

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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**IN THE MATTER OF:
FRED LEE REED, JR., M.D.
(CERTIFICATE NO. 020513)**

**DECISION
96-A-006**

This matter was heard before a panel consisting of Elmo J. Laborde, M.D., member of the Louisiana State Board of Medical Examiners ("Board"), and Frederick Stephen Ellis, the Board's Independent Counsel, pursuant to a stipulation entered into by the parties as of May 23, 1996.

Under the terms of that stipulation, a proposed decision is to be rendered and submitted to a quorum of the entire Board for consideration. The Board may accept or reject the recommendation of the panel, and may increase or decrease any of the sanctions recommended.

FINDINGS OF FACT

Fred Lee Reed, Jr., M.D., comes before the Board pursuant to an Administrative Complaint, which charges him with a number of violations of the Medical Practice Act.

First, Fred Lee Reed, Jr., M.D., is charged with failing to advise the Board of an inquiry conducted by East Carroll Parish Hospital during the year 1990, and of the surrender of his privileges at that hospital during 1990, in violation of R.S. 37:1285A(3).

Second, Fred Lee Reed, Jr., M.D., is charged with failing to advise the Board of criminal charges filed against him in East Baton Rouge Parish on May 26, 1994, in violation of R.S. 37:1285A(3).

Third, Fred Lee Reed, Jr., M.D., is charged with engaging in sexual relations with a minor, Tammie P., one of his patients, acts which constitute professional or medical incompetency, in violation of R.S. 37:1285A(12), and unprofessional conduct, in violation of R.S. 37:1285A(13).

Fourth, Fred Lee Reed, Jr., M.D., is charged with failing to maintain adequate purchase and acquisition records, and failing to maintain complete dispensing information with respect to controlled substances, in violation of Sections 6505, 6527, 6529, and 6531 of the Board's dispensing rules.

Fifth, Fred Lee Reed, Jr., M.D., is charged with professional or medical incompetency, and practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state, as evidenced by his clinical judgment, diagnosis, treatment, and testing, which was ordered by him for 13 patients, in violation of R.S. 37:1285A(12) and (14).

Sixth, Fred Lee Reed, Jr., M.D., is charged, in the 13 cases referred to, with prescribing, dispensing, or administering controlled substances, which were, in amount, frequency, duration, and absence of recorded medical indication, in excess of any legitimate medical justification therefor, and in contravention of the known warnings, dangers, and contraindications pertaining to such medications, in violation of R.S. 37:1285A(6).

(Reed, December 1996)

Seventh, Fred Lee Reed, Jr., M.D., is charged, for the reasons set forth in the above paragraph, with professional or medical incompetency and continuing and recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state, in violation of R.S. 37:1285A(12) and (14).

Eighth, Fred Lee Reed, Jr., M.D., is charged with ordering pregnancy tests for a number of his patients which were neither necessary nor medically indicated, evidencing professional or medical incompetency, and continuing and recurring medical practice which fails to satisfy the prevailing and usually accepted standard of medical practice in this state, in violation of R.S. 37:1285A(12) and (14).

Ninth, Fred Lee Reed, Jr., M.D., is charged with conviction of a crime arising out of and in connection with the practice of medicine, in violation of R.S. 37:1285A(1)(2), and (11).

With respect to the first charge, Ms. Ladonna Boone Englerth, Administrator of East Carroll Hospital in Lake Providence, Louisiana, testified that Dr. Reed was on staff there from December 1989, until December 7, 1990. She stated that there were repeated violations of hospital rules and regulations by Dr. Reed, most of which involved medical records. Other problems were not making daily rounds, not signing orders to nursing staff, and other similar violations. She testified that she met with Dr. Reed on several occasions without effect, other than to make him angry. The hospital board wrote Dr. Reed one letter, and, eventually, had a letter written to him by the hospital's attorney, which listed the rules and regulations which Dr. Reed was alleged to have violated. The letter concludes:

"The Board has asked that I notify you that the rules and regulations must be completed with, and if you fail to do so, you may be suspended from the medical staff, or not reappointed for the 1991 calendar year."

