

**BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

<p>-----</p> <p style="text-align:center">In The Matter of:</p> <p style="text-align:center">CURT H. SMITH, M.D. (Certificate No. 03473R)</p> <p style="text-align:center">Respondent</p> <p>-----</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p style="text-align:center">NO. 92-I-027-X</p> <p style="text-align:center">CONSENT ORDER</p>
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The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners ("Board"), following receipt of information indicating that Curt H. Smith, M.D. ("Dr. Smith") had been the subject of a restriction on clinical privileges at the St. Francis Cabrini Hospital in Alexandria, Louisiana, whereby he was prohibited for a period of six months from performing any medical procedures requiring the use of cardiopulmonary bypass equipment.¹ Additionally, investigation indicated that on April 1, 1992, Dr. Smith had purchased 200 dosage units of Fastin and 200 dosage units of Phentermine directly from a pharmaceutical distributor.²

Subsequently, a mortality study was undertaken by the Rapides Regional Medical Center, between April 1 and September 30, 1992, premised on the action taken by the Cabrini staff. Subsequently, the Board's investigator was advised that the mortality studies were considered satisfactory.

In submitting his annual Application for Renewal of Louisiana Licensure, Dr. Smith filled out a questionnaire, in which he did not mention the restriction on privileges enforced by St. Francis Cabrini Hospital, although he was specifically

¹ The restriction was reported to the Board via the National Health Care Practitioner Data Bank, in an adverse action report submitted by the hospital administrator dated March 20, 1991.

² Fastin and Phentermine are anorectic drugs designated as Schedule II controlled substances under state law, due to their high potential for abuse. The medications are indicated in the short term management of obesity. They are principally abused for their stimulant effect. See *Physician's Desk Reference* 1993 (47th Edition, "Fastin," at 2305).

asked: "Were you the subject of disciplinary action or inquiry by a hospital or medical staff?"³

Based on the foregoing, this matter was formally docketed for investigation and assigned to the Board's Director of Investigation, John B. Bobear, M.D., for review and analysis. Dr. Bobear concluded that sufficient evidence existed for recommending that a formal administrative complaint be filed against Dr. Smith pursuant to the Louisiana Medical Practice Act, LSA-R.S. 37:1261 *et seq.*, charging Dr. Smith with "fraud, deceit or perjury in obtaining any diploma, license, or permit pertaining to this part, LSA-R.S. 37:1285A(3), and, by virtue of the unexplained purchase of amphetamine-like drugs, with violation of LSA-R.S. 37:1285A(6), "prescribing, dispensing, or administering legally controlled substances . . ., in other than a legal or legitimate manner."

As a prelude to any formal charges, however, and in compliance with the Louisiana Administrative Procedure Act, LSA-R.S. 49:961(C), Dr. Bobear met informally with Dr. Smith to provide Dr. Smith the opportunity to demonstrate compliance with all lawful requirements for retaining his medical license. During the meeting, which occurred on October 23, 1992, Dr. Smith explained that he had no intention of deceiving the Board in filling out his licensure application. During the meeting, however, Dr. Smith admitted attempting to treat himself for depression using the anorectic drugs purchased from the pharmaceutical company, although he indicated that he only took a few pills before determining that the medications were not helping, whereupon he destroyed the remainder. Furthermore, Dr. Smith indicated that he was retiring from the active practice of medicine at this time, moving to Florida to pursue other interests.

By his subscription hereto, Dr. Smith also hereby acknowledges that the foregoing, if proven at a formal administrative evidentiary hearing, could form the basis for disciplinary action pursuant to the Louisiana Medical Practice Act. Recognizing his right to have any allegation or charge asserted in a formal administrative complaint, pursuant to LSA-R.S. 49:955-58, and to a subsequent adjudication and final decision rendered upon written findings of fact and conclusions of law, Dr. Smith, nonetheless, hereby waives his right to formal charges and formal adjudication and, pursuant to LSA-R.S. 49:955D, consents to entry of the order set forth hereinafter.

By his subscription hereto, Dr. Smith also hereby authorizes the Investigating Officer designated by the Board with respect hereto, together with legal counsel, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation, without prejudice to any subsequent formal proceedings which may go forward in the event that this Consent Order is not accepted by the Board in its present form.

³ Dr. Smith maintains that he had no intent to deceive, but simply did not believe the Cabrini action was "disciplinary" in nature, such that there was no obligation to report the action.

Based upon the information provided, accordingly, and on the recommendation of the Investigating Officer, and with particular reference to Dr. Smith's relocation and retirement from the active practice of medicine, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state, pursuant to LSA-R.S. 37:1261, will be effectively served by entry of the order set forth hereinafter, by consent.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by LSA-R.S. 37:1285 and LSA-R.S. 49:955D;

IT IS ORDERED that the license of Curt H. H. Smith, M.D., to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 03473R, shall remain unrestricted, conditioned upon Dr. Smith's agreement herein as follows, satisfaction of which shall be accomplished by Dr. Smith prior to returning to the active practice of medicine in this state:

- a) ***Psychiatric Evaluation:*** Dr. Smith shall submit to an evaluation by a psychiatrist acceptable to the Board,⁴ who shall certify to the Board that Dr. Smith is then capable of practicing medicine with reasonable skill and safety to patients;
- b) ***Informal appearance:*** Dr. Smith shall contact the Board no less than sixty (60) days prior to his intended return to Louisiana for the purpose of re-entering the active practice of medicine, scheduling an informal appearance before the Board,⁵ for the purpose of discussing his then-current practice plans and intentions, reviewing the psychiatric evaluation ordered hereniabove, and discussing plans for follow-up psychiatric care, if any.
- c) ***Relocation to Louisiana:*** Before returning to Louisiana for the purpose of actively practicing medicine, Dr. Smith shall take and pass the SPEX examination administered by the Federation of State Medical Boards, or any successor examination which may be adopted.

IT IS FURTHER ORDERED that regardless of whether or not Dr. Smith intends to return to Louisiana for the purpose of returning to the active practice of medicine, Dr. Smith shall, in any event, advise the Board of any change of address, mailing or office, within thirty (30) days of such occurrence;

⁴ Advance written notice to the Board of the identity of the evaluating psychiatrist, together with subsequent written approval by the Board is required.

⁵ In its sole discretion, the Board may designate the Impaired Physician's Committee of Louisiana State Board of Medical Examiners as its agent for the purpose of conducting this informal meeting.

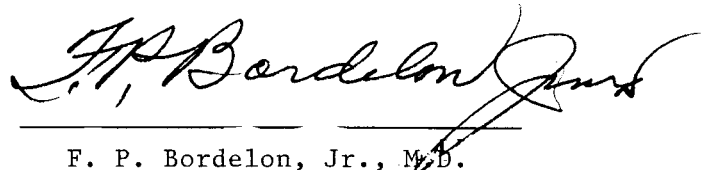
IT IS FURTHER ORDERED that in the event Dr. Smith seeks licensure by reciprocity with any state of the United States prior to any return to Louisiana for the purpose of actively practicing medicine, Dr. Smith shall voluntarily disclose to the licensing authority of such state, the agreement reached herein.

IT IS FURTHER ORDERED that this Consent Order shall be, and shall be deemed to be, a public record.

New Orleans, Louisiana, this 26 day of May 1993.

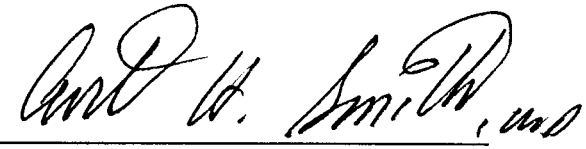
LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

BY:


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

ACKNOWLEDGMENT AND CONSENT

I, CURT H. SMITH, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 15th day of April 1993, 1993.


CURT H. SMITH, M.D.