

MAINE STATE BOARD OF LICENSURE IN MEDICINE

IN RE: Licensure Disciplinary Action)
) DECISION AND ORDER
George B. Howell, M.D.)

PROCEDURAL HISTORY

Pursuant to the authority found in 32 M.R.S.A. Sec. 3263, *et seq.*, 5 M.R.S.A. Sec. 9051, *et seq.* and 10 M.R.S.A. Sec. 8001, *et seq.*, the State of Maine Board of Licensure in Medicine (Maine Board) met in public session at the Board's offices located in Augusta, Maine on April 10, 2001. The purpose of the session was to determine whether Dr. Howell violated the Maine Medical Practice Act by engaging in fraud or deceit by failing to disclose action taken against his Michigan license by the Michigan Board of Medicine and whether he engaged in unprofessional conduct based upon disciplinary actions taken in the states of Texas, North Carolina, Michigan and Kansas. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Edward David, M.D., J.D., Harold L. Jones (public member), Kimberly K. Gooch, M.D., Sheridan R. Oldham, M.D., Judy A. Burk, M.D., Bettsanne Holmes (public member), Sandra E. Tuttle (public member) and Ulrich B. Jacobsohn, M.D. Ruth McNiff, Ass't. Attorney General, presented the State's case. Dr. Howell was present and appeared *pro se*. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and first determined with the agreement of the parties that there were no conflicts of interest or bias on behalf of any Board member. The hearing then proceeded forward and State's Exhibits 1-13 were admitted into the Record. Following the opening statements by the parties, the taking of testimony, submission of the exhibits and closing arguments, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the allegations contained in the Notice of Hearing.

FINDINGS OF FACT

George B. Howell, M.D., 65 years of age, was licensed to practice medicine in 1965 and has since performed his duties primarily as an emergency and family practice physician. He served in the military and practiced medicine in Wichita, Kansas until 1973 when he moved to Montana where he served as a physician until 1986. In the latter part of that year, the Respondent returned to Wichita. He received a temporary license to practice medicine in Maine in 1997 and has been permanently licensed to practice in this State since 2000.

A. Texas Decision

At the request of a fellow colleague, Dr. Howell applied for licensure in the State

of Texas in November 1990 which application was denied. Dr. Howell appealed this decision, and a Final Order by the Texas State Board of Medical Examiners (Texas Board) dated August 18, 1995 upheld the denial of Dr. Howell's application for licensure. This Decision was based primarily on four findings of fact. First, that Dr. Howell over prescribed the addictive drug Stadol to a patient who he should have known was an addict and which action exacerbated her addiction. Second, that Dr. Howell failed to hospitalize a patient in a timely manner. Third, that he ordered a nasopharyngeal culture on at least one patient despite the fact that the culture "is worthless as a diagnostic tool and therefore not medically indicated." Fourth, that he "performed breast and pelvic examinations without adequate indication, including school or sports examinations on junior high and high school girls." The above events were found by the Texas Board to have occurred in Montana during 1985-1986.

Dr. Howell testified that the complaint regarding the administration of Stadol resulted in an out of court settlement totaling \$75,000. He denied that he had improperly performed physical exams, particularly on youths, and that his techniques, if anything, were overly thorough. He presented letters of recommendation from colleagues in support of his license.

The Maine Board, during its deliberations on the above facts, found that Dr. Howell's explanations of his actions surrounding the complaints based in Montana were sufficient to forego the imposition of disciplinary actions relating to his Maine license. The Board, by a vote of 4-4, did not accord full faith and credit to the Texas Board's findings and conclusions for primarily five reasons. First, the State of Montana's Medical Board took no action regarding the complaint that it considered (untimely referral to hospital). Second, apparently no action was taken by Montana related to the other complaints that were brought to its attention. Third, the Texas Board relied solely on depositions and records from Montana with no live witnesses being called to testify against Dr. Howell in the Texas proceedings. Fourth, no action was pursued by any parent or minor against Dr. Howell for his alleged conduct in Montana. Fifth, no complaints relating to conduct by Dr. Howell since 1986 similar to those alleged in Montana have come to the Board's attention .

B. Failure to Disclose

The Board also considered the allegations that Dr. Howell failed to disclose to the Maine Board in his application for temporary licensure that its counterpart in Michigan had revoked his license by Order dated July 28, 1999. Additionally, Dr. Howell failed to report to the Michigan Board of Medicine that North Carolina had denied his application to practice medicine in that state by Order dated July 24, 1998 and that Texas had done likewise in its Order dated August 18, 1995. Kansas, by Order dated October 17, 2000, suspended Dr. Howell's license for 90 days, assessed a \$2,000 fine, and prohibited him from performing specified examinations upon any female unless done in the presence of another female. Dr. Howell has never practiced medicine in Texas, North Carolina or Michigan.

The action taken by North Carolina was based on the Texas Decision whereas

Michigan predicated its revocation on both the Texas Decision and the failure of Dr. Howell to report both that Decision and North Carolina's to the Michigan Board. Kansas based its disciplinary action on both the Texas Decision and Dr. Howell's failure to report the adverse decisions of the Texas, North Carolina and Michigan medical Boards to its Board.

The Maine Board found by a vote of 8-0 that Dr. Howell failed to timely report to the Board Michigan's revocation of his medical license. This omission violated the provisions of 32 M.R.S.A. Sec. 3282-A.2.A. which states the following as grounds for disciplinary action by the Board. "The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued."

The Board further found by a vote of 7 to 0 (1 abstention) that Dr. Howell violated the provisions of 32 M.R.S.A. Sec. 3282-A.2.M. by engaging in a pattern of unprofessional conduct based upon his failure to report disciplinary actions taken against his medical license to the states of Michigan and Kansas.

CONCLUSIONS OF LAW

Based on the exhibits and testimony admitted at the Hearing, the Board voted 8-0 to issue a reprimand to Dr. Howell for his violation of 32 M.R.S.A. Sec. 3282-A.2.A. The Board additionally voted 7 -0 (1 abstention) to issue a reprimand to Dr. Howell for his violation of 32 M.R.S.A. Sec. 3282-A.2.M.

SO ORDERED.

Dated: April 23, 2001



Edward David, M.D., J.D. Chairman
State of Maine Board of Licensure in Medicine

Appeal Rights

Pursuant to the provisions of 5 M.R.S.A. Sec. 10051.3 and 10 M.R.S.A. Sec. 8003, any party that appeals this Decision and Order must file a Petition for Review in the Maine District Court within 30 days of receipt of this Order.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine State Board of Licensure in Medicine, all parties to the agency proceedings and the Attorney General.