

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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BEFORE THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF : NO. 89-A-014
BOBBY WAKELAND DESHOTEL, M.D. :
(Certificate no. 008947)
RESPONDENT : DECISION
_____:

An administrative hearing was convened before the Louisiana State Board of Medical Examiners (the Board) on October 27, 1989, to adjudicate alleged violations of the Louisiana Medical Practice Act by Bobbie Wakeland Deshotel, M.D. (the Respondent). Present representing the Board was a quorum of its membership including Drs. Muslow, LaNasa, Hackett, Bordelon, LaBorde and Kaplan. Also present were the Respondent, represented by Messrs. Joseph Ortego and Jimmy Dausat, his legal counsels, and James J. Thornton, independent counsel for the Board. Dr. Nunnally took no part in either the hearing or the decision of the Board.

Upon consideration of the evidence which consisted of documentary evidence and sworn testimony of witnesses including the Respondent who voluntarily gave testimony, and arguments by legal counsel, the Board renders the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. At all times pertinent to the allegations and charges brought in behalf of the Board by the assigned investigating officer, Dr. Nunnally, Respondent was licensed by the Board to practice medicine as a physician in the State of Louisiana pursuant to the Louisiana Medical Practice Act, LSA-R.S. 37:1261 et seq., as evidenced by Certificate number 008947.

2. On October 14, 1986, a Diversionary Investigating Unit (DIU) agent, using the name Rick Wilson, visited Respondent in his office accompanied by a confidential informant (W.M.). While there the DIU agent and W.M. presented Respondent with a box containing fifty pounds of shrimp. Immediately thereafter, Respondent, without physically examining W.M., presented W.M. with two written prescriptions, one for forty dosage units of Percocet and one for thirty dosage units of Xanax.

3. Percocet (oxycodone hydrochloride) is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to those of morphine and classified as a Schedule II controlled dangerous substance under state and federal law, 21 C.F.R., Section 1308; LSA-R.S. 40:964. Xanax (alprazolam) is a benzodiazepine indicated for the management of anxiety and related disorders. Xanax is classified as a Schedule IV controlled dangerous substance under state and federal law, 21 C.F.R., Section 1308; LSA-R.S. 40:964.

4. At the request of W.M. Respondent wrote a prescription for the DIU agent. The prescription provided for thirty dosage units of Darvocet (propoxyphene napsylate). Darvocet is classified as a Schedule IV controlled dangerous substance under state and federal law, 21 C.F.R. Section 1308; LSA-R.S. 40:964. At no time did Respondent physically examine the DIU agent nor did he make inquiries about his health.

5. On November 12, 1986, the DIU agent, again employing the name Rick Wilson, by telephone advised Respondent he was enroute to Respondent's office to bring Respondent a box containing fifty pounds of shrimp. Respondent inquired about the shrimp and upon being assured that the shrimp were of the same quality as before, asked the DIU agent what drug he wanted prescribed. Respondent refused to prescribe Percocet but promised something similar. Upon delivery of the shrimp, Respondent presented to the DIU agent written prescriptions for thirty dosage units of Phenaphen No. 4 and thirty dosage units of Serax. At no time did Respondent direct inquiries about the DIU agent's health, nor did he physically examine him, or make out a medical chart on him. Phenaphen No. 4 (codeine phosphate 60 mg) is a narcotic analgesic and is classified as a Schedule III controlled dangerous substance under state and

federal law, 21 C.F.R. Section 1308; LSA-R.S. 40:964. Serax (ozazepam) is a tranquilizing agent indicated for anxiety and related disorders and is classified as a schedule IV controlled dangerous substance under state and federal law, 21 C.F.R. 1308, LSA-R.S. 40:964.

6. The DIU agent advised Respondent that W.M., who had accompanied the DIU agent on his previous visit to Respondent's office but was not present on this occasion, also wanted prescriptions. Respondent then presented the DIU agent with two prescriptions, one for thirty dosage units of Percocet and the other for thirty dosage units of Xanax.

7. Subsequent to the events set out above, Respondent entered into a plea bargain with federal authorities which, if Respondent meets the conditions imposed in the consent arrangement will result in a dismissal of the federal charges brought against him.

CONCLUSIONS OF LAW

Based on the evidence, the testimony and the documents admitted into evidence, the Board concludes as a matter of law that:

1. Respondent prescribed legally controlled substances to a DIU agent and W.M., a confidential informant, without legitimate justification in violation of provisions of the Louisiana Medical Practice Act, LSA-R.S. 37:1285(6), which prohibits "prescribing, dispensing, or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner."

2. The Board states in mitigation that it is deeply impressed by the civic leadership and work Respondent has provided in his community and further recognizes his importance as the only physician available in his community.

DECISION

Considering the foregoing:

IT IS ORDERED that:

1. Respondent's license to practice medicine in the State of Louisiana as evidenced by Certificate No. 008947 is suspended for a period of six months from the date of this decision.
2. The suspension of Respondent's license is itself suspended, conditioned on Respondent's fulfilling the conditions of his probation as hereinafter set forth.
3. Respondent is placed on three years probation and is ordered to pay a fine to the Board of Three Thousand (\$3,000.00) Dollars prior to the termination of the probationary period.
4. Respondent as a condition of his probation shall within six months from the date of this decision attend a course or seminar in pain control offered by a state medical board of examiners. The course or seminar must be approved and designated by the Board. Respondent shall provide the Board with a written report of what he learned at the course or seminar.
5. Respondent as a condition of his probation shall not during the remainder of his life prescribe, dispense or administer any controlled substance classified as Schedule II controlled dangerous substance as defined in LSA-R.S. 40:964 and 21 C.F.R., Section 1308, or any other controlled dangerous substances which may hereafter be classified as Schedule II substances by either state or federal law. Respondent may order Schedule II drugs for a hospitalized patient using the hospital DEA number.
6. Respondent as a condition of his probation shall make a personal appearance before the Board, to be scheduled by the Board at Respondent's request prior to the termination of the probation period.
7. Respondent as a condition of his probation shall fulfill all the conditions imposed on him in his consent decree with the federal authorities.

Shreveport, Louisiana, this
16 day of November, 1989.

LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS

Ike Muslow
Ike Muslow, M.D., Chairman