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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:

THOMAS L. HOLBROOK, M.D.,	FINAL DECISION AND ORDER
RESPONDENT	LS0103261MED

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

Thomas L. Holbrook, M.D.
34700 Valley Road
Oconomowoc, WI 53066

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

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 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 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. Thomas L. Holbrook, M.D., Respondent, date of birth May 27, 1943, is licensed and currently registered by the Wisconsin Medical Examining Board to practice medicine and surgery in the state of Wisconsin pursuant to license number 17769, which was first granted October 21, 1971.
2. Respondent's last address reported to the Department of Regulation and Licensing is 34700 Valley Road, Oconomowoc, WI 53066.
3. Respondent's practice specialty is psychiatry.
4. Respondent has not previously been the subject of any professional discipline.

COUNTS I and II (Ms. A)

5. From October 28, 1990 until November 21, 1990, Respondent provided inpatient psychiatric treatment including psychotherapy to Ms. A, a 44-year-old married woman, at Rogers Memorial Hospital (RMH) in Oconomowoc, Wisconsin. Because she was in crisis, Ms. A had been referred to RMH by her outpatient therapist in her home city of Menominee, Michigan, who she had been seeing for two years.

6. At the time of Ms. A's admission, Respondent performed a psychiatric evaluation. He diagnosed Ms. A with major depression. She was noted to be an adult child of alcoholic parents and to have a history of suicidal ideation and past sexual abuse. Respondent noted that, among other problems, she had a "discordant marital relationship."
7. Ms. A contends, and Respondent denies, that while Ms. A was an inpatient under Respondent's care, Ms. A left the hospital grounds with Respondent on four occasions and that they engaged in kissing, hugging and fondling.
8. At the time Ms. A was Respondent's inpatient, § 940.22(2), Stats., prohibited a psychiatrist from having sexual contact with a patient during the time they are in a psychotherapist-client relationship.
9. Respondent's conduct with Ms. A, as set out in finding of fact 6 above, is in violation of § 940.22(2), Stats.
10. § 940.22(2), Stats., is a law the circumstances of which substantially relate to the circumstances of the practice of medicine.
11. Ms. A was discharged from Respondent's care on November 21, 1990, just before Thanksgiving, with instructions to continue her outpatient counseling in Menominee.
12. At Respondent's invitation, Ms. A took the bus from her home to Oconomowoc and spent the Christmas holidays of 1990 with Respondent, at his house. Respondent and Ms. A slept together and engaged in sexual intercourse, for the first time.
13. Respondent and Ms. A continued their sexual relationship and on January 14, 1991, Ms. A told her husband that she was going to divorce him.
14. In March of 1991, Respondent and Ms. A took a vacation together to St. John's in the Virgin Islands, which was paid for by Respondent. Upon return from the vacation, Respondent and Ms. A continued their personal and sexual relationship.
15. In late 1991, Respondent wrote to Ms. A and explained why he could not visit her and be seen with her in Marinette, Wisconsin where she lived. He enclosed an article entitled "Psychotherapist-Patient Sexual Contact After Termination of Treatment: An Analysis and a Proposal," from the November 1991 issue of *The American Journal of Psychiatry*, and noted that "sex with former patient is unethical and illegal in Wisc."
16. On February 6, 1993, Respondent and Ms. A were married.
17. Ms. A was treated from March 7, 1998 to April 3, 1998 at Hazelden in Minnesota for addiction to prescription medications.
18. During the summer of 1998, Respondent and Ms. A separated and Ms. A moved into an apartment. Although separated, Respondent continued to engage in a romantic relationship with Ms. A which included sexual intercourse.
19. Ms. A was admitted to Waukesha Memorial Hospital as a result of a suicide attempt and was hospitalized from March 19-25, 1999.
20. Respondent and Ms. A were divorced on February 16, 2000.
21. Respondent's conduct with Ms. A during the time she was his patient and following the termination of the professional relationship fell below the minimal standards of the profession and exposed Ms. A to risks of harm to which a minimally competent psychiatrist would not expose a patient or former patient.

COUNT III (Ms. B)

22. Respondent was the Clinical Director of the Residential Eating Disorders (RED) program at Rogers Memorial Hospital (RMH). Respondent was responsible for the evaluation and admission of patients to the RED program.
23. Ms. B, who was then 33 years of age, was an inpatient in the RED program from her admission on July 27, 1998 to her discharge from inpatient status on January 25, 1999. Respondent provided Ms. B with psychiatric services during that entire period of time.
24. Prior to being admitted to the RED program, Ms. B had been suffering from an eating disorder for several years and had been treated at various facilities before being transferred to RMH.
25. At the time of admission, Respondent performed a psychiatric evaluation of Ms. B. Among other things, he noted:
- Diagnostic Impression: Eating disorder, not otherwise specified; major depression, recurrent, severe; and

post traumatic stress disorder.

- A history of sexual abuse while she was a child.
- A past history of flashbacks and nightmares of the abuse.
- The abuse memories are "stirred up" when she tries to date.

26. Respondent's treatment plan for Ms. B included "intensive and focused treatment for her problems with individual, group, art, music, experiential and nutritional therapies."

