Discussion #16-334

Physician:

TVEDTEN, Thomas Harold, M.D.

Note:

Board Meeting: December 1-2, 2016

P:\WPWIN\BRENDA\2016DISCUSSIONS\DECEMBER2016

Arkansas Department of Health



Health Facility Services
5800 West Tenth Street, Suite 400 • Little Rock, Arkansas 72204-1704 • Telephone (501) 661-2201
Governor Asa Hutchinson
Nathaniel Smith, MD. MPH. Director and State Health Officer

August 30, 2016

Joseph Beck II, M.D., Chairman Peggy Cryer, Executive Director Arkansas State Medical Board 1401 West Capitol Avenue, Suite 340 Little Rock, AR 72201-2936

RE: Complaint of billing for ultrasound prior to 48 hour waiting period

Dear Dr. Beck and Ms. Cryer:

Our agency recently received a complaint regarding ultrasound billing practices at an Arkansas licensed abortion facility. The Arkansas Department of Health ("ADH") originally cited the facility for a deficient practice. However, counsel for the facility objected to ADH citing a deficient practice for a matter of physician conduct under regulation by the Arkansas State Medical Board ("ASMB"). Ms. Brownstein's letter was persuasive. The ADH has withdrawn its citation in favor of the ASMB's regulatory authority over physician conduct. We therefore refer this matter to you for appropriate action.

Copies of the following are enclosed for your edification:

- 1. original and revised facility survey reports; and
- 2. letter of dispute from Ms. Brownstein.

Please contact me if I can offer any additional assistance or answer any questions.

Sincerely,

Becky Bennett, Section Chief

Becky Bennett

Health Facility Services

enclosures

CC:

Connie Melton Robert Brech

Bettina Brownstein

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

Bettina E. Brownstein 904 W. Second St Little Rock, Arkansas 72201 Tel: (501) 920-1764

E-mail: <u>bettinabrownstein@gmail.com</u>
August 17, 2016

AUG 1 7 2016

LEGAL DIVISION

VIA HAND DELIVERY

Mr. Robert Brech, General Counsel Arkansas Dept. of Health 4815 W. Markham St, Slot 31 Little Rock, Arkansas 72205

Re: Little Rock Family Planning/Dispute of Deficiency Finding, dated

Dear Robert:

I am an attorney representing Little Rock Family Planning Services ("LRFPS"). In that capacity, I write to dispute the deficiency citation contained in the Statement of Deficiencies received by LRFPS on August 5, 2016. As confirmed by you, LRFPS is within the 10-day period to assert this dispute. I request a determination by Dr. Nathanial Smith, Director of the Arkansas Dept. of Health ("ADH"), as to whether the deficiency citation will be upheld or withdrawn. In the event Dr. Smith's decision is to uphold the deficiency citation, I request a hearing before the department's board, at which time LRFPS requests the opportunity to present argument, witnesses and evidence supporting its position that the citation is improper, as more fully outlined below.

While a decision is pending on the validity of the deficiency citation, LRFPS is discontinuing its practice of charging for an ultrasound at the time of service. This will mean a financial loss to LRFPS during this time.

Reasons why the deficiency citation is improper

(1) The Arkansas Department of Health lacks authority to issue the deficiency citation.

Under Act 1086, it is the Arkansas State Medical Board ("ASMB"), not ADH, which has jurisdiction to regulate the conduct of physicians. Act 1086 states: "The Arkansas State Medical Board shall promulgate rules to ensure that physicians who perform abortions, referring physicians, or agents of either physician comply with all the requirements of this subchapter." A.C.A. \$20-16-1708 (b). The disputed deficiency citation concerns physician conduct. Therefore, ADH lacks jurisdiction to regulate it, and the matter must be left to ASMB. In addition, it is ASMB, not ADH, that has the responsibility under legislative acts to regulate the practice of medicine. See Medical Practices Act, Act 65 of 1955 and Act 289 of 1957. These acts empower ASMB to license and regulate the practice of medicine. A review of ASMB's rules and regulations shows that ASMB is the state agency under the law that has responsibility for regulating ultrasounds and informed consent, including the strictures concerning the circumstances of the informed consent. See Regulations 26 and 36. On the other hand, the

authorities cited in the deficiency statement, Act 509 of 1983 and Act 1176 of 2001, codified in §20-9-302, show that ADH's authority is limited to regulation of "facilities, equipment, procedures, techniques, and conditions of clinics and other facilities subject to the provisions of this section to assure that the facilities, equipment, procedures, techniques, and conditions are aseptic and do not constitute a health hazard." The deficiency citation does not fall within any of these subjects of ADH regulation.

(2) AIII) has promulgated no rule or regulation to cover the conduct that is the subject of the alleged deficiency.

The deficiency citation fails to refer to any rule or regulation. A review of the Rules and Regulations for Abortion Facilities reveals no applicable rule or regulation. This is additional evidence that ADH is not the proper agency to regulate physician's conduct. It should be left to ASMB.

On April 14, 2106, a complaint investigation was conducted on the same matter that is the subject of the deficiency citation. At that time, LRFPS did not receive a deficiency citation. Instead, LRFP received a letter stating it was in compliance with the Rules and Regulations for Abortion Facilities. ADH concluded at that time that the fee was not being charged for a service in connection with an abortion. Instead, the fee was demonstrated to be specifically for the ultrasound. Each patient had signed a consent acknowledging this. ADH has provided no explanation as the reason for its change of position.

(3) Unconstitutional Taking.

The statutory requirement that a physician not be allowed to charge for an ultrasound until the lapse of 48 hours constitutes an unconstitutional taking without just compensation under the U.S. and Arkansas Constitutions. Act 1086 requires a physician, at least 48-hours before the patient has an abortion, to inform the woman of the probable gestational age and probable anatomical and physiological characteristics of the fetus at the time the abortion is to be performed. \$20-16-1503(b)(1)(c) and (d). It also prohibits payment for any service provided in relation to an abortion until the lapse of 48 hours from the time the service is rendered. \$20-16-1503(d). In order to comply with 1503(b), best medical practice requires an ultrasound be performed, not only to determine the fetal gestational age and anatomical and physiological characteristics, but also to determine whether the patient is in fact pregnant and that, if pregnant, there are no complications present, such as an ectopic pregnancy. The 48-hour law also requires the physician to inform the patient of the procedure that will be performed. This means that the physician must ascertain the gestational age by ultrasound, as it will determine the plan of care. Finally, any patient of at least 20-weeks gestational age be informed of the ability of a fetus to feel pain. This is an additional reason an ultrasound must be performed.

At LRFPS every month approximately 10-14% of women do not return for an abortion after the initial visit. In each of the first six months of this year, there were between 17 and 29 women who did not return. Based on LRFP's experience, billing these women for services after the lapse of 48-hours in lieu of requiring payment at the time of service will result in significant non-payment to LRFPS. Thus compliance with 1503(b) means that LRFPS and the physician will be forced to provide services without compensation.

The Arkansas Supreme Court in Arnold v. Kemp, 306 Ark. 294 (1991) found that a state statute that capped attorneys' fees paid to counsel appointed to represent indigent criminal defendants represented a taking without just compensation and declared the statute unconstitutional. The Court said,

Attorneys, like the members of any other profession, have for sale to the public an intangible--their time, advice, and counsel. Architects, engineers, physicians, and attorneys ordinarily purvey little or nothing which is tangible. It is their learned and reflective thought, their recommendations, suggestions, directions, plans, diagnoses, and advice that is of value to the persons they serve. It is not the price of the paper on which is written the plan for a building or a bridge, the prescription for medication, or the will, contract, or pleading which is of substantial value to the client; it is the professional knowledge which goes into the practice of the profession which is valuable.

Attorneys are licensed by the state to practice their profession; but so are other professionals, such as architects, engineers, and physicians. One who practices his profession has a property interest in that pursuit which may not be taken from him or her at the whim of the government without due process....

Attorneys make their living through their services. Their services are the means of their livelihood. We do not expect architects to design public buildings, engineers to design highways, dikes, and bridges, or physicians to treat the indigent without compensation.

When attorneys' services are conscripted for the public good, such a taking is akin to the taking of food or clothing from a merchant or the taking of services from any other professional for the public good.

Just as requiring the attorneys in *Arnold v. Kemp* to provide services without compensation was an unconstitutional taking in violation of Article 22, Section 2 of the Arkansas Constitution, making LRFPS and its physicians to perform certain services to comply with the law and then making them forgo compensation for the services is unconstitutional.

(4) No justification for disallowing payment.

There is no medical or other justification for prohibiting a physician to charge for services rendered to a patient at the time of service. I know of no other instance where the government forces a doctor to perform certain services, mandates the timing of those services, and then disallows payment for those services.

I also want to point out that the deficiency citation contains some incorrect information. It states that at the conclusion of the survey on July 14, 2016, the Facility Representative was informed that a deficiency was cited. This is incorrect. In fact, during the interview at the end of the survey, the LRFPS Facility Representative was told that ADH was only there to gather information, that the information would be evaluated, and that it would be notified by mail if any deficiencies were cited or any change recommended.

Thank you for your attention to this matter. If you need additional information or need any additional information, please contact me.

Cordially,

Ballian & Brownstein

Bettina E. Brownstein



4 Office Park Drive Little Rock, Arkansas 72211 (501) 225-3836 Fax (501) 225-8705 Toll Free (800) 272-2183 www.lrfps.com

October 4, 2016

Re: Complaint regarding Thomas Tvedten MD

LORI WILLIAMS, MSN/APN
Clinic Director

THOMAS TVEDTEN, M.D.

Medical Director

Joseph M. Beck, II, Chairman Arkansas State Medical Board 1401 West Capitol, Suite 340 Little Rock, AR 72201

Dear Dr. Beck,

This letter is a response to your letter of September 28, 2016, regarding charging an ultrasound fee prior to the expiration of the 48-hour waiting period preceding an elective abortion. I object to any attempt by the government to require me to choose between good medical practice, the requirements of a law, and my ability to charge for my professional services. I request that no action be taken on the complaint.

Regulation 36 of the Arkansas State Medical Board and Act 1086 of 2015 both mandate that a physician meet certain requirements in order to comply with the law's informed consent provisions. According to the regulation, at least forty-eight (48) hours before the abortion, the physician must orally and in person provide the patient with:

Medically accurate information that a reasonable patient would consider material to the decision concerning whether or not to undergo the abortion, including: A description of the proposed abortion method; 2. The immediate and long-term medical risks associated with the proposed abortion method: and 3. Alternatives to the abortion; 4. The probable gestational age of the unborn child at the time the abortion is to be performed; 5. The probable anatomical and physical characteristics of the unborn child at the time the abortion is to be performed.

In my medical judgment, it is not possible to comply with this regulation without first obtaining an ultrasound of the pregnant woman. If I am mandated to describe the procedure to be used to terminate the patient's pregnancy, I must first know what procedure is most appropriate based on gestational age of the pregnancy. If I am to discuss the risks of terminating a pregnancy, I must know the gestational age of the pregnancy. As the regulation mandates, I must also describe the anatomical and physical characteristics of the fetus; therefore, I must know the exact gestational age of the pregnancy to do so. To attempt to comply with Act 1086 without performing an ultrasound would, in my view, not constitute best medical practice.

If a patient has obtained a timely ultrasound at another location that is signed by a physician, I will accept that ultrasound report in lieu of obtaining my own. In such a case, the patient would not be not charged a fee for the informed consent visit.

The law and regulation both state "A physician shall not require or obtain payment for a service provided in relation to abortion to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the forty-eight (48) hour reflection period required under this section." I believe this provision permits charging a fee for the ultrasound service that has been provided. This is not an advance fee for the abortion, or a fee for the office visit with the doctor. Patients are under no obligation to return for an abortion, and if they choose not to, they still will have received an ultrasound to confirm an intrauterine pregnancy and the gestational age of the pregnancy.

Every patient is informed in writing that the ultrasound fee is separate from the fee for the abortion. I employ a licensed ultrasonagrapher who performs all ultrasounds at my office. This enables me to determine which patients will qualify for an abortion. Some patients are found to be beyond the gestational limit at the time of the ultrasound and do not receive the informed consent information. Some patients are found to have an ectopic pregnancy. In 2015, our ultrasonagrapher identified nine ectopic pregnancies with the initial ultrasound. A delay in the diagnosis of an ectopic pregnancy can have very serious consequences, and the findings caused me to immediately send these patients for emergent care which quite possibly saved their life or fertility.

After the initial deficiency cited by the Department of Health, we temporarily discontinued charging for the ultrasound at the initial patient visit. When patients returned for the abortion, they then paid the fee for both the ultrasound and the abortion. However, more than 20 patients did not return. (All patients had initially signed a consent for the ultrasound which informed them they were obligated to pay the fee for the ultrasound even if they did not return for an abortion.) We attempted to contact these patients by telephone to remind them that the fee was due. Thus far, not one non-returning patient has paid the fee. As of the time of this letter, we are sending invoices by mail to these patients in an attempt to recover the fee. We are reluctant to do this because, due to the nature of our services, many patients do not wish to be contacted by us, especially those patients who changed their mind and chose not to have an abortion. In the past, we have always respected that need for privacy and have never attempted to contact or pursue patients who do not keep an appointment for an abortion. In addition, based on my over 30 years in private practice, I am not optimistic that I will be successful in the collection efforts described above.

I do not believe that it is either legal or just for me to have to forgo payment for my services and the services provided by the qualified ultrasonagrapher I employ. I do not believe that this is required of me as a member of the medical profession. I do not believe that doctors who practice in other areas of medicine are required by the government to provide services free of charge,

I have always strived to provide the highest quality of care for my patients, while balancing the unnecessary requirements placed on my practice of medicine by the Legislature. This is unique to my chosen field of medicine. In no other area of medicine does the Legislature demand what tests can or cannot be ordered and what medicines can or cannot be prescribed and when or how payment for services can be billed.

I am available to answer any additional questions you may have.

Thank you for your time and consideration.

Thomas Tvedten, M.D.

Bettina E. Brownstein 904 W. Second St Little Rock, Arkansas 72201 Tel: (501) 920-1764

E-mail: <u>bettinabrownstein@gmail.com</u> October 7, 2016

VIA HAND DELIVERY

Re: Thomas Tvedten M.D. /Complaint to Arkansas State Medical Board

Joseph M. Beck, II, Chairman Arkansas State Medical Board 1401 West Capitol, Suite 340 Little Rock, AR 72201

Dear Dr. Beck;

I am the attorney for Little Rock Family Planning and Dr. Thomas Tvedten. In that capacity, I write to express the legal reasons for Dr. Tvedten's opposition to any finding of a violation of either Regulation 36 or Act 1086 by the Arkansas State Medical Board because of his practice of charging a separate fee for pre-abortion ultrasounds prior to the expiration of the 48-hour waiting period mandated by the Act. I understand that you are in possession of a copy of the letter I wrote to the Arkansas Department of Health. Rather than reiterating the legal arguments contained in that letter, I refer you to it and incorporate it here by reference.

As you are able to ascertain, the subject of the complaint is a billing matter. There is no allegation of any deficiency in either medical practice or safety on the part of Dr. Tvedten. The sole issue is whether the government's requirement that Dr. Tvedten forgo payment for professional services that in his medical judgment are necessary is constitutional under the Arkansas and federal constitutions. Based on my research, knowledge and experience in constitutional law matters, I do not believe it is.

If you have any questions or wish additional information, please do not hesitate to contact me. Before any adverse action is contemplated, my client requests a hearing before the board to further explain his actions and to preserve any legal argument we intend to assert in a court of law, if necessary.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or need additional information.

