SBME-87-003-AK
6-0903-1092-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE STATE BOARD OF MEDICAL EXAMINERS

In the Matter of the Medical License of Hideo D. Mori, MD

FINDINGS OF FACT, CONCLUSIONS, RECOMMENDATION AND MEMORANDUM

The above-entitled matter came on for hearing before Allan W. Klein, Administrative Law Judge, on January 15, 1987, in Austin. Additional days of hearing were held on January 16, 19 and 20. The hearing was held pursuant to a Notice of and Order for Hearing originally issued on November 18, 1986, and amended from time to time thereafter.

Appearing on behalf of the Minnesota Board of Medical Examiners (hereinafter the "Board") was John A. Breviu, Special Assistant Attorney General, 2829 University Avenue S.E., Suite 136, Minneapolis, Minnesota 55414. Appearing on behalf of Hideo D. Mori, M.D. (hereinafter "Respondent" or "Mori") were Theodore J. Collins of the firm of Collins, Buckley, Sauntry & Haugh, Attorneys at Law, W-1100 First National Bank Building, St. Paul, Minnesota 55101 and Thomas E. Wolf of the firm of O'Brien, Ehrick, Wolf, Deaner & Downing, Attorneys at Law, Sixth Floor, Marquette Bank Building, P.O. Box 968, Rochester, Minnesota 55903. The record closed on January 30, 1987.

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact David Ziegenhagen, Executive Secretary, Minnesota Board of Medical Examiners, Suite 106, 2700 University Avenue West, St. Paul, Minnesota 55114, to ascertain the procedure for filing exceptions or presenting argument. Pursuant to Minn. Stat. § 214.10, subd. 2, a Board member who was consulted during the course of an investigation may participate at the hearing, but may not vote on any matter pertaining to the case.

STATEMENT OF ISSUES

The issues to be determined in this proceeding are whether the Respondent engaged in sexual conduct with identified female patients and, if so, whether

such conduct violates the various versions of Minn. Stat. ch. 147 which were in effect at the time of the incidents.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Dr. Hideo D. Mori

1. Hideo D. Mori was born in California. He is 56 years old. Although his family was interned in "relocation camps" during World War II, he graduated from high school in 1948. He then went to the University of California at Berkeley from 1948 to 1952, graduating Phi Beta Kappa. He was married in 1952. He went to medical school at the University of Chicago from 1952 to 1956. He then came to the University of Minnesota Hospitals for one year. After that, he served in the U.S. Air Force for two years. He was honorably discharged in 1958, and returned to Rochester, where he began to practice with an established general practitioner. In March of 1960, he moved to Grand Meadow, where he established his own general practice, and remained in practice until the Board suspended his license in the fall of 1986.

2. Dr. Mori and his wife had four children. One died in 1977. Their three children are ages 31, 26 and 24. His wife is an R.N. He and his wife have been separated formally since July, 1986, and informally since January, 1986.

3. Dr. Mori was certified as a family practitioner in 1976, and renewed his certification in 1982. He is a member of the American Medical Association, the Minnesota Medical Association, and the Zumbrota Medical Association.

4. When Dr. Mori began his practice in Grand Meadow in 1960, he took the place of a physician who had left immediately before he came. He has officed in Grand Meadow continuously since 1960. He directs most of his patients to the Spring Valley Hospital, although he has also used the Austin and Rochester hospitals (Olmsted Community).

5. Dr. Mori has seen approximately 100,000 patients since commencing his practice in Grand Meadow. He also has delivered approximately 2,500 babies in the Grand Meadow area.

6. Dr. Mori has taken few vacations, the last one being between two and one-half and three years ago. He does, however, attend seminars sponsored by the AMA. For about a year, he attended section meetings of the Mayo Clinic (cardiology) on Saturday mornings.

7. During the early 1980's, Dr. Mori's practice began a gradual change away from a broad general practice, including marital, sexual and psychological counseling, toward a narrower practice emphasizing cardiology. There were a number of reasons for this change, including a letter of complaint which he received in 1980 from Patient No. 4. In addition to that letter, he had some guilt about his relationship with Patient No. 5. Tr. 678. Finally, he felt better just avoiding counseling -- he found it to be difficult. Tr. 679 and 694. He thought that it would be "less tempting" if he referred the counseling patients elsewhere. Tr. 429.

8. By 1984, Dr. Mori had implemented a system whereby he would always have a nurse in the room when he performed pelvic examinations, except on weekends. Tr. 639, 678. In part, this was to avoid claims of sexual abuse. Also, he continued to be bothered by the letter from Patient No. 4 and his relationship with Patient No. 5. Another reason was that he wanted to have a nurse to do some of the less demanding work with the patients, such as taking medical histories. Mori has developed a definite hearing impairment, which makes him uncertain about what is said to him, even with a hearing aid. He feels more confident if another person is present. Tr. 694. Finally, he liked one nurse a great deal, and wanted to have her around. Tr. 639.

Patient No. 1

9. Patient No. 1 is presently years old. She has been married for the last years, and has children She is presently employed in a responsible position.

10. In November of 1960, Patient No. 1 was years old. It was at that time that she first began going to Dr. Mori as her physician. Since Mori first came to Grand Meadow in March of 1960, this would have been only six months after he began his practice there. She came to him in November of 1960 complaining of a severe sore throat, fever, malaise, and similar complaints. In her next visit, he detected herpetic eruptions near her tongue, in her gingiva, and detected a tender red area on her vulva mucous membrane. Approximately two weeks later, on December 6, he admitted her to the Olmsted Community Hospital in Rochester with a preliminary diagnosis of duodenal ulcer, with symptoms of nausea and vomiting. On that date, he noted that three weeks earlier she had encountered the onset of gingevo herpetic lesions of the orifice (mouth) and vulva.

11. No unusual behavior took place during the time that Patient No. 1 was hospitalized (which lasted from December 6, 1960 to December 17, 1960). See, Memorandum.

