

H-2814

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

AGREED ORDER

On this the 15th day of April, 1994, came on to be heard before the Texas State Board of Medical Examiners ("the Board"), duly in session the matter of the license of Robert Homan Stowe, M.D. ("the Respondent"). On January 27, 1994, Respondent appeared in person with legal counsel, Michael Sharp, at an Informal Settlement Conference in response to the Board's letter of invitation dated December 21, 1993.

The Texas State Board of Medical Examiners was represented at the Informal Settlement Conference on January 27, 1994, by Gilberto Aguirre, M.D. and William A. Pollan, D.O., members of the Board. Upon recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law:

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 drugs 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"), art. 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 for 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 the President or Lynn Neill, M.D. of Anesthesia Consultants, Associated.
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 be under the observation of a licensed Texas physician or a Registered Nurse while administering or supervising the administration of anesthesia or controlled substances. 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.

I, ROBERT HOMAN STOWE, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED BOARD ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED BOARD ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATE: 4-4, 1994

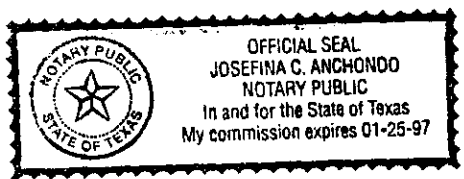


ROBERT HOMAN STOWE, M.D.
RESPONDENT

STATE OF Texas))
))
COUNTY OF El Paso))

BEFORE ME, on this day personally appeared Robert Homan Stowe, M.D., known to me, who, first, being duly sworn, signed the foregoing Agreed Board Order in my presence.

SIGNED on this the 4th day of April, 1994.



Josefina C. Anchondo
Notary Public, in and for
the State of Texas

Notary Seal

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 15th day of April, 1994.

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