10/7/16 ltr to Dr. Beck p. 2

Cordially,

Bettina E. Brownstein

cc: Kevin O'Dwyer (via email)
Dr. Thomas Tvedten (via hand delivery)



ARKANSAS STATE MEDICAL BOARD

1401 West Capitol, Suite 340, Little Rock, Arkansas 72201 (501) 296-1802 FAX (501) 603-3555 www.armedicalboard.org

Peggy Pryor Cryer Executive Secretary

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David L. Staggs, M.D. Searcy, AR

John B. Weiss, M.D. Favetteville, AR

Legal Counsel:

Kevin O'Dwyer 211 Spring Street Little Rock, AR 72201 (501) 372-4144 September 13, 2016

Becky Bennett, Section Chief Arkansas Department of Health Division of Health Facility Services 5800 West 10th St., Suite 400 Little Rock, AR 72204-9916

Dear Ms. Bennett:

The Arkansas State Medical Board is in receipt of your August 30, 2016 letter regarding the complaint of billing for an ultrasound prior to the expiration of the 48 hour waiting period as required by 20-16-1703(d). While the survey enclosed with your letter states the alleged violations occurred at Little Rock Family Planning Services, none of the information provided reveals the identity of the physician(s) who required or obtained the payments. In order for the Board to investigate this matter, the names of those physicians are needed. Please forward the information to the Board by September 23, 2016.

Please contact me should you have any questions.

aux D Whalley

Sincerely,

Karen D. Whatley Executive Secretary

KDW/ble

Juli Carlson

From:

Jane Gaskill < Jane.Gaskill@arkansas.gov>

Sent:

Wednesday, September 21, 2016 10:29 AM

To:

Karen D. Whatley (kdw@armedicalboard.gor); Juli Carlson

Cc:

Becky Bennett; Robert Brech

Subject:

referred complaint - billing prior to 48 hours

Good morning ladies.

You have requested that the identity of the licensee involved in the complaint recently referred to the ASMB by the Department of Health be provided to you in writing. I am advised that the ASMB licensee is Dr. Tom Tvedten. Please contact Ms. Bennett or me if you have any questions or need additional information.

Sincerely,

Jane Gaskill, Section Counsel

Health Facility Services

Arkansas Department of Health

5800 W. Markham St., Ste. 400

Little Rock, AR 72204

Jane.gaskill@arkansas.gov

(501) 661-2201



ARKANSAS STATE MEDICAL BOARD

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Peggy Pryor Cryer Executive Secretary

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John H. Scribner, M.D. Salem, AR

David L. Staggs, M.D. Searcy, AR

John B. Weiss, M.D. Fayetteville, AR

Legal Counsel:

Kevin O'Dwyer^a 211 Spring Street Little Rock, AR 72201 (501) 372-4144 December 9, 2016

Thomas Harold Tvedten, M.D. 4 Office Park Drive Little Rock, AR 72211

Dear Dr. Tvedten:

The Arkansas State Medical Board addressed the complaint registered against you concerning ultrasound billing at Little Rock Family Planning Services at their December 1-2, 2016 meeting.

After examining the information, it was the vote of the Board that there was no evidence of a violation of the Arkansas Medical Practices Act. Therefore, no disciplinary hearing was scheduled.

For your records, we have enclosed a copy of our correspondence notifying the Arkansas Department of Health of the Board's decision. Unless new information is received, this case is considered closed. However, it is important that you retain a copy of this complaint file for future use.

Sincerely,

Karen D. Whatley Executive Secretary

KDW/ble

cc: Bettina E. Brownstein

D Charley



ARKANSAS STATE MEDICAL BOARD

1401 West Capitol, Suite 340, Little Rock, Arkansas 72201 · (501) 296-1802 · FAX (501) 603-3555 www.armedicalboard.org

Peggy Pryor Cryer Executive Secretary

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John H. Scribner, M.D. Salem, AR

David L. Staggs, M.D. Searcy, AR

John B. Weiss, M.D. Fayetteville, AR

Legal Counsel:

Kevin O'Dwyer 211 Spring Street Little Rock, AR 72201 (501) 372-4144 December 9, 2016

Becky Bennett, Section Chief Health Facility Services Arkansas Department of Health 5800 West Tenth Street, Suite 400 Little Rock, AR 72204-1704

Re: Little Rock, Family Planning Services, P.L.L.C. Thomas Harold Tvedten, M.D.

Dear Ms. Bennett:

This letter is to notify you of the outcome of the complaint submitted against the above facility, and its incorporator, Thomas Tvedten, M.D. The Arkansas State Medical Board addressed the complaint at the December 1-2, 2016 meeting.

By law, the Board only has authority to take action against a physician's license if the physician has violated the Rules and Regulations of the Board, or if the medical care rendered is determined to be gross negligence or ignorant malpractice.

After careful review of the complaint and supporting documentation, and Dr. Tvedten's response letter, the Board determined that this case did not meet the definition of a probable violation of the Medical Practices Act. Again, the Board does not have the authority to determine who is right and who is wrong, only whether or not the law, as outlined in the Medical Practices Act, was followed.

We do take every complaint seriously, and appreciate very much you bringing this matter to our attention. This information will be retained in the corporation's and physician's files. At this point, the case would be considered closed.

Sincerely.

Karen D. Whatley
Executive Secretary

KDW/ble

Discussion #16-27

Physician:

TVEDTEN, Thomas Harold, M.D.

Patient:

April Mullins

Complainant:

Same

Board Meeting: February 4-5, 2016

Note:

P:\WPWIN\BRENDA\2016DISCUSSIONS\FEBRUARY2016

In the winter of 2006 I april Mullins was nearly Killed at the Little Rock Family Planning Abortion Clinic, I went in to have the procedure done and woke up at University hospital in Intensive Caec. He I had to have an emergency class had to hade a . The Dr. came to the hospital afer my surgery and told me han had a clear onscience and left the room. What he did to me has ruined

My life . I have numerous health problems, cant work a job because of health sphy sical and mental. Most importantly I count bring life back into the world again. He should pay for his mistakes I have been paying and suffering Since the day to entered the Little Rock Family Planning Alooktion Clinic. He offerd us a \$100 trying toget Rid of me. Thank you, ARK. med. Bookd april Muller Dollis: 50

Tom Tuedten M. D. (medient Die
April Mullins 1-662-587-5415
Complaint:
Arkansas State Medical
Board 1401 West CApital
Ave. Suitz 340 LiHle Rock
ARKANSAS 72201
April mullins
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SOLOGO LA
The second secon



4 Office Park Drive Little Rock, Arkansas 72211 (501) 225-3836 Fax (501) 225-8705 Toll Free (800) 272-2183 www.lrfps.com

THOMAS TVEDTEN, M.D.

Medical Director

LORI WILLIAMS, MSN/APN
Clinic Director

December 22, 2015

Arkansas State Medical Board 1401 West Capitol, Suite 340 Little Rock, AR 72201

Re: April Mullins

Dear Board Members

This letter is in response to the complaint concerning April Mullins, which I received 12-19-15. I reviewed the medical records regarding this patient. Our records reflect that I did not see this patient on 1-20-2007, nor was I involved in her treatment at that time, or after. Our clinic records show that on 1 -, she presented at the clinic seeking an elective termination. She was 20-2007 at seen by our Medical Director at that time, Louis Jerry Edwards MD, FACOG. My review of her chart suggests that the patient had a' scar. Dr. Edwards' immediate recognition of the problem and prompt and appropriate action very possibly saved this woman's life. I have seen this patient in the past. Though I do not recall her specifically, the records reflect that I treated her on 01/27/2006. She presented for an vith that time she was judged to be Her one previous termination procedure seemed uneventful, her post op notes suggest that no complications were noted, and she was stable at the time of discharge from the clinic. Please let me know if you need any additional information or would like to discuss this matter further.

Sincerely,

Thomas H. Tvedten MD

Medical Director

Little Rock Family Planning Services



ARKANSAS STATE MEDICAL BOARD

1401 West Capitol, Suite 340, Little Rock, Arkansas 72201 • (501) 296-1802 • FAX (501) 603-3555 www.armedicalboard.org

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John H. Scribner, M.D. Salem, AR

John B. Weiss, M.D. Fayetteville, AR

Legal Counsel:

Kevin O'Dwyer 211 Spring Street Little Rock, AR 72201 (501) 372-4144 February 11, 2016

Thomas Harold Tvedten, M.D. 4 Office Park Drive Little Rock, AR 72211

Re: April Mullins

Dear Dr. Tvedten:

The Arkansas State Medical Board addressed the complaint registered against you by the above-referenced individuals at their February 4-5, 2016 meeting.

After examining the information, it was the vote of the Board that there was no evidence of a violation of the Arkansas Medical Practices Act. Therefore, no disciplinary hearing was scheduled.

For your records, we have enclosed a copy of our correspondence notifying the complainant of the Board's decision. Unless new information is received, this case is considered closed. However, it is important that you retain a copy of this complaint file for future use.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/ble

Enclosure



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Legal Counsel:

Kevin O'Dwyer 211 Spring Street Little Rock, AR 72201 (501) 372-4144 February 11, 2016

April Mullins

Re: Thomas Harold Tvedten, M.D.

Dear Ms. Mullins:

This letter is to notify you of the outcome of the complaint you registered against the above referenced physician. The Arkansas State Medical Board addressed your complaint at the February 4-5, 2016 meeting.

By law, the Board only has authority to take action against a physician's license if the physician has violated the Rules and Regulations of the Board, or if the medical care rendered is determined to be gross negligence or ignorant malpractice.

After careful review of your complaint, available records and the physician's response letter, the Board determined that this case did not meet the definition of a probable violation of the Medical Practices Act. Again, the Board does not have the authority to determine who is right and who is wrong, only whether or not the law, as outlined in the Medical Practices Act, was followed.

We do take every complaint seriously, and appreciate very much you bringing this matter to our attention. Your complaint letter will be retained in the physician's file. At this point, the case would be considered closed.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/ble

Discussion #15-337

Physician:

TVEDTEN, Thomas Harold, M.D.

Board Meeting: December 3-4, 2015

Note:

P:\WPWIN\BRENDA\2015DISCUSSIONS\DECEMBER2015

Juli Carlson

Subject:

RE: Abortion Records

----Original Message----

From: Robert Brech [mailto:robert.brech@arkansas.gov]

Sent: Monday, August 31, 2015 9:00 AM

To: Kevin Odwyer

Subject: RE: Abortion Records

Kevin,

I did have a chance to review the documentation from an abortion provider regarding compliance with Act 301. As you can see from the attached, it may not technically comply with Ark. Code Ann. § 20-16-1303(d)(2) and your rules. It appears that the patients are being provided the statistical probability of having a miscarriage and not the statistical probability of carrying the baby to term. I realize that may be a technicality, but as sensitive as people are regarding this topic, I thought that I should bring it to your attention. I do feel compelled to share this with Sen. Rapert, but wanted to get your thoughts on it first.

Robert

----Original Message----

From: Rapert, Jason [mailto:jason.rapert@senate.ar.gov]

Sent: Wednesday, August 26, 2015 12:22 PM

To: Kevin Odwyer

Cc: Robert Brech; support@armedicalboard.org; Asa Hutchinson; leslie.rutledge@arkansasag.gov;

cory.cox@arkansasag.gov; Maloch, Bruce; Meeks, David; Nate Smith, M.D.; Jon Gilmore; Wilson, Richard; Hendren, Jim;

Stapleton, Carol

Subject: Re: Abortion Records-

Kevin,

As of the date in March 2014 when Judge Wright rendered her decision, The Arkansas Heartbeat Protection Act was the law and had to be complied with. The Attorney General's office confirmed this.

The fact the Medical Board had one year to prepare a rule to be in compliance and did not do so is your problem, not mine. The fact that the Medical Board did not have a rule in place does not negate a statute in the state of Arkansas.

Are you telling me now that several thousand abortions were conducted in violation of the Arkansas Heartbeat Protection Act?

Advise us how the Medical Board verifies that the provisions of the Arkansas Heartbeat Protection Act have been complied with and show me proof.

I urge you to provide this information by the end of the week. I am weary of the shell game - prove to me that abortion clinics are complying with the law and that the Arkansas Medical Board is enforcing the law.

I look forward to hearing from you. I am scheduling a hearing before Insurance & Commerce, but I wanted you to have time to be able to answer with confidence before having the Arkansas Medical Board testify in committee.

Sincerely,

Sen. Jason Rapert Arkansas Senate District 35

P.O. Box 10388 Conway, AR 72034

Office 501-336-0918 senator.jason.rapert@gmail.com

Sent from my iPhone

On the ultrasound conducted today there was detectible cardiac activity of the fetus. Based on the presence of cardiac activity the following is a summary of the risk of miscarriage based on the gestational age of the pregnancy.

Gestational age	Risk of miscarrlage	Gestational age	Risk of miscarriage
5 weeks	12%-36%	13 weeks	6% to 11%
6 weeks	5%-21%	14 weeks	3% to 8%
7 weeks	7% to 28%	15 weeks	3% to 7%
8 weeks	6% to 34%	16 weeks	1% to4%
9 weeks	6% to 28%	17 weeks	1% to 2%
10 weeks	7% to 21%	18 weeks	1% to 3%
11 weeks	11% to 23%	19 weeks	2%
12 weeks	10% to 21%	20 weeks	1% to 2%

Ammon Avalos L, Galindo C, De-Kun II. 2012. A Systematic Review to Colculate Background Miscomage Rates using Life Table Analysis. Birth Defects Research (Part A) 94:417-423

I acknowledge I have received the above	e information prior to my abortion.	
Patient Signature	Date	
an o'h devor	8	
Witness	Date	



10-2-15

4 Office Park Drive Little Rock, Arkansas 72211 (501) 225-3836 Fax (501) 225-8705 Toll Free (800) 272-2183 www.!rfps.com

THOMAS TVEDTEN, M.D.

Medical Director

LORI WILLIAMS, MSN/APN Clinic Director

Arkansas State Medical Board 1401 West Capital, Suite 340 Little Rock, AR 72201

To All Medical Board Members:

I am writing in response to your letter of September 28,2015, regarding our compliance with Regulation 36. In your letter you inquired about the data we present to patients in order to comply with this regulation. Enclosed with this response you will find the form we give to patients. Each patient signs the form and it is filed in her medical record.

The regulation written by the Arkansas State Medical Board states "The physician shall obtain, based on available medical evidence, including testing and physical examination, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat." After an extensive search of both Williams' Obstetrics and PubMed/Medline, I could find no statistics on the probability of bringing a pregnancy to term based on gestation. I did however find data on rates of miscarriage which are cited on the form that we use. The data comes from the following sources:

Birth Defects Research Part A Clinical and Molecular Teratology. 2012 Jun;94(6):417-23. doi: 10.1002/bdra.23014. Epub 2012 Apr 18. <u>A systematic review to calculate background</u> miscarriage rates using life table analysis. Ammon Avalos L1, Galindo C, Li DK.

Since pregnancy can only end in termination, miscarriage, or delivery, in the absence of data on the probability of bringing a pregnancy to term, I feel the data that we are using conveyed the same (and only valid) information to the patient as required by regulation 36.

I have received a very recent communication from the Arkansas Department of Health. I have enclosed their letter requesting that I amend the form that we use. You will note that the Department of Health has taken the same source data we use and derived the statistical probability of binging a pregnancy to term based upon the miscarriage rates. I intend to immediately implement their suggested changes. If you find these changes acceptable and feel this complies with the regulation please let me know. However, if you find these changes are



4 Office Park Drive Little Rock, Arkansas 72211 (501) 225-3836 Fax (501) 225-8705 Toll Free (800) 272-2183 www.lrfps.com

THOMAS TVEDTEN, M.D.

Medical Director

LORI WILLIAMS, MSN/APN

Clinic Director

not acceptable please communicate any changes that you feel should be implemented. In addition, if you know of any reliable statistics on bringing a pregnancy to term, I would appreciate you directing me to that source of data.

We strive to always comply with all laws and regulation in place related to abortion care. Thank you for your communication and please let us know if there is any additional action needed on our part.

Sincerely,

Thomas Tvedten MD

Medical Director

Little Rock Family Planning Services

Enclosure

On the ultrasound conducted today there was detectible cardiac activity of the fetus. Based on the presence of cardiac activity the following is a summary of the risk of miscarriage based on the gestational age of the pregnancy.

