

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



830 Union Street, Suite 100
Telephone: (504) 524-6763
New Orleans, LA 70112-1499

-----X

In The Matter Of	:	No. 88-A-018
TERRENCE EDWIN BURWELL, M.D.	:	
(Certificate No. 15928),	:	FINAL DECISION
Respondent	:	_____
	:	

-----X

An evidentiary hearing was convened before the Louisiana State Board of Medical Examiners (Board) to adjudicate alleged, specific violations of the Louisiana Medical Practice Act, LSA-R.S. 37:1261-91, by Terrence Edwin Burwell, M.D. (Dr. Burwell), to wit: "[p]rescribing, dispensing, or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner," LSA-R.S. 37:1285(6); "[c]ontinuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state," LSA-R.S. 37:1285(14); and [c]onviction of a crime or entry of a plea of guilty or *nolo contendere* to a criminal charge," LSA-R.S. 38:1285(1). Dr. Burwell was present and was represented by legal counsel, Mr. George Guidry.

A quorum of the Board was present to consider the evidence presented, and consisted of Drs. Bordelon, Mulsow and Kaplan.

Upon consideration of the evidence presented and representations of Dr. Burwell's legal counsel, pursuant to LSA-R.S. 49:958 and LSA-R.s. 37:1285, the Board renders the following Findings of Fact, Conclusions of Law and Decision.

Findings of Fact

1. Respondent, Terrence E. Burwell, M.D., is, and at all times material to the facts and matters alleged herein, was a medical doctor duly licensed by the Board to practice as a medical doctor in the State of Louisiana pursuant to the Louisiana Medical Practice Act, LSA - R.S. 37:1261-92, as evidenced by Certificate No. 15928.

2. At all times pertinent hereto, Respondent was engaged in the active practice of medicine in the Parish of Orleans, State of Louisiana.

3. On April 8, 1987, an individual representing himself to be Mr. "John Doe"¹ presented himself to the office of Respondent located at 8470 Morrison Road, New Orleans, Louisiana, reporting to have a cold. Upon speaking with Respondent, Mr. Doe stated that he wanted a prescription for Percodan (brand of oxycodone hydrochloride), and gave Respondent \$60.00 in cash. Respondent thereafter gave Mr. Doe a prescription for 30 Percodan tablets. Mr. Doe also asked Respondent to write a prescription for Darvocet (brand of propoxyphene napsylate) or Vicodin (brand of hydrocodone bitartrate) for his wife, Jane², in her name, handing Respondent an additional \$10.00. Respondent gave Mr. Doe a prescription for 40 Darvocet tablets in the name of Jane Doe. Jane Doe was not present at the time this prescription, written in her name, was issued.

4. On April 23, 1987, Mr. Doe visited the residence of Respondent located on West Tamaron Street in New Orleans, Louisiana, seeking a prescription for Percodan. After some negotiations, Respondent agreed to, and did write a prescription for Doe for 60 Darvon-N (brand of propoxyphene napsylate), in exchange for a cash payment of \$50.00.

5. On April 27, 1987, Mr. Doe again visited the office of Respondent at 8470 Morrison Road and offered Respondent \$63.00 for a prescription for Percodan. Respondent refused, stating that Mr. Doe was supposed to bring \$100.00. Later that day, Mr. Doe called Respondent's office and told the receptionist that he now had \$100.00 and wanted a prescription for Percodan. The receptionist left the phone momentarily and returned stating that Dr. Burwell agreed to write the prescription. Mr. Doe returned to Dr. Burwell's office and gave the receptionist \$100.00. The receptionist handed Mr. Doe a prescription, signed by Respondent, for 30 Percodan tablets. Respondent did not see or examine Mr. Doe at any time prior to the issuance of this prescription.

6. On May 5, 1987, Mr. Doe again returned to Respondent's office at 8470 Morrison Road, requesting a prescription for Percodan. Respondent stated that he did not want to write a prescription for Percodan, but would write one for Percocet (brand of oxycodone hydrochloride). Mr. Doe gave Dr. Burwell \$100.00 in cash and he was given a prescription for 30 Percocet tablets. Thereafter, Mr. Doe asked Dr. Burwell for a prescription for Darvocet for his wife Jane, who was not present at the time. Respondent agreed and provided Mr. Doe with a prescription for 40 Darvocet tablets for Jane Doe. After further conversation, Respondent wrote a prescription for Indel Expectorant for cold symptoms, stating that Mr. Doe could throw this prescription away if he so desired. During this meeting, Mr. Doe stated that he was getting the money for the prescriptions from his friend, Tommy, and that he wanted Tommy to see Respondent. Respondent agreed to see him if Tommy was "cool".

