

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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IN THE MATTER OF:

CARLA MARIA JOHNSON, M.D.
(Certificate No. 08393R)
Respondent

OPINION
00-A-004

This matter comes before the Board by virtue of an Administrative Complaint, and an Amended Administrative Complaint, charging Respondent, Carla Maria Johnson, with a number of violations of the Medical Practice Act. The matter was originally heard before a panel consisting of Drs. Elmo J. Laborde, Melvin G. Bourgeois, Richard M. Nunnally, Kweli J. Amusa, and Trenton L. James representing a quorum of its membership. At the second hearing, the panel consisted of Drs. Laborde, Bourgeois, Amusa, and James, President. Only the second panel participated in the deliberations leading up to this decision.

The original Administrative Complaint contains the following allegations:

"FACTS"

Count 1

3. On March 13, 1997, the Alabama State Board of Medical Examiners ("Alabama Board") issued an Administrative Complaint against Dr. Johnson. An investigation conducted by the Alabama Board revealed that Respondent has violated the rules and regulations of the Alabama Board in that Dr. Johnson had pre-signed prescriptions for a controlled substance, with the intent to make it available to non-physician employees or support personnel who would thereafter deliver it to a patient. On August 29, 1997, the Alabama Board issued an Order, fining Dr. Johnson \$4,500 for the said

violation.

Count 2

4. In connection with the renewal of her 1998 Louisiana medical license, Dr. Johnson was asked to confirm certain historical data and provide updated information for the Board's records. Respondent was specifically asked "Since your last renewal . . . Was any action taken against you by any licensing authority?" In response to this question, Dr. Johnson falsely answered "No".

Count 3

5. On May 14, 1997 Dr. Johnson was indicted by the Alabama State Grand Jury on two charges of illegal distribution of a controlled substance and with sale of Valium.

Count 4

6. In connection with the renewal of her 1998 Louisiana medical license, Dr. Johnson was asked to confirm certain historical data and provide updated information for the Board's records. Respondent was specifically asked "Since your last renewal . . . Were you charged with, convicted of, or did you plead guilty to or nolo contendere to, violation of any municipal, county/parish, state or federal statute?" In response to this question, Dr. Johnson falsely answered "No".

Count 5

7. On August 12, 1998, Dr. Johnson executed a Voluntary Surrender ("Surrender") with the Alabama State Board of Medical Examiners ("Alabama Board"). Pursuant to such Surrender, Dr. Johnson's Alabama medical license was permanently surrendered. The Surrender was entered into while Dr. Johnson was under investigation by the Alabama Board for alleged violations of Alabama Code Section 34-24-360 (1975).

Count 6

8. In connection with the renewal of her 1999 Louisiana medical license, Dr. Johnson was asked to confirm certain historical data and provide updated information for the Board's records. Respondent was specifically asked "Since your last renewal . . . Did you agree with any licensing authority not to seek re-licensure in that licensing jurisdiction?" In response to this question, Dr. Johnson falsely answered "No".

At the original hearing, Dr. Johnson stipulated to the correctness of the above factual allegations.

As a result of the above facts and circumstances, Dr. Johnson was charged with the following violations of the Medical Practice Act:

First, Violation of R.S. 37:1285 A(3) and (4) for fraud, deceit, or perjury in obtaining a license, and providing false sworn information to the Board, for failing to advise the Board on her 1998 application, of the Order of the Alabama Board, fining her the sum of \$4,500.00, and of the indictment against her of May 14, 1997. This count was later amended to include a violation of R.S. 37:1285(A) 29, for surrendering her license while under investigation.

Second, Violations of R.S. 37:1285 A (3) for failure to advise the Board, on her 1999 application for renewal, of the surrender of her license in 1998.

Dr. Johnson, at the original hearing, admitted that lawful cause exists for the revocation or suspension of her license or for such other sanction as the Board may see fit to impose.

Two character witnesses testified that Dr. Johnson is a strong and truthful woman, of high moral character. She attends a self confrontation class and is dealing with her problems from a biblical perspective.

Dr. Victor Jackson, in addition to confirming what the character witnesses said, testified that there was a place for Dr. Johnson in his group practice in Baton Rouge, Louisiana.

From Dr. Johnson's testimony at the original hearing, and the exhibits filed in connection therewith, the Board gleaned the following information:

Dr. Johnson is a divorced mother of three children, a graduate of Meharry Medical College, who, at the time of the events surrounding her difficulties, was practicing obstetrics and gynecology in Phoenix City, Alabama. Because of having pre-signed prescriptions in her office, an Administrative Complaint was issued against her by the Alabama Board of Medical Examiners, in March 1997.

The next month, April, 1997, Dr. Johnson was injured in an automobile accident and has not practiced medicine since. In May 1997, she was indicted by a grand jury for unlawful sale of controlled substances.

In August 1997, following a hearing on the Administrative Complaint in Alabama, at which Dr. Johnson did not appear, she was fined \$4,500 by the Alabama Board.

