization on November 6 and 7, Kroner did not tell Sorensen that he (Kroner) did not wish to [redacted]

treat Kroner knew that Sorensen believed Kroner was
psychiatrist and that Sorensen relied on Kroner to treat

19. On November 25, 1975, took an overdose of Dalmane.
 husband, was advised by William A. Nielsen, a
physician, that could remain at home unless her condition
changed.

20. On November 26, 1975 (Thanksgiving holiday), took
sixteen Placidyl pills. was admitted to St. Joseph's
Community Hospital in West Bend on November 26, 1975, at about
6:35 p.m. The attending physician, William A. Nielsen, diagnosed
that had taken an overdose of sleeping pills because of
depression. remained in St. Joseph's Hospital until
December 1, 1975. Nielsen assumed Kroner was physician
and discussed condition with Kroner during her
hospitalization.

21. Kroner saw in the hospital on the night of
November 26, 1975. Kroner made progress notes for November 26 and
29, 1975, in the "Doctors' Record" kept for , at St. Joseph's
Community Hospital which state:

26 Nov. 31 y/o w/F adm for 2nd time in 2 weeks with
overdose. Taken several pills hours apart. Husband
took pills away but got MD to refill them on pretense
that she lost Rx. Has been in Rx with me for 1 year.
Felt things were going good up till couple months ago.
States now its just an accumulation of things from

last 12 years of marriage. Also feels that BC pills may be a factor. Said she didn't think she was capable of doing these things. Will be in close contact with her during her stay. Not psychotic but still suicidal.

Tom Kroner

29 Nov. Better mood today. Yesterday still depressed. Still talks about self as being not O.K. and therefore is still suicidal. Being in hospital also supports her idea that she is not capable. Refuses further hospitalization in psychiatric facility also refuses group Rx. Is playing deadly games.

Tom Kroner

22. Nielsen's last progress note in hospital records for the November 26, 1975, to December 1, 1975, hospitalization states: "12/1 Pt ventilating Today - Feels better - Will continue under care of Dr. Kroner -"

23. That between November, 1975, and July, 1977, Kroner knew or should have known that his love affair with placed in a situation of having to cope with a high level of stress and that - responded to high levels of stress with behavior which included suicide attempts and suicidal gestures.

24. In December, 1975, after receiving pressure from creditors, telephoned Kroner and requested that Kroner write a letter explaining spending sprees so that might delay making payment on some accounts. Kroner wrote a letter for dated December 22, 1975, "TO WHOM IT MAY CONCERN" which includes the following paragraphs:

I have been asked by _____, husband of the above named person, to write a note concerning her maladaptive behavior patterns and her present mental status.

Mrs. _____ has been seen by me for individual psychotherapy for approximately one year. Prior to therapy and even during therapy, she has engaged in several episodes of excessive spending. It is clear that her spending is directly related to her psychopathology, more specifically, to her feelings of being inadequate. When these feelings become intense, she actually spends money as an alternative to becoming depressed; as with all neurotic behavior, it never accomplishes what it is designed to do. The depression will ultimately recur.

25. The last act of sexual intercourse between Kroner and _____ occurred in April, 1977.

26. On May 20, 1977, _____ contacted a telephone intervention service in West Bend ("Open Door") and stated, among other things, that she had taken drugs and had cut her wrist. Open Door referred _____ to the Center. C. Landry, a registered nurse at the Center, spoke with _____ by telephone on May 20, 1977, six times between 7:00 and 10:00 p.m. about _____ problems with herself and her husband. Landry, at the suggestion of Ron Gumm, a therapist at the Center, talked to _____ and encouraged him to take _____ to a hospital. Between 8:00 and 10:00 on May 20, 1977, _____ talked by telephone with Kroner who agreed that _____ could stay at home but that someone should sit up with _____.

27. _____ and her husband met with Ron Gumm at the Center on May 21, 1977, and discussed their marital relationship.

28. On May 27, 1977, took about twenty capsules of 30 mg. Dalmane and 8-16 ounces of vodka. called Kroner's office. Kroner was not available. was taken by ambulance to St. Joseph's Community Hospital in West Bend and received at the emergency room at 1:45 p.m. The attending physician, William A. Nielsen, diagnosed condition as an overdose of sleeping pills and acute depression. was given intravenous fluids; a drug, Ipecac; and oxygen.

29. Kroner visited while she was hospitalized on May 28, 1977, and made progress notes in the "Doctors' Record" kept for at St. Joseph's Community Hospital which state:

33 y/o W/F took Dalmane and alcohol in overdose. Has done this several times before. I have seen pt in therapy in past but not for several months. Most recently she started seeing Ron Gumm a psychologist at CCSA. Do not know what precipitated this episode. She tends to collect bad feelings over period of time and then feels justified in taking overdose. Imp. Neurotic depression.

Rec: (1) Continue with therapy at CCSA
(2) discharge if medically clear
being home with family over holiday would probably be more therapeutic for entire family than having her admitted to hospital or staying here.

Tom Kroner

30. On May 28, 1977, Kroner entered into the "Physician's Orders" for kept at St. Joseph's Hospital the following:

- (1) DC IV
- (2) DC O₂

Tom Kroner

was discharged from St. Joseph's Hospital at 1:45 p.m. on May 28, 1977.

31. The personal relationship between Kroner and ended in July, 1977.

32. Kroner represented himself as treating psychiatrist at each of the three hospitalizations following her drug overdoses. He made notations in the physicians' Progress Notes in the hospital records including diagnosis of her condition and recommendations for discharge and treatment. He led Dr. Sorensen and Dr. Nielsen to believe that he was providing psychiatric care for . However, he did not provide adequate follow-up care for 's psychiatric problems and by making notes in the hospital records he misled Dr. Sorensen and Dr. Nielsen and effectively foreclosed them from seeking the psychiatric care for which she so desperately needed.

33. The personal and sexually intimate relationship between Kroner and his patient enhanced her suicidal preoccupation and behavior and resulted in four suicide attempts between November 6, 1975, and May 27, 1977.

34. As the result of the physician-patient relationship, Kroner obtained information concerning personality characteristics and her then existing psychological and marital problems. Kroner then knowingly used this information which was confided in him in his professional capacity as treating psychiatrist to manipulate for his own personal gain and sexual gratification.

35. It is a generally recognized fact, a fact not subject to reasonable dispute, a fact generally known within the State of Wisconsin, that the standards of professional behavior established for the protection of the public interest by consensus of the expert opinion of physicians prohibit a physician from having sexual intercourse with a patient or former patient in the private office in which the physician practices medicine. This fact is found by official notice pursuant to secs. 227.08 and 902.01, Stats. (1977).

CONCLUSIONS OF LAW

1. Kroner's conduct in late January or early February, 1975, when during a therapy session he asked if she wanted to be intimate with him and then had sexual intercourse with on the floor of his Clinic office as described in paragraph 12 of the Findings of Fact, above, is unprofessional conduct as that term is used in sec. 448.18(1)(g), Stats. (1975) and sec. 448.02(3), Stats. (1977).