7. On May 21, 1987, Mr. Doe visited the office of Respondent at 1522 St. Bernard Avenue and told Respondent that he wanted a prescription for Percodan, giving Dr. Burwell \$100.00. After accepting the \$100.00, Respondent wrote a prescription to Mr. Doe for 30 Percodan tablets. Mr. Doe then told Respondent that his friend "Tommy" was in the car and had

¹ "John Doe" is a pseudonym for a confidential informant cooperating with the Louisiana State Police, Diversion Investigative Unit during the time period described.

² "Jane" is a pseudonym for the wife of John Doe.

\$100.00 for a prescription for Percodan. Respondent agreed to see Tommy. Shortly thereafter, Mr. "Thomas Dixon" entered the office of Respondent on St. Bernard Avenue and asked Respondent for a prescription for Percodan. Respondent agreed to write a prescription for Percodan, but said 30 tablets was his limit. Mr. Dixon gave Respondent \$100.00 and Respondent gave him a prescription for 30 Percodan.

8. On May 29, 1987, Mr. Doe again visited the office of Respondent at 1522 St. Bernard Avenue and asked to see Respondent. Mr. Doe did not make any mention of any medical problems to the receptionist. Upon entering his office, Respondent began to write a prescription for 30 Percodan for which Mr. Doe gave Respondent \$100.00. Mr. Doe told Respondent that Tommy was outside with another \$100.00 bill and asked if Respondent would let him come right in so that he would not have to wait. Respondent stated that he would write the prescription out and asked that Mr. Doe go and get the money, stating that it was not necessary for him to see Mr. Dixon. Mr. Doe stated that Mr. Dixon might want to speak to Respondent.

9. Mr. Doe went outside the office and told Mr. Dixon to go in and see Respondent. After a brief wait, Mr. Dixon entered Respondent's office and requested a prescription for Percodan. Respondent made out a prescription for 30 Percodan tablets in the name of Thomas Dixon and Mr. Dixon handed Dr. Burwell a \$100.00 bill. Mr. Dixon noted that another prescription in the name of Thomas Dixon for 30 Percodan tablets was sitting on Dr. Burwell's desk. Mr. Dixon inquired if that prescription was for him as well, but Respondent stated that it was not unless he wanted to pay for it also.

10. On June 4, 1987, Mr. Dixon entered Respondent's office at 8470 Morrison Road and advised Respondent that he wanted a prescription of Percodan for himself and a prescription of Percodan for Mr. Doe. Respondent stated that it was not necessary for him to see Mr. Doe and wrote two prescriptions for Percodan, one for John Doe and one for Thomas Dixon. Respondent handed Mr. Dixon the two prescriptions and Mr. Dixon handed Respondent two \$100.00 bills, \$100.00 for each prescription. No physical examination or consultation with the patient occurred at this visit.

11. On June 10, 1987, Mr. Dixon again visited the office of Respondent at 8470 Morrison Road. Upon entering the office, Mr. Dixon was advised by the receptionist that he needed to fill out a personal information card and took Mr. Dixon's blood pressure and obtained his weight. Shortly thereafter, Mr. Dixon was taken to Respondent's private office and requested a prescription for Dilaudid (brand of hydromorphone hydrochloride) for himself and a prescription for Percocet for Mr. Doe. After negotiations, Respondent wrote out two prescriptions, one to Thomas Dixon for 12 Dilaudid tablets and one to John Doe for 15 Percocet tablets. Respondent gave these prescriptions to Mr. Dixon and Mr. Dixon gave Respondent \$280.00, and asked for \$5.00 in change.

12. On July 24, 1987, Mr. Dixon again entered the office of Respondent at 8470 Morrison Road. Mr. Dixon entered into conversation with the receptionist concerning the reason for his visit, stating that he did not care what she put on the visit card. Thereafter, the receptionist requested that Mr. Dixon step onto the scales to obtain his weight, but after complaints by Mr. Dixon, the receptionist simply wrote 165 pounds on the chart without making any effort to determine Mr. Dixon's actual weight. The receptionist also noted on the chart that Mr. Dixon's temperature was 98.4, although the temperature was not taken. Mr. Dixon was taken to an examination room where his blood pressure was taken by Mrs. Burwell. Respondent passed the examination room to his private office, and Mr. Dixon followed. After discussions, Respondent wrote a prescription for 12 Dilaudid tablets to Thomas Dixon and 15 Percodan tablets for John Doe.

and handed the prescriptions to Mr. Dixon. Mr. Dixon handed Respondent \$275.00 for the prescriptions.