12. Prior to the December hospitalization, during the time that the patient was complaining of various ulcer-like symptoms, Dr. Mori diagnosed the problem as "possible ulcerogenic syndrome, ? functional", by which he meant psychosomatic. Tr. 720. While she was hospitalized, he noted the need for psychotherapy, as the patient complained of being depressed without any idea of why she was depressed; this feeling was better after the two had discussed the matter. On the day before her discharge, he noted that psychotherapy would be needed on a daily basis.

13. From the time of her discharge in December of 1960 until January 21, 1961, the doctor saw Patient No. 1 on approximately seven occasions. On this date, he noted that she was still upset about matters. On her next visit, February 4, they discussed problems at home. The next week, they also discussed family problems, as well as doing so in early March of 1961. In March, it was agreed that they would have monthly counseling sessions. These occurred in April, May, June and July. In addition, he saw her once in April, once in May, once in June, and twice in July for various medical complaints.

14. Dr. Mori believed that part of the cause of Patient No. 1's stomach problems and part of the cause of other ailments was her inability to express

herself and her emotions. She had a and if the two got mad at each other, Patient No. 1 had to restrain herself and just walk away from the situation. Dr. Mori also informed Patient No. 1 that she ought to release herself sexually. He felt she ought to learn how to express her feelings (including her sexual feelings) and not repress them.

15. After her release from the hospital, Patient No. 1 saw Dr. Mori on numerous occasions during the winter, spring and summer of 1961. On four or five occasions during this period, Dr. Mori attempted to cause her to climax by manipulating her clitoris and rotating one or more fingers in her vagina, and moving them in and out of the vagina. While he was doing this, he would be telling her to relax and to climax.

16. On one occasion in April, May or June of 1961, Patient No. 1 went to Mori's office for cauterization of After the cauterization, he directed her to go into the examination room so that he could check her ovary and cervix (which had been giving her trouble). He manipulated her clitoris and stimulated her vagina with his fingers, telling her to relax and close her eyes. He then bent down, and kissed her breasts. He also sucked on her clitoris. Then she felt something different in her vaginal area, and said, "What are you doing down there?" He replied, "I thought you might want to know what a penis felt like." She stated that she did not, and opened her eyes. His pants were unzipped. He moved away from her, towards the door, and as he was opening the door she said, "I think you'd better zip up." He did so, and then left the room. Tr. 103-104.

17. Dr. Mori never engaged in sexual intercourse with this, or any other patient.

18. Patient No. 1 began her in the fall of 1961, and although she continued to see Dr. Mori for various reasons, her visits were far less frequent than they had been earlier in 1961. Although he continued to manipulate her clitoris and rotate his fingers in her vagina, it lasted for a much shorter period of time than it had previously, and he did not tell her to relax or climax. This conduct continued into 1963, but after the birth of her child she would tense up if he started manipulating her. He would quit. Between 1963 and 1967, whenever he would start manipulating her, she would tense up, and then he would quit. This continued until approximately 1967. Since 1967, Dr. Mori has not engaged in any questionable conduct with her. She continued to go to him for another 17 years, until 1984. Tr. 210.

19. Since 1970, Patient No. 1 has been hospitalized three times for mental problems. She has attempted suicide on three occasions. There is no evidence linking these events with the patient's treatment from Dr. Mori. However, she looks back upon his behavior with embarrassment and anger. She feels that she was used and violated by him.

20. Patient No. 1 contacted the Victims Crisis Center in Austin, and participated in a sexual abuse therapy group lead by the director of the Center, .

Patient No. 2

21. Patient No. 2 is now years old. She is married, and has children,

22. She has been seeing Dr. Mori since she was a young child, her first appointment having been in May of 1960, shortly after Dr. Mori opened his practice in Grand Meadow. She saw him a few times during the decade of the 1960's with no problems.

23. In August and September of 1973, Patient No. 2 went to Dr. Mori with a request for birth control pills. She was years old at this time. During the first visit, there was a nurse present in the examining room when she had her pelvic examination, and nothing unusual happened. The next month, however, she again had a pelvic examination. On this occasion, Dr. Mori told her that she had to relax so that he could examine her ovary for cysts. He had started the vaginal examination, but stated that she was too tight and that he could not properly examine her without having her relax. He began massaging her clitoris and telling her to squeeze and then relax.

24. Over the next ten years, from 1973 to December 31, 1983, she continued to see Dr. Mori.

Between the incident in December in 1973 and December 31, 1983, she had approximately 35 pelvic examinations. Between seven and nine of those examinations involved the massaging of her clitoris. On many examinations, the pelvic examination went fast, and she was done within a few minutes. But on other occasions, Dr. Mori told her that she had to relax, and he would massage her clitoris and move his fingers in and out of her vagina. Sometimes she climaxed, but other times she did not.

25. The last incident of questionable conduct occurred on December 31, 1983. During the summer of 1983, the patient had been seeing Dr. , who had been practicing with Dr. Mori. Dr. is a female. Beginning in July of 1983, the patient was experiencing vaginitis and, on December 30, a small cyst was identified by Dr. on the left ovary. The next day, December 31, the patient returned, complaining of a sharp pain. She saw Dr. Mori on this date. He examined her on that date, and diagnosed possible endometriosis. During the course of the examination, he massaged her clitoris and moved his fingers in and out of her vagina, telling her to squeeze and relax. She climaxed. She is able to recall this event with some particularity because it was New Year's Eve

She was upset during the date because Dr. Mori had told her that she probably could never have any more children and that she should consider a hysterectomy.

26. Patient No. 2 continued to see Drs. Mori and after the December 31, 1983 incident. She also saw a Dr. in Rochester, who examined her for endometriosis at Mori's suggestion. However, she had no complaints about her treatment after the December 1983 incident. She attempted to go to other doctors in Spring Valley and LeRoy, but was turned away with instructions to go back to her "hometown doctor".

27. Patient No. 2 is a close friend of Patient No. 1. The two of them both participated in a sexual abuse therapy group led by at the Victims Crisis Center in Austin. Patient No. 8 is also in this group.

Patient No. 3

28. Patient No. 3 is currently years old. She has been married She has sons She is employed in a responsible position. She first saw Dr. Mori in 1963, when she was years old. Thereafter, she did not see him until 1969, at which time she was years old. He became her family doctor in 1969.

