

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF :
BRYAN CLARK McCANN, M.D. : NO. 89-A-048
(Certificate No. 11407)
Respondent : **DECISION**

An administrative hearing was convened before the Louisiana State Board of Medical Examiners (the Board) on Friday, July 20, 1990, to adjudicate alleged violations of the Louisiana Medical Practice Act by Bryan Clark McCann, M.D. (the Respondent). Present representing the Board was a quorum of its membership including Drs. LaNasa, Ferdinand, Kaplan, Muslow and Laborde. Also present were the Respondent represented by Mr. J. Michael Small, Attorney at Law; Mr. James J. Thornton, Independent Counsel for the Board; and Mr. Thomas Styron, Attorney for the Board. Dr. Richard M. Nunnally took no part in either the hearing or the decision of the Board.

After consideration of the stipulation of fact submitted and signed by the Respondent and Mr. Small and the sworn testimony and presentation of the Respondent, the Board renders the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. At all times material to the allegations in the original and amended complaints, Respondent was a physician duly licensed by the Board to practice medicine in the State of Louisiana as evidenced by Certificate No. 11407.

2. At all times material to the matters at issue, Respondent maintained an office and practiced medicine in Marksville, Louisiana.

3. On November 14, 1989, a Bill of Information was filed in the 19th Judicial District Court, East Baton Rouge Parish, State of Louisiana in the matter styled State of Louisiana vs. Bryan C. McCann, Docket number 11-89-602, Section II, charging Respondent with one count of attempted theft of funds belonging to the State of Louisiana through the Medicaid program in an amount exceeding \$500.00 between August 1, 1985 and September 1, 1986, and two counts of knowingly rendering false financial statements on July 13, 1986 and July 16, 1986, respectively, all counts in violation of the Louisiana Criminal Code.

4. The Bill of Information involved matters related to Respondent's medical practice.

5. On November 14, 1989, Respondent entered a plea of guilty to a misdemeanor count of attempted felony theft and two misdemeanor counts of false accounting.

6. Respondent's guilty pleas were the result of plea bargains under Section 893 of the Louisiana Code of Criminal Procedure.

7. In essence the criminal infractions stemmed from services to patients by Respondent's Physician Assistant, Ms. Victoria Goux, during periods when Respondent was out of the country. Treatment by Ms. Goux, who was not a licensed physician, was submitted for Medicaid reimbursement as services rendered by Respondent. This misuse of a Physician Assistant is also a violation of the Louisiana Medical Practice. Respondent's Stipulation of Facts designated eighteen incidents, but Respondent, in his sworn testimony, stated that the eighteen incidents did not exhaust the violations. Among the penalties exacted by the Court on Respondent was a prohibition against treating Medicare and Medicaid patients for five years.

8. According to his testimony Respondent was from 1979 to May, 1986, an abuser of alcohol and addictive drugs but voluntarily sought treatment for both in 1986. Respondent states that he has successfully overcome his earlier substance and alcohol problems.

9. The Board is impressed with Respondent's efforts in helping to establish and maintain the Hope Center in Marksville which treats and cares for persons suffering from chemical dependency.

CONCLUSIONS OF LAW

Based on the evidence consisting of the Stipulation of Fact and the testimony of Respondent, the Board concludes as a matter of law:

1. That Respondent's pleas of guilty on November 14, 1989, to one count of attempted felony theft and two counts of false accounting in the case of State of Louisiana v. Bryan C. McCann, No. 11-89-602, Nineteenth Judicial District Court, East Baton Rouge Parish, Louisiana, amount to a violation of the Louisiana Medical Practice Act. LSA-R.S. 37:1285A(2)

2. That Respondent in knowingly assisting and permitting his Physician Assistant, Ms. Victoria Goux, to treat patients while he was away from the town and, in some instances, out of the country, violated the Louisiana Medical Practice Act. LSA-R.S. 37:1285A(18).

DECISION

IT IS ORDERED that Respondent's medical license as

evidenced by Certificate No. 11407 is suspended for three years from September 1, 1990, with the suspension period being itself suspended. Respondent's license shall also be on supervised probation for a five year period beginning September 1, 1990. From September 1, 1990 through August 31, 1991, Respondent shall have a supervised institutional temporary permit subject to the following conditions, restrictions and mandates:

A. For one year from September 1, 1990 through August 31, 1991, Respondent's practice of medicine shall be limited to voluntary work with patients in the Hope Center in Marksville, Louisiana. Under no circumstances shall he treat employees, volunteers or the families of patients. He shall receive no remuneration for his medical work.

B. Within sixty days from his receipt of this decision Respondent shall have entered into a treatment agreement with his local Impaired Physicians Committee and shall carry out the mandates of the treatment agreement.

From September 1, 1990 through August 31, 1995, during the period of his supervised probation, Respondent's license shall be subject to the following additional restrictions, conditions and mandates:

A. Respondent shall not employ or use a Physician Assistant.

B. Respondent shall do the matters and provide the services that will enable him to receive the American Medical Association's Physicians Recognition Award for the next three years.

C. Prior to his resumption of medical practice at the end of his first year suspension, Respondent shall meet with a Board member.

D. At the end of his probation period Respondent shall appear in person before the Board at one of its regularly scheduled meetings.

E. During his probation, Respondent may expect a representative of the Board to visit and check on his compliance with the mandates of this decision. The visits will be at the pleasure of the Board.

F. Respondent shall pay to the Board a fine of \$5,000.00 which shall be due no later than one year from September 1, 1990.

IT IS FURTHER ORDERED that any violation by Respondent of the restrictions and conditions on his license as set forth

herein shall be deemed just cause by the Board for the further suspension or revocation of the medical licensure of Brian Clark McCann, M.D., or for such other disciplinary action as the Board deems appropriate.

Lafayette, Louisiana
2 August, 1990

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BY Wm J Laborde M.D.