

ORIGINAL

BEFORE THE
BOARD OF MEDICAL EXAMINERS
STATE OF OREGON

In the Matter of)	
JAMES F. NEWHALL, MD)	FINDINGS OF FACT,
LICENSE NO. MD14113)	CONCLUSIONS OF LAW AND
)	ORDER

This matter was heard on July 1, 1999, July 20, 1999, and August 16, 1999, before Richard J. Brownstein, a contract hearings officer assigned by the Board of Medical Examiners ("BME" or "Board"), in the BME offices in Portland, Oregon. The Board was represented by Warren Foote, Assistant Attorney General. James F. Newhall, MD, personally appeared and was represented by his attorney, Robert M. Keating. The proceedings were recorded by a court reporter.

Based upon the evidence, the hearings officer proposes the following:

WITNESSES

FOR THE BOARD: James F. Newhall, MD; Magnus Lakovics, MD; James S. Hicks, MD
FOR THE LICENSEE: Ruth Parvin, PhD; Patient C; Gerald Fleishli, MD; and James F. Newhall, MD

ISSUES

Whether James F. Newhall, MD, is subject to discipline pursuant to ORS 677.205 for violations of the Medical Practices Act, to wit, ORS 677.190(1) unprofessional or dishonorable conduct, as defined in ORS 677.188(4)(a) and (c), and ORS 677.190(25), prescribing controlled substances without following proper procedures; and if so, the appropriate discipline.

FINDINGS OF FACT

1. Dr. Newhall's History:

1.1 Dr. Newhall served for nearly three years as a medical corpsman in the U.S. Army, including combat in Vietnam.

1.2 Motivated by his military service, he attended and graduated from medical school at the University of California, Davis, in 1980. He had residency specialty training in family practice at the University of Washington which he completed in 1983. He worked for one year in emergency room service in the state of Washington.

1.3 He was admitted to practice in Oregon in 1984 and served for five years as director of the emergency care service of the Kaiser organization.

1.4 He was employed as the student health physician (but not as the director) at the Reed College Student Health Center from 1990 to 1995 and, as such, served as the primary physician.

1.5 There were psychological consults in the same building but not in the same office as Dr. Newhall.

1.6 He has no disciplinary record with the BME.

2. Patient A:

2.1 Patient A was psychotic. He had a bipolar disorder, schizophrenia, or both. After enrolling at Reed in the fall of 1992, he was hospitalized at Portland Adventist Medical Center on November 21, 1992, and dropped out of Reed for the remainder of that school year.

2.2 Patient A was readmitted for the 1993-94 school year based on a letter from Robert L. James, MD, Ph.D., his Los Angeles psychiatrist. As a condition to his readmission, Patient A subscribed to a letter from the Dean of Student Services as follows:

1 You must remain compliant with your psychiatrist's recommendations for
2 medication, continuing to take your lithium regularly and have a blood level
3 done the first week of each month, starting in October. In addition, if at any time
4 your behavior raises concerns that you may need additional medication, a blood
level may be ordered on the spot. Refusal may be grounds for dismissal from
the college. Your lithium blood level must remain in a therapeutic range.

5 **2.3** On August 19, 1993, Dr. James wrote to Dr. Ruth Parvin, Director of
6 Counseling at Reed College, that he had been treating Patient A from the time of his return to
7 Los Angeles in November 1992 through his readmission to Reed in the fall of 1993. He
8 described his treatment of Patient A and recommended the course of continued treatment.

9 **2.4** Although Dr. Newhall did not read Dr. James' report, it was fully explained
10 to him by Dr. Parvin. Dr. Newhall followed the recommended regimen (prescription of
11 lithium and monthly examinations).

12 **2.5** In addition, on three occasions, Dr. Newhall prescribed twenty-four 30.25
13 grained tablets of Xanax over a period of seven months to relieve Patient A's anxiety, and
14 Cafergot for migraine headaches. Dr. Newhall performed a routine physical examination on
15 Patient A before he prescribed Xanax.

16 **2.6** Patient A nearly completed the 1993-94 school year without psychiatric
17 problems and with no adverse reaction to the Xanax prescriptions. Near the end of the school
18 year, he stopped taking his lithium and decompensated, whereupon a local psychiatrist was
19 consulted. He was re-admitted to Portland Adventist Medical Center on June 21, 1994. He
20 never returned to Reed. Approximately two years thereafter, Patient A committed suicide.
21 Dr. Newhall bears no responsibility therefor.

