

H-2814

IN THE MATTER OF)(
THE LICENSE OF)(
ROBERT HOMAN STOWE, M.D.)(
BEFORE THE
TEXAS STATE BOARD
OF MEDICAL EXAMINERS

ORDER

On the 26th day of August, 1994, came on to be heard before representatives of the Texas State Board of Medical Examiners ("the Board"), the petition of Robert Homan Stowe, M.D., ("Petitioner") requesting modification of a Board Order entered on April 15, 1994 and pertaining to Petitioner's Texas medical license H-2814.

Petitioner appeared in person with counsel, Mr. Mike Sharp, before representatives William H. Fleming, III, M.D., and Charles W. Monday, Jr., M.D., both of whom are members of the Board. Information concerning the petition was considered and Petitioner argued for modification of the Order.

Based on information and material presented which indicates that the Petitioner, through no fault of his own, is unable to comply with certain terms and conditions of the Order as drafted, and because of an error in the drafting of the original Order, the Board representatives recommend that the April 15, 1994 Board Order be modified as follows:

1. Finding of Fact number three (3), on page one (1), which states "He first started using drugs in highschool..." should be modified to state "He first started using alcohol in highschool..."
2. Paragraph four (4), on page five (5), which requires Petitioner to participate in the activities of the El Paso County Medical Society Committee on Physician Health and Rehabilitation should be modified to delete the requirement that Petitioner submit or cause to be submitted quarterly compliance reports from the President of Anesthesia Consultants, Associated. As modified, paragraph four (4) will require such reports from Lynn Neill, M.D., and the Physician Health and Rehabilitation Committee.

3. Paragraph seven (7), on page five (5), which requires that Petitioner maintain copies of all patient anesthesia records, and be observed while administering anesthesia or controlled substances, should be modified to delete the following sentence, "Respondent shall be under the observation of a licensed Texas physician or a Registered Nurse while administering or supervising the administration of anesthesia or controlled substances." As modified, paragraph seven (7) will require that Petitioner maintain a notebook containing copies of all patient anesthesia records for patients whom Petitioner has administered anesthesia, and make the hospital's anesthesia controlled substance log available for inspection by Board representatives upon request.

Based on the available information and the recommendation of the Board representatives, the Board ORDERS that the Petition is GRANTED and the Order is hereby MODIFIED as follows:

FINDINGS OF FACT

1. Robert Homan Stowe, M.D., an anesthesiologist, holds Texas medical license H-2814.
2. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.
3. Respondent has had a history of drug use. He first started using alcohol in high school and had an alcohol problem in residency. He has periodically abused alcohol since residency.
4. Respondent admits that on occasions he practiced medicine after using drugs or when he was under the influence of drugs.
5. On or about May 3, 1993, Respondent's hospital privileges at Sierra Medical Center were summarily suspended pending the outcome of drug treatment and rehabilitation. The basis for the suspension was a

positive drug screen taken on or about April 20, 1993. Respondent subsequently resigned from the hospital staff, therefore, no further action was taken regarding his privileges. The positive drug screen resulted from hair testing, which is a commonly-accepted practice for detecting Fentanyl and its analogues in the hair of people who use these drugs in a chronic or repetitive manner. The basis for the screen was that Respondent was unable to account for a 20 cc ampule of Fentanyl signed out to him, which he personally used.

6. Respondent initially entered substance abuse treatment on or about April 21, 1993, at Alliance Hospital, in New Mexico, and was transferred on or about May 9, 1993, to Green Oaks in Dallas under the care of Dr. Edgar Nace and discharged on July 13, 1993. He was then treated on an outpatient basis at Alliance Hospital under the care of Truett L. Maddox, Jr., M.D. from July 21, 1993, to August 11, 1993. Respondent is currently being followed by Dr. Maddox on an outpatient basis with weekly to biweekly visits as well as random urine drug screens which have all been negative.

7. Respondent's sobriety date is April 22, 1993.

8. Since completion of his treatment program, Respondent has been attending AA on a daily basis.

9. Respondent practices anesthesiology with a group consisting of 17 members who are aware of his impairment and treatment.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondent and the subject matter.

2. Respondent's use of narcotics was due to an impairment, which violated Section 3.08(3) of the Medical Practice Act ("the Act"), article 4495b, V.A.C.S.

3. Respondent obtained Fentanyl on or about April 20, 1993, through deception. Such conduct was unprofessional and/or dishonorable and likely to deceive, defraud, or injure the public. Based on such act, Respondent violated Section 3.08(4), of the Act.

4. On occasions, Respondent was unable to practice medicine with reasonable skill and safety to patients due to excessive use of drugs which violates Section 3.08(16) of the Act.

5. Respondent's suspension from Sierra Medical Center was based on unprofessional conduct that was likely to harm the public. The actions by Sierra Medial Center were appropriate and reasonably supported by the evidence submitted to them, therefore, Respondent violated Section 3.08(19) of the Act.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Respondent's license to practice medicine in Texas is suspended for ten (10) years; however, the suspension is stayed and Respondent is placed on probation for ten (10) years effective the date of the signing of this Order by the Board's presiding officer, under the following terms and conditions:

1. Respondent shall abstain from the consumption of alcohol or drugs in any form unless prescribed by another physician to the Respondent for a legitimate and therapeutic purpose. In the event that the Respondent receives alcohol, controlled substances or drugs which may be subject to abuse, from

another physician for the purpose of treating the Respondent, the Respondent shall cause the treating physician to report to the Board in writing within ten (10) days, the medical condition being treated, the substance prescribed, dispensed or administered, the amount of such substance and any refills authorized, or shall have the treating physician provide the Board with a copy of the Respondent's medical record which substantially reflects this information. Respondent shall give the treating physician a copy of this Order and shall ensure that a report to the Board is made by the treating physician or that a copy of the Respondent's medical record is provided by the treating physician to the Board.

2. Respondent shall not treat or otherwise serve as physician, prescribe, dispense or administer controlled substances or any other drugs that may be subject to abuse by Respondent or any member of Respondent's immediate family, except as follows: Respondent may administer to Respondent or to Respondent's immediate family only such drugs as are prescribed by other physicians, and in compliance with the orders and directions of such other physicians.
3. Respondent shall immediately report to the Director of Hearings for the Board by telephone, to be followed by a letter within 24 hours, an explanation of any incident in which Respondent partakes of any type of alcohol or uses any chemical substance, in any manner not prescribed by another physician for a legitimate and therapeutic purpose.
4. Respondent shall participate in the activities of the El Paso County Medical Society Committee on Physician Health and Rehabilitation, including participation in the meetings. Respondent shall request the chairman of the committee to

make written reports of Respondent's attendance and participation in the program to the Board in March, June, September, and December of each year, or more often if so desired by the chairman, until this requirement is terminated in writing by the Board. The chairman shall confer with the Director of Hearings for the Board with regard to Respondent's rehabilitation efforts or failure to participate as directed. Respondent shall submit or cause to be submitted quarterly (March, June, September, and December) compliance reports from the Physician Health and Rehabilitation Committee and Lynn Neill, M.D.

5. Respondent shall limit his medical practice solely to the practice of anesthesiology in hospital and licensed ambulatory surgery settings.
6. Respondent shall not possess, administer, dispense or prescribe any controlled substances, except under conditions as set out in paragraph 7 below. Respondent may order controlled substances to be administered to hospital or surgical center patients for their medical needs.
7. Respondent shall maintain a notebook containing copies of all patient anesthesia records for patients to whom Respondent has administered anesthesia. In preparing such records, Respondent shall write legibly and shall spell out the specific dosages administered and amounts of controlled substances wasted in relation to each patient and shall highlight said information on the copies of records placed in the required notebook. Respondent shall make the required notebook and the anesthesia controlled substance log, as maintained by the hospital, available for inspection by Board representatives upon request.


8. Respondent shall continue to participate in the activities and programs of Alcoholics Anonymous, or any other substantially similar program which has been approved in writing by the Board, on a regular basis of not less than three (3) times a week. Respondent shall make written reports directly to the Board as to the number and location of meetings attended. Reports shall be submitted in March, June, September, and December of each year or at such other times as the Board may request, until such time as the Board terminates this requirement in writing. All reports and requests for program approval should be addressed to the attention of the Director of Hearings for the Board.
9. Respondent shall submit himself for appropriate examinations, including screening for alcohol or drugs either through a urine, blood specimen, or hair analysis, at the request of a representative of the Board, without prior notice, to determine chemically through laboratory analysis that Respondent is free of drugs and alcohol. Respondent shall pay for the costs of these chemical analyses. A positive screen for drugs or alcohol consumed in violation of the terms of this Order, or a refusal to submit to random screenings shall constitute a violation of this Order and may result in further disciplinary action pursuant to Sections 4.01(a) and 3.08 of the Medical Practice Act.
10. Respondent shall continue to receive treatment from Truett L. Maddox, Jr., M.D., El Paso, Texas. Dr. Maddox is hereby authorized to make an initial report to the Director of Hearings for the Board with subsequent quarterly reports or at such other times as the Board may request, until Dr. Maddox releases the Respondent from treatment. If Respondent discontinues treatment before being released, Dr. Maddox is to report Respondent's termination of treatment to the Board

within ten (10) days from the date thereof. The reports should address Respondent's original diagnosis, treatment and prognosis, and subsequent progress or rehabilitation. Respondent shall participate in biological alcohol/drug screens as directed by Dr. Maddox, who shall make these reports available to the Board upon request. Dr. Maddox shall immediately notify the Director of Hearings in the event a drug or alcohol screen test is positive.

11. Respondent shall cause to be performed at least four (4) random drug screens by hair analysis each year by any hospital where he has privileges.
12. Respondent shall appear before the Board or a committee of the Board two (2) times a year during each year of probation to report on Respondent's compliance with this Order and the Medical Practice Act.
13. Respondent shall immediately notify the Board upon the discontinuation of treatment or medical care. Respondent's unilateral withdrawal from treatment or medical care prior to the conclusion of the treatment or medical care may be grounds for further disciplinary action by the Board.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 10 day of Oct 1994, 1994.



John M. Lewis, M.D.
President, Texas State Board of
Medical Examiners