29. This patient saw Dr. Mori twice in 1969, five times in 1970, and three times in 1971. sometime in the early part of 1973, an incident occurred. It was the only occasion, in the 17 years that this patient saw him, that there was a problem. On that occasion, he took a pap smear and began performing a pelvic examination. He reported to her that she had a tipped uterus that would require surgery when she got older if nothing were done about it, but that he could fix it. He proceeded to massage her clitoris for what seemed to be a long time, perhaps 10 to 15 minutes. She found it to be very uncomfortable. She did not climax. It is likely that this occurred either September 8 or October 8, 1972. The patient's notes for that date (the month is illegible) indicate that a six-week checkup occurred, and that the uterus was found to be retroflexed three degrees, and it was replaced to a one and one-half degree position.

30. In August of 1986, this patient went to the Victims Crisis Center in Austin, and filed a complaint. She did not go prior to that time It was only in the spring of 1986 that the patient felt comfortable in going to the Center. At the Center, she spoke with [redacted] and participated in a spousal abuse group to discuss matters that had nothing to do with Dr. Mori. This group is different from the sexual abuse group that included Patients No. 1 and 2.

Patient No. 4

31. Patient No. 4 is presently years old. She has been married for the last years, and has children. She is employed in a responsible position.

32. The patient first saw Dr. Mori in 1970, when she was years old. She saw him only sporadically until 1974, when her visits increased. She was encountering emotional problems, and twice attempted suicide. During 1974, she had numerous pelvic examinations due to the fitting of and adjustments to an IUD. In addition, there were numerous counseling sessions. Nothing objectionable happened during this period.

33. On June 17, 1976, she went to Dr. Mori's to be fitted with a diaphragm. During that visit, she and Dr. Mori discussed the diaphragm, and then he said that he would need to massage or stimulate her genital area as it would be stimulated during sexual intercourse. He told her that the sexual organs swell during intercourse, and the size of the diaphragm might be different than what it would be without the stimulation. He proceeded to massage her clitoris, and continued to do so for a long period of time (she estimates 20 minutes). She was making a conscious effort not to climax. It was very uncomfortable. Finally, he said, "Well, I guess that's about all we'll get here", and ceased his manipulation.

34. In fact, there is no medical or mechanical reason to sexually stimulate a person prior to fitting a diaphragm. Diaphragms were routinely fitted in 1976 and to this date without such stimulation. Tr. 321-322.

35. Patient No. 4 continued to see Dr. Mori in 1976 and 1977. However, her last visit to him was on September 17, 1977. During this time, she had another pelvic examination and the insertion of an IUD, with no complaints about Dr. Mori's conduct.

36. In late 1977 or early 1978, she began to see a Dr. a family practitioner At some point, she asked Dr. whether Dr. Mori's actions during the diaphragm's fitting were appropriate. In addition, at some point prior to 1980, she discussed the incident with a good friend who had a slightly different experience with Dr. Mori, but who also had sought the advice of another doctor and had been told that what Dr. Mori had done was medically unnecessary.

37. Because of the diaphragm incident, and because of a completely separate and unrelated concern about his treatment of Patient No. 4 ceased seeing Dr. Mori, and also did not pay her last bills. In 1979 or 1980, she received a letter from an attorney representing him, indicating that the outstanding bill would be turned over to a collection agency of some kind for payment. She wrote Dr. Mori a letter, sometime between February of 1980 and June or July of that year, stating that she had stopped paying his bill because of her disapproval of his treatment of and also what he had done to her in 1976. Dr. Mori responded with a letter, indicating that he had never intended any harm, that he wished the best for the entire family, and that he was going to drop the bill.

38. Patient No. 4 filed her complaint because her friend, Patient No. 7, called her and said that an individual had come to the Victims Crisis Center in Austin with a similar complaint against Dr. Mori. Patient No. 7 asked Patient No. 4 whether Patient No. 4 would be interested in doing that also.

Patient No. 5

39. Patient No. 5 is different from all of the other complainants because Dr. Mori has some recollection of sexual incidents involving her. The reason for this is that Mori formed an emotional attachment to Patient No. 5. He has no recollection of any of the other incidents alleged to have occurred involving the other complainants. It is more likely than not that he has repressed his memories of the other patients. Tr. 444-445.

40. Patient No. 5 is now years old. She was married in and remains married to this date. She has children, She is currently employed in a responsible position.

41. Patient No. 5 first saw Dr. Mori in March of 1975, On August 7, 1975, she saw him for a examination and reported backaches. Following a pelvic examination, Dr. Mori told her that she had a tipped uterus, and that he would need to reposition it. He stated that in order to reposition it, he would have to relax the area first. He began stimulating her clitoris with one hand, and rubbing her abdomen with his other. It seemed to go on for a long

time. She climaxed, and then Dr. Mori placed his fingers in her vagina and replaced the retroverted uterus.

42. Although she saw Dr. Mori again in September and October of 1975, nothing unusual occurred. She also saw him twice in 1976, three times in 1977, and twice in 1978 with no problem.

43. During the course of her pregnancy, she indicated to Dr. Mori that there were some difficulties with her marriage. He stated that he would be willing to counsel with her and her husband, but that counseling should be put off until after the birth of her child.

44. she went to see Dr. Mori for a checkup. This would have been on February 19, 1979. She was years old. Again, he gave her a pelvic exam. Again, he stated that she had a tipped uterus, and that he would have to reposition it. He stated that in order to do that, he would have to relax the area. He began stimulating her clitoris in the same manner he had done the previous time. She climaxed. It is unclear whether the uterus was repositioned on this occasion or not.

45. Sometime later in the spring of 1979, Mori called Patient No. 5 on the telephone and asked her if she were still in need of counseling. She indicated that she was, and a counseling session was set up with her alone. Nothing objectionable happened during that session, other than they talked about some matters which Patient No. 5 had difficulty discussing, generally surrounding sexual relations between her and her husband. The sessions continued, with the patient and her husband seeing the doctor separately. In Patient No. 5's second session, there were discussions about various sexual positions which might be of help to the patient and her husband's relationship. Nothing objectionable happened during that session. At the third session, Mori offered to show the patient how she could masturbate. He massaged her, kissed her in several places, including her breasts. She allowed him to do this because she trusted him, and felt that he could help her learn things to do to improve her relationship with her husband. Tr. 50.

