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: In The Matter of
: SAMIR A. OSMAN, M.D.
: (Certificate No. 3832R)
: Respondent.
: ----- x

No. 87-A-017

FINAL
DECISION

TO: Samir A. Osman, M.D.
Federal Correctional
Institution
Register No. 19847-034
Darrburg, Connecticut 06810-3099

A formal Administrative Hearing was convened before the Louisiana State Board of Medical Examiners ("Board") on December 11, 1987 to adjudicate alleged, specific violations of the Louisiana Medical Practice Act by Samir A. Osman, M.D., ("Dr. Osman"), to wit: "conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge," La. Rev. Stat., Title 37, Section 1285(1); "prescribing, dispensing, or administering habit-forming or other legally controlled substances in other than a legal or legitimate manner," La. Rev. Stat., Title 37, Section 1285(6); "gross, willful, and continued overcharging for professional services," La. Rev. Stat., Title 37, Section 1285(16); "professional or medical incompetency," La. Rev. Stat., Title 37,

Section 1285(12); "unprofessional conduct," La. Rev. Stat., Title 37, Section 1285(13); and, "continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state," La. Rev. Stat. Title 37, Section 1285(14). A quorum of the Board was present.¹

Upon consideration of the evidence presented, pursuant to La. Rev. Stat., Title 49, Section 958, the Board renders the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

1.

Dr. Osman is a physician duly licensed by the Board to practice medicine in the State of Louisiana as evidenced by Certificate No. 3832R. By virtue of state licensure and federal registration, he has been authorized, as a practitioner, to prescribe, dispense or administer controlled substances. At all times material to the conduct and activities which this administrative proceeding concerns, Dr. Osman was so licensed and authorized.

2.

On July 10, 1987, Dr. Osman was convicted in the United States District Court for the Eastern District of Louisiana on fourteen (14) counts of unlawfully dispensing a Schedule II narcotic drug controlled

¹ The following members of the Louisiana State Board of Medical Examiners were present at the Formal Hearing: Ike Muslow, M.D., Vice-President, who presided over the Formal Hearing, Elmo J. (Footnote Continued)

substance (hydromorphone) in violation of 21 U.S.C. § 841(A)(1) and Title 18, U.S.C. § 2, in proceedings No. 87-077, entitled United States of America v. Samir A. Osman, M.D.

3.

Trooper First Class ("TFC") GB testified that he was the Case Agent for the Louisiana State Police, Diversion Investigative Unit, in connection with Dr. Osman's prescribing practices during the year 1986; that Louisiana State Police Narcotics Agent LG, using an alias of Bonnie Taylor (BT), visited Dr. Osman's office in an undercover capacity on October 15, 1986 and obtained a prescription for thirty (30) Dilaudid, 4 milligrams (Schedule II) for the price of \$670.00. On November 4, 1986, Agent LG, using the alias of BT, once again visited Dr. Osman's Esplanade office and again obtained a prescription for thirty (30) dosage units of Dilaudid, 4 milligrams for \$600.00. The prescriptions were obtained for non-medical reasons.

4.

TFC LG testified that she visited Dr. Osman's office in an undercover capacity on October 15, 1986 under an alias of Bonnie Taylor (BT). TFC LG paid \$650.00, plus an additional \$20.00 for Dr. Osman's assistant, and obtained a prescription from Dr. Osman for thirty (30) tablets of Dilauded, 4 milligrams. TFC LG further testified that she

(Footnote Continued)

Laborde, M.D., Secretary-Treasurer, F. P. Bordelon, Jr., M.D., Anthony J. Hackett, Jr., M.D., and Bernard L. Kaplan, M.D. Dr. Osman was not present and was unrepresented.

was not examined by Dr. Osman and that the prescription was given for no apparent medical reason.

TFC LG testified that on November 4, 1986, using the alias of BT, she did receive one (1) prescription for Dilaudid, 30 dosage units, 4 milligrams, from Dr. Osman for a charge and payment of \$600.00. LG further testified that she was not examined by Dr. Osman and that the prescription was given for no apparent medical reason.

5.

