

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS



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New Orleans, LA 70112-1499

In The Matter Of

No. 92-A-002

JAMES DUMONT SMITH, M.D.
(CERTIFICATE NO. 03605R)

DECISION

Respondent.

This matter comes before the Louisiana State Board of Medical Examiners ("Board") on an Administrative Complaint charging that James Dumont Smith, M.D. had issued an excessive number of prescriptions for controlled substances to a single patient, E.B. The hearing was convened before the Board on Friday, May 22, 1992. Present representing the Board was a quorum of its membership including Drs. Ike Muslow, Bernard L. Kaplan, Keith C. Ferdinand, F.P. Bordelon, Jr., Richard M. Nunnally and Elmo J. Laborde, with Dr. Laborde presiding. Also present were Judge Frederick S. Ellis, Independent Counsel for the Board; and Mr. Philip O. Bergeron, Attorney at Law, representing the Complainant. Dr. Smith was also present along with his attorney, Donald S. Zuber.

FINDINGS OF FACTS

The evidence in the case consisted of a printout from one pharmacy showing a large number of prescriptions filled for E.B. between May, 1990, and February, 1991, totalling 78 prescriptions for 7400 dosage units of Dilaudid, Demerol, APAP with codeine, Tuinal Caps, and Diazepam. Only 22 of the original prescriptions were available, because of a fire which destroyed the pharmacy.

Dr. Smith denied writing all of the prescriptions for E.B. attributed to him. He did, however, admit to the 22 original prescriptions, and stated that he had kept no records of his treatment of E.B. because he was a personal friend for whom he performed these services without charge. He prescribed the medication for E.B. in order to spare E.B. going to the V.A. Hospital in New Orleans to get medication, and had not performed any physical examination of E.B. Dr. Smith testified that he had talked to the treating physician at the V.A. Hospital, and was aware of the condition for which E.B. was being treated.

(Smith; June, 1992)

CONCLUSIONS OF LAW

The Board finds that there is not sufficient proof in the record to sustain a finding that Dr. Smith prescribed all of the drugs set forth on the printout. However, in view of Dr. Smith's admission, the Board finds that he did write the original prescriptions which were placed in evidence.

These prescriptions alone are sufficient to justify a finding that Dr. Smith prescribed controlled substances in excess of any legitimate medical justification and the Board find Dr. Smith to be guilty of that violation.

The Board finds Dr. Smith to be not guilty of professional and medical incompetence and recurring medical practice which fails to satisfy the usually accepted standards of medical practice in Louisiana.

The Board further finds that, beyond the one case, there is no evidence of incompetence in the record, and, to the contrary, that Dr. Smith enjoys an outstanding reputation among his colleagues.

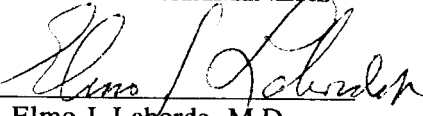
DECISION

Accordingly, the Boards finds that an official reprimand constitutes an adequate sanction under the circumstances of this case.

Lafayette, Louisiana, this 25th day of June, 1992.

**LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS**

By



Elmo J. Laborde, M.D.

President