STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
DEPARTMENT OF HEALTH,
BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

No. C90-144

v.

Caldwell W. Smith, M.D.

CONSENT ORDER

Pursuant to Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended, a complaint was filed with the Board of Medical Licensure and Discipline (hereinafter referred to as "Board") charging Caldwell W. Smith, M.D., Respondent, with violations of Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended. An investigation was conducted by Investigating Committee II, so called, of the Board.

Investigating Committee II reported its evaluations and recommendations to the Board. The report was reviewed by the Board and it recommended further action.

The following constitutes the Investigating Committee's Findings of Fact with respect to the professional performance of the respondent.

Findings of Fact

1. A sixty year old male had successful eye surgery at a Hospital. The patient's hospital record indicated that the patient was allergic to penicillin.

2. The Respondent, who was covering for a colleague, wrote a post-operative order for a penicillin derivative without checking the record for possible allergies. The patient received two doses of the penicillin

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derivative and developed skin rashes from an allergic reaction to the medication. The Respondent then corrected the post-operative order.

3. The Respondent's failure to check the patient's chart for the medication allergy constitutes unprofessional conduct in violation of Rhode Island General Laws 5-37-5.1 (19).

The parties agree as follows:

(1) The Respondent is a physician licensed and doing business under and by virtue of the Laws of the State of Rhode Island, allopathic license No. 5399. Respondent's mailing address is 690 Eddy St., Providence, Rhode Island 02903.

(2) Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

(3) Respondent has read this Consent Order and understands that it is a proposal of Investigating Committee II of the Board and is subject to the final approval of the Board. This Consent Order is not binding on respondent until final ratification by the Board.

(4) Respondent hereby acknowledges and waives:

a. The right to appear personally or by counsel or both before the Board;

b. The right to produce witnesses and evidence in his behalf at a hearing;

c. The right to cross examine witnesses;

d. The right to have subpoenas issued by the Board;

e. The right to further procedural steps except for specifically contained herein;

f. Any and all rights of appeal of this

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Consent Order;

g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;

h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

(5) If the Consent Order is not accepted by the Respondent, the Investigative Committee will recommend to the Board that an Administrative Hearing be scheduled with respect to any and all acts of alleged unprofessional conduct. If the Board approves, a Hearing Committee will be convened for the purpose of conducting the Administrative Hearing. The composition of the Hearing Committee is described by statute. If the Hearing Committee votes in favor of finding the Respondent guilty of unprofessional conduct as specified in the charges, the Board shall prepare written finding of fact and law in support of said conclusion. If the accused is found not guilty, the Board shall, forthwith, issue an order dismissing the charges.

(6) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.

(7) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board. It shall be published as the Board, in its exercise of its discretion, shall determine.

(8) Failure to comply with this Consent Order, when

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signed and accepted, shall subject the Respondent to further disciplinary action.

(9) Respondent voluntarily accepts the Board's finding of unprofessional conduct with a sanction of a reprimand.

Signed this 14 day of Feb. 1992.

Caldwell W. Smith, MD

Caldwell W. Smith, M.D.

Ratified by the Board of Medical Licensure and Discipline at a meeting held on March 11, 1992.

Barbara DeBuono M.D.

Barbara A. DeBuono M.D., M.P.H.
Chairperson
Board of Medical Licensure and Discipline

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