2. Kroner's conduct between January, 1975, and April, 1977, when he engaged in acts of sexual intercourse and sexual intimacy with in his Clinic and Center offices as described in paragraph 14 of the Findings of Fact, above, is unprofessional conduct as that term is used in sec. 448.18(1)(g), Stats. (1975) and sec. 448.02(3), Stats. (1977).

3. Kroner's failure to inform Sorensen and Nielsen that he was not _____'s psychiatrist during the periods when he was hospitalized in November, 1975, and May, 1977, as described more particularly in the Findings of Fact, above, tended to constitute a danger to _____ health, welfare, and safety and is unprofessional conduct as that term is used in sec. 448.02(3), Stats. (1977).

4. Kroner's conduct during times when _____ was hospitalized between November, 1975, and May, 1977, when he led Drs. Sorensen and Nielsen to believe that he was providing psychiatric care for _____ when he was not and making progress notes in the hospital's "Doctors' Record" and entering an order in the "Physician's Orders" on May 28, 1977, as described more particularly in the Findings of Fact, above, tended to constitute a danger to _____ health, welfare, and safety and is unprofessional conduct as that term is used in sec. 448.02(3), Stats. (1977) and section MED 10.02(2)(h) Wis. Adm. Code.

5. Kroner's conduct in December, 1975, when he wrote a "To Whom It May Concern" letter to _____ creditors representing that he was _____ therapist, and describing _____ condition, as set forth in paragraph 24 of the Findings of Fact, above, is unprofessional conduct as that term is used in sec. 448.18(1)(g), Stats. (1975) and sec. 448.02(3), Stats. (1977).

6. Kroner's conduct between November, 1975, and July, 1977, in failing to secure or attempt to secure adequate psychiatric treatment for when he knew or should have know that his love affair with placed in a situation of having to cope with a high level of stress and that responded to high levels of stress with behavior which included suicide attempts and suicidal gestures, tended to constitute a danger to health, welfare, and safety and was unprofessional conduct as that term is used in sec. 448.02(3), Stats. (1977) and section MED 10.02(2)(h) Wis. Adm. Code.

7. Kroner used information obtained through the physician-patient relationship for his own personal gain and sexual gratification and such action constitutes unprofessional conduct within the meaning of sec. 448.02(3), Stats. (1977); sec. 448.02(3), Stats. (1975); sec. 448.02(3), Stats. (1973) and section MED 10.02(2)(h) Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license to practice medicine and surgery of Thomas C. Kroner, M.D., respondent, herein, number 15716, shall be and hereby is revoked until such time as it shall be restored under the provisions of sec. 448.02(6), Stats. (1977) on such terms and conditions as may be appropriate.

IT IS FURTHER ORDERED that complainant's Motion to Strike dated June 13, 1979, is granted.

Dated at Madison, Wisconsin, this 25 day of June, 1980.

MEDICAL EXAMINING BOARD

Mara Pedersen
Secretary

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE :
LICENSE OF :
 :
THOMAS C. KRONER, M.D., :
 :
Respondent. :
 :

EXPLANATION OF DEVIATION
FROM EXAMINER'S RECOMMENDATIONS

The following deviations have been made from the recommendations submitted by the hearing examiner in his "Proposed Decision."

1. Findings of Fact

(a) At paragraph 15, the Board has refused to accept the second recommended sentence which constitutes a conclusion that there was no professional doctor-patient relationship between Kroner and between January of 1975 and July of 1977. In addition to being misplaced as a conclusion, there is adequate evidence in the record that a doctor-patient relationship wholly within the jurisdiction of this Board continued at least through May 28, 1977.

(b) Paragraphs 32, 33 and 34--These findings are supported by the record and are necessary to fully document the results of Kroner's use of

information obtained in the physician-patient relationship to satisfy his personal, sexual gratification.

2. Conclusions of Law

(a) Paragraph 4--The Board has substituted language which more accurately describes the objectionable conduct which is deemed to be unprofessional.

(b) Paragraph 5--Whether or not Kroner was therapist at the time, the conduct described was unprofessional. There is a correction in that paragraph 24 is the correct finding of fact referred to in this conclusion.

(c) Paragraph 7--As proposed by the examiner, he concludes that there is insufficient evidence to support a finding that Kroner used information obtained through the physician-patient relationship for his own personal gain and sexual gratification. The Board feels that the record and the findings made therefrom support a conclusion that Kroner did use information obtained through the physician-patient relationship for his own personal gain and sexual gratification.

3. Order

The order being issued by the Board differs from the recommendation of the hearing examiner in that a revocation instead of a suspension has been ordered.

The revocation is effective upon service of the order and restoration of the license shall be governed in accordance with sec. 448.02(6), Stats. The Board reasons that this is a serious case and that revocation is more appropriate than suspension. The Board also feels that the public is better protected by a revocation because the burden will now be upon the respondent to establish his rehabilitation and entitlement to relicensure.

Dated at Madison, Wisconsin, this 25 day of June, 1980.

MEDICAL EXAMINING BOARD

Mary Reddin
Secretary

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE
LICENSE OF

THOMAS C. KRONER, M.D.,
RESPONDENT.

PROPOSED DECISION

A hearing was held in the above-entitled matter commencing at 9:30 a.m. on July 27, 1979 in Room 45 of the Milwaukee State Office Building located at 819 North Sixth Street, Milwaukee, Wisconsin.

The Respondent, Thomas C. Kroner, M.D., appeared at the hearing in person and by his attorneys Lawton and Cates, by Richard L. Cates and Richard V. Graylow. The Complainant appeared by attorney Gilbert C. Lubcke.

Based on the evidence submitted and the entire record, the Examiner recommends that the Medical Examining Board make as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Thomas C. Kroner (Kroner) resides in West Bend, Wisconsin, and is licensed to practice medicine and surgery in the State of Wisconsin. Kroner's license bears number 15716 and was granted on August 10, 1966. Kroner was born June 28, 1939 and attended the University of Notre Dame and St. Louis University School of Medicine. He interned at Milwaukee County General Hospital and completed three years of residency in psychiatry at Milwaukee County Mental Health Center, North Division. After residency Kroner worked as a staff psychiatrist at Milwaukee County General Hospital. In 1971 he opened a medical office in downtown Milwaukee. In 1973 or early 1974, Kroner entered into an association of physicians under the name of the General Clinic of West Bend (Clinic). Between 1970 and 1976, Kroner also worked as a psychiatric consultant for Cedarcrest Girls Residence and Rosealie Manor. After moving to West Bend, Kroner began working at the Washington County Mental Health Center (Center), which is funded through Comprehensive Community Services Agency (CCSA), a county agency acting for Washington County's "51.42 Board." Kroner is now acting medical director at the Center and also maintains a private practice in the General Clinic of West Bend. He works about 20 hours per week at the Center, devoting most of his time there to inpatient care. In 1974 and 1975, Kroner had an office at the Center as well as an office at the Clinic.

2. Kroner specializes in the area of psychiatry. In outpatient treatment, Kroner uses, among other treatment methods, Gestalt therapy and transactional analysis.

3. In the fall of 1974, Kroner lived at 1830 Wallace Lake Road, West Bend, Wisconsin. He was married and had five children, then aged 1 through 10. At that time Kroner's life was changing. He felt he was growing apart from his wife, was more interested in nature and natural things such as gardening and was less interested in matters of status.