13. During all visits to Respondent's office (and home) it was made clear to Respondent that neither Mr. Doe nor Mr. Dixon had any legitimate medical complaint, but only sought prescriptions for narcotic medications. Further, it was also made clear to Respondent that Mr. Doe and Mr. Dixon intended to sell the medications obtained and to, hopefully, profit from the enterprise.

14. None of the prescriptions written by Respondent were medically indicated for relief of legitimate physical complaints, nor was there ever conducted any valid physical examinations.

15. On July 6, 1988 Dr. Burwell entered a plea of guilty to four counts of violation of 21 U.S.C. §841(a), and on August 24, 1988 was sentenced by the court in the matter of *United States of America vs. Terrence Burwell*, Docket No. 88-91-M in the United States District Court for the Eastern District of Louisiana.

16. In his own defense, Dr. Burwell explained that his issuance of prescriptions in exchange for monetary payments was principally driven by severe personal and financial problems he was experiencing at the time. While such conditions do not, in themselves, exculpate Dr. Burwell from the consequences of his actions, the Board has taken these factors into account in its decision below.

Conclusions of Law

1. By his issuance of prescriptions under circumstances clearly indicating that the controlled substances were being used for illicit purposes, lawful cause exists for the suspension or revocation of Dr. Burwell's license to practice medicine in the state of Louisiana, pursuant to LSA-R.S. 37:1285(6).

2. By his entry of a plea of guilty to a criminal charge there exists lawful cause for the suspension or revocation of Dr. Burwell's license to practice medicine in the state of Louisiana, pursuant to LSA-R.S. 37:1295(2).

Decision

Considering the foregoing, it is ordered that the license of Terrence Edwin Burwell, M.D., to practice medicine in the state of Louisiana, as evidenced by Certificate No. 15928, be and the same is hereby **SUSPENDED**, for a period of three years, said suspension to commence thirty days from the date of issuance of this Final Decision.

IT IS FURTHER ORDERED that the foregoing suspension of license is itself suspended, except for the first six months thereof (commencing thirty days from the date of this Decision and terminating six months hence), providing that Dr. Burwell strictly comply with the following conditions of probation:

1. Dr. Burwell may not prescribe, dispense or administer any controlled substance as defined, enumerated or included in LSA-R.S. 40:963 *et. seq.* and 21 C.F.R. §1308.11-.15, and any substance which may hereafter be included in such

schedules by amendment or revision of the cited regulations or statutes. Furthermore, Dr. Burwell shall, within thirty days of the date of this decision, surrender any and all permits issued by federal or state authorities allowing him the privilege of prescribing controlled substances, and shall not, for the remainder of his medical career, seek reissuance of said permits.

2. Dr. Burwell is further prohibited from prescribing, dispensing or administering the drugs Stadol and Soma, irrespective of their inclusion in any controlled substance schedule.
3. At the conclusion of the six month actual licensure suspension period, Dr. Burwell shall be permitted to resume the active practice of medicine, with such practice limited, however, to an institutional setting. Prior to beginning this institutional practice of medicine, however, Dr. Burwell must personally appear before the Board informally. Furthermore, during the fifth month of actual licensure suspension, Dr. Burwell shall cause himself to be submitted for psychiatric examination to Dr. Charles K. Billings, whose evaluation is to be prepared and sent to the Board for its review. This examination and any attendant expenses shall be at Board expense.

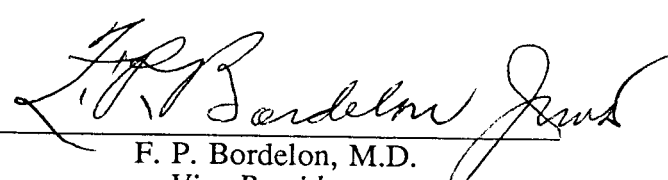
IT IS FURTHER ORDERED that should Dr. Burwell fail to comply with and satisfy the conditions of probation set forth above, the suspension described above will become executory and effective immediately, and will be deemed just cause for revocation of the license to practice medicine held by Dr. Burwell.

IT IS FURTHER ORDERED that any violation of the probationary terms, conditions and restrictions set forth herein shall be deemed just cause for suspension and revocation of the medical licensure of Terrence Edwin Burwell, M.D. or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided for by LSA-R.S. 37:1285.

New Orleans, Louisiana, this 20th day of January, 1989.

LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS

By: _____


F. P. Bordelon, M.D.
Vice-President