46. At the next counseling session, Mori directed the patient to undress in front of him, helping her to undress. He began hugging her and kissing her. He began stimulating her. On this occasion, however, she noticed (for the first time) that he was sexually aroused himself. She was laying on an examining table, and he was standing to one side of her, and he positioned himself so that he pressed his erect penis against her hand. Soon thereafter, he climbed on top of the table and laid down on top of her. He sought comfort from her, and talked about the loneliness of his job, difficulties with his personal life, and in particular, difficulties with a teenage daughter who had recently died as a result of either suicide or a drug overdose. She perceived that he wanted to be cuddled and wanted to be told that he was a good person. She told him that he was a good doctor and that she liked him as a doctor. She did not expressly tell him that she loved him, or otherwise expressly suggest that they maintain a sexual relationship. On the other hand, she did not scream, fight or say anything to indicate her displeasure with the situation. While he was still lying on top of her, he asked her if they should have intercourse. She said, "No." He then agreed that it would not be right, and that it would adversely affect her marriage. He had all of his clothes on, and they remained on throughout the visit. He then got up off the

table and went out of the room. She got up, got dressed, and left the office. There were no further counseling sessions.

47. Patient No. 5 did continue to see Mori for various medical problems. She saw him in 1979, 1980 and 1981. She has not seen him since 1981.

48. Patient No. 5 Patient No. 4. The two of them talked with each other about the incidents of clitoral manipulation, but Patient No. 5 never told anyone about the incident with Dr. Mori on the table.

49. Sometime in the summer of 1986, Patient No. 5 was speaking with Patient No. 4. Patient No. 4 told her that she had talked with a friend (who happened to be Patient No. 7) who told her that "charges were being pressed" against Dr. Mori, and if she were interested in being a witness she should speak with Patient No. 5 decided to do this, and so she called Ms. Nielsen and was provided with a complaint form which she filled out and submitted to the Board. She did not participate in any support group or otherwise counsel with

50. Dr. Mori does recall caressing Patient No. 5's body and kissing her in order to make her sexually aroused. He understood that it was not medically indicated. He had romantic feelings toward her. He believes that the feelings he had for her lasted only for a few weeks. Tr. 688 and 633-636.

Patient No. 6

51. Patient No. 6 is now years old. She is married, and has been for years. She has children, She is employed in a responsible position. She has been a patient of Dr. Mori's since age and continued to see him until August of 1986.

52. During late 1964 and early 1965, she saw Dr. Mori on several occasions during which time he counseled her regarding relaxation techniques to ease her labor and delivery. These were known as Reed's method. It involves closing the eyes, attempting to breathe regularly through the abdomen and diaphragm, and attempting to relax as much as possible. It also involves controlling the vaginal muscle. Tr. 676.

53. During one of these visits, he began the session by telling her that he was going to first do a pelvic exam. She got undressed and laid on the table, and he told her he had to massage her in order to help her relax. He massaged her clitoris until she climaxed. Then, while still partially undressed (she had a top on, and her bottom was covered by a sheet), Dr. Mori told her to begin the relaxation practice. The relaxation practice lasted for 15 or 20 minutes. Then, Dr. Mori told the patient to sit up and take her top off and walk over to the mirror and comb her hair and tell him when she was ready. She did not understand exactly what he meant, but she was petrified and did nothing. She just continued to lay on the table. He then told her to get up, get dressed and go home. Tr. 219-220.

54. That single incident, involving both the massage and the verbal instruction, was the only incident of concern to this patient. She has seen the doctor many times, as has her entire family. She has no complaints other than this one.

55. Patient No. 6 was contacted by Patient No. 7, who stated that a complaint was being brought against Dr. Mori, and she could participate. She was referred to Marian Simacek, who is an investigator from the Attorney General's Office. Patient No. 6 did not speak to before she complained to the Board.

Patient No. 7

56. Patient No. 7 is now years old. She has been married since when she was years old. She has children,

57. She first saw Dr. Mori in 1969, when she was approximately years old. He was her family's doctor. Although she saw him on numerous occasions between 1969 and 1979 for a variety of medical problems, she had no complaints about his treatment of her. This included numerous pelvic examinations and other contacts during the pregnancy and birth of her children.

58. On September 7, 1979, the patient went to see Dr. Mori due to a urinary problem which she was encountering. He did a pelvic exam, during the course of which he told her to relax, and then massaged her clitoris until she climaxed.

59. In 1980, the year after this happened, the patient went to see a gynecologist at the Mayo Clinic named Dr. The patient asked Dr. whether it was necessary to stroke the genitals for a pelvic examination, and the doctor told her it was not necessary. The patient concluded that there was something improper with what Dr. Mori had done, and although she continued to see him for a variety of other medical problems, she did not see him for any pelvic exams after 1979.

60. Patient No. 4 is a good friend of Patient No. 7. Patient No. 7 spoke with her, as well as with Patient No. 1, Patient No. 6 and .

Patient No. 8

61. Patient No. 8 is presently years old, and has been married for years. She has children,

62. This patient first saw Dr. Mori in 1973. She saw him on a number of occasions between 1973 and 1976, with no complaints about his treatment of her.

63. In early January of 1976, she was having a pelvic examination when Dr. Mori told her to relax, that she was too tense. He rubbed her clitoris until she climaxed. She began crying, and asked him what he was doing. He just said that she was too tense, and that she had to relax.

64. That was the only time that she believes she was mistreated by Dr. Mori. She continued to see him throughout 1976, not at all 1977, but again in 1978 and 1979.

65. She did not mention the incident to anyone until she read in the newspaper that a complaint had been filed against him. She then mentioned it to a psychiatrist, who directed her to the Victims Crisis Center. Tr. 395 and 408.

Patient No. 9

66. Patient No. 9 is presently years old. She is employed in a responsible position. She is married, She has children,

67. This patient first saw Dr. Mori soon after he opened his practice, in May of 1960. She was years old. She saw him occasionally through the mid-1960's as needed. In July of 1968, she had the first of a large number of visits during which Dr. Mori attempted to replace her retroflexed uterus into a more normal position. She describes these visits as including virtually the same behavior on every occasion: She would be prepared for a pelvic examination by a nurse, the doctor would come in, put on rubber gloves and apply gel, and then he would massage her clitoris, stating that she had to be completely relaxed. She would have an orgasm, and then he would try to reposition her uterus. He would have one hand on her abdomen, and another with his fingers in her vagina. He would not attempt the repositioning until after she had had an orgasm. There was no conversation about whether or not she had had one, so she assumed that he knew because he would always wait until it was over before he attempted to reposition the uterus. There were between 22 and 26 visits in 1968, 1969, 1970 and 1971, in which Dr. Mori attempted to revert her uterus. He had told her that she could have a problem conceiving if her uterus was not properly placed and, in addition, that it might help with menstrual pain. She had reported very severe menstrual cramps, some of which would keep her immobilized for a few days.

68. In 1974, she began seeing another OB-GYN She immediately noticed that his pelvic examinations were not the same as Dr. Mori's. Instead, the new doctor's were much shorter and there was no massaging. She discussed with him what she was used to in the past, and also discussed her tipped uterus. He stated that the massaging was out of line, and not appropriate treatment. After her first visit to the OB-GYN, she did not return to Dr. Mori. Tr. 168.

69. In the fall of 1986, an article appeared in the Minneapolis Star & Tribune disclosing the Board's initial action against Dr. Mori. She saw the article, and decided to come forward with her experience.

70. Patient No. 9 Patient No. 10. Patient No. 9 told that she was upset with the treatment that she had received from Dr. Mori, but did not disclose the details until November of 1986, after Patient No. 9 had contacted the Board of Medical Examiners. Patient No. 9 has never met , or been involved in any support group at the Austin center. She did, however, act as a conduit to transmit 's name

71. Dr. Mori did recommend that Patient No. 9 do knee-chest exercises to assist in the proper positioning of her uterus. The knee-chest exercise involves getting down on elbows and knees, facing the floor, and staying in that position for some time to allow gravity to cause the uterus to reposition itself.

72. Patient No. 9 often complained of painful urination and a frequent need to urinate. She had numerous bladder infections. In connection with these, Dr. Mori showed her how to do a Kegel exercise. She learned this, and had no difficulty with it. She has no complaints about either the Kegel exercises or the knee-chest exercises. Tr. 175.

Patient No. 10

73. Patient No. 10 is currently years old. She is married, and has children, She has been married since when she was years old.

74. She first saw Dr. Mori in 1961, She saw him in 1962, 1963, and 1964, all with no complaints. These included a number of pelvic examinations in connection with urinary infections and the birth of her child.

75. In August of 1965, she came to Dr. Mori complaining of severe headaches, bad enough to cause blurred vision and incapacitate her. In the course of conversations about these, it was disclosed that there were difficulties in her marriage, and it was agreed that Dr. Mori would speak to her husband separately regarding them. Additionally, she felt pressured with children.

76. She began a series of consultations with Dr. Mori which occurred intermittently in 1965 and 1966. During these consultations, they discussed marital relations and other matters which could possibly be causing her stress. Dr. Mori assumed that her headaches were stress headaches and that at least a portion of their causes could be due to difficulties she was having with sexual matters. Tr. 189, 202. During the course of these consultations, however, Dr. Mori would perform a pelvic examination upon her. He told her that her uterus was tipped, and that he had to bring it forward and, in order to do that, he had to loosen it up. He massaged her clitoris. She never reached orgasm. After massaging her clitoris, he would put his fingers inside her vagina, and his other hand on her abdomen and attempt to manipulate the uterus.

77. Patient No. 10 found it extremely difficult to talk about sexual matters in 1965 Although she now finds it easier to talk about them, she referred to sexual subjects generally as "junk" and "that kind of stuff" during the hearing. Tr. 194, 196.

78. During the consultations, she told Dr. Mori that she had never climaxed. He attempted to teach her how to climax through massaging her clitoris during the pelvic examinations. Tr. 193.

79. After a number of these consultation sessions, there was one which lasted much longer than the others. The patient was in a very distraught state after approximately two hours of conversation dealing with topics which she found very difficult. The conversation included discussions of various positions for intercourse, including showing her pictures from books, and explanations of oral sex, masturbation and orgasms. Dr. Mori suggested that she and her husband come in and engage in intercourse in front of him so that he could see why she was not climaxing. She went home, told her husband this,

and he rejected the suggestion out of hand. That was the last counseling session she went to.

80. Patient No. 10 saw Dr. Mori on several occasions in 1966 for a variety of medical problems, but only saw him on three occasions in 1967. She did not see him at all in 1968. Then, in 1969, she began seeing him again because she was pregnant. She was afraid to go back to him because she was afraid the counseling and pelvics would resume. When she did go back to him, she basically had no problems with what transpired, as the offensive behavior either did not reoccur at all, or tapered off very quickly.

81. Patient No. 10 Patient No. 9. After they had both filed complaints, they spoke in detail regarding what had happened to both of them.

82. Patient No. 10 did participate in a group session with Patient No. 1. This was a session conducted by . Patient No. 10 has been to two such sessions.

83. Dr. Mori told Patient No. 10 to do knee-chest exercises. She did them for a little while, but ceased doing them because she thought they required her to be in a "god-awful position", one which was degrading.

Knee-chest and Kegel Exercises

84. Knee-chest exercises were a recognized therapeutic practice at the time that Dr. Mori was recommending them. They were illustrated in commonly used and recognized textbooks. Ex. 15, p. 272 (Novak's Textbook of Gynecology 7th ed., 1965) and Ex. 14, p. 267 (Id., 8th ed., 1970). However, there were some practitioners who questioned the efficacy of knee-chest exercises, and did not recommend them. They were a matter on which reasonable and well-informed practitioners (and experts) had differing opinions. Tr. 319-320 and 354-356; Ex. 14, p. 267; Ex. 15, p. 272. The exercise was one that was to be done at home, not one that was to be done in Dr. Mori's office. At least one patient (No. 9) had no objection to them precisely because they were done in private. Tr. 175. Dr. Mori recommended them for the benefit of his patients, not for his own sexual gratification.