Risk of miscarriage
6% to 11%
3% to 8%
3% to 7%
1% to4%
1% to 2%
1% to 3%
2%
1% to 2% e Rates using Ufe Table Analysis. Birth

Ammon Avalos L, Galindo C, De-Kun II. 2012. A Systematic Review to Calculate Background Miscarriage Rates using Ufe Table Analysis. Birth Defects Research (Part A) 94:417-423

8	×
-Patient Signature	Date
	5
-	Date Date



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2600 Governor Asa Hutchinson Nathaniel Smith, MD, MPH, Director and State Health Officer

FAX

To: Lori Williams, Little Rock Family Planning Services, PLLC

Fax # 501-225-8705

From: Health Facility Services

Phone: 501-661-2201 Fax: → 501-661-2165 Date: October 2, 2015

Pages: 2

Regarding: Act 301 of 2013

Greetings Ms. Williams,

Act 301 of 2013 requires the pregnant woman be advised of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.

The Arkansas Department of Health Section of Epidemiology and Health Statistics has adapted data from Ammon Avalos, L., Galindo, C., and Li, D-K (2012)

A systematic review to calculate background miscarriage rates using life table analysis, to show the statistical probability of bringing an unborn human individual to term based on gestational age as the mathematical complement of the miscarriage rate identified in this research.

This information will need to be shared, in writing, with a pregnant woman seeking an abortion at your facility to ensure compliance with Act 301 of 2013

Thank you, Connie Melton Section Chief Health Facility Services 5800 West 10th St. Suite 400 Little Rock, AR 72204 (p) 501-661-2201 (f) 501-661-2165

Realth Facility Services

Oct 02:15 12:22p

Gestational Age	Likelihood of Fetal Survival	Gestational Age	Likelihood of Fetal Survival
5 weeks	64-88%	13 weeks	89-94%
6 weeks	79-95%	14 weeks	92-97%
7 weeks	72-93%	15 weeks	93-97%
8 weeks	66-94%	16 weeks	96-99%
9 weeks	72-94%	17 weeks	98-99%
10 weeks	79-93%	18 weeks	97-99%
11 weeks	77-89%	19 weeks	98%
12 weeks	79-90%	20 weeks	98-99%

Adapted from: Ammon Avalos L, Gallindo C, Li, D-K. 2012 A Systematic Review to Calculate Background Miscarriage Rates using Life Table Analysis. Birth Defects Research (Part A) 94:417-423

Oct 02 15 12:22p Health Facility Services p 2

Act 301 of 2013 codified in A.C.A. §20-16-1303

- A. A person authorized to perform abortions under Arkansas law shall not perform an abortion on a pregnant woman before the person tests the pregnant woman to determine whether the fetus that the pregnant woman is carrying possesses a detectible heartbeat.
- B. A person authorized to perform abortions under Arkansas law shall perform an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice.
- C. Tests performed pursuant to Ark. Code Ann. §20-16-1303(b)(1) shall be:
 - a. Based on standard medical practice for testing for the fetal heartbeat of an unborn human individual which testing includes an abdominal ultrasound test necessary to detect a heartbeat of an unborn human individual according to standard medical practice, including the use of medical devices as determined by standard medical practice;
 - b. A test for fetal heartbeat is not required in the case of a medical emergency; and
- D. The physician shall obtain, based on available medical evidence, including testing and physical examination, the statistical probability of bringing an unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat.
- E. If a heartbeat is detected during the test required pursuant to this Rule, the person performing the test shall inform the pregnant woman in writing:

EXISTING REGULATION

- a. That the unborn human individual that the pregnant woman is carrying possesses a heartbeat;
- b. Of the statistical probability of bringing the unborn human individual to term based on the gestational age of the unborn human individual possessing a detectible heartbeat; and
- c. If a heartbeat has been detected, the pregnant woman shall sign a form acknowledging the she has received the information required under Ark. Code Ann. §20-16-1303(d).



Peggy Pryor Cryer Executive Secretary

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John H. Scribner, M.D. Salem, AR

John B. Weiss, M.D. Fayetteville, AR

Legal Counsel:

Kevin O'Dwyer 211 Spring Street Little Rock, AR 72201 (501) 372-4144

ARKANSAS STATE MEDICAL BOARD

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September 28, 2015

Thomas Harold Tvedten, M.D. 4 Office Park Drive Little Rock, AR 72211

Dear Dr. Tvedten:

A concern has recently come to the attention of the Arkansas State Medical Board regarding your compliance with Ark. Code Ann. §20-16-1301(d)(2) and Regulation 36 concerning abortions and testing for heartbeat.

It appears from documentation forwarded to the Board that patients are being provided the statistical probability of having a miscarriage and not the statistical probability of carrying the baby to term.

Please forward a letter and a sample of the data you provide your patient in compliance with Regulation 36 by October 15, 2015.

Sincerely,

Peggy Pryor Cryer Executive Secretary

Daggy Chejer

PPC/ble

Enclosure

Hope, Trice, O'Dwyer & Wilson, P.A.

ATTORNEYS AT LAW
211 SPRING STREET
LITTLE ROCK, ARKANSAS 72201
(501) 372-4144
Facsimile (501-372-7480)
www.htolaw.com

RONALD A. HOPE KEVIN M. O'DWYER RALPH "WIN" WILSON III CHRISTOPHER B. ARNOLD WILLIAM H. TRICE III (1946-2014)

Direct Dial: 501-313-4203 Email: kodwyer@htolaw.com

December 10, 2015

Via Email

Robert Brech Robert.brech@arkansas.gov

Re:

My Client: Arkansas State Medical Board

Discussion #15-337 - Thomas Harold Tvedten MD

Dear Mr. Brech:

The Board reviewed the information you provided and stand ready to investigate any complaints submitted to the Board.

However, the information provided appears to involve Health Department considerations more than Medical Board. Therefore the Board has forwarded the information to the Arkansas Department of Health.

If you have any other concerns, please do not hesitate to contact me.

Sincerely,

Kevin M. O'Dwyer

KMO/ly

Cc: Peggy Cryer, Executive Secretary, Arkansas State Medical Board

Discussion – Self Report #08-83

Discussion #: 08-83

Physician:

TVEDTEN, Tom, M. D.

Board Meeting: April 3-4, 2008

Note:

P:\WPWIN\BRENDA\2008DISCUSSIONS\APRIL2008

To: The Arkansas State Medical Board

From: Tom Tvedten M.D.

Re.: Legal matters

Dear Sirs,

On Saturday March 15th, after the Razorback win over Tennessee, I was driving home from Little Rock to my home outside of Quitman when I was stopped in Greenbrier and sobriety checked. I failed the test and was charged with "Driving Under the Influence of Alcohol," which I must admit that I was doing.

I had watched the game on a big screen TV at a pub in Little Rock and had four or five draft beers during the course of the game and the post game period. My intention was to stay in L.R. with my son who is a realtor there and to come home to Quitman on Sunday morning. Unfortunately for me, my son Joel had to stay with his mother who is ill and didn't make it back to his place after the game as planned. I saw a friend that I hadn't seen in a long time and had another glass of wine while we caught up with each others recent history. I called my wife and told her that I was going to drive on home, against her better judgement, and set off for Quitman.

I stopped to get a bite to eat to go in Greenbrier and, according to the arresting officer, who was very cordial, crossed the center line resulting in the stop and subsequent arrest. I was taken to the Faulkner County jail and spent the rest of the night there.

This being my first "DUI" I am not sure as to what I am supposed to do other than to quit drinking, which I have already done, (My wife had poured out everything in the liquor cabinet by the time I got back home.)

On Mon. Morning, I called Peggy at the Board offices and asked her what to do and she recommended that I write this letter. She also advised that I mention that I have never been monitored by the Physician Health Committee and have no past history of alcohol or drug related problems.

I am 61 years old and have been a "social" drinker all of my adult life. Though I have never had any legal problems related to my alcohol usage, I certainly had more than my share of ethanol and do have a family history of alcohol related problems, my dad was an alcoholic who died before ever admitting it. I told myself that if and when I got a "DUI" I would become a "tea totaler." That time has come. After several months of total abstinence, I may resume moderate social drinking if my family and friends feel that I can safely do so.

1 =-- 3

Tom Tvedten MD



ARKANSAS STATE MEDICAL BOARD

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Peggy Pryor Cryer Executive Secretary

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Douglas F. Smart, M.D. Little Rock, AR

C.E. Tommey, M.D. El Dorado, AR

John B. Weiss, M.D. Fayetteville, AR

Alonzo D. Williams, Sr., M.D. Little Rock, AR

Legal Counsel:

William H. Trice, III 425 West Capitol Avenue Suite 400 Little Rock, AR 72201 (501) 372-4144 April 14, 2008

Thomas Harold Tvedten, M.D. 4 Office Park Drive Little Rock, AR 72211

Re: Self-Reporting

Dear Dr. Tvedten:

The Arkansas State Medical Board reviewed your letter of explanation regarding the above matter at their April 3-4, 2008 meeting. The Board voted to accept for information. This case is now closed.

Sincerely,

Cologgy Chy)

Peggy Pryor Cryer Executive Secretary

PPC/jlj

Arkansas State Medical Board Discipline - Case Cover Sheet

CASE98-73	BOARD MEETING 06/04/1998
	LICENSE#C-5169
COMMENTS	
MOTION_	
MADE BY	SECONDED BY
CARRIED YES	NO
DISCUSSION	
Service Conference of the Conf	
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April 8, 1998

Arkansas State Medical Board 2100 Riverfront Drive, Suite 200 Little Rock, Arkansas 72202

Dear Sirs,

I am writing to lodge a formal complaint of breach of confidentiality against Dr. Thomas Tvedten, Greers Ferry Medical Clinic, Greers Ferry, Arkansas 72067.

Approxmately 3 weeks ago Dr. Tvedten had a conversation with Mr. Robert Verrigger of The Real Estate Center, Greers Ferry, pertaining to the lease of the clinic building, which we are the landlords. A dispute has arisen into the contract on the sale of the building to my parents by Mr. Verrigger. During the conversation with Mr. Verrigger, Dr. Tvedten discussed the

Dr. Tvedten is my father's primary physician, I find his general involvement in a suit that does not concern himself and the discussion of my with the defendant in the same legal action reprehensible at best. Central Arkansas Hospital in Searcy are the actual tennants in our building, Dr. Tvedten is only an employee of the clinic. Since my father Floyd P. Bridwell Jr., is a patient of Dr. Tvedten we do not see how he could betray that confidence.

We ask you for a review of this and any action applicable against Dr. Tvedten.

Thank you for your assistance.

Sincerely,

William R. Bridwell

Designer Glass



GREERS FERRY MEDICAL CLINIC 7956 Edgemont Road Greers Ferry, AR 72067

04 - 27 - 98

Dear Ms. Cryer,

This letter is in response to your letter dated 04-21-98. The Bridwell's; Floyd, Dorothy, and their grown son Randy; are our landlords, friends, patients and share this building with us. While Floyd and Dorothy are very pleasant and easy to get along with, Randy has caused problems for us in the past and will do so into the future.

About 3 weeks ago, Mr. Bob Vierregger, another patient and friend, that owns the building next to ours and has his real estate office there asked me to come down and talk with him. He at that time told me that he had sold the building we are leasing to the Bridwells 2 years ago, a fact I was unaware of, and that the Bridwells were about \$10,000.00 in arrears and that he was planning to take possession of the property. He asked me to hold the next months lease payment as he expected to have possession of the property in the next few days.

I explained that the lease was with Central Ark. Hospital and that I was just an employee but that I would relay his message to the hospital CFO, a Mr. Jim Stagner, and gave Mr. Vierregger Mr. Stagner's name and phone number.

I at no time discussed Floyd Bridwell's or medical history or care with Mr. Vierrregger.(Incidentall, I do not feel Mr. Bridwell's affected his

one way or the other.) Floyd Bridwell is a well known and respected citizen of this small town and the fact that he had surgery was common knowledge here when it occured.

Sincerely,

Thomas H. Tvedten, M.D.



The Real Estate Center, Inc.

04-28-98

Reference: Dr. Tvedten confidentiality issue

Dear Sirs,

This is to advise all concerned that I, and my wife, have been patients of Dr. Tvedten since October of 1996.

During this time Dr. Tvedten has never had any discussion regarding the health of any of his patients, including Mr. Floyd Bridwell, with my wife or I.

Mr. Bridwell does rent office space from us, and as far as we are concerned, has no medical problems. He drives to work six days a week, goes out for coffee breaks, and is at the office everyday.

Any so called commentary regarding Mr. Bridwell's or any other patient's medical condition, between Dr. Tvedten and myself is a complete fabrecation.

Sincerely,

Bobert C. Vierregger





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P.O. Box 365 Greers Ferry, Ar. 72067 501-825-6633 Fax:501-825-7662 Located in the Narrows Shopping Center

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May 4, 1998

Arkansas State Medical Board 2100 Riverfront Drive, Suite 200 Little Rock, Arkansas 72202

Dear Julie,

I am enclosing copies of letters from both ourselves and our attorney to Central Arkansas Hospital and the Greers Ferry Police.

These letters should verify our claims against Dr. Tvedten. I am also including a copy of the police report made after Dr. Tvedten threatened me, through my father, with physical violence.

Please feel free to contact any of the parties listed in the letters. If you have further questions please call the above listed 800 number.

Thank you for your assistance in this matter.

"Sincerely,

Randy Bridwell Designer Glass

Designer Glass

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April 9, 1998

Mr. D. C. Laffoon, CEO Central Arkansas Hospital P.O. Box 249 Searcy, Arkansas 72145

Dear Mr. Laffoon,

I am writing to you concerning the recent actions taken by Dr. Tvedten and Mr. John Stagner. We are at this time in litigation over the lease/purchase agreement with Mr. Robert Verrigger. Our bank discovered irregularities in the actual document that Mr. Virregger presented.

As a result of this action Mr. Verrigger approached Dr. Tvedten and secured the legal services of Dr. Tvedten. Dr. Tvedten convinced Mr. Stagner to withhold the clinic rent and divert it directly to Mr. Verrigger. Mr. Stagner has recieved a letter from our attorney which I'm sure he will let you read.

We have filed a complaint with the Arkansas State Medical Board against Dr. Tvedten for practicing law without a license and for breach of confidentiality in discussing my father's with Mr. Verrigger.

We understand that Dr. Tvedten is am employee of your hospital and his actions are not necessarily those of Central Care, Inc. The clinic is a valuable asset to this community and we are proud to have it here, but, we will not tolerate this type of action from anyone and have asked our attorney, Joel Taylor to seek any legal remedy due us from the parties involved.

Any further communication from your corporation is to be directed through our attorney, Mr. Joel Taylor, 1900 Fair Park Blvd, Little Rock, Arkansas 72204.

. Bruse

Sincerely

William R. Bridwell

1900 FAIR PARK BLVD. LITTLE ROCK, ARKANSAS 72204

FACSIMILE 501 666-3544

April 7, 1998

Mr. John Stagner CENTRAL ARKANSAS HOSPITAL Post Office Box 249 Searcy, Arkansas 72145

VIA FACSIMILE AND REGULAR MAIL

Lease with Designer Glass

Tenant: Central Care, Inc. dba

Greer's Ferry Medical Clinic

Dear Mr. Stagner:

I represent Designer Glass, and have received a telephone call from Randy Bridwell, an employee there, indicating that you have begun to make payments on the above referenced lease to an entity other than Designer Glass. It is my understanding that you have done so at the direction of another individual who is not a party to this lease.

I am writing to inform you that Designer Glass is still in possession of the building in which the clinic is located, and is your landlord pursuant to this lease. Any diversion of funds on your part which are due to be paid to Designer Glass, is done so without the consent or approval of Designer Glass. Your failure to make your rent payments as required by the lease may result in liability to you.

I would recommend that you consult with your legal counsel before you make any unauthorized payments. I want to thank you for your prompt attention to this matter.

Goel Taylor

JT/nat

cc: Mr. and Mrs. Floyd Bridwell

Designer Glass

P.O. Box 365
Greers Ferry, Ar. 72067
501-825-6633 Fax:501-825-7662
Located in the Narrows Shopping Center
Custom Stained, Beveled & Etched Glass
Solid Oak & Mahogany Doors-Sidelites-Transoms-Furniture-Mantles-Beveled Mirrors
Nationwide Toll Free
1-800-880-7633

April 28, 1998

Greers Ferry Police Department City of Greers Ferry Jack Phillips, Chief of Police

Dear Jack,

On the 27th day of April at approximately 3:15 pm Dr. Tvedten came into our office with a letter he had recieved from the Arkansas State Medical Board.

Dr. Tvedten stated that my son, Randy Bridwell, filed a complaint against him with the Medical Board and that it would cause him to loose his position with the hospital. He also said he would do everything he could to cause Randy problems with his work and anything he could possibly do to hurt him. He stated that if he saw Randy again he would probably punch him in the face.

Dr. Tveden definately said this to me in a threating manner.

We will keep you informed as this progresses.

Thank you,

Floyd P. Bridwell Designer Glass

INCIDENT REPORT

THREATS '

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Dr. I wedter asked flage to what did Kundy Rave a jainet the medical proffession. He if said, nothing that I know gand flago said not that I know of -Mr. said well he's gorina lose Somethinghecause hewardfeel like Doubling up his pist and hit him right in the face. De Said he nastrying to raise a family and hold his position. He was very upset that a complaint had been filed a ganist him.) de (d.) told flaged that the statement in the complaint about Haydscondition was nothing, because he never did hurt. D.B. (my comment-) he couldn't feel onything for odays because of the hard harcotils he was dwinthe trospital. The only pain he mentioned was ruken the next morning after surgery- 3 menein 15 V Jerhod his Cathater out and hut him so much and hable & a lotall day andrevening) He barley remembersit.



ARKA ISAS STATE MEDI CAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 • (501) 296-1802 • FAX (501) 296-1805

ggy Pryor Cryer ecutive Secretary

ard Members:

Ray Jouett, M.D. nairman tle Rock, AR

arren M. Douglas, M.D. ce-Chairman tle Rock, AR

onzo D. Williams, Sr., M.D. cretary tle Rock, AR

hn B. Currie, Sr. easurer Imot, AR

R. Baker, M.D. itesville, AR

hn E. Bell, M.D. arcy, AR

ie R. Chambers, M.D. irrison, AR

even F. Collier, M.D. igusta, AR

d J. Felmster tie Rock, AR

ivid C. Jacks, M.D. ne Bluff, AR

ent P. Pierce, M.D. est Memphis, AR

E. Tommey, M.D. Dorado, AR

mes E. Zini, D.O. puntain View, AR

gal Counsel:

illiam H. Trice, III 1 Spring Street tle Rock, AR 72201 31) 372-4144 June 16, 1998

Thomas H. Tvedten, M.D. 7956 Edgemont Road Greers Ferry, AR 72067

Re: Floyd P. Bridwell, Jr., Patient William R. Bridwell, Complainant

Dear Dr. Tvedten:

The Board addressed the complaint registered against you by the above referenced individual at the June 4-5, 1998 meeting of the Arkansas State Medical Board.

It was the vote of the Board, after reviewing your response as well as the letter of complaint, that there was no evidence of a violation of the Arkansas Medical Practices Act. Therefore no action was taken.

For your file we have enclosed a copy of our correspondence notifying the complainant of the Board's decision.

At this time this case is considered closed.

Sincerely,

Peggy Cryer

Peggy Pryor Cryer Executive Secretary

PPC/jjc

enclosure



ARKA ISAS STATE MED. CAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 • (501) 296-1802 • FAX (501) 296-1805

iggy Pryor Cryer recutive Secretary

pard Members:

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d J. Felmster tle Rock, AR

ivid C. Jacks, M.D. ne Bluff, AR

ent P. Pierce, M.D. est Memphis, AR

E. Tommey, M.D. Dorado, AR

mes E. Zini, D.O. buntain View, AR

gal Counsel:

Iliam H. Trice, III 1 Spring Street tle Rock, AR 72201)1) 372-4144 June 17, 1998

William R. Bridwell P.O. Box 365 Greers Ferry, AR 72067

Re: Thomas H. Tvedten, M.D.

Dear Mr. Bridwell:

The Board addressed the complaint you registered against the above referenced physician at the June 4-5, 1998 meeting of the Arkansas State Medical Board.

After reviewing your complaint and Dr. Tvedten's response, it was the vote of the Board that there was no evidence of a violation of the Arkansas Medical Practices Act. Therefore no action was taken. Enclosed for your reference is a copy of Arkansas Statute 17-95-409 that outlines the reasons for which a doctor could be found in violation of the Arkansas Medical Practices Act. The Board did not feel as though your complaint fell within these strict guidelines.

We have enclosed a copy of Dr. Tvedten's response to your complaint in the hope that by reading his letter you will be able to better understand the actions of this physician.

This case is considered closed at this time.

Sincerely,

Peggy Cryer
Peggy Pryor Cryer

Executive Secretary

PPC/jjc

enclosures



ARKANSAS STATE MEDICAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 • (501) 296-1802 • FAX: (501) 296-1805

Peggy Pryor Cryer Executive Secretary

Board Members:

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Warren M. Douglas, M.D. Vice-Chairman _ittle Rock, AR

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C. E. Tommey, M.D. El Dorado, AR

Rhys A. Williams, M.D. Harrison, AR

James E. Zini, D.O. Mountain View, AR

Legal Counsel:

William H. Trice, III 211 Spring Street Little Rock, AR 72201 (501) 372-4144

FREEDOM OF INFORMATION REQUEST

I hereby request to review the file of:

Shomas Harold Ivedten, M.D.

My name and address is:

LEGH FINNE YEARCAN, ASSISTANT AG

200 CATLETT- PRIEN, 323 CENTER ST., LR AR
7220

I have reviewed the file as agent for:

OFFICTS OF ATTORNEY GENERAL

(SAME)



AKKANSAS STATE MEDICAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 (501) 296-1802 FAX: (501) 296-1805

Peggy Pryor Cryer Executive Secretary

Board Members:

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Warren M. Douglas, M.D. Vice-Chairman Little Rock, AR

Alonzo D. Williams, M.D. Secretary Little Rock, AR

John B. Currie, Sr., Treasurer Wilmot, AR

John E. Bell, M.D. Searcy, AR

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Steven F. Collier, M.D. Augusta, AR

Ted J. Feimster Little Rock, AR

David C. Jacks, M.D. Plne Bluff, AR

Linda A. McGhee, M.D. Fayetteville, AR

C. E. Tommey, M.D. El Dorado, AR

Rhys A. Williams, M.D. Harrison, AR

James E. Zini, D.O. Mountain View, AR

Legal Counsel:

William H. Trice, III 211 Spring Street Little Rock, AR 72201 (501) 372-4144 December 9, 1994

Vicki Weesner

Lexington, KY 40513

Dear Ms. Weesner:

The Arkansas State Medical Board is in receipt of your letter of October 28, 1994, as a rebuttal to the Board's action to your complaint against Dr. Thomas Tvedten of Lake Village, Arkansas.

Your letter was presented to the Board again at the December meeting; and it was agreed upon motion that your letter be received for information only. A copy of your correspondence will be placed in Dr. Tvedten's file.

This Board appreciates your correspondence and your willingness to express your view, and is saddened over your loss of your mother.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/da

This agency does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of service.

FREEDOM OF INFORMATION REQUEST

I hereby request to review the file of:	
TOMAS TUEDTEN , M.D	•
My name and address is:	
49R4 Western Villa Au de AR DA204	
I have reviewed the file as agent for:	
ed catal	_
DATED: 9/19/99	



AKKANSAS STATE MLDICAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 (501) 324-9410 FAX: (501) 324-9413

Peggy Pryor Cryer Executive Secretary

Board Members:

W. Ray Jouett, M.D. Chairman Little Rock, AR

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C. E. Tommey, M.D. El Dorado, AR

Rhys A. Williams, M.D. Harrison, AR

James E. Zini, D.O. Mountain View, AR

Legal Counsel:

William H. Trice, III 211 Spring Street Little Rock, AR 72201 (501) 372-4144 June 16, 1994

Don Phillips, P.D., Director Pharmacy Services & Drug Control Arkansas Department of Health 4815 West Markham, Slot 25 Little Rock, AR 72205-3867

Re: Thomas Harold Tvedten
P. O. Box 512-A
Lake Village, AR 71653

Dear Dr. Phillips:

Pursuant to Ark. Code Ann. Sec. 17-93-304, you are hereby requested by the Arkansas State Medical Board to conduct an investigation and inspection on the above-mentioned physician in order for the Board to determine whether there has been a violation of the Arkansas Medical Practices Act.

Please collect from the physician, hospital and pharmacy all records pertinent to the investigation and provide a written summary to the Board upon completion.

If you have any questions, please call me at 324-9410.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/sw

CASE #_94-69	DATE: June 8,9,10, 1994
	LICENSE #
COMMENTS:	
MOTION:	
MADE BY:	SECONDED BY:
CARRIED: YES	NO
VOTED NAY:	
RECUSED:	

March 23, 1994

Ark. State Medical Board 2100 Riverfront Dr. Suite # 200 Little Rock, Ark. 72202

Attn: Peggy Cryer

Dear Ms. Cryer;

I would like to formerly file a complaint against one of your members, Dr. Tom Tvedten of Lake Village, Arkansas on behalf of mv Mother ______ ake Village, Arkansas which died _____ Her death certificate disclosed

VAN SI JANY

As you can see from some of the records I am enclosing Dr. Tvedten prescribed addictive medication to a regular basis, this does not include the emergency room visits which he administered additional medication as well as in his office.

In a recent conversation to Dr. Tvedten and 2 other family members the question was asked," Why do you continue to prescribe these medications to ?"
His response was that if he did not give it to her she would just get it from the street. I cannot understand a Doctor's excuse for doing such a practice.

Dr. Tvedten is aware of our family history, ie: her had the same problem and both

I have another that Dr. Tvedten also prescribes narcotics too. She has regularly received a syringe of from his office to take home and inject herself.

Our family has been through enough with this terrible disease of addiction.

We are suppose to trust our doctors to keep ourselves and our family members well and use their knowledge and experience to treat us.

I feel this doctor is a disgrace to vour profession. I fear for the life of my addiction and dependency at this time appears to be severe, especially with the recent death of }

I plead with you to investigate this doctor for the safety of and many others like her.

Whatever information you may need for this charge I will do everything in my power to provide.

Your earlist attention and cooperation will be appreciated and I look forward to your reply very soon.

Sincerely,

Vicki.

Vicki Weesner

or.

Lexington, Ky. 40513

cc: Mr. Kenny Johnson, Attorney

Chicot Family Practice

P. O. Box 512A - Hwy. 65 & 82 Lake Village, AR 71653

Tom Tvedten, M.D.

Shirlene Hill, D.O.

12 B.

April 14, 1994

Peggy Pryor Cryer 2100 Riverfront Drive, Suite 200 Little Rock, AR 72202-1793

Re:

:Deceased

Dear Peggy,

I have lived and worked in Lake Village for the past 16 years. Almost, since I first came here I have treated and her family. I continue to treat most of her family members in this area. (Her youngest daughter is presently one of my OB patients and is due next month.)

Several years ago I discussed this patients proable chronic need for pain control. She agreed to not seek scheduled medications elsewhere and in return I agreed to provide a limited well controlled supply of scheduled medications to allow her to continue to work in her capacity as a waitress in a local short order restaurant.

The week before this patient is was in my office and seemed to be doing very well. In fact she was nearly ebullient about her daughter's upcoming delivery.

I sympathize with her daughter from Kentucky's feelings but know that she had little contact with her mother and family here in Lake Village and may have been unaware of her mother's chronic serious pain problems.

If I can be of any further assistance, please let me know.

Sincerely,

Tom Tvedten, M.D.

October 28, 1994

Peggy Cryer Arkansas State Medical Board 2100 Riverfront Drive Suite 200 Little Rock, Arkansas 72202-1793

Dear Ms. Cryer;

I appreciate the time and effort the Board made to the review of Dr. Tvedten. However, I must disagree with his response.

Dr. Tvedten is not treating any member of my family now except for my which is very much dependent on Dr. Tvedten giving her drugs, which he continues to do.

on any anniversary oncerning my father.

as living in Lake Village which at the time she had prescriptions from Dr. Tvedten.

As far as my contact with my family, I was in constant contact with my family. I am very well aware of my mothers medical problems as well as her emotional problems.

had been taking prescription drugs along with as long as I can remember. If Dr. Tvedten had done his job as a doctor he would have helped her get emotional help for a dependency for prescription drugs instead he chose to be her drug provider and not heal her.

Dr. Twedten is taking the same position with in continuing to prescribe narcotics for her on a regular basis.

October 28, 1994

Tom Tvedten, M.D. Chicot Family Practice P.O.Box 512A-Hwy.65 & 82 Lake Village, AR 71653

Dear Dr. Tvedten;

I totally disagree with the points you made in your response to the medical board letter dated April 14, 1994.

I think you better check your facts again.

- 2. as living in Lake Village when she took her life and you gave her prescription medicine at the time of her death because we found them.
- 3. You are not treating ace the birth of her baby because you made a bad decision in inducing labor and delivered such a small baby. What gives you the right to play with people's lifes like that?
- 4. You have no idea what my feelings are. I have seen more drug abuse in my family even before you were a Physician in Lake Village. I had plenty of contact with and was well aware of her medical problems.

My family has begged you not to continue giving prescription drugs. At this time is in the worst shape she has been in a long time and you continue to treat her with pills. The best I have seen her was when she lived with me in Ky. because she could not find a Doctor that would give her the drugs you continue to prescribe. But she did get Mental Group Treatment - needs a Rehab program not more pills.

I want to put you on notice that if takes her life, as her physician and aware of her family history and dependency of prescription drugs I will hold you responsible for those consequences. I will sue you personally and call any and every News Media that will listen to my story.

At this time I want to go on record informing this
Board of the same position Dr. Tvedten is taking with my
If he thinks he is in control of what
she takes he needs to go back to Medical School. She steals
from who ever she can including my 90 year old grandmothers
medicine. If something happens to
as it did
and the other relatives in my family, I will hold
this board responsible for not taking action against Dr.
Tvedten or for not doing a continuing monitoring of this
doctors practice in prescribing narcotics. I fully intend
to inform the National News Shows of this incident if my
family is put thru another tragedy with Dr. Tvedten as the
treating physician.

I appreciate any future consideration with this matter.

Sincerely,

Vicki Weesner

Lexington, Ky, 40513

I have been in contact with this week and I understand from her that the two of you have mutually agreed to part ways as Doctor and patient. When I talked to her last night she is in Jackson at the Charter Rehab Center. I hope that this is the beginning of the end of her addition problem and you will continue not to treat her.

I am begging you not to treat Help her to get help. Our family has suffered to many tragedies with this drug dependency problem that does run in this family. If you have any compassion at all you will recommend a treatment center and discontinue your pill treatment.

Vicki Weesner
Lexington, Ky. 40513

cc: Arkansas State Medical Board Ms. Peggy Cryer



ALXANSAS STATE MEDICAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 (501) 296-1802 FAX: (501) 296-1805

Peggy Pryor Cryer Executive Secretary

Board Members:

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Rhys A. Williams, M.D. Harrison, AR

James E. Zini, D.O. Mountain View, AR

Legal Counsel:

William H. Trice, III 211 Spring Street Little Rock, AR 72201 (501) 372-4144 September 22, 1994

Thomas Harold Tvedten, M.D. P. O. Box 512-A Lake Village, AR 71653

Dear Dr. Tvedten:

The complaint registered against you by Vicki
Weesner with regard to her mother, of
Lake Village, was reviewed at the September meeting
of the Arkansas State Medical Board. As you were in
attendance at this meeting, you are aware that the
Board voted there was no violation of the Arkansas
Medical Practices Act. Therefore, no disciplinary
action was taken.

A copy of the correspondence so notifying Mrs. Weesner of the finding of the Board is enclosed for your information. As of this time, this Board considers this case closed. A copy of this complaint, as well as your response, will be placed in your file.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/sw



AKKANSAS STATE MLDICAL BOARD

2100 Riverfront Drive, Suite 200, Little Rock, Arkansas 72202-1793 (501) 296-1802 FAX: (501) 296-1805

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Rhys A. Williams, M.D. Harrison, AR

James E. Zini, D.O. Mountain View, AR

Legal Counsel:

William H. Trice, III 211 Spring Street Little Rock, AR 72201 (501) 372-4144 September 22, 1994

Vicki Weesner

Lexington, KY 40513

Re: Thomas Harold Tvedten, M.D.

Dear Ms. Weesner:

The-complaint you registered against Thomas Harold Tvedten of Lake Village, was reviewed at the September meeting of the Arkansas State Medical Board. After a thorough review of your complaint as well as the response of Dr. Tvedten, and his personal appearance, the Board voted there was no evidence of violation of the Arkansas Medical Practices Act with regard to this case. Therefore, no disciplinary action.

The Board did ask that I express to you their sincere sympathy over the loss of ... They also asked that I inform you that they did hear the concern you have with regard to the amount of medications being prescribed to your mother by Dr. Tvedten. However, the medical records did not indicate that was related to the medications Dr. Tvedten had prescribed for her.

I have enclosed for your review, a copy of Dr. Tvedten's response to your complaint. It is the hope of this Board that after you read his response, it will provide you with additional information and assist you in a better understanding of Dr. Tvedten's action.

The Board is also aware that no amount of information can ease the hurt and the pain you must be suffering in your loss and for this we are truly sorry.

Sincerely,

Peggy Pryor Cryer Executive Secretary

PPC/sw

cc: Thomas Harold Tvedten, M.D.

Din er. Verser, love 26 1980 7-21-89 Thank you for being so hind, patient & professional when I spoke to you this part Monday, July 17,89. I feel 'a bit more stable because I did get my medication refilled. However, that doesn't charge the fact that the medical community of the state of arkanage how continually kept me "strung out" for 10 years. The only reason I'm not mailing you all 60 bottler in because I'm afraid every doctor in the state will be tearified of given me what has become my life support agatem. At that paint, I'l have to bravel out of state which I've done before to get my medication. When I feel that I truly burt the board to keep my name out of

the forces (I take school, D. Tura) I'll send the other bottle. I'm unding the ones from Dr. Twesten because he used my a dependence for his own proposion. This also included the foot that he performed a DNC on me our Feb. 11/89, told me afterwarde not to have equal relation for 3 weeks then proceeded. to have requal intercourse withme. all of that is water under the bridge" But I'm sick of begging pleading, hunting, etc. to get felle that distant licensed by the state put me on in the first place. I hope I make sense. I feel I do. In about ; so called professional take their professional perke to the disastrantage of their patients, I hope you can keep this confidential but if you can't it'll be worth it to clean in can't medical community of discuss. Strately



TOM TVEDTEN MEDICAL CLINIC

JUN 9 - 1989

TOM TVEDTEN, M.D.

HIGHWAY 65 & 82 - P.O. BOX 512-A LAKE VILLAGE, AR 71653

(501) 265-3813 OR 265-3814

June 7, 1989

Dear Colleague,

Enclosed find a copy of letter to Marvin Lloyd DDS, a local dentist and member to the board for the State Health Dept. A move is being made to remove the requirement that lay midwives have a local physician "back up". This is being done to promote and expand lay midwifery.

Sincerely,

Tom Tvedten, M.D.

TT/pw

TO: Marvin Lloyd, D.D.S.

FROM: Tom Tvedten, M.D.

RE: Proposed Changes in Lay Midwife Regulations

I am concerned about Dr. Bryant and Dr. Workman's proposed "solution" to the lay-midwife problem. What they are in fact proposing is a ruling that, if passed, would make a hospital in the neighborhood of a practicing lay midwife a scapegoat for his/her problem deliveries. These physicians seem willing to permit, and even recommend, that local hospitals, often against their will, be used as the designated "back up" facilities for the lay midwife. This form of "dumping" is not permitted or tolerated by doctors or hospitals. When a physician or hospital is found quilty of transferring a patient without prior authorization from the receiving institution and a physician there then the transferring facility and doctor face very heavy sanctions and fines.

Lay midwifery practiced outside a hospital setting is, in my opinion and the opinion of the vast majority of medical professionals, an unsafe medical practice. It is the justifiable opinion of the medical community that childbirth outside of a hospital setting should be avoided whenever possible. Though most routine vaginal deliveries are uncomplicated, not infrequently a true disaster and tragedy is avoided by aggresive acute medical and/or surgical intervention. Though on a test in school a 98% (1 wrong out of 50) is a wonderful score; in obstetrics one lost or damaged mother or baby out of 50 is grossly unacceptable. Statistics in obstetrics can be very misleading. Another good example of this is a comparison of infant mortality rates between various newborn nurseries around the state. Our nursery in Lake Village has never lost a baby, to my recollection, while the ICN at Childrens Hospital may lose up to 25% of their patients. Does this suggest that our nursery does a better job than Childrens? Of course not.

The state legislature has directed the State Health Dept. to oversee the lay midwife program and make it safe, basically to "make a silk purse out of a sows ear." This, I believe, can not be done. The only true solution to this problem that I can envision is to allow lay midwifery and home delivery but to strongly recommend against it. Personal freedom is very important to us as Americans. We should be able to choose what form of medical care we wish even if it is not deemed safe or appropriate by organized medicine and our government. We should not lend the facade of legitimacy to unsafe medical practice by licensing and attempting to regulate it.

I strongly oppose this attempt to have the State Health Dept. to take this giant step backward and trust and hope that you will do the same. Please distribute this letter to your fellow board members if you see fit to do so.

cc: J. Elders, M.D., J.P.Burge, M.D., Joe Verser, M.D., James Young, M.D., Bob Young, M.D., James Tanner, M.D., Dan Smigelski, Bill Clinton, Jack Gibson, Bynum Gibson, James Weber, M.D., George Roberson, N.D., Jerry Quirk, M.D., I.Dodd Wilson, M.D., Frank Miller, M.D.

Arkansas State Medical Board

GEORGE F WYNNE, M.D., CHAIRMAN WARREN, AR HUGH R. EDWARDS, M D SEARCY, AR FRANK M., BURTON, M D HOT SPRINGS, AR VERNON H CARTER, M.D., ROGERS, AR JOHN B CURRIE, SR. WILMOT, AR

JOE VERSER, M.D. SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

W. RAY JOUETT, M.D.
VICE-CHAIRMAN
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MOUNTAIN HOME, AR
BASCOM P. RANEY, M.D.
JONESBORO, AR
ROBERT M. CEARLEY, JR.
ATTORNEY
LITTLE ROCK, AR

January 16, 1986

Tom Tvedten, M.D. P.O. Box 512-A Lake Village, AR 71653

Dear Dr. Tvedten:

This acknowledges your recent letter and information on Carolyn Vogler. Obstetric delivery has become such a hi-risk procedure that more and more physicians are quiting the practice. Malpractice insurance for obstetrics in New York is \$80,000 per year, and in California it is \$60,000 per year. The thing we need to be worrying about is who, in the future, will be qualified and willing to deliver babies. I hope to discuss this matter with the Legislative Council at a later date.

Sincerely,

Ark. State Medical Board

V:vsd

Maternity director makes presentation at Vanderbilt Center

Mrs. Carolyn Vogler, director of Delta Maternity Center in Dermott recently was the guest lecturer at Vanderbilt Medical School's Center for Health Sciences.

The school invited Mrs. Vogler to speak on strategies for lowering prematurity and toxemia, since Delta Maternity Center has a lowered rate of prematurity and toxemia as compared to area statistics. Mrs. Vogler also described techniques for improving birth outcomes and lowering cesarean section rates based on

allowing the mother to walk, sit or stand during labor; not withholding food or water, and allowing the mother to use gravity to help pust the baby out as opposed to having the mother deliver in the usual way of flat on the delivery table as is common in delivery rooms.

Mrs. Vogler also presented a slide show based on several case histories as well as discussing techniques for labor management that enhance the birth outcome, promote mother-and infant bonding, and concentrate on family-centered childbirth.



Mrs. Carolyn Vogler, director of Delta Maternity Center in Dermott lectured at Vanderbilt Medical School's Center for Health Sciences recently.



TOM TVEDTEN, M.D.

HIGHWAY 65 & 82 - P O BOX 512-A

LAKE VILLAGE, AR 71653

(501) 265-3813 OR 265-3814

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Delto materiale center and Corolyn Vogler in your 1/86 issue was beased 4

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TOM TVEDTEN MEDICAL CLINIC TOM TVEDTEN, M.D.



HIGHWAY 65 & 82 - P O BOX 512-A

LAKE VILLAGE, AR 71653 (501) 265-3813 OR 265-3814

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TOM TVEDTEN, M.D. HIGHWAY 65 & 82 - P O BOX 512-A LAKE VILLAGE, AR 71653

(501) 265-3813 OR 265-3814

Proposed Change in System of Reimbursement for Physicians

Due to the wide disparity between the reimbursement of physicians for their cognitive versus their procedural skills and time expenditure, the need for a change in the usual reimbursement schedules has become obvious to most physicians. I offer this as a rational approach to solving this problem:

A system similar to the "DRG" system could be established to weigh a specific diagnosis according to how much time a physician actually spends attending to this medical problem. (i.e. physician manhours per diagnosis). This time schedule would include all time spent by the physician from the time of initial presentation to the time of final discharge. Each physician would be rated by his expertise, by his level of training and tested proficiency. (e.s. a General Practitioner with one year of internship training would be a level 8, the lowest level, while a hematologist with 5 years of residency and board certification would be a level 12, having 4 years of training above and beyond that of the GP. One point or level being credited for each year of college, medical school and postgraduate training.)

The surgeons and surgical subspecialists would be ranked by this same system. Each level would be given a certain dollar per hour value, for example \$10.00 per hour. A level 8 physician would be worth \$80.00 per hour while a level 12 Dr. would be worth \$120.00 per hour.

By assigning an hour value to a diagnosis and a per hour value to a physicians time a uniform reimbursement system could be established. For example, a level 13 surgeon treating acute appendicitis would receive 13 X 10 X 2.6, or \$338.00 for this diagnosis if the diagnosis carried an hour value of 2.6.

If this system were adopted, other variables would need to beconsidered such as the varying cost of malpractice insurance from specialist to specialist, and the reimbursement scheldule be adjusted accordingly. The ultimate goal though would remain equal pay for equal effort.

It is obvious to the knowledgeable reader that certain subspecialist would suffer financially from this system, but medicine in general and the general public would be better and more rationally served.

d.m Dha comes



TOM TVEDTEN, M.D.
HIGHWAY 65 & 82 - P O BOX 512-A
LAKE VILLAGE, AR 71653
(501) 265-3813 OR 265-3814

Dear Dr. Verser,

July 3, 1985

There exists an ever-growing concern over, and perhaps abuse of prescription drugs. One of the problems that we as physicians face in this area is that there seems to be a lack of specific guidelines concerning "over prescribing" of scheduled medicines and a lack of information concerning norms of practice in this area. Many doctors are unsure about what their peers are doing and what the various regulatory bodies and agencies supervising this area of practice consider appropriate standards of care.

Other states, such as California and Nevada, have dealt with this problem by establishing a central computerized monitoring system that catalogs and stores all scheduled medication prescriptions and files this for cross referencing and survey purposes according to the drug prescribed, amount of unit doses prescribed, physician writing prescription, patient receiving prescription (by social security number when available), pharmacy filling Rx, ect.

This seemingly momentous and expensive task of information collection and handling is simplified by the "triplicate prescription" system used by these states.

In these states, all prescriptions written for scheduled medications must be written separately on a special carbon copy pad that provides three copies of the Rx. One copy is kept by the doctor for his files, one is kept by the pharmacist, and the third is sent by the pharmacist to the DIU or its equivalent in that state. The information on the Rx is then entered into the computer. (I feel that a "duplicate" system deleting the doctor's copy would work as well and save time and money.)

Several obvious advantages of this system are apparent:

- 1. The system would provide all of the physicians in the state with a data base for comparison of their prescribing practices with those of their peers.
- 2. It would provide the DIU with immediate information concerning deviations in prescribing practices away from the norm.
- 3. It would identify patients that were using unusually



TOM TVEDTEN, M.D.

HIGHWAY 65 & 82 - P O BOX 512-A LAKE VILLAGE, AR 71653 (501) 265-3813 OR 265-3814

large amounts of scheduled medicines and thus help prevent drug abuse.

- 4. It would simplify, centralize and decrease the work load of the DIU and thus probably save the state money.
- 5. It would provide a basis for comparison between the prescribing practices of one physician and his peers and thus relieve the Arkansas State Medical Board of its necessarily arbitrary interpretation of what is "excessive" in the prescribing of controlled substances.
- 6. It would allow the Medical Board. DIU, or State Pharmaceutical Board to investigate and warn a doctor or pharmacist that his or her practice was beginning to vary from that of his peers, thus preventing many of these professionals from getting into trouble.
- 7. Physicians, that out of fear of reprisal, undertreat their patients in pain with narcotic analgesics would be provided specific guidelines of acceptable standards of care freeing them to use pain medication more appropriately and thus helping to relieve human suffering to a greater degree.

I submit to the Arkansas Medical Society, the Arkansas State Medical Board, the Arkansas State Legislature, the governor, and to the people of this state, that we develop and adopt a system similar to the one I have described.

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Dr. Tom Twedten

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Se the otto nombers of the board.

JERRY HODGE, R.PH. President Amarillo

H. CRAIG DARBY, R.PH.

BILL C. PITTMAN, R.PH. Amarillo JUDY TAYLOR Vice-President Yorklown

ALBERT E. HOPKINS, R.PH. Houston

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Executive Director/Secretary

RENEÉ E. SOLÍS, R.PH. El Paso

Texas State Board of Pharmacy

211 East 7th Street • Suite 1121 • 512/478-9827
Austin, Texas 78701

August 8, 1985

Tom Tvedten, M.D. Tom Tvedten Medical Clinic P.O. Box 512-A Lake Village, Ar 71653

Dear Dr. Tvedten:

The institution of the Triplicate Prescription Program has resulted in practitioner's and pharmacist's becoming more aware of the drug abuse problem related to Schedule 2 controlled substances prescribing/dispensing. From conversations with pharmacists at various professional meetings and personal contacts, there appears to be a significant decrease in the number of Schedule 2 prescriptions now written. In addition there appears to have been a decrease in the amount of Schedule 2 forgeries.

The areas of the Board's investigative effort that has directly benefited from the Triplicate Prescription Program have been:

- 1. Evaluating excessive purchase of Schedule 2 controlled substances reported by DEA.

 By obtaining Triplicate Prescription printouts of what a pharmacy is dispensing and comparing this information with the excessive purchase report, we are able to detect patterns of dispensing by pharmacists which may not be in the usual course of professional pharmacy practice. It is also possible to detect pharmacists who may be in collusion with one or more doctors in distributing Schedule 2 controlled substances in violation of the Controlled Substances Act.
- 2. Providing additional intelligence information upon receipt of a complaint against a pharmacist/pharmacy.

 The Triplicate Prescription printouts enable the Board to easily obtain the Schedule 2 dispensing pattern of a pharmacy, which is of assistance in determining how an investigation should be conducted.
- 3. Providing information as to which pharmacies are dispensing Schedule 2 prescriptions of practitioners under investigation by the respective health regulatory agencies and/or law enforcement agencies.



Dr. Tvedten August 8, 1985 Page 2

The Triplicate Prescriptions printouts provide the specific pharmacies dispensing prescription of practitioners under investigation. In some instances, such pharmacies are not in the same geographical area as the practitioner.

- 4. Detecting dispensing patterns by a pharmacy for specific patients.

 By reviewing Triplicate Prescription printouts listing the dispensing by patient name, it is possible for the board to determine a pattern of non-therapeutic dispensing by a pharmacist.
- 5. Ability to detect high volume dispensing pharmacies.
 The ability to obtain data concerning pharmacies dispensing a high volume of Schedule 2 prescriptions is possible without necessity of having to perform on-site inspections of all pharmacies.
- 6. State and Federal prosecuting attorney information.
 Triplicate Prescription printouts allow a prosecuting attorney to graphically observe the distribution pattern of a pharmacy/practitioner, thereby assisting an agency attempting to obtain the cooperation of the respective State or Federal attorney.

