

Public

STATE OF NEW YORK DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 13-38

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IN THE MATTER  
OF  
CHARLES SMITH, M.D.  
CO-12-10-4844-A

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COMMISSIONER'S  
SUMMARY  
ORDER

TO: Charles Smith, M.D.  
REDACTED

Charles Smith, M.D.  
5624 Ocean Drive  
Corpus Christi, TX 78412-2752

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Texas, Medical Board, has made a finding substantially equivalent to a finding that the practice of medicine by **CHARLES SMITH, M.D.**, Respondent, New York license number 107628, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Order of Temporary Suspension dated July 6, 2012, attached, hereto, as Appendix "A," and made a part, hereof.

It is, therefore:

**ORDERED**, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **CHARLES SMITH, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN VIOLATION OF THIS ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY DEFINED BY NEW YORK EDUCATION LAW §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in Texas.

The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the Texas proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

RESPONDENT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, NEW YORK STATE DEPARTMENT OF HEALTH, RIVERVIEW CENTER, 150 BROADWAY – SUITE 355, ALBANY, NEW YORK 12204-2719, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED OF THE FINAL CONCLUSION OF THE PROCEEDING IMMEDIATELY UPON SUCH CONCLUSION.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATE: Albany, New York  
Feb 20, 2013

**REDACTED**

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NIRAV R. SHAH, M.D., M.P.H.  
Commissioner of Health  
New York State Department of Health

Inquires should be directed to:

Paul Tsui  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

TEXAS MEDICAL LICENSE NO. F-0679

IN THE MATTER OF

BEFORE THE DISCIPLINARY

THE LICENSE OF

PANEL OF THE

CHARLES THOMAS SMITH, M.D.

TEXAS MEDICAL BOARD

ORDER OF TEMPORARY SUSPENSION  
[WITHOUT NOTICE OF HEARING]

On July 6, 2012, came to be heard before the Disciplinary Panel of the Texas Medical Board (the "Board"), Melinda McMichael, M.D., Paulette B. Southard, and Patricia Blackwell, members of the Board (the "Panel") duly in session, the matter of the Application for Temporary Suspension (Without Notice of Hearing) of the license of Charles Thomas Smith, M.D. ("Respondent"). Respondent did not appear in person. Robert Blech represented Board staff. Based on evidence submitted, the Board through this Panel makes the following Findings of Fact and Conclusions of Law and enters this Order of Temporary Suspension:

FINDINGS OF FACT

1. Respondent is a Texas physician and holds Texas Medical License No. F-0679 issued by the Board on February 26, 1978, which was in full force and effect at all times material and relevant to this Order. All jurisdictional requirements have been satisfied.
2. The President of the Board, Irvin E. Zeitler, Jr., D.O, appointed the Panel to sit as a Disciplinary Panel in this matter, pursuant to the Medical Practice Act, TEX. OCC. CODE ANN., Title 3, Subtitle B (the "Act") §164.059(a) and 22 TEX. ADMIN. CODE §187.56.
3. The Panel convened without Notice, pursuant to §164.059(c) of the Act.
4. Respondent currently practices as a cardiologist and internal medicine physician in Corpus Christi, Texas.
5. On June 15, 2012, the Board received information that Respondent might be practicing medicine in an impaired state.

6. Information from a witness, who works as an assessor at a behavior health center, included the statement, "I had an interaction with him [Respondent] on the evening of June 11, 2012, at which time he was very confused and unable to engage in a productive conversation and had little or no insight into his impairment." The interaction referred to above took place as part of an assessment at a behavioral health center where Respondent had been taken by his sister for evaluation.

7. The witness provided additional information that Respondent had been taken into police custody in Hamilton, Texas, when he was found in a confused state at a convenience store.

8. That witness also provided information that Respondent continues to see patients at his office.

9. Lisa James, a Texas Physician Health Program ("PHP") staff member contacted Respondent by telephone, during the week of June 18<sup>th</sup>, to follow up in regard to the impairment concerns, and found that he was incoherent and confused during the call.

10. Following Ms. James' contact with Respondent, Dr. William Nemeth, Medical Director of PHP, attempted several times, without success, to contact Respondent. Dr Nemeth reported that he was not able to leave a voice mail message because Respondent's mailbox was full. Dr. Nemeth subsequently advised the Board that he felt that the matter required "urgent TMB intervention."

11. Based on the above Findings of Fact, the Panel, including two physicians licensed to practice medicine in this state, finds that Respondent is a continuing threat and real danger to the health of a Respondent's patients or to the public from the acts or omissions of Respondent caused through Respondent's lack of competence, impaired status, or failure to care adequately for Respondent's patients.

12. Based on the above Findings of Fact, the Panel finds an imminent peril to the public health, safety, or welfare that requires immediate effect of this Order of Temporary Suspension on the date rendered.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Section 164.059 of the Act authorizes the Disciplinary Panel to temporarily suspend or restrict the medical license of Respondent if the Disciplinary Panel determines from evidence presented to it that the Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

2. Based on the evidence presented and the Findings of Fact set forth herein, the Disciplinary Panel finds that the Respondent violated the Medical Practice Act, specifically: Respondent has committed a prohibited act or practice within the meaning of Section 164.051(a)(4) of the Act of based on Respondent's inability to practice medicine with reasonable skill and safety to patients as a result of any mental or physical condition.

3. Based on the evidence presented and the above Findings of Fact and Conclusions of Law, the Panel determines that Respondent's continuation in the practice of medicine would constitute a continuing threat to the public welfare.

#### ORDER

Based on the above Findings of Fact and Conclusions of Law, the Panel ORDERS that:

1. Respondent's Texas medical license F-0679 is hereby TEMPORARILY SUSPENDED.

2. This Order of Temporary Suspension (without Notice of Hearing) is final and effective on the date rendered.

3. Notice of this Order of Temporary Suspension (without Notice of Hearing) shall be given immediately to Respondent

4. A hearing on the Application for Temporary Suspension (with Notice of Hearing) is hereby scheduled before a Disciplinary Panel of the Board to be held as soon as practicable with 10 days notice to Respondent, at the offices of the Board, unless such hearing is specifically waived by Respondent.

5. This Order of Temporary Suspension (without Notice of Hearing) shall remain in effect until such time as a hearing on the Application for Temporary Suspension (with Notice of Hearing) is conducted and a Disciplinary Panel enters an Order it is superseded by a subsequent Order of the Board.

Signed and entered this 6 July, 2012.

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Melinda McMichael, M.D, Chair  
Disciplinary Panel  
Texas Medical Board

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