On December 31, 1997, Dr. Johnson's Alabama license expired. On August 12, 1998, Dr. Johnson executed a voluntary surrender of her Alabama license, in which she agreed never to reapply for licensure in that state. Dr. Johnson testified that she had already decided that she would no longer practice in Alabama. On the same day, the criminal charges against Dr. Johnson were dismissed via a *nolle prosequi*.

After our first hearing, the case was reopened in order that the panel might learn more about the circumstances surrounding the criminal charges against Dr. Johnson.

At the second hearing, the panel heard the testimony of two of the officers who were involved in the investigation of Dr. Johnson's office.

Roger Johnson, an investigator for the Alabama Board of Medical Examiners, testified that he first talked to Dr. Johnson on January 31, 1997, about reports that she had pre-signed prescriptions in her office. She told him that she had some, and gave him five pre-signed prescriptions for Tylenol # 3. She said there were no others. He warned her about the practice and she said she would not do it again.

On February 6, 1997, Mr. Johnson was part of a team that carried out a search of Dr. Johnson's office. Prior to the search, he had suggested that someone call the office to request prescriptions, using the names of Judy Smith and Donna Brown. When the search was carried out, envelopes for Judy Smith and Donna Brown, each containing three prescriptions for controlled substances, were found. The team also found various other pre-signed prescriptions.

Mr. Johnson said that he did not see Dr. Johnson sign any of the prescriptions, and did not know for a fact that she had signed them.

Martin Craig Riley, a Diversion Investigator for the DEA, testified that he accompanied the task force that carried out the search of Dr. Johnson's office. On the day before the search, he met with the task force and saw prescriptions which had been obtained by purchase, on January 30 and 31, 1997, together with some legitimate prescriptions written by Dr. Johnson, which had been obtained from pharmacies. The handwriting on all of the prescriptions appeared to him to be the same. The prescriptions had been purchased for \$165.00 for three and were for controlled substances.

On February 6, 1997, during the search, he saw the envelopes for Judy Smith and Donna Brown, each containing prescriptions for controlled substances. He stated that eight other prescriptions were found in a desk near the receptionist, filled out for drugs and signed by the doctor.

Another 40 prescriptions were found in a safe in Dr. Johnson's office, filled out for various controlled substances, and signed by the doctor, but with the patients' names blank.

The targets of the investigation were Dr. Johnson and two of her employees, Terry Bean and Dora Mahone. Mr. Riley stated that the illegal prescriptions would be ordered from and picked up from the employees, and payment would be made to them. He did not see Dr. Johnson sign any of the prescriptions and could not say that she signed them.

Dr. Johnson denied that she signed any of the various prescriptions found in her office. She stated that Ms. Bean and Ms. Mahone were nursing assistants. She trusted them completely, to the point where they took care of her business, and had been authorized to sign her name to her checks and correspondence. They did not have authority to sign her prescriptions. Dr. Johnson stated that she did sign the five prescriptions for Tylenol # 3 that Mr. Johnson had obtained from her.

She stated that she had no idea what was going on in her office.

The record reflects that the charges against Dora Mahone were dismissed pursuant to a *nolle prosequi*, but that Terry Bean entered a plea of guilty, and was sentenced to jail.

The record further reflects that the District Attorney of Russell County, Alabama, offered to enter a *nolle prosequi* to the criminal charges against Dr. Johnson, if she agreed to voluntarily surrender her certificate and qualification and license to practice medicine in Alabama, and agree not to petition for reinstatement of her license. When Dr. Johnson signed the voluntary surrender document, the criminal case was dismissed.

The Alabama Board was following the criminal proceedings, and, had Dr. Johnson been convicted of a felony or misdemeanor, would have filed an Administrative Complaint seeking the revocation of her license.

It has long been the policy of the Board not to grant the right to practice medicine in Louisiana to a doctor who has lost a license in another state, through revocation, suspension, or surrender while under investigation. We decided to look into this case further because Dr. Johnson was, on the face of the documents, unable to seek further relief in Alabama.

We have learned that 40 of the prescriptions seized in the search were in Dr. Johnson's safe, in a closet in her personal office. We have learned that the *nolle prosequi* entered to the charges against her came, not as a result of lack of evidence, but arose

from a plea bargain by virtue of which she agreed to surrender her license and never reapply. These two circumstances belie her protestations of innocence. We also note that the author of the various prescriptions seized at Dr. Johnson's office might easily have been determined through handwriting analysis.

Considering all of the above circumstances, we think that Dr. Johnson must be required to get her problems in Alabama solved before we permit her to practice in Louisiana.

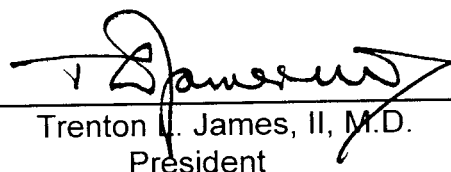
Accordingly, the license of Carla Maria Johnson, M.D., to practice medicine in Louisiana, No. 08393R, is hereby suspended, until such time as her license to practice medicine in the State of Alabama is reinstated.

Respondent shall pay all costs of this proceeding.

New Orleans, Louisiana, this 12th day of July, 2000.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

By: _____


Trenton L. James, II, M.D.
President