



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Stephen L. Smith, MD
Docket No.: 05-01-A-1038MD
Document: First Amended Statement of Charges

Regarding your request for information about the above-named practitioner, certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

If you have any questions or need additional information regarding the information that was withheld, please contact:

Adjudicative Clerk Office
P.O. Box 47879
Olympia, WA 98504-7879
Phone: (360) 236-4677
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Deputy Secretary, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

FILED
JAN 03 2006
Adjudicative Clerk Office

In the Matter of the License to Practice)
as a Physician and Surgeon of) **Docket No. 05-01-A-1038MD**
)
STEPHEN L. SMITH, MD) FIRST AMENDED
License No. MD00019257) STATEMENT OF CHARGES
Respondent.)

The Program Manager of the Medical Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by evidence contained in program case file number 2004-03-0036MD. Any patients referred to in this Statement of Charges are identified in the attached Confidential Schedule.

Section 1: ALLEGED FACTS

1.1 Stephen L. Smith, MD, Respondent, was issued a license to practice as a physician and surgeon by the state of Washington in June 1981.

1.2 Between November 2002 and January 2003, Patient One, a [REDACTED] year-old female, saw several physicians complaining of seizure-like episodes. Two neurologists conducted extensive workups of Patient One and found no organic cause of her symptoms. Another physician evaluated Patient One, diagnosed mercury, uranium, and titanium toxicity based on hair analysis, and treated her with chelation therapy.

1.3 On January [REDACTED] 2003, Respondent diagnosed Patient One with an inflamed liver and gallbladder as a result of undergoing chelation therapy too rapidly for detoxification of methylmercury and other metals, as diagnosed and prescribed by a previous physician. Accepting the previous diagnosis, Respondent continued the chelation therapy and added Actos and Questran along with numerous supplements.

1.4 On November [REDACTED] 2003, Patient One complained of abdominal pain and fatigue. Respondent diagnosed a probable viral inflammation of the abdomen and began intravenous hydrogen peroxide therapy to Patient One. Respondent noted that Patient One initially had a positive response to the hydrogen peroxide therapy.

ORIGINAL

1.5 On January █ 2004, Patient One's mother brought Patient One to see Respondent complaining that Patient One was losing weight, vomiting on a regular basis, and was unable to keep food down. Patient One was also fatigued, unable to concentrate, and unable to go to school. Respondent noted that a Western Blot test was negative, but a Functional Acuity Contrast test on Patient One was positive. Respondent diagnosed probable Lyme disease.

1.6 On February █ 2004, Patient One presented with complaints of a twenty pound weight loss over the past two week period, fatigue, and muscle pain. Due to difficulties with the delivery of the intravenous hydrogen peroxide and nutritional supplement treatments he prescribed, Respondent referred her to a surgeon for placement of a Mediport.

1.7 On February █ 2004, a surgeon placed a Mediport into Patient One via the right subclavian vein.

1.8 On March █ 2004, Patient One presented to the emergency room complaining of pain at the Mediport site and swelling and numbness in her right arm and fingers. An ultrasound revealed a thrombosis of the subclavian vein. The next day, a surgeon removed the Mediport from Patient One.

1.9 Respondent failed to act as a reasonably prudent physician in his care of Patient One in the following respects:

1.9.1 Respondent concurred with the diagnosis of Patient One as having titanium and uranium toxicity based solely on hair analysis. Hair analysis is not a reliable test for measuring heavy metal toxicity.

1.9.2 Respondent concurred with the diagnosis of Patient One as having methylmercury toxicity without performing appropriate diagnostic tests, such as a blood-to-plasma mercury ration, to evaluate Patient One's methylmercury levels. Instead, Respondent based his diagnosis on a provoked urine test which is not a reliable test for determining methylmercury toxicity, and on the fact that Patient One ate tuna fish on a regular basis.

1.9.3 Based upon Respondent's diagnosis of methylmercury toxicity, he should have sought appropriate consultation for Patient One with a regional poison control center or a medical toxicologist.

1.9.4 On March [REDACTED] 2004, Respondent noted that the methylmercury toxicity issues were still present due to a low homocysteine lab result that may suggest upregulation of glutathione pathway secondary to oxidative stress. Respondent failed to note that any oxidant might be the cause.

1.9.5 Respondent's prescribing of Questran to Patient One was not appropriate. There is no credible evidence that Questran is beneficial for mercury toxicity. Furthermore, Questran has well-known side effects of abdominal discomfort, nausea, and vomiting, problems Patient One was complaining of at the time of treatment. These conditions became so severe, it lead to overall wasting.

1.9.6 Respondent's providing of intravenous hydrogen peroxide therapy to Patient One was not appropriate. There are no credible scientific studies showing that intravenous hydrogen peroxide provides any medical benefit. There is no plausible mechanism by which intravenous hydrogen peroxide would provide any benefit. Therefore, there is no medically accepted use of intravenous hydrogen peroxide.

1.9.7 Respondent's use of a Mediport was inappropriate. The use of a Mediport carries the risks of pneumothorax, vessel perforation with hemorrhage, cardiac perforation with tamponade, air embolism, infection, and thrombosis. The only justification for placement of a Mediport is to deliver total parenteral nutrition for severe weight loss. Instead, Respondent used the Mediport to supply hydrogen peroxide, micronutrients, and transfer factors.

1.9.8 Respondent inappropriately diagnosed probable Lyme disease based on a positive Functional Acuity Contrast test. A positive Functional Acuity Contrast test is not a sufficient basis to diagnose Lyme disease.

Section 2: ALLEGED VIOLATIONS

2.1 The violations alleged in this section constitute grounds for disciplinary action, pursuant to RCW 18.130.180 and the imposition of sanctions under 18.130.160.

2.2 The facts alleged in paragraphs 1.2 through 1.9 constitutes unprofessional conduct in violation of RCW 18.130.180(4) which provide in part:

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not

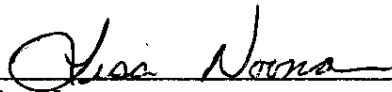
constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed.

Section 3: NOTICE TO RESPONDENT

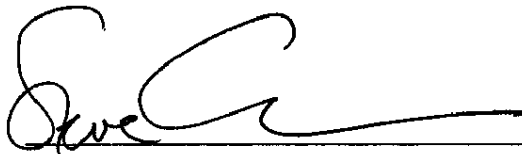
The charges in this document affect the public health, safety and welfare. The Program Manager of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline, pursuant to RCW 18.130.180 and the imposition of sanctions under 18.130.160.

DATED this 3rd day of January, 2006.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION



Lisa Noonan
Program Manager



Stephen H. Carpenter WSBA # 26184
Assistant Attorney General Prosecutor

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS:

Program No. 2004-03-0036MD

AMENDED CONFIDENTIAL SCHEDULE

**STEPHEN L. SMITH, MD
Program No. 2004-03-0036MD
Docket No. 05-01-A-1038MD**

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.17.310(1)(d)

Patient One:

