

H-3344

IN THE MATTER OF  
THE LICENSE OF  
ART GLENN SMITH, M.D.

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BEFORE THE  
TEXAS STATE BOARD  
OF MEDICAL EXAMINERS

ORDER

On this the 24 day of October, 1998, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Art Glenn Smith, M.D. ("Respondent"). On September 23, 1998, Respondent appeared in person with counsel, Mark Foster, before representatives of the Board to report on and address issues related to Respondent's compliance with the terms and conditions of an Order entered on November 3, 1995, and pertaining to Respondent's Texas medical license H-3344.

The Board was represented at Respondent's appearance by Ma. Del Consuelo Navar-Clark, a member of the Board, and Rodney M. Wiseman, D.O., a member of District Review Committee # 2. Upon recommendation of the Board's representatives, and with the consent and request of Respondent, the Board makes the following findings of fact and enters this Order as set forth herein:

FINDINGS OF FACT

A. On November 3, 1995, the Board entered an Order, which SUSPENDED Respondent's Texas medical license; however, the suspension was STAYED and Respondent was placed on PROBATION for five (5) years under various terms and conditions, based on the following Findings of Fact.

1. Respondent, Art Glenn Smith, M.D., holds Texas Medical license H-3344.
2. The Board has jurisdiction over the subject matter and Respondent. 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 is not certified by the American Board of Medical Specialties, but is primarily engaged in the practice of psychiatry.
4. Respondent has been licensed to practice medicine in Texas for approximately seven (7) years.
5. On November 9, 1993, a hearing was conducted by the Disciplinary Panel of the board to consider an Application for Temporary Suspension of License relating to Respondent's Texas medical license and based on allegations raising concerns regarding whether Respondent suffered from a mental or emotional condition which would cause an inability to practice medicine with reasonable skill and safety to patients.
6. On November 9, 1993, the Disciplinary Panel of the Board entered a Temporary Suspension Order relating to Respondent's Texas medical license, a copy of which Order is attached hereto as Exhibit "A" and incorporated herein by reference as if set forth fully herein at length.
7. On January 11, 1994, Respondent appeared in person, without counsel, at an Informal Settlement Conference/Show Compliance Proceeding ("ISC") before Board representative Clyde R. Danks, M.D., a District Review committee member, who recommended that all issues be referred to a contested hearing.
8. Subsequent to January 11, 1994, Respondent retained legal representation through attorney Mark Foster.
9. Based on agreement between Respondent's counsel and Board staff, the contested hearing was delayed and Respondent was afforded a second opportunity to appear at an ISC.
10. On September 7, 1994, Respondent appeared at a second ISC before Board representatives Carlos Campos, M.D., and Carol Barger, both of whom were members of the Board, and who recommended that Respondent be allowed to reappear before Board representatives at an ISC following a complete neuropsychological evaluation of Respondent.
11. Respondent was delayed in obtaining the required evaluation because of the need to make arrangements for payment of the associated costs.
12. On March 3, 1995, Respondent underwent evaluation by Robert G. Braun, Ph.D., a licensed psychologist.
13. On June 14, 1995, Dr. Braun issued a written report of evaluation indicating that

Respondent was capable of practicing medicine with reasonable skill and safety to patients and recommending that Respondent should continue in psychotherapy.

14. Respondent reports that he has been under the care of Stephen K. Brannon, M.D., who is certified by the American board of Medical Specialties in psychiatry and neurology, since March, 1994.

15. So as to avoid the expense and inconvenience of litigating the allegations, in lieu of further investigation or a hearing, Respondent agrees to the entry of this Agreed Order, and further agrees to comply with the terms and conditions set forth herein.

16. Respondent has entered into this Agreed Order pursuant to the provisions of Sections 4.02(h) and (I) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b.

B. On January 18, 1997, the Board entered an Order, at the request of Respondent and upon the recommendation of Board representatives, which modified the November 3, 1995 Order, paragraph four (4) on page five (5), to require Respondent to receive psychiatric treatment no less often than once every six (6) weeks, rather than once every month, as previously required.

C. On November 22, 1997, the Board entered an Order, at the request of Respondent and upon the recommendation of Board representatives, which modified the November 3, 1995 Order, by deleting paragraphs one (1), two (2) and three (3) on pages three (3) and four (4), which required Respondent to; abstain from alcohol, controlled substances, and dangerous drugs, to submit to random drugs tests, and to pay for required drug tests.

D. Respondent's treating psychiatrist reports that Respondent is progressing well in his treatment and recommends that the Order be modified to increase the time interval between treatment visits.

E. Respondent's monitoring physician reports that Respondent has "provided excellent quality of psychiatric services to our patients and has assumed a leadership role in our clinical teams" and recommends that the requirement for monitoring be deleted.

F. Based on available information, the Board representatives recommend that Respondent's request for termination of the November 3, 1995 Order be denied. However, based on available information, the Board representatives recommend that the November 3, 1995 Order be modified to:

1. Modify paragraph four (4) on page five (5) to require psychiatric treatment from Stephen K. Brannon, M.D. no less often than quarterly.
2. Delete paragraph ten (10) on page six (6) which requires monitoring of Respondent's medical practice.

### ORDER

Based available information, the above Findings of Fact, and the recommendation of the Board representatives, the Board ORDERS that the November 3, 1995 Order is hereby MODIFIED as follows:

A. Paragraph four (4) on page five (5) is hereby modified as follows:

"4. Respondent shall continue to receive care and treatment from Stephen K. Brandon, M.D., San Antonio, Texas, and shall see this approved physician no less often than quarterly. Respondent shall authorize and request in writing that the approved physician provide written periodic reports no less than quarterly during Respondent's treatment which reflect the status of Respondent's physical and mental condition, as well as Respondent's efforts at cooperation with treatment. Respondent shall authorize and participate in alcohol or drug screens directed by the approved physician and shall authorize in writing the approved physician to immediately provide the positive results of any such screens to Board staff. Respondent shall authorize and request in writing that the approved physician immediately provide such other written or oral reports as Board representatives and staff may request regarding Respondent's care and treatment. Respondent shall follow all recommendations of the approved physician to the extent that the recommendations are consistent with the

terms of this Order as determined by the Board. Respondent shall not unilaterally withdraw from treatment, and shall request and authorize in writing that the approved physician immediately report to the Board any unilateral withdrawal from treatment by Respondent. A copy of this Order shall be provided by Respondent to the approved physician as a reference for evaluation and treatment, and as authorization for the physician to provide to the Board any and all records and reports related to the evaluation and treatment conducted pursuant to this paragraph. Respondent shall execute any and all releases for medical records necessary to effectuate the provisions of this paragraph.”

B. Paragraph ten (10) on page six (6) is hereby deleted.

All other provisions of the November 3, 1995 Order remain in full force and effect until superseded by a subsequent Order of the Board.

THIS IS A PUBLIC RECORD.

Signed and entered on this the 24 day of October, 1998.

A handwritten signature in black ink, appearing to read "William H. Fleming, III", written over a horizontal line.

William H. Fleming, III, M.D.  
President, Texas State Board of  
Medical Examiners