The letter is dated December 5, 1990. Dr. Reed testified that the envelope was postmarked December 6, 1990, and that he did not receive the letter until after he had written a letter to the hospital, resigning from the staff effective December 7, 1990.

Dr. Reed's application for renewal of his license for 1991 was signed by him on December 13, 1990. In the application, he answered "no" to the question "did you voluntarily relinquish staff membership or clinical privileges in a hospital or other institution?" He also answered "no" to the question "were you the subject of any type of disciplinary action or inquiry by any licensing authority, institution, society, etc.?"

Dr. Reed testified that the application was filled out by someone other than himself, and that he signed it without reading it. He admits that it is his responsibility to fill out the application properly, and that he is responsible for the contents thereof.

Regardless of the merits of the dispute between Dr. Reed and the hospital, it is clear that, at the time the application was filled out, Dr. Reed was aware that his practices had been under scrutiny by the hospital, and that he had voluntarily resigned from the staff.

We cannot overemphasize the importance placed by this Board on the necessity of answering truthfully all inquiries on the renewal application form. The physician who delegates this responsibility to others must answer for their errors. Had the Board been fully apprised of this situation in 1990, it is likely that Dr. Reed would not now be before us in this matter.

The evidence offered in support of the second charge consists of an indictment found by the East Baton Rouge Parish Grand Jury, charging Dr. Reed with 24 counts of Medicaid Fraud and one count of Felony Theft. The indictment was filed on May 26, 1994. On December 2, 1994, Dr. Reed executed his license

renewal application for 1995. In the application, Dr. Reed answered "no" to the question "were you charged with, convicted of, or did you plead guilty to or nolo contendere to, violation of any municipal, county/parish, state or federal statute?"

Once again, Dr. Reed's only explanation is that the application was filled out by his staff, and he did not read it before he signed it. The same remarks made in connection with the first charge against Dr. Reed are equally applicable to this charge.

The third charge against Dr. Reed is that he had sexual relations with one Tammie P., while she was his patient, and while she was 16 years of age. Tammie P., who is now 22 years of age, and married, testified that she began seeing Dr. Reed, as a patient, on May 5, 1990. She said she began having sex with him after her 16th birthday, which was September 9, 1990. At various times she testified that they first had sex in November 1990, February 1991, the summer after she turned 16, and "way before" July 1991. She also testified that he gave her a Norplant after she had had sex with him twice. Tammie P.'s medical records show that the Norplant was implanted on November 5, 1990. She also testified that the relationship continued until early 1992.

Dr. Reed categorically denied ever having a sexual relationship with Tammie.

Tammie further admitted that she was having a sexual relationship with her band director in 1990 and 1991, when in the 10th and 11th grades. She was diagnosed with gonorrhea in June 1990, and, after treatment by Dr. Reed, was found clear of the disease in July 1991. She said that she and Dr. Reed always had protected sex.

Tammie also testified that she had told Felicia Eubanks about her relationship with Dr. Reed. Ms. Eubanks, who worked for Dr. Reed from January 1991, through March 1992, testified that at some point during that time, Tammie P., had told her about the relationship with Dr. Reed, and had asked her advice.

Mrs. Chandra Reed, Dr. Reed's wife, testified that she and Dr. Reed met in November 1991, and married in December 1991. When they were first married, they lived in a bedroom suite in Dr. Reed's office. She also went to work in the office. She testified that she heard Tammie P. telling some of her friends that she was going to "get" Dr. Reed, which she interpreted to mean replace her as Dr. Reed's wife. She also heard Tammie talking to Pearl Carter, an LPN in Dr. Reed's office, crying and asking why Dr. Reed wouldn't give her a chance, and saying that he "wouldn't even pay her any attention".