22 **2.7** Dr. Newhall was not primarily responsible for controlling Patient A's
23 psychosis but was charged with administering Patient A's lithium, sampling his blood, and
24

1 generally observing him. He assisted appropriately in responding to Patient A's June 21,
2 1994, decompensation.

3 **2.8** Dr. Newhall caused no patient harm to Patient A, but his charting was
4 deficient by failing to note consultations.

5 **3. Patient B:**

6 **3.1** Patient B was treated by Dr. Newhall primarily for back pain. Prior to
7 prescribing, he observed and examined her for low back pain.

8 **3.2** Dr. Newhall prescribed Valium, (a controlled substance) Robaxin, Parafon
9 Forde, and Soma at various times for Patient B without a thorough physical or formal
10 diagnosis.

11 **3.3** Dr. Newhall prescribed increasing amounts of Valium to Patient B,
12 including prescriptions for 100 tablets on February 23, April 10, and May 3, 1995. While
13 earlier and lesser prescriptions were arguably justified, the hundred tablet prescriptions were
14 clearly excessive.

15 **3.4** Dr. Newhall recognized that he had lost control of Patient B upon giving her
16 the last 100 tablet prescription. He consulted a psychiatrist and determined that, under the
17 circumstances, she would suffer no withdrawal symptoms if she was terminated from valium.
18 Despite her request, he did not prescribe further Valium after the May 3, 1995. Although he
19 testified that he observed abnormal behavior, this observation was not recorded until
20 September 1995.

21 **3.5** Dr. Newhall lost control of Patient B in his over-prescription of Valium.
22 She manipulated him. He volunteered this information to the Board in (1) its interview with
23 him; (2) his July 16, 1996, written response to the BME's initial notice of investigation; and
24 (3) his testimony in this hearing.

1 **3.6** Dr. Newhall caused no patient harm to Patient B.

2 **4. Patient C:**

3 **4.1** Dr. Newhall treated Patient C primarily for dysmenorrhea. Commencing in
4 1991, he prescribed Tylenol III to her, a controlled substance.

5 **4.2** Prior to, and contemporaneously with, his treatment of Patient C, she was
6 treated by Dr. Ross Anderson, a gynecologist at Laurelhurst Women's Clinic.

7 **4.3** Upon Dr. Newhall's inquiry, Patient C denied she was being seen by another
8 physician.

9 **4.4** Dr. Newhall never performed a pelvic examination. He did perform general
10 physical examinations and diagnosed her as having dysmenorrhea. Some examinations were
11 related to other complaints.

12 **4.5** On September 25, 1992, Dr. M. Bazelle conducted a pelvic examination and
13 reported that the patient had "possible endometriosis."

14 **4.6** Patient C was intermittently enrolled at Reed, over a period of five years.
15 During that period, Dr. Newhall prescribed Tylenol III upon her request.

16 **4.7** Tylenol III was also prescribed by Dr. Anderson.

17 **4.8** Dr. Newhall discouraged Patient C from using Tylenol III. As a result of a
18 social relationship that has continued subsequent to Dr. Newhall's dismissal, she is no longer
19 addicted.

20 **4.9** Dr. Newhall caused no patient harm to Patient C.

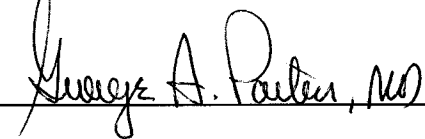
21 **5. Charting:**

22 **5.1** Charting is one of the bases of good medical care. It is incumbent upon a
23 physician to leave a record in such a state that, if he or she is no longer caring for the patient,
24

1 Investigative Committee, demonstrates to the satisfaction of the Board that he is fully
2 knowledgeable in the techniques of patient charting and has practiced them for a period of not
3 less than one year. Dr. Newhall shall report in person to the Board at each of its quarterly
4 meetings at the scheduled times for a probationer interview, unless otherwise directed by the
5 Board or the Investigative Committee.

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7 IT IS SO ORDERED this 27th day of January, 2000.

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9 BOARD OF MEDICAL EXAMINERS
State of Oregon

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12 GEORGE A. PORTER, MD
Chairman of the Board