He was trying to become less judgmental. He questioned some political, social, and religious values he previously had not questioned.

4. Rose Marie Osberg (Osberg) resides at 5750 Debby Lane, West Bend, Wisconsin. Osberg is employed at Menomonee Falls Community Hospital as an electrocardiogram operator. She was born April 6, 1944 in Austria. Osberg immigrated to the United States from Austria when she was six years old. She graduated from high school and worked at several clerical jobs and as a keypunch operator and x-ray assistant. She married Tom Osberg on August 10, 1963. Shortly thereafter he was called to active duty in the army reserve for six months. The Osbergs have four children: two girls born on February 22, 1965 and May 2, 1966 and twin boys born on June 6, 1969.

5. After her first child was born in 1965 and continuing through 1974, Osberg engaged in intermittent spending sprees in which she charged clothes and other items. The Osbergs were unable to pay all their bills and began to have arguments over money. Their relationship became strained. In 1971 Osberg left her husband, lived by herself for six months, and then returned to her husband. In the fall of 1972 Osberg moved with her family to West Bend. Her relationship with her husband did not improve. They then had a limited sexual relationship. Osberg's spending sprees continued after the move to West Bend. Prior to 1974 Osberg had periods of depression, believing she was worthless, that her responsibilities were too great for her.

6. At various times prior to 1974 Osberg sought help from psychiatrists. She was treated by Dr. Philip Stein in Milwaukee for a short time between 1969 and 1971 and by Dr. Braun at the Milwaukee Health Center for a brief period in 1971 or 1972. Osberg saw Dr. Stein because of her spending sprees and her marital difficulties. She received counseling from Stein for about 7 or 8 months but stopped seeing him because she didn't believe she was making progress and because of the expense.

7. On October 3, 1974 Osberg requested psychiatric help from the Center and was admitted there as an outpatient by Isabel Messman, a psychiatric social worker. Osberg saw Messman again on October 9 and 16, 1974. Messman prepared a "Psychological Study" which reports information about Osberg, as follows:

"Mrs. Osberg, the 30 year old, married mother of four children, 9 to 5 years of age, was seen because of her concern about her compulsive 'wild spending sprees'. Her repeated episodes of buying clothing on charge accounts with \$400 to \$500 spent at one time has kept the family in constant debt and threatened the marriage. Self-destructive impulses of 'driving off a bridge or into a tree' have been controlled, Mrs. Osberg said, because of her religious beliefs.

Information was secured from two interviews with Mrs. Osberg, on October 9 and 16, 1974.

Married for 10 years, Mr. Osberg had initiated a legal separation in 1971 with the couple living apart for four to six months. At this time, the Osbergs had had marital counselling from Dr. Stein, psychiatrist, Milwaukee. There had been a reconciliation after the wife had begged for 'another chance'.

An unusual childhood was described by Mrs. Osberg. She had been born in Austria, her parents first child, a month after the death of her father in World War II. The mother and child had come to the United States when Mrs. Osberg was 5 years of age. With the mother employed as a maid the home of a West Allis family, Mrs. Osberg had been accepted in some ways as a foster child, sharing activities with the employers' own daughter of similar age. A sense of inferiority had developed, as Mrs. Osberg's clothing had been hand-me-downs, and she sensed that she had been unduly criticized and suspected of misbehavior by the lady of the household. The husband had been 'an understanding man' whom Mrs. Osberg has continued to admire.

The mother's second marriage, when Mrs. Osberg was about 12, is recalled as having resulted in further unhappiness. Overly strict in his controls, the step-father was said to have been punitive to both Mrs. Osberg and her mother.

In discussing her marriage, Mrs. Osberg told of having eloped when 19 years old, as her husband's relatives had disapproved. Eager for her first baby, She had found care of the child to be burdensome. Jealous of her husband's attention to the infant, Mrs. Osberg told of having had violent temper outbursts 'throwing and breaking things'. Stress had continued with additional pregnancies, with twin boys born in the third confinement. Mrs. Osberg described her husband as an outgoing man who is 'good at everything'. Academically successful as a student, Mr. Osberg has continued an interest in sports. The wife feels that she is intellectually inferior, although a high school graduate.

Maintaining her love for her husband, Mrs. Osberg related that they have a limited sexual relationship, with intervals of months between intercourse. On at least two occasions, Mrs. Osberg has believed herself to be in love with other men, who have been unaware or uninterested.

A slender woman, with long straight hair, Mrs. Osberg mentioned her preference for informal clothing inspite of her purchases of expensive articles. Frequently, the clothing is unworn, but unreturnable as tags have been removed.

Mrs. Osberg talked in a soft voice, presenting herself as helpless to alter her maladaptive behavior patterns. With low self-esteem fostered in childhood circumstances, Mrs. Osberg's immaturity is adversely influencing her performance of the adult roles of wife and mother.

Plan: Mrs. Osberg accepted an appointment with Dr. Kroner on Wednesday, October 23, 1974 at 2:30 p.m., for psychiatric evaluation and planning for continued service."

Date? Messman's "Psychological Study," above, was provided to and read by Kroner before October 30, 1974.

Date? 8. Osberg's first therapy session with Kroner occurred on October 3, 1974 in Kroner's Center office. Osberg told Kroner about her spending sprees and about her childhood. She indicated that she and her husband were not having a good sexual relationship. Among other details, Osberg

described to Kroner an incident from her childhood when she was reprimanded and embarrassed by a teacher who spanked her. Kroner suggested during this session that the school incident be reenacted. He gave her a text to read and when she made a mistake he corrected and spanked her. At the conclusion of the session, Kroner briefly hugged Osberg.

9. In notes on October 30, 1974 session, Kroner wrote, among other things, that Osberg was: ". . . an insecure girl who has not decided to become her own person. She is going through life with very little joy and fun. She lacks confidence and allows people to discount her. She also engages in a considerable amount of discounting herself as an important person."

10. Osberg continued to see Kroner after October 30, 1974 at treatment sessions held at the Center on November 13, 20, and 27, 1974; December 4, 11, and 18, 1974; at least twice in January, 1975; and at other sessions held in Kroner's Clinic office such that, in total, therapy sessions were held about once each week. Kroner made progress notes for most of the sessions he had with Osberg during this time. In his notes for these treatment sessions, Kroner stated, among other things, that Osberg continued to do well in the therapy sessions, that she was able to identify her maladaptive patterns and relate them to how they were formed during her early developmental years. The conclusion or diagnosis common to the notes is that Osberg was insecure, that she felt inadequate and unworthy of attention, and was rarely complimented for being herself. Kroner believed that Osberg needed to develop feelings of being okay, of being at least as important as everybody else, of becoming her own person. Kroner continued to hug Osberg after each appointment and occasionally kissed her on the cheek. When Osberg asked why he did this, Kroner explained that he hugged all his patients in order to make them feel wanted, cared for, and listened to. Kroner's hugs eventually lasted longer than a minute and in January, 1975, Osberg began to relax and return Kroner's hugs.