27. Respondent saw Ms. B for individual treatment sessions on an intensive basis. Staff and some of the other patients on the unit believed Ms. B was getting preferential treatment from Respondent because Respondent saw many other patients less frequently.

28. While Ms. B was an inpatient in the RED program:

a. Ms. B appeared to have greater access to her car keys and was freer to leave the unit than other patients who were required to turn in their car keys upon entry to the program and were not allowed access to them. Patients who wished to leave the unit were required to apply for a pass, which was done on Thursdays. Respondent determined which patients could leave and for how long.

b. Respondent, personally, rented an expensive cello for Ms. B to use during her treatment, and paid the rent.

c. Respondent left orders with staff that he should be called concerning Ms. B when necessary.

29. Ms. B developed feelings for Respondent and felt safe with him.

30. Staff of RMH confronted Respondent about his conduct with Ms. B on the treatment unit, and stated a concern that he was crossing professional boundaries.

31. When Ms. B was discharged from the RED inpatient program on January 25, 1999, she was immediately admitted into the RED outpatient program and Respondent continued to be her psychiatrist. In that role, he continued to provide Ms. B with referrals to a RED nutritionist and with prescriptions and medication management. Respondent also provided Ms. B with medication samples on several occasions.

32. When Ms. B became an outpatient in the RED program, she and another recently discharged inpatient rented an apartment together in the Oconomowoc area. Within weeks of Ms. B's leaving the RED inpatient program, Respondent and Ms. B began seeing each other socially. Activities included going out to dinner, to movies and shopping. Respondent also provided Ms. B with his home telephone number and pager number. Ms. B paged Respondent and spoke with him at least once per day.

33. Both Respondent and Ms. B were aware their personal relationship would cause him trouble. Ms. B did not disclose the nature of their relationship to others, but this caused her isolation, anxiety and psychological stress.

34. Respondent and Ms. B began a romantic relationship that included kissing and hugging. In approximately March 1999, Respondent and Ms. B first engaged in sexual contact, including intercourse, at Respondent's home.

35. Respondent gave Ms. B approximately \$5000 which was used to pay off her student loans, licensure fees, insurance and to help her get back on her feet. It was called a loan, but Respondent never demanded its repayment and Ms. B has never repaid it.

36. In the months following Ms. B's discharge from being an inpatient at RMH, rumors began circulating among staff and patients at RMH that Respondent had been seen out in public with Ms. B and going over to Ms. B's apartment to visit. In approximately May 1999, the rumors were brought to the attention of RMH administration and a meeting was called to allow Respondent to explain his conduct. During that meeting, Respondent:

- Admitted meeting Ms. B at a restaurant to discuss her editing of a book he had written about his own eating disorder.
- Said he paid Ms. B \$100 per hour to edit his book.
- Admitted he made an error in judgment by hiring Ms. B.
- Denied having a personal relationship with Ms. B.

37. In May or June of 1999, Ms. B terminated therapy with the psychotherapist she had been seeing since her inpatient discharge from RMH. Ms. B sought therapy from numerous providers, many of whom declined to treat her when she disclosed her personal involvement with Respondent, her psychiatrist.

38. After several months of the sexual relationship with Respondent, Ms. B began having flashbacks of sexual abuse. Ms. B told Respondent that they could not have sexual contact because of the psychological problems it was causing her. Ms. B believed that the problem was because she had feelings that Respondent was her parent.

39. On October 27, 1999, Ms. B began seeing a psychologist for psychotherapy. In that therapy:

- a. Ms. B discussed with the psychologist her relationship with Respondent, who was her treating psychiatrist. The psychologist told Ms. B that her relationships with Respondent should stop because they were inappropriate. Because Ms. B said she preferred to discontinue her professional relationship with Respondent and continue their personal relationship, the psychologist assisted Ms. B in finding a new psychiatrist.
- b. Ms. B told the psychologist that she wanted to get married and have children. Because Respondent was 56 years old and did not want children, Ms. B was concerned that their relationship did not offer her the future she wanted. Ms. B requested that the psychologist see Ms. B and Respondent together to help them work through their relationship. Ms. B was not willing to explore the inappropriateness of her relationship with Respondent and the violation of boundaries.
- c. Respondent attended a few sessions with Ms. B and the psychologist. The psychologist spoke to Respondent about the inappropriateness of his relationship with Ms. B and agreed to help Ms. B and Respondent end the relationship. The therapy sessions focused on slowly breaking the bond of the relationship.
- d. Respondent acknowledged to the psychologist that he knew his relationship with Ms. B was wrong but since he loved Ms. B, he wanted her in his life. Between therapy sessions, Respondent and Ms. B did not abide by the agreement they made in therapy to change the nature of their relationship.
- e. When Respondent was not present, the psychologist attempted to discuss with Ms. B the significance of her dysfunctional relationship with Respondent. Ms. B did not want to address the issue and viewed the psychologist as trying to break up the relationship. After a December 1, 1999 appointment, Ms. B canceled further sessions with the psychologist.