85. Kegel exercises are widely accepted and recommended measures for improving the tone of pelvic muscles, particularly after childbirth. There is no debate about their efficacy. See, generally, Ex. 18, pp. 27-44; Ex. 17, p. 1463; Tr. 320 and 370. Kegel exercises are not that easy to learn to do, and even once learned, patients frequently discontinue the exercises at the first sign of improvement, or they discontinue them out of impatience. One way to determine whether the patient has learned to do them properly is for the examiner to insert one or more fingers into the vagina and ask the patient to contract her vaginal muscles. Tr. 320; Ex. 17, p. 1463. This is also an appropriate method to determine if the patient's muscle tone has improved.

86. Dr. Mori's recommendations regarding Kegel exercises and his use of his fingers in the vagina to illustrate and confirm the exercises was not inappropriately motivated or inappropriately performed. It was not done for his own sexual gratification, but rather for the benefit of his patients. Tr. 650-651.

Psychology

87. At some point in the early 1960's, Dr. Mori was visited by a representative of "a state medical organization". He was told that he ought to seek counseling for his sexual therapy and practices with patients. Tr. 420 and 458. He took no action regarding it. Tr. 690.

88. In November of 1986, when Dr. Mori learned that disciplinary action would be commenced against him, he consulted a psychiatrist. The psychiatrist spoke with him, his wife, and his nurse-companion, and diagnosed him. Treatment followed, and is still continuing.

Psychologically, Mori suffers from a mental illness known as "dysthymic depression", or neurotic depression. It is not a psychosis, nor is it a major depression or a manic depression. Tr. 423. It has been plaguing him for the last 15 years, on an intermittant basis. It has flared up from time to time, especially at times of stress and at times of loss of self esteem.

89. The psychological basis for Mori's sexual acts towards his patients cannot be fully explained from the record of this hearing. The psychiatrist involved does not specialize in sexual matters, and he has urged Mori to seek diagnosis (and treatment, if warranted) from a clinic that does specialize in sexual behavior. Tr. 464. The best evidence in this record suggests that Mori became over-involved with his patients, that he assumed responsibility for their well being in areas in which he was not properly equipped to deal, and that he felt better about himself for having tried and having been successful in helping them with their problems. Tr. 431. In addition, however, it is more probable than not that he obtained some sexual gratification from these activities, and that this reinforced his behavior. His behavior tended to become "compulsive" or "driven". Tr. 432 and 451. This admittedly sketchy explanation is nonetheless consistent with most of the other evidence in the record.

90. It is more probable than not that Mori would not repeat his sexual behavior toward female patients again, but that probability is a narrow one. The psychiatrist opined that Mori "probably would not" resume the behavior, but that opinion was based on a number of assumptions, some of which were wrong. The psychiatrist had assumed that there had been no such behavior since 1980 or 1981, when in fact, there had been one incident in late 1983. Tr. 433 and 438. Secondly, he had assumed that Mori had taken a number of steps to control his behavior shortly after receiving the complaint letter from Patient No. 4 in 1980. One of the steps which the psychiatrist assumed was the presence of a nurse in the examining room when doing gynecological exams. In fact, this did not occur in 1980, but only in November of 1984. Tr. 460-461.

91. Dr. Mori is intelligent and used to applying himself to the work at hand. He has shown improvement in the short time that he has been under the psychiatrist's care, and he appears to be a good candidate for treatment of his depression. Tr. 425.

Mitigating Factors

92. Dr. Mori has made himself available to his patients on a virtually round-the-clock basis. Although he took off Wednesday afternoons and Friday

mornings, as well as Saturday afternoons and Sundays, the record leaves no doubt that he made himself available on an emergency basis at virtually anytime. Tr. 469, 518, 593.

93. Dr. Mori has received awards from the local nursing home and from the community as a whole. Tr. 520.

94. Dr. Mori has been involved in a variety of community and quasi-professional activities. He was the first medical director of the nursing home in Grand Meadow (Meadow Manor Nursing Home). He was elected a member of the school board, and served in that position for nine years. He has served as the team doctor for all the local school athletic teams. He has taught judo for children. He has, for 18 years, served as a volunteer physician for Planned Parenthood in Austin. He has devoted one night per month to doing physicals and other consultation for Planned Parenthood at reduced fees. He has been the medical director of the community-owned ambulance service, and has given EMT training. He has also trained personnel in the schools, the nursing home and in the hospital, oftentimes without charge. Tr. 467, 600. One person noted that offenders are sometimes sentenced to perform some community service as a part of their restitution to society, and that Dr. Mori has already made that contribution. Tr. 603.

95. All of the medical professionals who have worked with Dr. Mori spoke highly of his ability and availability. Tr. 467, 519, 562, 582 and 593. None were aware of any complaints, particularly about sexual abuse issues, except for the pharmacist and the nursing home administrator. Both had been quoted in the newspaper as supporting Dr. Mori in this disciplinary proceeding. Both had received communications from dissatisfied persons indicating that there were complaints about his treatment of them.

96. For two years, from March 1983 to March 1985, Dr. Mori was assisted in his practice by Dr. [redacted]. She worked every Friday, seeing both hospital patients and clinic patients. She never heard any complaints of sexual improprieties, nor did she observe anything but "very professional" behavior from Dr. Mori. Ex. 27.

97. There is no evidence to suggest that Dr. Mori has engaged in any improper conduct since December 31, 1983. It is highly unlikely that he has engaged in any improper conduct since November of 1984. Ex. 12.

98. Dr. Mori is willing to accept virtually any form of restriction or limitation which the Board might place upon him as a condition of continued practice. Tr. 680. He specified his willingness to:

- be chaperoned by an R.N. when seeing female patients
- refer all significant mental health problems to another facility
- have the Board or its designee monitor his treatment of female patients by contacting them at random
- be placed under the supervision of another doctor
- submit himself for evaluation to a specialty sexuality clinic, such as one of the two recommended by his psychiatrist.