Shortly, after that, in April 1992, Mrs. Reed wrote to Tammie P. and advised her that Dr. Reed would no longer have her as a patient.

Other evidence, offered as bearing on Tammie's credibility, is to the effect that she contemplated a lawsuit against Dr. Reed, and that her present husband at one time discussed "compensation" with Dr. Reed.

The fourth charged against Dr. Reed is that he failed to maintain proper acquisition and dispensation records as required by Board rules. Ronald J. Hingle, the Board's pharmacist, examined the records maintained by Dr. Reed, including his computer records which were not originally furnished to the Board. He testified that, under the Board's rules, the records maintained should tell the complete story of the acquisition and dispensation of the drugs, as well as a complete inventory thereof. He further testified that Dr. Reed's records failed to comply with the minimum standards. Dr. Reed said that he thought that his records, taken as a whole, were satisfactory, although he admitted certain shortcomings.

From the testimony, and from our own examination of Dr. Reed's records, including the computer printout, we find that the records fail to meet the minimum requirements of our regulations, and that Dr. Reed is therefore guilty of this charge.

The next series of charges relate to Dr. Reed's management of 13 cases. Before us in evidence are Dr. Reed's charts on each patient, a listing of drugs prescribed or dispensed to each patient, the expert testimony of Dr. Brobson Lutz, and the testimony of Dr. Reed and some of his office staff.

By way of background, we note that Dr. Reed graduated from the Louisiana State University Medical Center in Shreveport, Louisiana on June 3, 1989. He began a family practice residency at E.A. Conway Hospital in Monroe, Louisiana, but withdrew from it after only four months because of financial problems. In November 1989, he went to Lake Providence and opened his practice there. He was on staff at East Carroll Parish Hospital and at West Carroll Parish Hospital. He rapidly built a substantial practice.

During the next several years he was divorced from his first wife, by whom he had six children, and married his second wife, whose three children he adopted and by whom he has another child. He testified that, because of his troubles with the hospital, and the law, he has been forced into bankruptcy, and is presently without resources. He has been unable to practice medicine for the past year because he could not pay his overhead or pay for malpractice insurance.

We note that, in most of the 13 cases in question, the testimony of Dr. Lutz is not as extensive as the charges against Dr. Reed. Very often, Dr. Reed's rebuttal of the charges against him was in areas not testified to by Dr. Lutz, and he often did not respond to Dr. Lutz' criticisms of his practice.

With respect to Dianne A., it is alleged that she was treated for a variety of complaints. She was given Xanax and Halcion for a period of 18 months. Dr. Lutz testified that her chart reflected symptoms of depression, and that both Xanax and Halcion are depressants, which potentiate each other, and which are contraindicated for depression. He further testified that both Xanax and Halcion are intended for short term use in most cases. Dr. Reed testified that nine of the prescriptions were phoned in by Pearl Carter, his office nurse, without his knowledge or consent.

The next patient, Wanda B., was diagnosed with degenerative joint disease, diabetes mellitus, hypertension, anxiety/depression, bronchitis, and pharyngitis. She was given, among other drugs, Xanax for a period of 13 months. Dr. Lutz' testified that her mental status examination showed her to be mildly depressed, with appropriate affect. He was of the opinion that she should not have gotten Xanax for more than three or four months. He also testified, again, that Xanax should not be prescribed for depression. Dr. Reed had no comment to make about Dr. Lutz' testimony on this patient, but did note that she was five feet tall and weighed 209 pounds. He talked about the difficulty of diet counseling in the Lake Providence area, which has a poor population used to eating fatty foods. He stated that he did have a "little diet sheet" that he would give patients, but that he did not put it on the chart.

With respect to Elsie Mae D., Dr. Lutz' only criticism was that three weeks after having been treated by another physician for withdrawal from Xanax, she was given Valium, another benzodiazepine, by Dr. Reed, which he continued for eight months. Dr. Reed did not comment on Dr. Lutz' criticism, but did testify that he had worked with a psychologist, who counselled the patient about anxiety and depression.

The complaint alleges that Emma F., was treated for complaints of headaches, degenerative joint disease, rheumatoid arthritis, and sinusitis. The treatment included Oxycodone and/or APAP with Codeine #4 for over a year. Dr. Lutz testified that this dosage, for this period of time, particularly one period when the patient had access to over 11 Lortab per day, was excessive. He also testified that the test results in this patient's chart did not justify a diagnosis of lupus. Dr. Reed testified that he and two other physicians diagnosed this patient with lupus, and that she was suffering from mixed connective tissue disorder, a very painful condition. He gave that as the reason for prescribing controlled substances for pain for that period of time. It is noted that the chart reflects that Dr. Reed counselled this patient for overuse of pain medication.

Betty L., came in for a checkup, complaining of nervousness and sleeplessness, and joint pain. She

was given Xanax and Darvocet-N100. Dr. Lutz testified that there was nothing in her chart to indicate the patient was suffering from anxiety disorder. On March 25, 1991, the patient was complaining of arm, shoulder, right leg, and back pain, with some chest pain, sore throat, cough, shortness of breath, diarrhea, nasal discharge, and dizziness. The diagnosis was anxiety, angina, and sciatica. The diagnosis of anxiety appears nowhere else in her chart. Dr. Lutz testified prescribing benzodiazepines and Halcion for over a year from July 1991, through November 1992, is not called for under those circumstances. Once again, Dr. Reed did not comment on Dr. Lutz' criticisms, but did point out that he was also treating this patient for a back condition, and that his diagnosis in that respect was confirmed by tests.

Gustina R., was a 70 year old patient, with complaints of degenerative joint disease, diabetes mellitus, insulin dependent, congestive heart failure, upper respiratory infection, ankle wound, peptic ulcer disease, and hypertension. The chart shows that she was tested for pregnancy on four different visits to Dr. Reed's office.

The testimony reveals that procedure in Dr. Reed's office calls for a nurse to interview patients, and office protocols call for the administration of certain tests when certain complaints are made. The tests are done and results obtained before the patient is seen by the doctor. Felicia Eubanks, who was in charge of the laboratory, and who did some of the interviewing in Dr. Reed's office, testified that her instructions were to give a pregnancy test to all females who came into the office who were of child-bearing age or older. Dr. Reed testified that his protocol did call for pregnancy testing of all females from 10 years to 50 years of age, who had not had a hysterectomy.

Dr. Lutz testified that the pregnancy tests given to this patient were unjustifiable. Dr. Reed agreed, and said they must have happened because of confusion in his office.

Cornelius T., was an elderly man, born in 1914, who was given Schedule II narcotics by Dr. Reed from June 1991, and November 1992. On November 25, 1992, he was admitted to the hospital with a diagnosis, by Dr. Reed of drug overdose. Dr. Reed felt he had been given too many pain pills. Dr. Lutz testified that elderly people should not be given Schedule II narcotic analgesics long term. Dr. Reed testified that the patient's family was giving him the pain pills out of harmony with the way they were prescribed. The complaint further charges Dr. Reed with having given the patient a prescription for Xanax less than 16 days following his discharge from the hospital. Dr. Reed denied having called in such a prescription and pointed out that there was no office visit on the day the prescription was called in.

Vernetta W., was an employee of Dr. Reed. During the period from January 1990, until January 1994, she was treated for a variety of complaints, which were diagnosed as urinary tract infections, gastritis, syncopal episodes, hypertension, angina, peptic ulcer disease, and pelvic inflammatory disease. She complained of nervousness, sleeplessness, bad nerves, and being depressed, at various times. On four of her visits, a diagnosis of anxiety was made.

She was given Xanax and Halcion from August 2, 1991, through December 13, 1992. Dr. Lutz was of the opinion that there was no medical justification for this course of treatment. Dr. Reed said that Vernetta W., had problems with her relationships and that breakups would be very traumatic for her.