11. Kroner knew or should have known prior to January, 1975, through his professional doctor-patient relationship with Osberg, that significant characteristics of Osberg's personality included being immature and highly dependent upon other people, having a low sense of self-esteem, feeling inadequate, utilizing indirect means of expressing anger and resentment rather than direct confrontation, needing to please others, not expressing her own feelings, shyness, timidity, and that she had thoughts of committing suicide.

12. In January, 1975 Kroner and Osberg realized that they had strong personal feelings toward one another. In late January or early February, 1975, during a therapy session held between 6:00 and 8:00 p.m. at Kroner's Clinic office, Kroner and Osberg discussed their feelings for one another. Kroner asked Osberg if she wanted to be intimate with him. Osberg answered yes. Kroner and Osberg had sexual intercourse on the floor of Kroner's office. After engaging in sexual intercourse, Kroner and Osberg discussed the reasons why they were attracted to each other. They agreed on guidelines for their relationship: they would be honest with each other; they didn't know where the relationship was going; and they would not attempt to continue the relationship if one of them wanted to end it. Kroner expressed uneasiness about the fact that Osberg was his patient. Osberg indicated she would stop being his patient.

13. Between February, 1975 and July, 1977, Kroner and Osberg had an intense love affair. Throughout most of this period, Kroner and Osberg communicated in person or by telephone four or five times per week. They discussed intimate details of their lives. In conversations in this period, Osberg told Kroner that she loved him; Kroner told Osberg that he loved her. Both Kroner and Osberg enjoyed their love affair. During this affair, Osberg continued to live with her family. Kroner lived with his family until June, 1977.

14. Between January, 1975 and April, 1977, Kroner and Osberg engaged in acts of sexual intercourse and sexual intimacy between thirty and forty times at Kroner's Clinic office, once or twice at Kroner's Center office, and at other locations. Kroner's associates and staff at the Clinic and Center were not aware that Kroner and Osberg were involved in a personal and physically intimate relationship. Kroner and Osberg hid the fact of their personal relationship from others by making it appear that Osberg was Kroner's patient.

★?
All hosp. lab. rat. 15. In late January or early February, 1975, at the time that Kroner and Osberg first had sexual intercourse, Kroner and Osberg had a professional doctor-patient relationship. However, during the period of time following commencement of the love affair between Kroner and Osberg and July, 1977, Kroner and Osberg did not have a professional doctor-patient relationship.

16. Between February, 1975 and July, 1977, Kroner never informed physicians who treated Osberg of the fact that Kroner was having a love affair with Osberg and that he was not Osberg's therapist. Between November, 1975 and July 1, 1977, Kroner did not secure or attempt to secure psychiatric treatment for Osberg.

17. Between 8:00 and 9:00 a.m. on November 6, 1975, Osberg took approximately 10 capsules, 30 mg. of Dalmane. Osberg called Kroner and told him what she had done. Kroner called Osberg's husband, Tom Osberg, who returned home and took Osberg to St. Joseph's Community Hospital in West Bend, Wisconsin. Richard F. Sorensen, the attending physician, examined Osberg in the hospital emergency room. Sorensen does not believe that Osberg had actually attempted to kill herself but he does believe she behaved recklessly and endangered her health. Sorensen prepared a history of Osberg noting, among other things, that Osberg "... has been under the care of Dr. Kroner, a psychiatrist, intermittently for several years, although she has not been very good in her followup care lately." Kroner visited Osberg in the hospital on November 6, 1975 and personally noted in the "Doctors' Record, Progress Notes," among other things, that Osberg,

"Now states wants to continue working on her problems. Tell she is still a suicidal risk. Will follow her closely prior to discharge and post-hospital. Feel she could leave in AM if cleared medically. Will give her appointment for outpatient soon."

Date? Sorensen noted in the Progress Notes on November 11, 1975 that Osberg,

"Awake, alert this AM. Talks pleasantly; greeted husband warmly today. Ready for psychotherapy."

Osberg was discharged from St. Joseph's Community Hospital on November 7, 1975 after spending about 22 hours in the hospital.

18. During the period of hospitalization on November 6 and 7, Kroner did not tell Sorensen that he (Kroner) did not wish to treat Osberg. Kroner knew that Sorensen believed Kroner was Osberg's psychiatrist and that Sorensen relied on Kroner to treat Osberg.

19. On November 25, 1975, Osberg took an overdose of Dalmane. Osberg's husband, Tom Osberg, was advised by William A. Nielsen, a physician, that Rose Osberg could remain at home unless her condition changed.

20. On November 26, 1975 (Thanksgiving holiday), Osberg took 16 Placidyl pills. Osberg was admitted to St. Joseph's Community Hospital in West Bend on November 26, 1975 at about 6:35 p.m. The attending physician, William A. Nielsen, diagnosed that Osberg had taken an overdose of sleeping pills because of depression. Osberg remained in St. Joseph's Hospital until December 1, 1975. Nielsen assumed Kroner was Osberg's physician and discussed Osberg's condition with Kroner during her hospitalization.

21. Kroner saw Osberg in the hospital on the night of November 26, 1975. Kroner made progress notes for November 26 and 29, 1975 in the "Doctors' Record" kept for Osberg at St. Joseph's Community Hospital which state:

"26 Nov. 31 y/o w/F adm for 2nd time in 2 weeks with overdose. Taken several pills hours apart. Husband took pills away but got MD to refill them on pretense that she lost Rx. Has been in Rx with me for ~ 1 year. Felt things were going good up till couple months ago. States now its just an accumulation of things from last 12 years of marriage. Also feels that BC pills may be a factor. Said she didn't think she was capable of doing these things. Will be in close contact with her during her stay. Not psychotic but still suicidal.

Tom Kroner

* * *

29 Nov. Better mood today. Yesterday still depressed. Still talks about self as being not O.K. and therefore is still suicidal. Being in hospital also supports her idea that she is not capable. Refuses further hospitalization in psychiatric facility also refuses group Rx. Is playing deadly games.

Tom Kroner"

22. Nielsen's last progress note in Osberg's hospital records for the November 26, 1975 to December 1, 1975 hospitalization states:

"12/1 Pt ventilating Today - Feels better - Will continue under care of Dr. Kroner -"

23. That between November, 1975 and July, 1977, Kroner knew or should have known that his love affair with Osberg placed Osberg in a situation of having to cope with a high level of stress and that Osberg responded to high levels of stress with behavior which included suicide attempts and suicidal gestures.

24. In December, 1975 after receiving pressure from creditors, Tom Osberg telephoned Kroner and requested that Kroner write a letter explaining Osberg's spending sprees so that Tom Osberg might delay making payment on some accounts. Kroner wrote a letter for Tom Osberg dated December 22, 1975 "TO WHOM IT MAY CONCERN" which includes the following paragraphs:

"I have been asked by Tom Osberg, husband of the above named person, to write a note concerning her maladaptive behavior patterns and her present mental status.

Mrs. Osberg has been seen by me for individual psychotherapy for approximately one year. Prior to therapy and even during therapy, she has engaged in several episodes of excessive spending. It is clear that her spending is directly related to her psychopathology, more specifically, to her feelings of being inadequate. When these feelings become intense, she actually spends money as an alternative to becoming depressed; as with all neurotic behavior, it never accomplishes what it is designed to do. The depression will ultimately recur."