40. Respondent and Ms. B's personal and sexual relationship continued and in February 2000, Ms. B moved in with Respondent. Ms. B lived with Respondent until mid-May 2000.

41. Respondent's conduct with Ms. B during the time she was his patient and following the termination of the professional relationship fell below the minimal standards of the profession and exposed Ms. B to risks of harm to which a minimally competent psychiatrist would not expose a patient or former patient.

COUNT IV (Effect on Other Patients)

42. Because of his feelings for Ms. B, Respondent treated Ms. B differently than other patients, while she was an inpatient on the RED unit at RMH. The other patients observed Respondent's behavior and noted that Ms. B was getting preferential treatment from Respondent. This caused some of those patients to have psychological stress and interfered with their treatment.

43. In the months following Ms. B's discharge from being an inpatient at RMH, information began circulating among staff and patients at RMH that Respondent had been seen out in public with Ms. B and going over to Ms. B's apartment to visit. After a period of time, staff and patients became aware that Ms. B was living with Respondent.

44. The knowledge of Respondent's inappropriate relationship with Ms. B caused some of the patients to have psychological stress and interfered with their treatment. At least one patient confronted Respondent with the information, which Respondent denied. That patient terminated treatment with Respondent for that reason.

45. Respondent's conduct with Ms. B during the time she was his patient and following the termination of the professional relationship interfered with the treatment being received by other patients at RMH and therefore fell below the minimal standards of the profession and exposed those patients to risks of harm to which a minimally competent psychiatrist would not expose patients.

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. Respondent, by engaging in the conduct with Ms. A as set out above, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h) and is subject to discipline pursuant to § 448.02(3), Stats. (Count I)

4. Respondent, by having had sexual contact with Ms. A, while she was his psychotherapy patient, as set out in finding of fact 6 above, has violated § 940.22(2), Stats., a law the circumstances of which substantially relate to the circumstances of the practice of medicine, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(z) and is subject to discipline pursuant to § 448.02(3), Stats. (Count II)

5. Respondent, by engaging in the conduct with Ms. B as set out above, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of a patient, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h) and is subject to discipline pursuant to § 448.02(3), Stats. (Count III)

6. Respondent, by engaging in the conduct with Ms. B which came to the attention of other patients and interfered with the therapy being received by those patients, has engaged in conduct which tends to constitute a danger to the health, welfare, or safety of patients, which is unprofessional conduct as defined by Wis. Admin. Code § MED 10.02(2)(h) and is subject to discipline pursuant to § 448.02(3), Stats. (Count IV)

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license to practice medicine and surgery in the state of Wisconsin of Thomas L. Holbrook, M.D., is hereby SUSPENDED for a period of three (3) years commencing September 22, 2001.

2. That the suspension of Respondent's license shall end after the three year period upon Respondent providing proof sufficient to the Board that:

a. Subsequent to the date of this order Respondent has taken and completed a one day educational program addressing appropriateness of boundaries between mental health care professionals and their patients or clients. Respondent shall provide information about the program to the Board, or its designee, and receive approval from the Board, or its designee, that the program meets the requirement of this paragraph.

b. No later than thirty months prior to the end of the suspension, Respondent has, at his own expense, undergone an assessment by a mental health care practitioner or practitioners with experience in assessing health care practitioners who have become involved sexually with patients.

i. The practitioner or practitioners performing the assessment must have been approved by the Board or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the assessment being performed.

ii. The Division of Enforcement shall provide the assessor(s) with those portions of the investigative files which the Division believes may be of assistance in performing the assessment. The Division of Enforcement shall provide Respondent with copies of those portions of the investigative files within 90 days of the date of this order. Respondent may provide the assessor(s) with any information Respondent believes will be of assistance in performing the assessment.

iii. Within 30 days of his receipt of the written report of the assessor(s) Respondent shall provide the Board, or its designee, with a copy and provide the Board, or its designee, and the Division with the opportunity to discuss the assessment and findings with the assessor(s).

c. Respondent has complied with any recommendations by the assessor(s) that Respondent receive treatment to address any issues identified by the assessment.

d. Within 90 days of the end of the suspension, Respondent has, at his own expense, undergone another assessment by the same assessor(s). If the same assessor(s) can not perform this assessment it shall be performed by assessor(s) approved by the Board, or its designee, who has reviewed all of the material reviewed by the first assessor(s) and the report of the first assessor(s).

e. The assessor(s) referred to in subparagraph d. has rendered opinions to a reasonable degree of professional certainty that Respondent can practice with reasonable skill and safety to patients and public.

3. If Respondent has complied with the requirements for the termination of the suspension, the Board may limit Respondent's license in any manner necessary to address issues raised by the facts of this case or by the assessment.

4. If Respondent believes that any refusal to end the suspension or that any limitation imposed by the Board is inappropriate, Respondent may seek a class 1 hearing pursuant to § 227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The suspension or limitations on Respondent's license shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. Any request for approval of assessors and evidence of compliance with the requirements to terminate the suspension shall be mailed, faxed or delivered to:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708-8935

Fax: (608) 266-2264

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 22nd day of August, 2001.

Sidney E. Johnson, M.D.

Secretary

Medical Examining Board