As can be seen by the above, this type of information was not generally available prior to the Triplicate Prescription program unless intelligence information was available and on-site inspections of pharmacies were conducted. This was not a practical method due to the lack of intelligence information, manpower considerations, and the possibility of jeopardizing the security of an investigation.

The Triplicate Prescription Program has presented no additional administrative demands on the board, but rather has resulted in more efficient operation of the Board's investigative functions. Although some additional demands have been placed on pharmacists, they appear to be minimal and we believe that the majority of pharmacists now accept and see the value of the program in decreasing drug abuse.

For the Rules and Regulations including information for practitioners contact:

B.C. Lyon, Captain, Narcotics Service Criminal Law Enforcement Division Texas Department Public Safety 5805 N. Lamar Blvd - Box 4087 Austin, Texas 78773

Sincerely,

Bill Roberts, R.Ph.

Director of Investigations

LAKE VILLAGE CLINIC

LAKE VILLAGE, ARKANSAS 71853

September 16, 1984

Dr. Joe Verser, Secretary Arkansas State Medical Board P.O.Box 102 Harrisburg, Ar 72432

Re: Thomas Tvedten

Dear Joe:

As I am sure you are aware Tom will be coming back up before the Board in the very near future to try to obtain return of his DEA number. My purpose in writing you is to tell you that to my knowledge, Tom has strictly adhered to the rulings'. The other physicians on the Staff have ordered analgesics on his patients when they were hospitalized and to my knowledge, he has not given any outpatients any other medications which he has been prohibited to utilize. To this point the hospital board has chosen not to allow him to work the emergency room until he has obtained a DEA number. As I am sure you are aware, there has been much correspondence between the hospital's attorney and Bob Cearley regarding this matter.

In summation, Tom appears to be adhering strictly to the guidelines laid down for him.

Sincerely

J.P.Purge, M.D

JPB/aw

Arkansas State Medical Board

GEORGE F, WYNNE, M.D. CHAIRMAN WARREN, AR HUGH R. EDWARDS, M.D. SEARCY, AR FRANK M. BURTON, M.D. HOT SPRINGS, AR VERNON H. CARTER, M.D. ROGERS, AR JOHN B. CURRIE, SR. WILMOT, AR

JOE VERSER, M.O. SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

W. RAY JOUETT, M.D.
VICE-CHAIRMAN
LITTLE ROCK, AR
JOHN F. GUENTHNER, M.D.:
MOUNTAIN HOME, AR
BASCOM P. RANEY, M.D.
JONESBORO, AR
ROBERT M. CEARLEY, JR.
ATTORNEY
LITTLE ROCK, AR

August 20, 1984

Re: Tom Tvedten, M.D.

W. K. Grubbs, Sr. Attorney P. O. Box 667 Eudora, Arkansas 71640

Dear Mr. Grubbs:

I apologize for the delay in responding to your letter of July 20, 1984. The press of other business and a family vacation have prevented me from responding sooner.

However, I am satisfied that the intent of the exemption granted to an "employee" as that term is used in the Code of Federal Regulations as interpreted by the DEA and my letter of July 6, 1984 is satisfied in the situation in which Dr. Tvedten currently finds himself. As to whether Dr. Tvedten is an "agent or employee" of the hospital for purposes of determining liability or for purposes of contract is a matter with which the Board is not concerned. I really feel that this issue will have to be resolved by the hospital administration or its counsel and not by an opinion from counsel for the Arkansas State Medical Board or by an edict from the Arkansas State Medical Board which has no binding authority whatsoever on the DEA. My understanding of the current position of the DEA and the Division of Pharmacy Services of the Arkansas State Health Department is that Dr. Tvedten could continue to order the administering of controlled substances to patients while he is staffing the emergency room or could order controlled drugs for them from the hospital pharmacy while he is acting in that capacity. If the hospital does not want to extend that privilege to Dr. Tvedten, then that it is certainly within the discretion of the hospital administration.

W. K. Grubbs, Sr.

Re: Tom Tvedten, M.D.

page two

August 20, 1984

I am sorry that I could not have been of more help to you in this matter.

Yours truly,

Robert M. Cearley, Jr.

RMCjr/ksi

cc: Joe Verser, M.D.

Arkansas State Medical Board

Arkansas State Medical Board

GEORGE F. WYNNE, M.D. CHAIRMAN WARREN, AR HUGH R. EDWARDS, M.D. SEARCY, AR FRANK M. BURTON, M.D. HOT SPRINGS, AR VERNON H. CARTER, M.D. ROGERS, AR JOHN B. CURRIE, SR WILMOT AR

JOE VERSER, M.D. SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432 W. RAY JOUETT, M.D VIGE-CHAIRMAN LITTLE ROCK, AR JOHN F, GUENTHNER, M.D. MOUNTAIN HOME, AR BASCOM P. RANEY, M.D. JONESBORO, AR ROBERT M. CEARLEY, JR ATTORNEY LITTLE ROCK, AR

August 8, 1984

Tom E. Hesselbein Medical Services Manager The St. Paul and Marine Insurance Co. 108 North Shackleford Road Little Rock, AR 72211

Dear Mr. Hesselbein:

I called you by phone, and you were not in so I talked to your secretary. I explained to her that the transcript on Dr. Tom Tvedten relative to the Board's hearing, was about two inches thick. She suggested that we send you a copy of the Show Cause Order and Order of Suspension, which I am enclosing.

Dr. Tvedten is now in good standing with this Board, however, on September 16, 1983 he appeared before the Board requesting permission to apply for his DEA, and the request was denied. Dr. Tvedten has again asked that he be allowed to appear at the next Board meeting on September 21st for the purpose of getting Board approval to apply for his DEA.

If you feel you need a copy of the entire transcript, you can obtain this from Bushman Court Reporting, Inc., 212 Center St., Suite 800, Little Rock, AR 72201. (501) 372-5115

Trusting this is the information you desire, I remain

Yours very truly,

Joe Verser, M.D., Sec'y. Ark. State Medical Board

JV:vsd

Arkansas State Medical Board

GEORGE F WYNNE, M.D. CHAIRMAN WARREN, AR HUGH R, EDWARDS, M.D. SEARCY, AR FRANK M. BURTON, M.D. HOT SPRINGS, AR VERNON H. CARTER, M.D. ROGERS, AR JOHN B. CURRIE, SR. WILMOT, AR

JOE VERSER, M.D. SEGRETARY-TREASURER P.O. BOX 102 HARRIGBURG, AR 72432

August 8, 1984

W. RAY JOUETT, M.D.
VICE-CHAIRMAN
LITTLE ROCK, AR
JOHN F. GUENTHNER, M.D.
MOUNTAIN HOME, AR
BASCOM P. RANEY, M.D.
JONESBORO, AR
ROBERT M. CEARLEY, JR.
ATTORNEY
LITTLE ROCK, AR

Tom Tvedten, M.D. Highway 65 & 82 P.O. Box 512-A Lake Village, AR 71653

Dear Dr. Tvedten:

This acknowledges your recent letter, and the next Board meeting will be held on September 21, 1984 in room 101 of the Little Rock Convention Center. As soon as the agenda is completed, we will advise you the time to appear.

Sincerely,

Joe Verser, M.B., Sec'y. Ark. State Medical Board

JV:vsd



TOM TVEDTEN, M.D.

HIGHWAY 65 & 82 - P O BOX 512-A LAKE VILLAGE, AR 71653

(501) 265-3813 OR 265-3814

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Joan Grander Jan Tredter M.D.

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON MARCIA BARNES

P. O. BOX 1510 LITTLE ROCK, ARKANSAS 72203

July 6, 1984

Re: Tom Tvedten, M.D.

Thomas G. Wilson Administrator Chicot Memorial Hospital P. O. Box 512 Lake Village, Arkansas 71653

Dear Mr. Wilson:

You have asked my opinion or interpretation, as counsel to the Arkansas State Medical Board, of the language included in a letter dated January 27, 1984 from the Drug Enforcement Administration of the U. S. Department of Justice addressed to Don Phillips, Director, Division of Pharmacy Services, Arkansas State Health Department regarding the prescribing of controlled substances by a licensed physician who does not possess a DEA registration. You should know first that the letter opinion which is referred to was furnished in response to a specific request from Don Phillips that resulted from recurring questions regarding this issue.

The following language appears in Don Phillips' letter to the DEA:

"May a physician, whose DEA registration has been surrendered as a result of a controlled drug violation and whose state license to practice medicine was suspended, use the hospital's DEA registration number to prescribe controlled drugs for in-patients of that hospital with the approval of the State Medical Board once his state license to practice medicine is reinstated?

(Example) Dr. John Doe was brought before the State Medical Board for abusing Demerol. The Board suspended his license to practice medicine for three months and requested that he surrender his DEA registration at the time of suspension. Dr. Doe, as requested, surrendered his DEA registration entitling him to prescribe controlled substances.

Thomas G. Wilson
Re: Tom Tvedten, M.D.
page two

The State Medical Board later reinstated his license, but only allowed him to prescribe controlled drugs to inpatients of the local community hospital, using the hospital's DEA registration for this purpose. May the physician prescribe controlled drugs without the DEA registration himself in this setting?"

I have also independently reviewed the provisions of Title 21 CFR §1301.24 and am of the opinion that Mr. Gitchel's letter interpreting the regulations is correct.

With particular regard to the situation of Dr. Tvedten, the exemption from registration granted under §1301.24 (b) would, in my opinion, allow Dr. Tvedten to administer and dispense, but not prescribe, controlled substances under the hospital's DEA registration when Dr. Tvedten is staffing the emergency room. I understand that the current arrangement is that the ER physician receives \$15 per hour for every hour that he is on duty. In my opinion, such a physician would be considered and "agent or employee" of the hospital while acting in that capacity. I do not find any exemption under \$1301 which would allow Dr. Tvedten to prescribe or order controlled substances for his own patients or for other patients whom he sees in the hospital setting in his private practice as a physician, as long as he has no DEA registration. I do not, however, see any obstacle to having another physician review his charts and orders and actually do the ordering of controlled substances for Dr. Tvedten in instances in which they are needed.

I hope this opinion is of some help to you. Please feel free to call upon the Arkansas State Medical Board should you require any further information.

Yours truly,

Robert M. Cearley, Jr.

RMCjr/ksi

cc: Joe Verser, M.D.
Tom Tvedten, M.D.
Don Phillips
Sam Probasco
J. P. Burge, M.D.



U.S. Department of Justice

Drug Enforcement Administration

Washington, D.C. 20537

JAM 27 1984

Dr. Don Phillips Director, Division of Pharmacy Services 4815 West Markham Street Little Rock, Arkansas 72201

Dear Dr. Phillips:

Reference is made to your recent letter in which you requested clarification of the Federal regulations regarding the circumstances under which a physician may use a hospital's DEA number.

The registration exemption granted under Section 1301.24(b) of Title 21 of the Code of Federal Regulations permits an individual practitioner who is an agent or employee of a hospital or other practitioner registered to dispense controlled substances to administer and dispense, but not prescribe, controlled substances under the registration of the employer. This authorization is contingent, of course, upon the practitioner's being licensed to dispense and administer controlled substances by the jurisdiction in which he/she practices.

The registration exemption granted under Section 1301.24(c) of Title 21 of the Code of Federal Regulations is extended only to interns, residents, foreign-trained physicians and physicians employed at Veterans Administration facilities. This section specifies that such a practitioner may dispense, administer and prescribe controlled substances under the registration of the hospital or other institution which is registered and by whom the practitioner is employed, provided that:

- the dispensing, administering or prescribing is done in the usual course of professional practice.
- the individual practitioner is authorized or permitted to do so by the jurisdiction in which he/she is practicing.
- the hospital or other institution by whom the practitioner is employed has verified that the practitioner is authorized to dispense, administer or prescribe controlled substances within the jurisdiction.

- the individual practitioner is acting only within the scope of his/her employment at the hospital or institution.
- the hospital or institution authorizes the practitioner to dispense, administer or prescribe controlled substances under the hospital registration and designates a specific internal code number for each practitioner so authorized. The code number shall consist of numbers, letters or a combination thereof and shall be a suffix to the institution's DEA registration number preceded by a hyphen (e.g., AP1234567-10 or AP1234567-A12).
- a current list of internal codes and corresponding individual practitioners is kept by the hospital or institution and is made available to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of the prescribing practitioner.

This exemption is intended to accommodate those interns, residents and foreign physicians who only dispense, administer or prescribe controlled substances to in-patients and out-patients of the hospital at which they are employed.

With regard to the example that you cited in your letter, the physician who has had his state license suspended and subsequently reinstated may dispense and administer controlled substances to in-patients under the hospital's DEA registration pursuant to the exemption granted under 21 CFR 1301.24(b), provided that he is an employee of the hospital. This exemption does not extend to physicians in private practice nor to physicians employed by a third party (e.g., an employment contract agency). It is important to note that, although the physician may order medication for in-patients, he is not authorized under this exemption to issue prescriptions for controlled substances.

If you have any other questions, please feel free to contact me.

Sincerely,

G. Thomas Gitchel, Acting Chief-Diversion Operations Section

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON MARCIA BARNES

P. O. BOX 1510 LITTLE ROCK, ARKANSAS 72203

May 23, 1984

Re: Arkansas State Medical Board vs. Tom Tvedten, M.D.

Tom Tvedten, M.D. 442 South Lakeshore Lake Village, Arkansas 71653

Dear Dr. Tvedten:

The matter of reinstatement of your DEA Registration has been placed on the Board's agenda for its meeting on Wednesday, June 13, 1984. This matter is set for 2:30 p.m. in the Camelot Hotel, Plaza East Room, Little Rock, Arkansas. Should you have any question with regard to these matters prior to the hearing, please feel free to call.

Yours f

RODert M. Cear

RMCjr/ksi

cc: Joe Verser, M.D.

Arkansas State Medical Board

Joe D. Wray Attorney

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7970

P. O. BOX 1510

LITTLE ROCK, ARKANSAS 72203

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON MARCIA BARNES

May 9, 1984

Re: Tom Tvedten, M.D.

Joe Verser, M.D. Arkansas State Medical Board P. O. Box 102 Harrisburg, Arkansas 72432

Dear Joe:

I received a letter from Joe D. Wray, the attorney who represented Dr. Tvedten before the Board. He inquired with regard to when Dr. Tvedten would be "eligible" for re-application for his DEA Registration. He states that Dr. Tvedten is willing to condition his DEA to exclude the prescribing of Schedule II controlled substances and would be willing to submit to other restrictions if the Board sees fit to impose them.

What shall I tell him?

Yours truly

Robert M. Cearley, Jr.

RMCjr/ksi

Dr. Joe Verson guinnan se Olin 6, wond nog as guing my radical practice in Sale V llage a Cetarragas se regner as lin 6. E6/8 mitaler mo frank, simil V. I all 5 olip remaine amicable, as d'am enter-ing a "olor "olor" practice. stup as to last anish such & difficult to maintain a complete general practice 5 a D.E.A. and west to lass Emstareline 6. g. a. s. a julggs en rigo broad ell expel emos laura 6 so do so. Planse Please schedule a time for my of shages way no guiross tacupor les to fi guilloon as 11. Tops & rucy possible.

Tom Tredten

142 5. Lekeshore

Lake Village ark

71653

ph. 265 2412

Arkansas State Medical Board

H ELVIN SHUFFIELD, M.D. CHAIRMAN LITTLE ROCK, AR HUGH R., EDWARDS, M.D. SEARCY, AR FRANK M., BURTON, M.D HOT SPRINGS, AR VERNON H CARTER, M.D. ROGERS, AR JOHN B CURRIE, SR. WILMOT, AR

JOE VERSER, M.D SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

August 17, 1983

C. STANLEY APPLEGATE, M.D. VICE-CHAIRMAN SPRINGDALE, AR JOHN F. GUENTHNER, M.D. MOUNTAIN HOME, AR GEORGE F. WYNNE, M.D. WARREN, AR BASCOM P. RANEY, M.D. JONESBORO, AR ROBERT M. CEARLEY, JR ATTORNEY LITTLE ROCK, AR

Mr. Thomas G. Wilson Administrator Chicot Memorial Hospital Lake Village, AR 71653

Dear Mr. Wilson:

Pursuant to our telephone conversation, this is to advise that the suspension of Dr. Tom Tvedten's license will end August 22, 1983. He will have an automatic reinstatement of his license without prior Board approval, but he is not to ask for a DEA registration without first meeting with the Board and getting approval from the Board.