The record further shows that Vernetta W., had had a tubal ligation. On nine occasions during her treatment by Dr. Reed, she was given pregnancy tests. Dr. Lutz was of the opinion that none of these tests were justifiable, particularly at times when the patient had recently had a menstrual period. Dr. Reed testified that he was guarding against a possible tubal pregnancy.

Dolly W., a 68 year old female, was seen on November 24, 1992, with a diagnosis of asthma and upper respiratory infection. A letter written by Dr. Reed that same day states that she is under his treatment for degenerative joint disease, asthma, diabetes mellitus, anxiety, and hypertension. Nowhere in her chart is a diagnosis of anxiety disorder made. She was given Xanax regularly from June 1991, through November

1992. Dr. Lutz testified that there was no legitimate medical justification for this course of treatment. Dr. Reed said that he was sure if he gave this patient Xanax, it was a low dose. The record shows that four of the prescriptions were for 0.5 mg and nine of them were for 1.0 mg.

Dolly W., was given pregnancy tests on three occasions. Dr. Lutz found no medical justification for these tests. Dr. Reed did not disagree, but blamed it on his office staff.

Debra W., was treated for a variety of complaints between June 1990 and January 1994. Her history reveals two back surgeries in 1988, and her chief complaint on June 19, 1990, was that her back hurt. From that time until August 1992, she was given a variety of Schedule II, III, and IV narcotic analgesics for pain. A physician, other than Dr. Reed, found her to be addicted to pain pills in January 1991, but Dr. Reed continued to give her the pain medication until August 1992. Dr. Lutz was of the opinion that a continuation of the medication was contraindicated after the finding of addiction. Dr. Reed testified that the patient needed the medication for pain, that he saw no sign of addiction on her part, and disagrees with the finding of addiction made in January 1991.

The record further shows that Debra W., had a history of a tubal ligation in 1984. Pregnancy tests were given to her on 15 occasions while she was under Dr. Reed's care. Dr. Lutz was of the opinion that none of these tests were justified. Dr. Reed reiterated his opinion that the tests were necessary to eliminate the possibility of a tubal pregnancy.

The next patient, Rosemary D., came to Dr. Reed on May 17, 1993, complaining of being nervous, upset, and having the shakes. She was diagnosed with anxiety, degenerative joint disease, and diabetes. From July 1991, through November 1992, Dr. Reed prescribed Xanax and other benzodiazepines.

The notes of a home health nurse of July 6, 1993, show a secondary diagnosis of depressive disorder. The same is true in a note of August 27, 1993.

Dr. Lutz testified that he was not surprised that the patient was depressed in 1993 considering the length of time she was on Xanax, which can cause depression when given long term. He found the course of treatment to be medically not justified. Dr. Reed said that the treatment afforded this patient was not typical of that given his total patient population.

Bobby H., came in to Dr. Reed's office on December 3, 1991, complaining of pain in her left breast and down her arm. She was given a pregnancy test. On December 14, 1991, she complained of a knot on her left shoulder hurting. She was given a pregnancy test. On February 13, 1992, she appeared for a checkup. She was given a pregnancy test. On February 21, 1992, she complained of burning on urination. She was given a pregnancy test. On March 23, 1992, she had aching in her left shoulder and needed a pain pill. She had had a period 11 days before. She was given a pregnancy test. On July 28, 1992, she came in for a refill of her medications, for stomach pain, and blurred vision. She had had a period 13 days before. She was given a pregnancy test. Dr. Lutz found that the pregnancy test was of no use in any of the diagnoses, and that there was no legitimate medical justification for giving the tests.

Dr. Reed testified that in the Lake Providence area, which is very poor, sexual promiscuity is rampant. He said that he had to know if any female patient was pregnant, because that would affect the tests given and medication prescribed. He said that this patient had a hysterectomy while under his care, and that he gave her no pregnancy tests after that.

