

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

630 CAMP STREET, NEW ORLEANS, LA 70130
MAILING ADDRESS: POST OFFICE BOX 30250, NEW ORLEANS, LA 70190-0250



Telephone (504) 524-6763

FAX (504) 568-8893

Writer's Direct Dial

**IN THE MATTER OF:
GARY HERBERT BERGEAUX, M.D.
(CERTIFICATE NO. 010737)**

DECISION

95-A-005

This matter comes before the Louisiana State Board of Medical Examiners ("Board") on an Administrative Complaint, charging Gary Herbert Bergeaux, M.D., with the following violations of the Louisiana Medical Practice Act:

First, Gary Herbert Bergeaux, M.D., is charged with prescribing controlled substances which, in amount, frequency, duration, and absence of recorded medical indication, were in excess of any legitimate medical justification therefor; and prescribing anorectant controlled substances in violation of the Board's rules and regulations in the treatment of obesity, in violation of R.S. 37:1285(A)(6) and (30).

Second, for the same reasons, Gary Herbert Bergeaux, M.D., is charged with continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state, in violation of R.S. 37:1285(A)(14).

Third, for the same reasons, Gary Herbert Bergeaux, M.D., is charged with professional or medical incompetency, in violation of R.S. 37:1285(A)(12).

By supplemental and amended Administrative Complaint, it is alleged that Dr. Bergeaux suffers from bipolar disorder which, if not properly monitored, might compromise his ability to practice medicine with reasonable skill and safety to patients. It is further alleged that Respondent was hospitalized in March 1990, diagnosed as suffering from Bipolar Disorder, Manic Phase, and was treated and discharged on lithium carbonate. He failed to maintain the proper medication schedule, and decreased and then discontinued taking the lithium carbonate, which resulted in instability of his psychiatric condition.

Gary Herbert Bergeaux, M.D., is charged with suffering from a psychiatric condition which could compromise his ability to practice medicine with reasonable skill and safety to patients, in violation of R.S. 37:1285(A)(25).

(Bergeaux, August 1995)

The matter was heard on July 20, 1995, before a panel of the Board representing a quorum of its membership consisting of Drs. Mary Lou Applewhite, Keith C. Ferdinand, Ike Muslow, Elmo J. Laborde and Richard M. Nunnally. Also present were Judge Frederick S. Ellis, Independent Counsel for the Board, presiding, and L. Thomas Styron, Attorney at Law, representing the complainant. Dr. Bergeaux, respondent, was present unrepresented by counsel.

FINDINGS OF FACTS

Placed in evidence before the Board, in support of the allegations of the Administrative Complaint are the patient prescription records of 10 of Dr. Bergeaux's patients and the Board's rules governing the treatment of obesity.

The report from Dr. Bergeaux's treating psychiatrist reflects that good symptom control was obtained with lithium carbonate. He stated that, on occasions when Dr. Bergeaux became inconsistent in taking his medication, he displayed some "affective instability, accelerated thinking and grandiosity consistent with his illness."

Charles K. Billings, M.D., the psychiatrist who evaluated Dr. Bergeaux for the Board, confirmed that Dr. Bergeaux has bipolar disorder. He also reported that Dr. Bergeaux attributes his inappropriate prescribing practices to his mental condition. Dr. Billings impressions relative to Respondent are as follows:

"Dr. Richoux's discharge summary from March 23, 1990 clearly describes a manic episode and Dr. Bergeaux's own account of his symptoms at that time are consistent with a manic episode. Those symptoms apparently cleared with hospitalization and with treatment with lithium. Dr. Bergeaux asserts that the period of time in 1991 and 1992, when he inappropriately prescribed controlled substances, coincides with a relapse in his bipolar disorder caused by medication non-compliance. He denied inappropriate prescribing before or since that period of relapse.

I cannot tell in retrospect whether or not he truly experienced a relapse sufficient to impair his judgement and prescribing practices. He reported that he and his wife were having difficulty during that time and that they saw Dr. Richoux together. I would recommend contacting Dr. Richoux to see if his records reflect manic symptomatology or other behavioral difficulties which might explain Dr. Bergeaux's prescribing practices. I do find it a little difficult to accept that Dr. Bergeaux could have had sufficient manic symptomatology to drastically impair his medical judgement without evidence of this symptomatology being confronted by Dr. Richoux and Dr. Bergeaux's wife. If it were as prominent as Dr. Bergeaux maintains, it seems that his psychiatrist and/or his wife would have detected his non-compliance with lithium and made certain he resumed taking the medication, especially so soon after his 1990 hospitalization. A simple blood test would have confirmed his non-compliance with medication. These inconsistencies in the story at least raise the possibility that relapse in bipolar disorder symptomatology is not sufficient in and of itself to explain his controlled substance prescribing behavior.

I do not doubt that Dr. Bergeaux has bipolar disorder. Family history, symptomatology, course and treatment response all point to this diagnosis. Whether

this diagnosis can be partially blamed for his prescribing behavior cannot be determined in retrospect. Dr. Richoux could perhaps shed more light on Dr. Bergeaux's mental state at the time of his offenses. It is clear that Dr. Bergeaux should continue on lithium prophylaxis. He should also be followed more closely than before to prevent a recurrence of non-compliance with medication. At the present time, Dr. Bergeaux is euthymic with no overt evidence of psychiatric symptomatology."

At the hearing, Dr. Bergeaux admitted to all of the facts alleged, and admitted that his prescribing practices were inappropriate during the period for which he is charged herein. He testified that, during that period, he did not exercise sound medical judgment, and that he would often be unable to remember the names of medications which he wanted to prescribe. He expressed his willingness to surrender unconditionally his license to practice medicine in Louisiana.

CONCLUSIONS OF LAW

The Board's examination of the records of Dr. Bergeaux's patients reveal that his prescribing practices were such as to render him guilty of the first three violations charged. The Board further finds that, when not taking his medication as prescribed, Dr. Bergeaux is not competent to practice medicine with reasonable security and safety to patients.

We note that Dr. Billings has some reservations relative to Dr. Bergeaux's *bona fides* in his representations relative to his history. However, we do not believe it necessary to resolve this question, since whether Dr. Bergeaux was entirely truthful in his representations to Dr. Billings or to the Board, or if he is, indeed, too unreliable to maintain his medication, there is still a substantial risk that he is unable to practice medicine with reasonable skill and safety to patients.

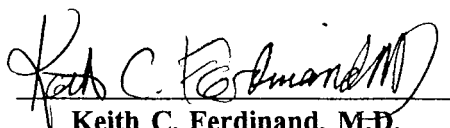
DECISION

We therefore accept and concur in Dr. Bergeaux's own evaluation of himself. We hereby accept the voluntary surrender of his license, represented by Certificate No. 010737, and it is ordered immediately to be cancelled.

Dr. Bergeaux shall pay all costs of this proceeding.

AT NEW ORLEANS, LOUISIANA, this 31st day of August, 1995.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS


Keith C. Ferdinand, M.D.
Vice-President