Trusting this is the information you desire, I remain

Yours very truly,

Joe Verser, M.D., Sec'y. Ark. State Medical Board

JV:vsd



Arkansas State Medical Board

H ELVIN SHUFFIELD, M.D. CHAIRMAN
LITTLE ROCK, AR
HUGH R EDWARDS, M.D. SEARCY, AR
FRANK M BURTON, M.D. HOT SPRINGS, AR
VERNON H. CARTER, M.D. ROGERS, AR
JOHN B, CURRIE, SR.
WILMOT, AR

JOE VERSER, M D SECRETARY-THEASURER P.O BOX 102 HARRISBURG, AR 72432

May 9, 1983

C, STANLEY APPLEGATE, M D VICE-CHAIRMAN SPAINGDALE, AR SPAINGDALE, AR GEORGE F. WYNNE, M.D. WARREN, AH BASCOM P. RANEY, M.D. JONESBORO, AR ROBERT M. CEARLEY, JR. ATTORNEY LITTLE ROCK, AR

Dennis J. Carothers Business Manager: Lake Village Clinic Lake Village, AR 71653

Dear Mr. Carothers:

This acknowledges your recent letter and I wish to advise that the Order of Suspension on Dr. Tvedten has already been sent to him. There is no way that the Board proceedings can be changed. I am sorry for you and your employees perdicament, but there is simply nothing that can be done about the situation, the Board's action is final.

Trusting this is the information you desire, I remain

Yours very truly,

Joe Verser, M.D., Sec y. Ark. State Medical Board

nh. State Medical Dar

JV: vsd

LAKE VILLAGE CLINIC

LAKE VILLAGE, ARKANSAS 71653

April 3, 1983

Dr. Joe Verser Arkansas State Medical Board 212 Jackson Harrisburg, Ar 72432

Re: Suspension of Dr. Tom Tvedten's Medical License

Dear Dr. Verser:

Under the Lake Village Clinic, PA Employment contract, Section 14, Paragraph A, states that any physician employee would be terminated if the employee, for any reason, ceases to be a duly licensed physician with the state of Arkansas in good standing, or becomes otherwise disqualified to practice medicine in the state of Arkansas. Under the Lake Village Clinic, PA's Stock Repurchase Agreement, the clinic is obligated, on Dr. Tvedten termination, to purchase his shares of stock in the corporation according to the shares value in relation to the corporation retained earnings, per books, as of April 30, 1983. Under the existing suspension of Dr. Tvedten's medical license, Dr. Tvedten would receive a very favorable financial settlement from the Lake Village Clinic, PA, while the other five stockholders (Drs. J.H.Burge, A.G.Talbot, J.P.Burge, J.R.Russell, and D.T.Berry), would have to bear the financial responsibility of paying Dr.Tvedten for his stock and also any legal fees incurred in said sale of stock and termination of Dr. Tvedten.

I would like to ask, instead of the official suspension of his medical license, if there is any way the Medical Board could reach some type of agreement with Dr. Tvedten for him not to practice medicine during the three months period of May 23 thru August 23. This would relieve the stockholders of the Lake Village Clinic, PA, the financial obligation of buying Dr. Tvedten's stock and would also ensure that Dr. Tvedten share in any loss of retained earnings incurred.

Sincerely, Of Coulow Dennis J. Carothers Business Manager

cc: Dr. Elvin Shuffield Drs. Park Suite 110 9600 W. 12th Little Rock, Ar 72201 Arkansas State Medical Board 212 Jackson Harrisburg, Ark. 72432

Dear Sirs:

It has been very difficult in the past for me to allow my patients to continue to suffer and I have therefore, when faced with patients suffering what I felt was severe pain, 2 have treated them with medications that were effective in relieving their pain. This perhaps took a great deal of courage on my part as I realized that there was a great stigma associated with the prescribing of narcotic analgesics but I was essentially alone in my approach that patients in this area of the state with these problems and therefore and the patients that required this form of therapy, except for a few that were personal friends or family members of other physicians in the area found their way into my office and thus my number of prescriptions written for these people was much higher than those of my less ourageous but perhaps wiser colleagues. Though it was difficult to deny these patients treatment when I was able to treat them, I have found it more difficult to accept their continuing suffering in the face of the limitations that you have placed upon me. I see these patients beginning to drift back into the depressed, withdrawn state of suffering that they were in when I initially began treating them. Today I received my membership certificate for the AMA for 1983. On the reverse side of this certificate there are listed the principles of medical ethics as espoused by the AMA. I feel that to have treated my patients in any other way than the way that I have treated them would have been in direct defiance of Number one, as to allow these people to continue to suffer their various problems would have shown in me a great lack of compassion and respect for human dignity. I would have been in defiance of Number 2 as I would have not dealt honestly with my patients. I would have as the other physicians in this state apparently are doing and certainly the ones that my patients have seen before coming to me have done, prescribed medications for my patients that I knew had been prescribed before under another name, little to no positive effect and often with negative side effects being a prominent addition to the patients already serious medical problems and thus I would have engaged in both fraud and deception. I could not do this. I would have been in defiance of Number 3 in that I feel that it is my responsibility to seek to change those laws or in this case unwritten laws which are contrary to the best interest of my patients. I would have been in defiance of Number 5, as it is through my continuing

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study and my consultation with other physicians that I have developed protocols of treatment that have resulted in my professional and financial embarrassment. I know of other physicians in Southeast Arkansas that have been on repeated occasions found to be abusing scheduled medications themselves. These physicians have received mild reprimands without suspension of their license.

You gentleman, have judged that my patients did not need the medications prescribed for them without reviewing my patients charts or even determining the nature of the patients presenting symptoms. I cannot help but feel that your punitive acts against me were not only arbitrary and capricious but also vindictive and intimidating to my colleagues in primary care that already feel intimidated by the vagueness of your statute concerning the "overprescribing" of narcotic analysics. The effects of my efforts before you seem to have at least in the short-term been exactly the opposite of what I had intended.

The patients that I have treated with narcotics in the past have been very closely followed, frequently re-evaluated and numerous other modalities of therapy tried. Most of the patients with whom you were concerned were coming to Little Rock on the 9th to testify before you concerning their personal medical problems and needs. Most of the patients in the 25 major "offenders" listed by you were not requiring narcotic analgesics at the end of 1982. Their particular problems had been solved in other ways. Some of the patients problems resolved surgically, others medically, Others with simple tincture of time. The important fact remains that they were not requiring narcotics and narcotics were not being prescribed. The patients did not show withdrawal syndromes, they did not persist in attempting to receive narcotic analgesics from me or other physicians. Their medical needs were legitimate, their medical needs were handled well and the medical outcome was excellent. There seems to be an inordinate fear among physicians, in fact a gut response resembling a phobia concerning the use of narcotic analgesics. These medications have been used for ages and when used properly and with constraint are extremely safe and effective. They are important, inexpensive, and safe tools in our medical armamentarium and the suffering patient and his physician alike should not be denied their use.

Your careful and unbiased consideration of this problem would be very beneficial to all of the physicians in the state. They are placed in the position of having to deal with the patient in severe pain. I would be more than happy to speak with the board members individually or in a group concerning any single patient or any set of patients within the group of my patients that you deemed to be treated improperly.

I will end this letter by posing you a question. When a patient returns from Dr. Boop's pain clinic with no effective medications, in continuing severe pain, what is one to do? May the good Lord guide you in your handling of this problem.

Sincerely,

Tom H. Tvedten, M.D.

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF:
Tom Tvedten, M.D.
P. O. Box 788
Lake Village, Arkansas 71653

DECISION AND ORDER

On March 11, 1983, an Order and Notice of Hearing was issued by the Arkansas State Medical Board directed to Tom Tvedten, M.D. This Order was served upon Dr. Tvedten by United States Mail. The Order advised Dr. Tvedten that he was charged with violating Ark. Stat. Ann. \$72-613(e)(g) and Regulation 2 of the Regulations of the Arkansas State Medical Board in that information had been received by the Board that Dr. Tvedten had written prescriptions for excessive amounts of Schedule II and IV addicting or potentially harmful drugs and that Dr. Tvedten had written an execessive number of prescriptions for Schedule II and Schedule IV addicting or potentially harmful drugs for some patients, as reflected by a report prepared by the Diversion Investigation Unit, Arkansas Department of Health, which was attached as Exhibit A to the Order and Notice of Hearing.

On April 8, 1983, Dr Tvedten appeared before the Board represented by counsel, Joe D. Wray, of Monroe, Louisiana, at which time hearing was held with regard to the Order and Notice of Hearing aforementioned. Seven witnesses testified at the request of the Arkansas State Medical Board and Charles Blackmon, M.D. and Dr. Tvedten each testified on

behalf of Dr. Tvedten. By agreement of counsel and the Board, all patients whose names appear in the report attached to the Order and Notice of Hearing as Exhibit A and introduced into evidence at the hearing as Board Exhibit 1 were identified by number only and by stipulation of counsel for Dr. Tvedten and the Board certain language was stricken from the exhibits which language lined through and initialed by all counsel for all parties in the exhibits introduced into evidence before the Board.

After counsel for the Board had presented testimony of seven witnesses and introduced exhibits in support of such testimony, and after both Dr. Tvedten and Dr. Charles Blackmon, a witness appearing on behalf of Dr. Tvedten had testified before the Board, counsel for the Board and Dr. Tvedten, with the knowledge and consent of Dr. Tvedten, agreed that the matter pending before the Board might be disposed of without concluding the hearing and without submitting the entire matter to the Board for findings and fact, conclusions of law and decision.

The agreement reached between counsel for the Board and Dr. Twedten and his counsel was to the effect that the Board would not take formal action to bring the hearing to conclusion and enter its findings on the evidence and the law if Dr. Twedten would voluntarily agree to immediately surrender to the Drug Enforcement Administration his Drug Enforcement Administration and would .

refrain from writing prescriptions for controlled substances until such time as the Board grants him permission to reapply for Drug Enforcement Administration Registration and, further, that Dr. Tvedten would agreee to the Board's suspending Dr. Tvedten's license to practice medicine for a period of ninety (90) days commencing May 22, 1983 and terminating on August 22, 1983.

Thereupon, upon proper motion, second and unanimous vote of the members of the Board, the following Order was issued:

No formal findings and conclusions are rendered by the Board at this time with regard to the matters raised in the Order and Notice of Hearing issued herein on March 11, 1983, based upon an agreement between the Board, its counsel, and Dr. Tom Tvedten and his counsel, in consideration of the voluntary agreement of Dr. Tvedten to immediately surrender his Drug Enforcement Administration Registration and his further agreement not to write prescriptions for controlled substances until such time as he, with the advanced permission of the Board, seeks and received reinstatement of his registration; and upon further consideration of Dr. Tvedten's agreement to a voluntary suspension of his privilege to practice medicine in the State of Arkansas for a period of ninety (90) days, such suspension to begin May 22, 1983 and to terminate automatically on August 22, 1983 at which time his license to practice medicine in the

State of Arkansas shall automatically be reinstated. Dated this 9th day of May, 1983. ARKANSAS STATE MEDICAL BOARD By: Joe Verser, M.D., Secretary

SEE REVERSE FOR PRIVACY ACT INFORMATION

VOLUNTARY SUBJECTION OF CONTROLLED SUBSTANCES PRIVILEGES

DEA USE ONLY FILE NO.

After being full advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part:

In view of my desire to terminate handling of controlled substances listed in schedule(s) 2, 2N, 3, 3V, 4,5

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) 2, 2N, 3, 3N, 4, 5 as evidence of my agreement to relinquish my privilege to handle tion to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time an I am again properly registered. I do this at the advice of my state medical board in but feel that have done no wong regarding my prescribing of school wed ications. I feel that I have been juicing taled into this action. ADDRESS OF REGISTRANT

NAME OF REGISTRANT (Print)

THOMAS H. TVEDTEN, N.D.

P. O. Nox 788 Take Village, AR 71653

SIGNATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL

DATE

GEA REGISTRATION NO.

WITNESSES.

ME AND STATE

NAME AND DATE

TITLE

TITLE

Business Manager

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513)

PURPOSE: Permit voluntary surrender of controlled substances.

ROUTINE USES: The Controlled Substances Act Registration Records produces special reports as required for statistical analytical purposes.

Disclosures of information from this system are made to the following categories of users for the purposes stated:

A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.

B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

EFFECT: Failure to provide the information will have no effect on the individual.

To Whom It May Concern,

to the same of

I am writing this letter in support of Dr. Thomas H. Tvedten. I believe Dr. Tvedten to be a competent and concerned physician, having the well being of his patients as his first concern. He has served this community and his patients well. The actions he takes are, in his judgement and belief, the ones that will benefit his patients. To my knowledge, he has never acted in a malicious manner or knowingly contributed to the chemical dependence of any of his patients. When he has prescribed these substances it has been, in his judgement, necessary for the care of his patients. I do not believe he is deserving of revocation of his liscense to practice medicine.

Sincerely

Hem Er Lemmero, R.P.K.

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF: Tom Tvedten, M.D. P. O. Box 788 Lake Village, Arkansas 71653

ORDER AND NOTICE OF HEARING

The Arkansas State Medical Board has received information that you have been guilty of acts which would justify the revocation or suspension of your license to practice medicine in the State of Arkansas. Specifically, it has been alleged that you have been guilty of unprofessional conduct in violation of Ark. Stat. Ann. §72-613 (e) (g) and Regulation 2 of the Regulations of the Arkansas State Medical Board in that you have written prescriptions for Schedule II and IV addicting or potentially harmful drugs excessivly and have written an excessive number of prescriptions for Schedule II and IV addicting or potentially harmful drugs for some persons as reflected by the attached investigative report which is incorporated herein as Exhibit A to this Notice.

You are hereby notified that a hearing will be held before the Arkansas State Medical Board on April 8, 1983, at 1:00 p.m. at the Little Rock Convention Center, Little Rock, Arkansas, at which time the Board will determine whether your license to practice medicine in the State of Arkansas should be revoked, suspended, or whether you should be subjected to any other disciplinary action. Your failure to appear before the Board will result in the immediate revocation or suspension of your license.



You are advised that you may be represented by counsel at the hearing and that you will be given the opportunity to examine all evidence offered to the Board, cross-examine witnesses, and offer evidence and witnesses in your own behalf.

This Order is issued pursuant to authority granted the Board under Ark. Stat. Ann. §§72-601 et seq. (The Arkansas Medical Practices Act) and Ark. Stat. Ann. §5-701, et seq. (The Administrative Procedure Act).

ARKANSAS STATE MEDICAL BOARD

By:

G. Douglas Talbott, M.D., F.A.C.P.

3985 South Cobb Drive Suite 210 Smyrna, Georgia 30080 404/435-2570

Director — Ridgeview Institute Alcohol And Drug Program

Program Director — Medical Association of Georgia's Disabled Doctors Program

Associate Professor Psychiatry — Emory Medical School

Director — Southeastern Impaired Professionals Consortium April 5, 1983

Dr. Joe Verser Arkansas State Medical Board P.O. Box 102 Harrisburg, Arkansas 72432

Dear Dr. Verser:

As requested, I have received our data concerning the drug "Percodan". As you are aware, we have had more experience than any facility in the North American Continent in treating health professionals. In 1983, we are approaching the volume of 1000 physicians, nurses, pharmacists, and dentists, whom we have dealt with in regards to alcohol and drug addiction. Approximately one hundred of these have been addicted to the drug Percodan.

If health professionals become dependent on Percodan despite their knowledge, training, and management of this drug, you can see the addictive potential of this drug for the public. Indeed this fear is realized, as of the thousands of drug addicts that I have been responsible for, both in my capacity as a Program Director, Percodan continues to be very addicting and is a widely abused drug.

