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IN AND BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,)
STATE BOARD OF MEDICAL)
EXAMINERS,)

Plaintiff,

vs.)

ROBERT PORTER SMITH, M.D.,)
Medical License No. 11905,)

Defendant

FINAL ORDER

This cause comes on for hearing before the Oklahoma Board of Medical Examiners en banc on September 5, 1986, at 5104 North Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff, and the Defendant, Robert Porter Smith, M.D., appeared neither in person nor by counsel or personal representative.

The Board of Medical Examiners en banc heard the testimony and reviewed the exhibits, and being fully advised in the premises, the Board of Medical Examiners therefore finds as follows:

FINDINGS OF FACT

1. That Robert Porter Smith, M.D., holds Oklahoma Medical License No. 11905.

2. That the Board of Medical Examiners en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That the Plaintiff, State Board of Medical Examiners, filed herein Notice by Publication and Affidavit for Service by Publication and caused Notice by Publication to be published in the July 19, July 26 and August 2, 1986 issues of the Journal Record, 621 North Robinson, Oklahoma City, Oklahoma 73102, a newspaper specifically authorized for publication of legal notices in Oklahoma County, and that the Publisher's Affidavit attesting as to the nature and extent of the publication was made a specific exhibit herein.

4. That on or around September 19, 1985, in Cause No. 85-MLB-0024, the Medical Licensing Board of Indiana made the following Findings of Fact:

"On or about September 16, 1985, the Caylor-Nickel Medical Center, Bluffton, Indiana, notified the Medical Licensing Board of Indiana that Robert Porter Smith, M.D., is in the process of voluntarily seeking

admission to an impaired physicians program in Atlanta, Georgia; and,

Dr. Robert Smith was confronted earlier by the President of the Caylor-Nickel Medical Center with evidence that on two (2) separate occasions Dr. Smith wrote prescriptions for Percodan (oxycodone hydrochloride with aspirin, a schedule II controlled substance) for his patients and subsequently purchased the drug from the patients for his own use."

Following the finding of these facts, the Medical Licensing Board of Indiana found that Respondent represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice medicine in the State of Indiana and therefore summarily suspended his license on an emergency basis.

5. That the Board also gave the Defendant notice that hearing on the merits would be held at 2:00 p.m. on December 12, 1985, for final disposition.

6. That following notice and hearing on December 12, 1985, the Board found the same facts to be true that were set forth above and the Board made the following order:

- "1. The license of Respondent, Robert Porter Smith, M.D., License No. 33458, is hereby revoked.
2. The Respondent shall not have the right to reapply to the Board for a period of seven (7) years from the date of this order."

7. A complete copy of the aforesaid findings dated September 19, 1985, and the Order of December 12, 1985, are attached hereto marked as Exhibits A and B respectively and said exhibits are incorporated herein by reference as if fully set out herein.

CONCLUSION OF LAW

1. That Robert Porter Smith, M.D., holding Oklahoma Medical License No. 11905, and formerly holding State of Indiana Medical License No. 33458, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, §509, Paragraph 16, to-wit:

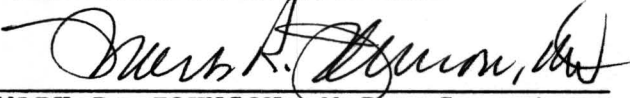
- "16. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition."

ORDER

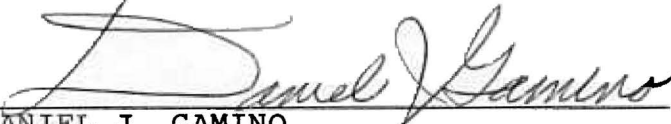
IT IS THEREFORE ORDERED BY THE Board of Medical Examiners of Oklahoma as follows:

1. That Oklahoma Medical License 11905 issued to Robert Porter Smith, M.D., should be and is hereby revoked.
2. That a copy of this Order should be placed in the records of Robert Porter Smith, M.D., maintained at the office of the Oklahoma Board of Medical Examiners.

DATED this 6th day of October, 1986.


MARK R. JOHNSON, M.D., Secretary
State Board of Medical Examiners

APPROVED AS TO FORM:


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