25. The last act of sexual intercourse between Kroner and Osberg occurred in April, 1977.

26. On May 20, 1977, Osberg contacted a telephone intervention service in West Bend ("Open Door") and stated, among other things, that she had taken drugs and had cut her wrist. Open Door referred Osberg to the Center. C. Landry, a registered nurse at the Center, spoke with Osberg by telephone on May 20, 1977 six times between 7:00 and 10:00 p.m. about Osberg's problems with herself and her husband. Landry, at the suggestion of Ron Gumm, a therapist at the Center, talked to Tom Osberg and encouraged him to take Osberg to a hospital. Between 8:00 and 10:00 on May 20, 1977 Osberg talked by telephone with Kroner who agreed that Osberg could stay at home but that someone should sit up with Osberg.

27. Osberg and her husband met with Ron Gumm at the Center on May 21, 1977 and discussed their marital relationship.

28. On May 27, 1977, Osberg took about 20 capsules of 30 mg. Dalmane and 8-16 ounces of vodka. Osberg called Kroner's office. Kroner was not available. Osberg was taken by ambulance to St. Joseph's Community Hospital in West Bend and received at the emergency room at 1:45 p.m. The attending physician, William A. Nielsen, diagnosed Osberg's condition as an overdose of sleeping pills and acute depression. Osberg was given intravenous fluids; a drug, Ipecac; and oxygen.

28. Kroner visited Osberg while she was hospitalized on May 28, 1977 and made progress notes in the "Doctors' Record" kept for Osberg at St. Joseph's Community Hospital which state:

"33 y/o W/F took Dalmane and alcohol in overdose. Has done this several times before. I have seen pt in therapy in past but not for several months. Most recently she started seeing Ron Gumm a psychologist at CCSA. Do not know what precipitated this episode. She tends to collect bad feelings over period of time and then feels justified in taking overdose. Imp. Neurotic depression.

Rec: (1) Continue with therapy at CCSA
(2) discharge if medically clear
being home with family over holiday would probably be more therapeutic
for entire family than having her admitted to hospital or staying
here.

Tom Kroner"

29. On May 28, 1977 Kroner entered into the "Physician's Orders" for
Rose Osberg kept at St. Joseph's Hospital the following:

"(1) DC IV
(2) DC O₂

Tom Kroner"

Osberg was discharged from St. Joseph's Hospital at 1:45 p.m. on May 28,
1977.

30. The personal relationship between Kroner and Osberg ended in
July, 1977.

31. It is a generally recognized fact, a fact not subject to reasonable
dispute, a fact generally known within the State of Wisconsin, that the
standards of professional behavior established for the protection of the
public interest by consensus of the expert opinion of physicians prohibit a
physician from having sexual intercourse with a patient or former patient
in the private office in which the physician practices medicine. This fact
is found by official notice pursuant to ss. 227.08 and 902.01, Wis. Stats.
(1977).

CONCLUSIONS OF LAW

1. Kroner's conduct in late January or early February, 1975, when
during a therapy session he asked Osberg if she wanted to be intimate with
him and then had sexual intercourse with Osberg on the floor of his Clinic
office as described in paragraph 13 of the Findings of Fact, above, is
unprofessional conduct as that term is used in s. 448.18(1)(g), Wis. Stats.
(1975) and s. 448.02(3), Wis. Stats. (1977).

2. Kroner's conduct between January, 1975 and April, 1977, when he
engaged in acts of sexual intercourse and sexual intimacy with Osberg in
his Clinic and Center offices as described in paragraph 15 of the Findings
of Fact, above, is unprofessional conduct as that term is used in
s. 448.18(1)(g), Wis. Stats. (1975) and s. 448.02(3), Wis. Stats. (1977).

3. Kroner's failure to inform Sorensen and Nielsen that he was not
Osberg's psychiatrist during the periods when Osberg was hospitalized in
November, 1975 and May, 1977, as described more particularly in the Findings
of Fact, above, tended to constitute a danger to Osberg's health, welfare,
and safety and is unprofessional conduct as that term is used in s. 448.02(3),
Wis. Stats. (1977).

4. Kroner's conduct during times when Osberg was hospitalized in
November, 1975 and May, 1977 of pretending to be Osberg's therapist when he
was not her therapist and making progress notes in the hospital's "Doctors'

Record" and entering an order in the "Physician's Orders" on May 28, 1977, as described more particularly in the Findings of Fact, above, tended to constitute a danger to Osberg's health, welfare, and safety and is unprofessional conduct as that term is used in s. 448.02(3), Wis. Stats. (1977), and s. MED 10.02(2)(h), Wis. Adm. Code.

2. 5. Kroner's conduct in December, 1975 when he wrote a "To Whom it May Concern" letter to Osberg's creditors representing that he was Osberg's therapist, when he was not her therapist, and describing Osberg's condition, as set forth in paragraph 22 of the Findings of Fact, above, is unprofessional conduct as that term is used in s. 448.18(1)(g), Wis. Stats. (1975) and s. 448.02(3), Wis. Stats. (1977).

6. Kroner's conduct between November, 1975 and July, 1977, in failing to secure or attempt to secure adequate psychiatric treatment for Osberg when he knew or should have known that his love affair with Osberg placed Osberg in a situation of having to cope with a high level of stress and that Osberg responded to high levels of stress with behavior which included suicide attempts and suicidal gestures, tended to constitute a danger to Osberg's health, welfare, and safety and was unprofessional conduct as that term is used in s. 448.02(3), Wis. Stats. (1977), and s. MED 10.02(2)(h), Wis. Adm. Code.

7. There is insufficient evidence in the record to support a finding that Kroner used information obtained through the physician-patient relationship for his own personal gain and sexual gratification.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license to practice medicine and surgery of THOMAS C. KRONER, M.D., Respondent, herein, number 15716, shall be and hereby is suspended and limited according to the following conditions and requirements:

- I. Respondent's license is suspended for a period of one year commencing 30 days after the date of this order by the Board.
- II. At the termination of the one-year suspension period, respondent's license shall be reinstated without further proceedings but shall be LIMITED for a period of 30 months after reinstatement as follows: (1) Respondent may practice only in an inpatient health care facility under the supervision of a physician; and (2) Respondent is prohibited from engaging in the treatment of any persons not admitted to an inpatient health care facility.

In this order, "inpatient health care facility" has the meaning described in s. 140.85, Wis. Stats. (1977).

IT IS FURTHER ORDERED That Count II of the FIRST AMENDED COMPLAINT is DISMISSED.

IT IS FURTHER ORDERED That complainant's Motion to Strike dated June 13, 1979 is GRANTED.

OPINION

On October 30, 1974, when Kroner first treated Osberg, he had read Isabel Messman's "Psychosocial Study" which reported, not incidentally, that, "Self-destructive impulses of 'driving off a bridge or into a tree' have been controlled, Mrs. Osberg said, because of her religious beliefs." A little over a year later on November 6, 1975, about ten months into their love affair, Kroner, pretending to be Osberg's psychiatrist in order to cover up the affair, noted in Osberg's hospital record: "Not psychotic but still suicidal." On November 29, 1975, in the same circumstances, he wrote: "Still talks about self as not being okay and therefore, is still suicidal. Refuses further hospitalization in psychiatric facility also refuses group Rx. Is playing deadly games." Doctors Nielsen and Sorensen, who actually treated Osberg when she was hospitalized, recognized the need that Osberg be treated. They expected and relied on Kroner to treat Osberg as a patient in psychotherapy. In his discharge note on November 11, 1975, Sorensen stated that Osberg was "Ready for psychotherapy." Nielsen discharged her with ". . . will continue under care of Dr. Kroner."

Kroner kept silent about the love affair. He pretended to be Osberg's psychiatrist. He used his status as a licensee as a cloak to cover his true relationship with Osberg. He failed to secure treatment for Osberg.

The fact that Kroner used his medical license to hide his love affair is in itself unprofessional conduct. But in context of the situation, the conduct is abhorrent. Kroner knew Osberg had suicidal thoughts on October 30, 1974. He saw those thoughts manifested in drug overdoses on November 6 and 29, 1975. Kroner chose to protect the secrecy of the affair with Osberg along with his own reputation rather than inform Sorensen and Nielsen of Osberg's need for treatment by another therapist. Kroner's use of his medical license in November, 1975 was dangerous to Osberg because it discouraged, avoided, and made difficult any actual psychotherapy of Osberg. Sorensen and Nielsen would never refer Osberg to a therapist as long as Kroner continued to appear in the hospital as her psychiatrist.

Kroner told Osberg early in 1975 that his participation in the affair was contrary to the Hippocratic Oath. The Oath of Hippocrates states, in part:

"* * * Into whatever houses I enter I will go into them for the benefit of the sick and will abstain from every voluntary act of mischief and corruption; and further from the seduction of females or males, bond or free." Opinions and Reports of the Judicial Council, American Medical Association, 1977 AMA, 535 N. Dearborn St., Chicago, Illinois 60610, p. 51.

[The first time that Kroner and Osberg had sexual intercourse in Kroner's office was during a therapy session. The scene has all the elements of

★ a seduction. Kroner and Osberg were alone early in the evening. He knew her weaknesses. She was vulnerable, impressed by his status, and not generally able to handle stressful situations in her own best interests. Any consent given was not real.]

The other 30 or 40 times Kroner and Osberg had sexual intercourse in Kroner's office may have included Osberg as a consenting partner, but it was unprofessional conduct by Kroner nonetheless. Subchapter II of Chapter 50, Wis. Stats., recognizes that regulation of physicians by the Medical Examining Board included regulation of the offices and clinics which physicians use in the practice of medicine and surgery. It is a fact not subject to reasonable dispute, a generally recognized fact, that physicians who engage in sexual intercourse with patients or former patients in their private offices violate accepted professional standards.

Emv The state attempted to prove that a doctor-patient relationship existed between Kroner and Osberg from October 30, 1974 throughout the affair to approximately July of 1977. The evidence does not support such a finding. Kroner did not keep treatment records after the affair began. He did not bill Osberg for therapy. Osberg's testimony that she was treated by Kroner subsequent to February, 1977 does not include a description of treatment methods such as the Gestalt type method used during her first session with Kroner. Her testimony that Kroner discussed some elements of transactional analysis with her is insufficient to support a doctor-patient relationship which purportedly lasted for 17 months. It is unbelievable that Osberg could become as involved as intimately with Kroner as she did from February, 1975 to July, 1977 and believe that Kroner was treating her as a psychiatrist. There is no claim by the state that Kroner represented to Osberg that he was her psychiatrist. It is charged that by his silence and through his personal discussions she maintained a belief that he was her therapist. This is Error not credible.

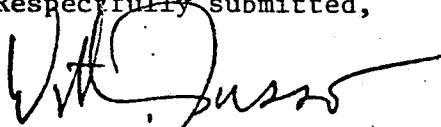
Osberg was not an entirely believable witness. She told her story too well. Her answers sometimes went beyond the questions asked to elements of her personal history which seemed designed to fit into the psychological framework described by Doctors Campbell and Bemman. Her deposition statement and hearing testimony about the length of her doctor-patient relationship with Kroner were inconsistent. Her testimony was generally straightforward and unemotional. She related intimate and most personal experiences in a general "matter of fact" manner.

What Osberg lacked in the way of an emotional presentation, Kroner made up for when he testified. During his testimony Kroner held a handkerchief. He cried at times, and at times he could not continue to speak. The prosecutor argued in closing that Kroner's emotional response reflected his self interest and not a patient interest because the only times during which Kroner expressed such emotion were the times when he heard or testified about the change in his values and about his family. The Examiner observed otherwise in that Kroner also expressed strong emotional feelings during Osberg's testimony about their affair, especially when she stated that Kroner brought her bread that he'd baked.

A one-year suspension of Kroner's license is necessary to adequately express to the profession and the public disapproval by the Board of Kroner's conduct and to successfully deter other psychiatrists from the type of unprofessional conduct described in this case. Limiting Kroner's practice for 30 months to inpatient care under the supervision of a physician is necessary to assure that Kroner will not act in a way which will endanger the health or safety of his patients.

Dated this 7th day of March, 1980.

Respectfully submitted,


William Dusso, Examiner

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the License of	:	FIRST AMENDED
	:	ANSWER TO FIRST
THOMAS C. KRONER, M.D., Respondent.	:	AMENDED COMPLAINT

THOMAS C. KRONER, M.D., through counsel, Lawton & Cates by Richard V. Graylow, answers the First Amended Complaint herein as follows:

1. Specifically denies the allegations contained in paragraph nos. 4, 5, 6, 7, 8, 9, 10, 16, 17, 18 and 19.
2. Admits the allegations contained in paragraph nos. 1, 2 and 3.
3. With respect to paragraph nos. 12 through 15, reincorporates by reference all of the immediately preceding.

AFFIRMATIVE DEFENSES

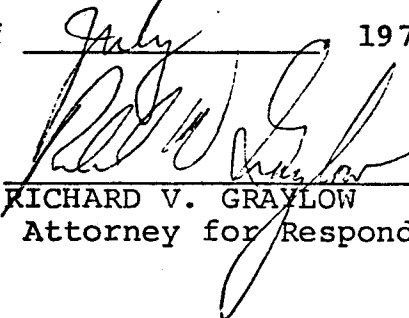
4. The doctor/patient relationship, if any, existing between Kroner and Osberg terminated on or about January 1, 1975, by mutual consent.
5. Because of the shortness of the doctor/patient relationship, no definitive diagnosis was established.
6. The personal relationship, if any, was conceived and terminated by mutual consent.
7. The complaint is legally insufficient.
8. Prosecution of this matter is barred either by the statute of limitations or laches.
9. All activities or actions, if any, which occurred between Kroner and Osberg were those of consenting adults, were

done voluntarily and were personally mutually satisfying.

10. At no time were the actions of inactions of Kroner unprofessional.

WHEREFORE, Thomas C. Kroner, M.D., through counsel, respectfully moves the dismissal of the complaint on its merits, while seeking such other and further relief as may be appropriate.