99. Dr. Mori acknowledges that intentionally sexually arousing a patient, or massaging of the clitoris is unprofessional, unethical, potentially harmful to patients and unbecoming to a person licensed to practice medicine. Tr. 712-713. He also admits that kissing a patient or caressing her breasts or genitals would also violate those standards. Id. He also admits that suggesting that a patient and her spouse engage in sexual intercourse in front of him would violate the same standards. Tr. 714.

Based upon the foregoing Findings, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board gave timely and proper notice of the hearing to the Respondent.

2. The Administrative Law Judge and the Minnesota Board of Medical Examiners have subject matter jurisdiction herein pursuant to Minn. Stat. § 147.121 and 14.50 (1986).

3. The Board has complied with all substantive and procedural requirements of law or rule.

4. The Board must establish by a preponderance of the evidence that the Respondent has violated the various statutory provisions noted in the following Conclusions.

5. Based upon Findings 15 through 18, relating to Patient No. 1, Respondent did engage in "immoral, dishonorable or unprofessional conduct" within the meaning of Minn. Stat. § 147.02 (1959) because it was "conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public" within the meaning of that section.

6. Based upon Findings 23 through 25, relating to Patient No. 2, Respondent engaged in "unethical, deceptive or deleterious conduct or practice harmful to the public" within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1971) and "immoral or unprofessional conduct . . . include[ing] the commission by a physician of any act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1971). In addition, his conduct constituted "unethical, deceptive or deleterious conduct or practice harmful to the public, . . . [and] a willful or careless disregard for the health, welfare or safety of his patients . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1974). In addition, said conduct constituted "immoral or unprofessional conduct", including "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1974). The conduct also violates the comparable provisions of Minn. Stat. 1976, including that year's version of Minn. Stat. § 147.021, subd. 1 (k) relating to "unprofessional conduct".

7. Based upon Finding 29, relating to Patient No. 3, Respondent's conduct constituted "unethical, deceptive or deleterious conduct or practice harmful to the public" within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1971) and "immoral or unprofessional conduct", including "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1971).

8. Based upon Findings 33 and 34, relating to Patient No. 4, Respondent's conduct constituted "unethical, deceptive or deleterious conduct or practice harmful to the public" and "a willful or careless disregard for the health, welfare or safety of his patients" within the Minn. Stat. § 147.021, subd. 1 (g) (1974) and "immoral or unprofessional conduct", including "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1974).

9. Based upon Finding 41 and Findings 44 through 46, relating to Patient No. 5, Respondent engaged in conduct which constitutes "unethical, deceptive or deleterious conduct or practice harmful to the public" and "a willful or careless disregard for the health, welfare or safety of his patients" within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1974) and "immoral or unprofessional conduct" and "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1974). In addition, Respondent's conduct constituted "unprofessional conduct" within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1976).

10. Based upon Finding 53, relating to Patient No. 6, Respondent engaged in conduct which constitutes "immoral, dishonorable or unprofessional conduct" and "conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public" within the meaning of Minn. Stat. § 147.02 (1959).

11. Based upon Finding 58, relating to Patient No. 7, Respondent has engaged in conduct which constitutes "unethical, deceptive or deleterious conduct or practice harmful to the public" and "a willful or careless disregard for the health, welfare or safety of his patients" within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1976) and "unprofessional conduct" within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1976).

12. Based upon Finding 63, relating to Patient No. 8, Respondent engaged in conduct which constituted "unethical, deceptive or deleterious conduct or practice harmful to the public" and "a willful or careless disregard for the health welfare or safety of his patients" within the meaning of Minn. Stat. § 147.021, subd. 1 (g) (1974) and "immoral or unprofessional conduct" including "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subd. 1 (k) (1974).

13. Based upon Finding 67, relating to Patient No. 9, Respondent engaged in conduct which constituted "immoral, dishonorable or unprofessional conduct" and "conduct unbecoming a person licensed to practice medicine" and "detrimental to the best interests of the public" within the meaning of Minn. Stat. § 147.02, subd. 3 (1967); "unethical, deceptive or deleterious conduct or practice harmful to the public" and "immoral or unprofessional conduct" and "[an] act contrary to . . . good morals . . ." within the meaning of Minn. Stat. § 147.021, subds. 1 (g) and (k) (1971).

14. Based on Findings 76, 78 and 79, regarding Patient No. 10, Respondent engaged in conduct which constituted "immoral, dishonorable or unprofessional conduct" and "conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public" within the meaning of Minn. Stat. § 147.02 (1959).

15. The doctrine of laches does not prevent the Board from taking action in this matter. See, Memorandum.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Minnesota State Board of Medical Examiners take disciplinary action against the medical license of Hideo D. Mori, M.D.

Dated this 23rd day of February, 1987.

Allan W. Klein

ALLAN W. KLEIN
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Earl M. Steen & Associates.

MEMORANDUM

There are a number of miscellaneous matters which the Administrative Law Judge would like to bring to the attention of the Board. They are set forth below.

I.

Governing Statute -- It was agreed at the start of the hearing that Dr. Mori's conduct would be judged by reference to the version of Chapter 147 which was in force at the time that each of the alleged incidents occurred. In other words, for an incident which occurred in 1966, for example, that conduct would not be evaluated based upon the standards contained in the 1986 version of the statute. Instead, it would be evaluated based upon the standards which were in effect at the time of the incident -- in that case, the statute had remained unchanged since 1959. This understanding is set forth in the First Prehearing Order, paragraph 12 and the Second Prehearing Order, paragraph 3.

II.

Scope of Hearing -- The underlying bases for this case are the sexual acts engaged in by Dr. Mori. The basis for the case is not whether or not he was a good medical doctor, in the sense of knowing when a certain action was

medically indicated or not. There was some discussion during the hearing regarding the wisdom of certain procedures concerning positioning of the uterus. The Judge wants to make it clear that he did not base his conclusions upon whether or not it was appropriate for the doctor to have attempted to reposition one or more patients' uteruses. In the Second Amended Notice of and Order for Hearing, at pages 8 and 9, the Board sets forth which sections of which statutes it believes were violated. Those statutes deal with immoral conduct, but they do not deal with professional incompetence or ignorance.