RH, Office Manager and Medical Assistant to Dr. Osman, for the period August, 1985 through March, 1986, testified concerning the following:

A. A number of individuals paid extremely high amounts of money upon visits to Dr. Osman for the purpose of receiving prescriptions of Dilaudid. This activity occurred while she was Office Manager and Medical Assistant to Dr. Osman. Some of these individuals were BT, FP, DR, JS, DP, RML and RD. The prescriptions were paid for and were given for no apparent medical reasons. Eventually, a schedule of charges was employed by Dr. Osman in the approximate amounts as follows:

30 Dilaudid-(4 mg)	-	\$490.00
40 Dilaudid-(4 mg)	-	\$660.00
60 Dilaudid-(4 mg)	-	\$990.00

For less than 10 Dilaudid (4 milligrams), a patient was charged per pill.

B. RH testified that patients would be charged for blood work, however, sometimes the lab tests were not performed on the blood, and, in fact, the blood would be thrown out.

C. RH further testified that entries on the Day Sheet would not be made for patients who were seen after 5:00 p.m.; that no record would be kept of these patients' visits and no record made of the payments received from these patients.

D. RH further testified that Dr. Osman wanted money to purchase a Corvette, therefore he had RH call various patients, some of whose initials are listed above, to come into the office for their prescription of Dilaudid, even though the time had not yet elapsed for their previous prescription to be fully used; that Dr. Osman did receive the desired funds and purchased the Corvette with some of these funds.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes, as a matter of law, that:

1.

Dilaudid (hydromorphone) is and at all times pertinent herein was a Schedule II controlled substance under Louisiana and Federal Law. La. Rev. Stat. § 40:964 (Sch. II A(1)(1)); 21 C.F.R. § 1308:12(b)(1).²

2 .

By being convicted of fourteen (14) counts of unlawfully dispensing a Schedule II narcotic drug controlled substance (hydromorphone) in

² A drug is classified as a Schedule II controlled dangerous substance upon a considered, empirical finding that "[t]he drug or other substance has a high potential for abuse" and "[a]buse of the drug or other substance may lead to severe psychological or physical dependence." The definition is identical under federal and Louisiana law. 21 U.S.C. § 812(b)(2)(A),(C); LA. REV. STAT. ANN. § 40:963(B) (West 1977).

violation of 21 U.S.C. 841(A)(1) and Title 18 U.S.C., Section 2, Dr. Osman has provided just cause for suspension or revocation of his license as provided for in La. Rev. Stat., Title 37:1285(1).

3.

Recognizing the substantial hazards inherent in controlled substances, state and federal law uniformly condition their possession, distribution and use by physicians and other persons who may lawfully handle controlled substances on strict adherence to statutes and regulations governing security, records, and the form of and cause for prescriptions, dispensation and administration. Both bodies of law circumscribe a physician's privilege to make controlled substances available by explicitly requiring that they be prescribed, dispensed or administered only within the usual scope of a physician's professional practice, for a legitimate medical purpose, and only when the physician is acting in good faith in the administration of a bona fide treatment for a physical, mental or bodily ailment.³

4.

Cumulatively, such laws and regulations make it clear that controlled substance state licensure and federal registration do not give blanket license to a physician; he may make controlled drugs available only upon legitimate medical justification. When a physician prescribes, dispenses or administers without medical justification, he can no longer

³ See, e.g., 21 C.F.R. § 1306:04(a); LA. REV. STAT. ANN. § 40:961(30) (West 1977); see also LA. REV. STAT. ANN. § 40:961(13) (West 1977); United States v. Collier, 478 F.2d 268 (5th Cir. 1973).

claim that the treatment is bona fide or that the prescriptions or administration was issued or made in good faith.

5.

Dr. Osman has indiscriminately issued prescriptions for controlled substances without legitimate medical basis or justification and not in the good faith administration of a bona fide treatment for a physical, mental or bodily ailment. In issuing such prescriptions, Dr. Osman was prescribing legally controlled substances in other than a legal or legitimate manner, and, therefore, just cause exists for suspension or revocation of his license as provided for by LSA - R.S. 37:1285(6).⁴


DECISION

Considering the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. § 37:1285;

IT IS ORDERED that Dr. Osman's license, as evidenced by Certificate No. 3832R, be and the same is hereby revoked and cancelled .

New Orleans, Louisiana, this 21 day of January, 1988.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS



IKE MUSLOW, M.D.
Vice-President,
Louisiana State Board of
Medical Examiners

⁴ In light of these conclusions, we find it unnecessary to reach specific conclusions on the other charges.