The last of these cases is that of Anna S., an 83 year old female, who was given pregnancy tests on five occasions. Dr. Reed agreed with Dr. Lutz that there was no reason to give a pregnancy test to this patient.

With respect to the ninth charge, the Board has before it a minute entry in the case of State of Louisiana v. Fred L. Reed, Jr., showing that the jury in that case found Dr. Reed guilty of seven counts of Medicaid Fraud on September 1, 1995. Although there is no further documentary evidence, we are advised that Dr. Reed has since been sentenced, and is now on probation. We are further advised that the conviction and sentence are now on appeal.

CONCLUSIONS OF LAW

It is entirely clear that Dr. Reed is guilty of the first and second charges against him, which involve misrepresentations on his license renewal applications for 1991 and 1995. It is equally clear that his acquisition and dispensation records did not meet the requirements of the Board's regulations, and that he is guilty of that charge. Dr. Reed's conviction of a crime arising out of the practice of medicine is a matter of record, and he is guilty of the ninth charge against him.

The charge of having sexual relations with a minor patient is particularly serious, since it involves alleged conduct which is not only unethical, but criminal. As noted above, Dr. Reed categorically denies the relationship.

There is substantial evidence, albeit peripheral, to support Tammie P.'s allegations. For instance, she was able to go into great detail on the manner in which the relationship was conducted. She was able to describe the appearance of Dr. Reed's private quarters, to which Dr. Reed denied she had access. During the period when she said the affair was being conducted, Tammie P., confided her concerns about the relationship to Felicia Eubanks, who confirmed the conversation.

On the other hand, the period of time when she said they were having the relationship coincided in part with her affair with her band director. It also coincided with the period during which she was diagnosed with gonorrhea, and before she was pronounced clear in July 1991. It also coincided with the period after November 1991, when Dr. Reed first courted, and then married his second wife. After the marriage, Dr. and Mrs. Reed lived in his office quarters for a while.

It is also in the record that Tammie P., had contemplated suing Dr. Reed about the Norplant he had given her, and that, through her husband, she had sought some "compensation" from Dr. Reed. We also note a variation of some nine or ten months in Tammie P.'s estimates of when the relationship began.

The complainant is required to prove his case by clear and convincing evidence. When the evidence is equally balanced, by that standard, the party with the burden of proof must lose. We find that the complainant has not carried his burden of proof, and that Dr. Reed is not guilty of this charge.

The fifth, sixth, seventh, and eighth charges against Dr. Reed arise out of his treatment of 13 of his patients. The records evidence a pattern of diagnoses not supported by the charts; long term prescriptions of Schedule II, III, and IV drugs which are clearly intended for short term use; prescriptions of drugs which are contraindicated for the condition reflected by the chart; poorly kept records; and administration of unnecessary tests, particularly of pregnancy tests to women beyond childbearing age, or who were otherwise unable to have children. Dr. Lutz, on cross-examination, testified that this series of charts contained some of the worse medicine he had ever seen. It may be that many of Dr. Reed's transgressions are the result of his inadequate training, but that can be no excuse. We find Dr. Reed guilty of the fifth, sixth, seventh, and eighth charges against him.

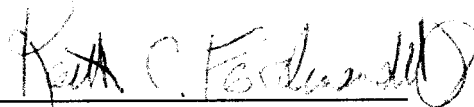
DECISION

It is the opinion of the Board that Dr. Reed has evidenced a lack of character and morals, as well as a marked deficiency in his professional skills, and a disregard for the basic ethical tenets of our profession.

It is, therefore, our decision that the license of Fred Lee Reed, Jr., M.D., to practice medicine in the state of Louisiana, as evidenced by Certificate No. 020513, is hereby revoked and cancelled.

New Orleans, Louisiana this 18 day of December, 1996.

**LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS**

A handwritten signature in dark ink, appearing to read "Keith C. Ferdinand", is written over a horizontal line.

Keith C. Ferdinand, M.D.
President