III.

Credibility -- The Administrative Law Judge has essentially accepted the recitation of events given by the patients. There is only one exception to that, and that exception only covers one incident. Patient No. 1 testified that when she was in the hospital for treatment of a suspected ulcer, Dr. Mori fondled her body and massaged her breasts underneath her hospital gown, telling her that what he was doing was right and natural, and that she should attempt to release herself sexually. Tr. 94-95, 117. Her parents were standing right outside of the door to the hospital room. Tr. 117. The patient had been medicated, and some parts of her hospital stay are clearer in her mind than others. Tr. 122. On balance, the Administrative Law Judge could not conclude that the Board had proven, by a preponderance of the evidence, that the event had, in fact, happened. However, there were other events with this patient, as well as events with all other patients, where the Board did meet its burden. In fact, in the vast majority of cases, the Board met its burden and the Administrative Law Judge found that the event had, in fact, happened in the manner described by the patient.

IV.

Laches -- Laches is an equitable doctrine, asserted as a defense to an action brought after an unreasonable delay, resulting in prejudice to others, as would make it inequitable. M.A.D. v. P.R., 277 N.W.2d 27 (Minn. 1979). It originated with the courts of equity in England, and has been described as equivalent to the statutes of limitations in law.

Respondent asserts that this proceeding should be dismissed because the events alleged are as ancient as 26 years ago; even the most recent allegations are several years old. Fairness to the Respondent, it is asserted, demands that there exists some limitation on the time in which a disciplinary proceeding may be brought. Otherwise, the risk of erroneous deprivation of the physician's license to practice medicine is too great.

The Board responds that if the doctrine of laches applies to administrative proceedings (which it does not concede), it would not operate in this proceeding because any delay is not the fault of the Board: The Board, it is asserted, acted very promptly after receipt of the complaints. The Board did not unduly delay bringing the proceeding with any resultant prejudice to Respondent.

The law in Minnesota is less than clear on this point. There have been no applications of the doctrine of laches to medical license revocation proceedings in this State. See, Annotation, 63 A.L.R.2d 1080 (1959). However, there have been enough decided cases on similar issues to allow for a reasonable determination of the question as it would apply to this case.

The earliest conduct complained of in this case would be in 1960. The latest conduct would be in 1983. The Board received the complaints in 1986, and the hearing took place in 1986. There is, therefore, a spread of between 26 and 2 years between the alleged events and the hearing. However, there is a spread of only a few months between the Board's learning of the allegations and the hearing.

In the case of Fisher v. Independent School Dist. No. 622, 357 N.W.2d 152 (Minn. App. 1984), a school board discharged an elementary school principal on charges that he had sexually molested a student. In that case, the molestation allegedly took place between 1967 and 1971. The Board learned of it for the first time in 1983. The hearing took place in 1984. The gap, therefore, was one of between 17 and 13 years between the time of the alleged event and the hearing, but only one year between the time of the Board's learning of it and the hearing.

At the hearing in the Fisher case, the primary testimony came from the former student, and the school principal. The student alleged that certain acts had happened, and the principal consistently denied that anything had happened. An independent hearing examiner found that the events had, in fact, happened, and recommended that the principal be discharged. The school board followed the recommendation, and the principal appealed. One of the grounds for the appeal was that he was prejudiced by the remoteness of the incidents because the passage of time had dulled the memories of witnesses who might have been able to provide evidence to support him. The Court of Appeals held that the standards of procedural due process are applicable to teacher termination hearings and that the remoteness issue was a legitimate concern under those standards. The Court noted that in another teacher discharge case involving a defense of remoteness, the trial court had reasoned that the appropriate question is how long the school board had delayed in bringing a determination action after it had received knowledge of the alleged occurrence. Id. at 156, citing from Johnson v. Independent School District No. 294, No. 12305, Dist. Ct. Mem. (3d Judicial District, Feb. 12, 1980). The Court of Appeals in Fisher reasoned that although the "lost" evidence was possibly relevant, there had not been a deprivation of due process and the doctrine of remoteness (which is the same as the doctrine of laches under these circumstances) did not act as a bar to the proceeding.

In the instant case, the State Board of Medical Examiners proceeded with great dispatch in reviewing the complaints, and then taking action. Dr. Mori would have legitimate grounds for complaint if it was the Board which had delayed for many years before acting. But that was not the case here. The doctrine of laches requires that the negligent delay be attributable to the Board.

The doctrine of laches involves a balancing of interests. That balancing is different when comparing two private interests as opposed to comparing a private interest and the public interest. In an analogous situation, that of equitable estoppel, Minnesota courts have held that when applying estoppel to a governmental agency, courts must be careful to consider any public interest that might be hindered -- although the government can be estopped, the court must consider the public interest that would be frustrated by the estoppel. Brown v. Minnesota Dept. of Public Welfare, 354 N.W.2d 115 (Minn. App. 1984), 368 N.W.2d 906 (Minn. 1985); Mesaba Aviation Div. v. County of Itasca, 258 N.W.2d 877 (Minn. 1977).

It is concluded that laches is applicable to administrative actions such as this, but that under the facts of this specific case, laches does not act as a bar to the proceeding.

V.

Respondent claims that [redacted], the director at the Victims Crisis Center, in some way orchestrated the witnesses' testimony and offered them "professional coaching". This theory is simply not borne out by the facts. Only five of the ten witnesses received any therapy from [redacted], and one of those five involved in a group completely separate from any of the other witnesses, and did not know any of the others. The witnesses in this matter did testify independently and without any outside influence on the substance of their testimony. The fact that some of the women did know one another, whether through [redacted], through blood relations, or because they were friends, does not detract from the independence of their testimony. In a smaller town, among people of a relatively limited age group, it is not unlikely that some of them would know each other. Respondent has failed to demonstrate that any of the testimony was manufactured through [redacted] or any other person. While it is likely that at least some of the witnesses were willing to come forward only after others had done so, that does not affect the substance or believability of their testimony.

A.W.K.