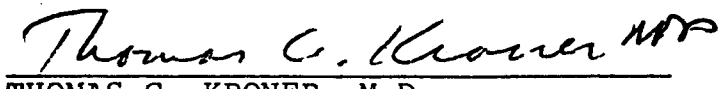
Dated this 10 day of July 1979.



RICHARD V. GRAYLOW
Attorney for Respondent

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

THOMAS C. KRONER, M.D., being first duly sworn, on oath deposes and says that he is the Respondent in the above-styled matter and that he has read the foregoing "ANSWER TO FIRST AMENDED COMPLAINT" and knows the contents thereof and that the same is true to the best of his knowledge except as to those matters stated on information and belief and as to same he believes them to be true.



THOMAS C. KRONER, M.D.

Subscribed and sworn to before me
this 10 day of July, 1979.



NOTARY PUBLIC, Dane County, Wis.

My commission: Permanent

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the License of :
THOMAS C. KRONER, M.D., Respondent. : ANSWER TO FIRST
AMENDED COMPLAINT

THOMAS C. KRONER, M.D., through counsel, Lawton & Cates by Richard V. Graylow, answers the First Amended Complaint herein as follows:

1. Specifically denies the allegations contained in paragraph nos. 4, 5, 6, 7, 8, 9, 10, 16, 17, 18 and 19.
2. Admits the allegations contained in paragraph nos. 1, 2 and 3.
3. With respect to paragraph nos. 12 through 15, reincorporates by reference all of the immediately preceding.

AFFIRMATIVE DEFENSES

4. The doctor/patient relationship, if any, existing between Kroner and Osberg terminated on or before January 1, 1975, by Osberg.
5. Because of the shortness of the doctor/patient relationship, no definitive diagnosis was established.
6. The personal relationship, if any, was terminated by Osberg.
7. The personal relationship, if any, was instituted by Osberg.

JUL 9 1979

9. Prosecution of this matter is barred either by the limitations or laches.

11. At no time were the actions or inactions of Kroner unprofessional.

Dated this 5 day of July 1979.

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Thomas C. Kroner, M.D.

NOTARY PUBLIC, Dane County, Wis.
My commission: *Permanently*

JUL 9 1979

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF : FIRST AMENDED COMPLAINT
THOMAS C. KRONER, M.D., Respondent :
:

Rudolf W. Link, M.D., a duly designated member of the Medical Examining Board, upon information and belief does complain and allege as follows:

COUNT I

- A 1. That THOMAS C. KRONER, Respondent herein, is a physician duly licensed to practice medicine and surgery in the State of Wisconsin and that his license bears number 15716 and was granted on August 10, 1966.
- A 2. That Respondent specializes in the area of psychiatry.
- A 3. That on or about October 30, 1974, Respondent, while acting in his professional capacity, commenced psychiatric consultation and therapy with Rosemarie Osberg, his patient.
- T D 4. That Respondent continued to provide professional psychiatric services to Rosemarie Osberg through May 28, 1977.
- D 5. That Respondent knew or should have known from information obtained by him through his professional relationship with Rosemarie Osberg that she suffered from depressive neurosis characterized by depression, anxiety, insecurity, dissatisfaction with life, lack of confidence and a low level of self-esteem, and by feelings of inadequacy, helplessness, loneliness and unattractiveness.
- D 6. That Respondent initiated and cultivated a personal and physically intimate relationship with Rosemarie Osberg.
- D 7. That this physically intimate relationship commenced in December, 1974 and continued into the summer of 1977, and was characterized by repeated acts of sexual intimacy including acts of sexual intercourse.
- D 8. That the Respondent terminated this personal and physically intimate relationship in the summer of 1977.
- D 9. That the relationship which Respondent initiated and cultivated with Rosemarie Osberg tended to constitute a danger to her health, welfare and safety in that during its existence it resulted in aggravation of her pre-existing condition of depressive neurosis and enhanced her suicidal preoccupation and behavior.
- D 10. That termination of the relationship which Respondent had initiated and cultivated tended to further constitute a danger to Rosemarie Osberg in that it precipitated a severe depressive episode.

11. That any practice or conduct which tends to constitute a danger to the health, welfare or safety of a patient or public constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) (1977), Wis. Stats. sec. 448.02(3) (1975) and Wis. Stats. sec. 448.18(1)(g) (1973) and Wis. Adm. Code sec. MED 10.02(2)(h) (Cr. Register, October, 1976, No. 250, eff. November 1, 1976), Wis. Adm. Code sec. MED 16.02(1)(g) (Cr. Register, April, 1975, No. 232, eff. May 1, 1975).

COUNT II

A 12. Realleges paragraph 1 of the Complaint.

A 13. Realleges paragraph 2 of the Complaint.

A 14. Realleges paragraph 3 of the Complaint.

D 15. Realleges paragraph 4 of the Complaint.

J D 16. That during the course of this professional relationship Respondent obtained information concerning Rosemarie Osberg from which he was able to determine that she suffered from depressive neurosis characterized by depression, anxiety, insecurity, dissatisfaction with life, lack of confidence and a low level of self-esteem, and by feelings of inadequacy, helplessness, loneliness and unattractiveness.

D 17. That Rosemarie Osberg, having the condition and characteristics as described in paragraph 16 of the Complaint, was especially vulnerable to manipulation by Respondent for his own personal gain and sexual gratification.

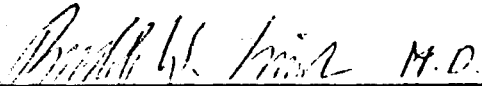
D 18. That Respondent used the information confided to him and obtained by him in the physician-patient relationship solely for his own personal gain and sexual gratification in that he initiated and cultivated a personal and physically intimate relationship with Rosemarie Osberg.

D 19. Realleges paragraph 7 of the Complaint.

X D 20. That using information obtained through the physician-patient relationship for the personal gain and sexual gratification of the physician constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) (1977), Wis. Stats. sec. 448.02(3) (1975), and Wis. Stats. sec. 448.18(1)(g) (1973).

WHEREFORE, the Complainant requests the Medical Examining Board to revoke or suspend the license of THOMAS C. KRONER to practice medicine and surgery in the State of Wisconsin, or to take other disciplinary action as provided by law.

Date: June 8, 1979.


Rudolf W. Link, M.D.
Member, Medical Examining Board

Gilbert C. Lubcke, Attorney
Department of Regulation and Licensing
Division of Consumer Complaints
1400 East Washington Avenue
Madison, Wisconsin 53702
Telephone: 608-266-1790

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the License of :
: ANSWER
THOMAS C. KRONER, M.D., Respondent. :

THOMAS C. KRONER, M.D., through counsel, Lawton & Cates
by Richard V. Graylow, answers the complaint herein as follows:

1. Specifically denies the allegations contained in
paragraph nos. 4, 6, 7, 8, 9, 10, 15, 16, 18 and 19.
2. Has no information to form a belief as to the veracity
of the allegations in paragraph nos. 11, 17 and 20; therefore, denies
same.

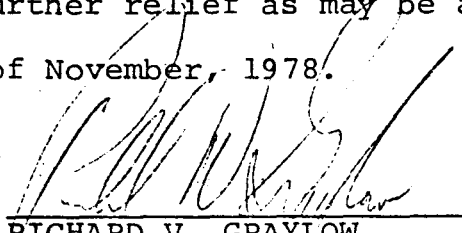
AFFIRMATIVE DEFENSES

3. The doctor/patient relationship, if any, existing
between Kroner and Osberg terminated on or about November 30, 1974.
4. Because of the shortness of the doctor/patient
relationship, no definitive diagnosis was established.
5. At no time were the actions or inactions of Kroner
unprofessional.

WHEREFORE, THOMAS C. KRONER, M.D., through counsel
respectfully moves the dismissal of this complaint on its merits,
while seeking such other and further relief as may be appropriate.

Dated this 13th day of November, 1978.

110 E. Main Street
Madison, WI 53703



RICHARD V. GRAYLOW
Attorney for Respondent

NOV 17 1978

STATE OF WISCONSIN)
) ss.
COUNTY OF WASHINGTON)

THOMAS C. KRONER, M.D., being first duly sworn, on oath deposes and says that he is the Respondent in the previously captioned matter and makes this verification in his own behalf; that he has read the immediately foregoing "ANSWER," consisting of one typewritten page, and knows the contents thereof and that the same is true to the best of his knowledge, except as to those matters stated on information and belief and as to those matters he believes them to be true.

Thomas C. Kroner
THOMAS C. KRONER, M.D.

Subscribed and sworn to before
me this 15th day of November, 1978.

Marie G. Gervat
NOTARY PUBLIC, Washington Cty., Wis.
My commission: Apr 5, 1981

NOV 17 1978

STATE OF WISCONSIN
BEFORE THE MEDICAL
EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	
THOMAS C. KRONER, M.D.,	:	NOTICE OF HEARING AND
Respondent	:	ORDER FOR ANSWER

TO: Thomas C. Kroner, M.D.
General Clinic of West Bend
279 South 17th Avenue
West Bend, Wisconsin

Please take notice that a hearing on the above-captioned matter will be held before Attorney William Dusso whose address is 1400 East Washington Avenue, Madison, Wisconsin. Such person has been designated as the hearing examiner in this matter. The hearing will take place in Room 855 at the Milwaukee State Office Building, 819 North 6th Street in Milwaukee, Wisconsin on January 22, 1979, at 9:30 a.m.

This is a class 2 proceeding, as defined in Wis. Stats., Sec. 227.01(2)(b). The hearing will be held in accordance with Wis. Stats. sec. 448.02 and Ch. MED 12 of the Wisconsin Administrative Code. At the close of the hearing the complainant will move for the revocation or suspension of your license to practice medicine and surgery or for other disciplinary action as provided by law.

You are ordered to file your answer to the attached complaint with the Board at 1400 East Washington Avenue, Madison, Wisconsin 53702, and a copy of said answer with the hearing examiner at the address given above and with Gilbert C. Lubcke, the attorney for the complainant at Room 166, 1400 East Washington Avenue, Madison, Wisconsin 53702 (telephone 608-266-1790) within ten days after service of the Complaint and Notice of Hearing. If you fail to file an answer within such time or if you

fail to appear at the time set for hearing, a default judgment may be entered, and your license revoked, suspended or other disciplinary action taken upon proof of such default.

If you are represented by counsel, counsel is requested to file a notice of appearance with the Board forthwith.

BY THE BOARD

Patricia E. McIllece, M.D.
Patricia E. McIllece, M.D.
Member, Medical Examining Board

DATED: October 24, 1978.

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
THOMAS C. KRONER, M.D., Respondent : COMPLAINT
:

Patricia E. McIllece, M.D., a duly designated member of the Medical Examining Board, upon information and belief does complain and allege as follows:

COUNT I

1. That THOMAS C. KRONER, Respondent herein, is a physician duly licensed to practice medicine and surgery in the State of Wisconsin and that his license bears number 15716 and was granted on August 10, 1966.

2. That Respondent specializes in the area of psychiatry.

3. That on or about October 30, 1974, Respondent, while acting in his professional capacity, commenced psychiatric consultation and therapy with Rosemarie Osberg, his patient.

4. That Respondent continued to provide professional psychiatric services to Rosemarie Osberg through May 28, 1977.

5. That Respondent knew or should have known from information obtained by him through his professional relationship with Rosemarie Osberg that she suffered from depressive neurosis characterized by depression, anxiety, insecurity, dissatisfaction with life, lack of confidence and a low level of self-esteem, and by feelings of inadequacy, helplessness, loneliness and unattractiveness.

6. That Respondent initiated and cultivated a personal and physically intimate relationship with Rosemarie Osberg.

7. That this physically intimate relationship commenced in December, 1974 and continued into the summer of 1977, and was characterized by repeated acts of sexual intimacy including acts of sexual intercourse.

8. That the Respondent terminated this personal and physically intimate relationship in the summer of 1977.

9. That the relationship which Respondent initiated and cultivated with Rosemarie Osberg tended to constitute a danger to her health, welfare and safety in that during its existence it resulted in aggravation of her pre-existing condition of depressive neurosis and enhanced her suicidal preoccupation and behavior.

10. That termination of the relationship which Respondent had initiated and cultivated tended to further constitute a danger to Rosemarie Osberg in that it precipitated a severe depressive episode.

11. That any practice or conduct which tends to constitute a danger to the health, welfare or safety of a patient constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wis. Adm. Code sec. MED 10.02(2)(h).

COUNT II

12. Realleges paragraph 1 of the Complaint.

13. Realleges paragraph 2 of the Complaint.

14. Realleges paragraph 3 of the Complaint.

15. Realleges paragraph 4 of the Complaint.

16. That during the course of this professional relationship Respondent obtained information concerning Rosemarie Osberg from which he was able to determine that she suffered from depressive neurosis characterized by depression, anxiety, insecurity, dissatisfaction with life, lack of confidence and a low level of self-esteem, and by feelings of inadequacy, helplessness, loneliness and unattractiveness.

17. That Rosemarie Osberg, having the condition and characteristics as described in paragraph 16 of the Complaint, was especially vulnerable to manipulation by Respondent for his own personal gain and sexual gratification.

18. That Respondent used the information confided to him and obtained by him in the physician-patient relationship solely for his own personal gain and sexual gratification in that he initiated and cultivated a personal and physically intimate relationship with Rosemarie Osberg.

19. Realleges paragraph 7 of the Complaint.

20. That using information obtained through the physician-patient relationship for the personal gain and sexual gratification of the physician constitutes unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3).

WHEREFORE, the Complainant requests the Medical Examining Board to revoke or suspend the license of THOMAS C. KRONER to practice medicine and surgery in the State of Wisconsin, or to take other disciplinary action as provided by law.

Dated: October 24, 1978.

Patricia E. McIllece, M.D.
Patricia E. McIllece, M.D.
Member, Medical Examining Board

Gilbert C. Lubcke, Attorney
Department of Regulation and Licensing
Division of Consumer Complaints
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