The knowledge and information concerning the addictive nature of Percodan has been widely disseminated by both the medical organizations and the drug companies. Therefore, there is no legitimate excuse for a practicing physician or dentist to abuse the prescription writing of this addictive drug.

Sincerely yours,

G. Douglas Talbott, M.D.

GDT:st

W. PAYTON KOLB, M.D.
230 MEDICAL TOWERS
LITTLE ROCK, ARKANSAS 72205

TELEPHONE: (501) 225-0887

April 5, 1983

Dr. H. E. Shuffield Arkansas State Medical Board #2 Valley Club Circle Little Rock, Arkansas 72217

Dear Dr. Shuffield:

In regard to your questions pertaining to the use of Percodan in the treatment of migraine headache, it is my opinion that Percodan is not the treatment of choice. Also I believe the dosage of two to four tablets daily over a period of time in all probability would cause a dependency or addiction problem.

Yours truly,

TANDER OF THE THE

Aubrey C. Smith, M.D., Ltd.

LICENSED OUTPATIENT PSYCHIATRIC CENTER
PARKVIEW MEDICAL BUILDING, SUITE 260

#1 St. VINCENT CIRCLE

LITTLE ROCK, ARKANSAS 72205

(501) 664-0001

AUBREY C. SMITH, M.D.
PSYCHIATRY

CHARLES G. WOOD, PH.D., P.A.
PSYCHOLOGY

April 4, 1983

Dr. Joe Verser, M.D. Secretary of the Arkansas State Medical Board P. O. Box 106 Harrisburg, AR 72432

Dear Dr. Verser:

In response to your phone call of 4/4/83 regarding use of analgesics and narcotics for the treatment of headache, let me say that it has been my experience that long-term use of any chronic pain condition, not to mention headache, is almost uniformly not in a patients best interest in my experience.

Over the last four or five years I have become more interested in the treatment of chronic pain with particular reference towards headaches since about 1975 I have become very interested in Biofeedback. I attended two seminars at Meninger Clinic regarding the use of Biofeedback for the treatment of both tension and migraine headaches. I have also attended several pain seminars with the Academy of Pain in San Fransico, California.

In the patient you were describing to me I would assume that the organic causes of pain had all been ruled out in terms of treatable head conditions and would assume that we are dealing with either a tension headache or a vascular-type headache. Not only has my experience with the use of narcotics been contraindicated, indeed, it is my feeling that when the level of the narcotic agent drops off, this will actually precipatate a headache in the patient on an unconcious level to continue what rapidly becomes a drug habit. I would considered the prolonged use of Percodan up to four per day as being likely to create a dependence on this drug and would strongly advise any of my patients that it was not in their best interest. I will be happy to furnish you with some of the literature in this area if you request regarding the treatment from some of the larger centers on chronic headache, however, I think you will find that most of it will be strongly recommended that agents like Percodan not be used.

Sincerely

A.C. Smith, M.D.

ACS/pg

CC: Dr. Elvin Shuffield

ALASTAIR GUTHRIE, M. D. 2701 SOUTH CARAWAY ROAD JONESBORO, ARKANSAS 72401 April 4, 1983

Joe Verser, M.D. Secretary, Arkansas State Medical Board P.O. Box 102 Harrisburg, AR 72432

Dear Dr. Verser:

Regarding our recent conversation, it is my understanding that oxycodone (Percodan) is especially potentially addicting. Therefore, I would not recommend it for chronic use in most conditions, including headache.

Sincerdly yours,

Alastair Guthrie, M.D.

ANG/rg

BAPTIST MEMORIAL HOSPITAL REGIONAL REHABILITATION CENTER 1025 E. H. CRUMP BOULEVARD MEMPHIS, TENNESSEE 38104

JOSEPH H POWELL, PRESIDENT

THE PAIN CENTER WILLIAM C NORTH, M.D. ACTING MEDICAL DIRECTOR

ROBERT C.KORES, PH. D. CLINICAL PSYCHOLOGIST

April 4, 1983

Joe Verser, M.D. Secretary, Arkansas State Medical Board Box 102 Harrisburg, Arkansas 72432

Dear Dr. Verser:

Pursuant to our discussion this morning concerning the use of Percodan as an appropriate treatment for chronic intractable headache, I can only express my own opinion. We have never utilized potentially addicting drugs for the management of any type of chronic benign pain except as an adjunct when the patient was first being seen by us as an out-patient, or under definitely controlled situations when an in-patient.

In our experience intractable headaches for which a specific identifiable organic cause cannot be found represent an effort on the part of the patient to adjust to psychologic influences. These individuals have been particularly prone to abuse drugs. Hence, we try to avoid any type of psychotropic drug in the management of this kind of pain.

We have found Percodan to be potentially the most addicting of all the oral medications that are available today. The oxycodone appears to produce somewhat more euphoria than many of the other narcotic analgesics. It shares the properties of physical dependence and tolerance that the other analgesics possess. As I said, I consider it to be probably the most dangerous drug from an abuse standpoint that is prescribed today.

If I can provide any other information that will be of help to you, please do not hesitate to call on me.

Sincerely,

1. JC Nonetal

William C. North, M.D. Medical Director - The Pain Center Professor of Anesthesiology University of Tennessee College of Medicine

WCN/sp

WARREN M. DOUGLAS, M.D. - P.A.

MEDICAL TOWERS BLDG., SUITE 260 9601 LILE DRIVE LITTLE ROCK, ARK. 72205

BY APPOINTMENT (501) 224-2447

April 4, 1983

DIPLOMATE

AMERICAN BOARD OF PSYCHIATRY

Joe Verser, M.D. P. O. Box 106 Harrisburg, Arkansas 72432

Dear Doctor Verser:

In my opinion, Percodan is a highly addicting drug, and for that reason alone I do not prescribe it. I further believe that four Percodan daily would produce addiction in a short time, perhaps as little as two weeks.

Sincerely,

Warren M. Douglas

WMD:ew

cc: Elvin Shuffield, M.D. #2 Valley Club Circle Little Rock, AR

PHONE 332,4111 DEA-AF5821803

STATE BOARD OF MEDICAL LICENSURE STATE OF ARKANSAS

4 APRIL 1983

GENTLEMEN:

Reference prescription number 142256, written for Tom tvedten, by Tom Tvedten, M.D., Lake village Ar for Demerol injectable was in fact a clerical error and should have been written for as verified by phone conversation with Dr. Tvedten.

JULIAH M. FONTANA PHARMACIST

Ms Lic # R-5277



April 2, 1983

Joe Verser, M.D. Verser Clinic P. O. Box 106 Harrisburg, AR 72432

Dear Dr. Verser:

On December 10, 1982, the news release printed in the Arkansas Gazette pertaining to Dr. Tom Tvedten has virtually affected the residents and communities of Southeast Arkansas. The purpose of this letter is not to rebute or question the State Medical Board in their actions or authorities. The purpose of this letter is to endeavor to enlighten you of some facts pertaining to Dr. Tvedten; and this letter is endorsed by the Board of Trustees of Chicot Memorial Hospital.

Prior to Dr. Tvedten's establishing a practice in Lake Village, he had worked in the Emergency Department on weekends. He submitted his delineation of privileges and application for appointment to the Medical Staff on August 14, 1978, and has played a vital role in the success of our hospital.

He is very interested in the total patient care and is constantly striving for improving the quality of care. His interest and concern runs the gamut of concern for patient care and comfort. To exemplify this point he has repeatedly requested the hospital to search out the most comfortable pillows for patients all the way to the point of requesting that the cleaning and buffing of the floors be scheduled at a time that would not disturb the patients.

He is Chief of Services for Obstetrics and Nursery. When he accepted this position, he endeavored to develop a criteria to do away with an archaic policy and instituted, with the approval of the Medical Staff, a Fathering Program that met all legal, hospital rules and regulations which allows a father to be present in the delivery suite when his child is born. This was no small feat; but with Dr. Tvedten's concept of progressive obstetrics, it has been well received and appreciated by his patients.

He requested and obtained a bilirubiniometer for the nursery which was a very badly needed instrument for the newborns.

When the hospital instituted a unit dose - cart exchange system, it became necessary to develop a different method of recording the dispensing of drugs. Dr. Tvedten spent a considerable amount of time assisting the pharmacist and

nursing service developing a functional Medication Administration Record, a form that had caused many difficulties but in his true fashion, he stayed with the project until it met the needs of the physicians and the hospital.

There was not a criteria for cardiac enzyme orders. He was instrumental in developing a criteria for this function.

In 1980 a certain amount of resentment was created among the physicians due to the rotation of ER coverage. Dr. Tvedten volunteered to develop a schedule that was equitable and accepted that alleviated dissention in this issue.

He researched the most effective means of getting accurate test results and was instrumental in the change from Dextrostix to Chemstrip bG.

As a progressive clinitian, he keeps abreast of new medications and frequently recommends additions to the formulary of stock drugs for the hospital.

Being the type of physician that he is, he recognized the need for open exchange of communication among the physicians in Southeast Arkansas to discuss pertinent problems that needed to be addressed and discussed with the anticipation of a successful exchange of expertise to resolve a problem; therefore, he founded a Problem Conference that meets twice a month, addressing subjects such as Toxic Shock Syndrome, Tularemia, and Polycythemia of the Newborn.

He has volunteered to work with the administration to implement an up-to-date medical library including a video cassette film viewer and has solicited funds for the library to be a memorial to Dr. Howard Henjyoji, who was a practicing physician at Chicot Memorial Hospital and was extremely respected.

Among his recent endeavors to improve patient care and assist the needs of the hospital employees, he has been working with the Infection Control Coordinator to determine and identify the number of employees in high risk areas that may require Hepatitis vaccine.

Prior to the Joint Commission survey, it had been the practice to review 10% of the discharge records. The Joint Commission recommended that 15% of the discharge records be reviewed, and Dr. Tvedten volunteered to assist the Chief of Services for Medical Records since this is rather a laborious chore.

Dr. Tvedten's endeavor has been to assist every area of patient care within the county. In 1978 he volunteered to serve as Venereal Disease Clinitian and is still active in this service. He was appointed as Tuberculosis Chest Clinitian and conducts a bi-monthly Chest Clinic, and serves as a consultant in this area. In 1980 Dr. Tvedten was appointed Family Planning Clinitian for Lake Village and conducts a Family Planning Clinic monthly with the Health Department.

Burton 4/2/83 Page 3

For the past several months he has been the only physician in this area to serve our obstetric needs. He delivers more than 95% of the babies at Chicot Memorial Hospital.

Dr. Tvedten consistently completes his patient charts in a timely manner.

I have worked with Dr. Tvedten since 1978 and can testify to the fact that his compassion for his patients and their needs is only exceeded by his intense desire to be a very knowledgeable and astute physician. He has submitted more Continuing Educational Hours than any other physician on our staff. Dr. Tvedten has also completed two (2) Quality Assurance Studies in the past year. Many people refer to him as a Maverick or a Rebel because of his individuality and non-comforming appearance.

In my opinion rather than being a Rebel Without a Cause, he is a Rebel With a Cause to better serve mankind and execute his knowledge of the healing arts.

In conclusion, I would like to state that Dr. Tvedten's admissions to the hospital is in excess of 30% of our total patient census.

Being an astute, educated professional, you can readily see that Dr. Tvedten's contribution to Chicot Memorial Hospital, Lake Village, and surrounding areas has been more than a Clinic Physician that has an office practice, spending his leisure time at the Country Club and playing golf every Wednesday.

Sincerely,

Thomas G. Wilson Administrator

TGW/sbm



April 1, 1983

Joe Verser, M.D. Verser Clinic, P.O. Box 106 Harrisburg, Arkansas 72432

Dear Dr. Verser:

Dr. Thomas Tvedten, Chief of Obstetrics and the Nursery at Chicot Memorial Hospital, is a physician who demonstrates concern for his patients and for the provision of the highest quality of medical and nursing care for all patients. The philosophy of patient care practiced by Dr. Tvedten is that all patients in need of medical care should be provided with the best care available, regardless of economic or social status. A problem solving approach has been utilized by Dr. Tvedten to improve the quality of patient care delivered at Chicot Memorial Hospital. For example, Dr. Tvedten has assisted me to identify several problems in the present system of nursing care delivery and has often provided the solutions to those problems. His commitment to quality patient care has motivated him to persist in taking steps to assure that prompt, safe care is provided to the patients presenting at the Emergency Room. When identifying educational needs of the nursing staff, Dr. Tvedten responds to those needs through inservice presentations for the nurses.

Dr. Thomas Tvedten's delivery of care is progressive and innovative. His desire to alleviate human suffering has led to medical, moral, and ethical decisions of a high nature considered non-traditional by some. Medical practice based on principles and a high level of moral, ethical decision making is more highly valued by Dr. Tvedten than the approval of a few less progressive peers.

Dr. Ignaz P. Semmelweis, a physician ahead of his times, recognized the dangers of unwashed hands between obstetrical patients while the traditional physicians of his day considered hand washing beneath their dignity and an insult to their patients. Comparable to Dr. Semmelweis, Dr. Tvedten is an autonomous leader in the area of pain management. Dr. Tvedten's practice is research-based. Topics such as nurses' reactions to patients in pain and patients' responses to pain and their ability to function have been researched by him and shared with others.

I am proud that Dr . Thomas Tvedten is a member of the Medical Staff of Chicot Memorial Hospital.

Sincerely,

Joanne Hugo, R.N., B.S.N., M.S.

Director of Nursing

JH/sbm

THE NEUROSURGICAL GROUP OF MEMPHIS, P. C.

220 SOUTH CLAYBROOK

MEMPHIS, TENN. 38104

(901) 726-6868

CLINICAL NEUROLOGY NEUROMUSCULAR DISEASES CLINICAL ELECTROPHYSIOLOGY-EMG

TULIO BERTORINI, M. D.

ELECTROENCEPHALOGRAPHY
EVELYN B. OGLE, M. D.

ADMINISTRATOR
DAN COGDILL

NEUROLOGICAL SURGERY
C. D. HAWKES, M. D.
A. ROY TYRER, JR., M. D.
JOSEPH H. MILLER, M. D.
DAVID L. CUNNINGHAM, M. D.
CRAIG GRANT, M. D.
THOMAS I. MILLER, M. D.
STANLEY M. PATTERSON, M. D.
JOSEPH A. BUCHIGNANI, M. D.

NICHOLAS GOTTEN, M. D. EMERITUS

April 1, 1983

Joe Verser, M. D. Secretary Arkansas State Med. Board Box 102 Harrisburg, AR 72432

Dear Dr. Verser,

Pursuant to our telephone conversation in which you asked about a patient taking (4) percoden daily, over indefinite period of time, would become dependent or addicted, my answer is yes.

It is our opinion that someone with intractable headaches should use drug other than percodan. It has been our experience that you can addict a patient to percodan with as little as (2) tablets daily, given on a regular basis.

Sincerely,

Dr. W. C. Grant

WCG/jl

March 31, 1983

The Arkansas State Medical Board

Dear Sirs:

I'm writing this letter regarding Tom Tvedten, M.D. We have been personal friends and worked professionally for two years.

I was Director of Portland Health Care Center, a Rural Health Initiative project in Southeast Arkansas, for five years. The area is medically underserved, a health manpower shortage area, high poverty area and has a high infant mortality rate. While serving approximately 3,500 patients, our physician resigned. We were faced with having to close our doors. However, we had recently been assigned a very capable National Health Service Corps Nurse Practitioner by the Federal Government. As you are aware, Arkansas law states a Nurse Practitioner can function without a physician on site if one is available for telephone consultation and reviews charts and work at least every two weeks.

Tom Tvedten agreed to work with us in the aforementioned capacity taking time out of his busy practice so we would not loose a valuable program he believed in. It would have been more advantageous to him financially and time wise to sit by and let our clinic close. Instead, he used his only afternoon off to come to Portland Clinic and see patients, review charts and serve as our Medical Director. Every Tuesday he would arrive at our clinic by one o'clock and leave around eleven o'clock that evening. I would take dinner and snacks to them so they could work through the dinner hour. Several times he came over on Saturday, when he wasn't on call at the hospital, simply because they had not finished reviewing all charts and he did not want too much time to lapse before he reviewed each patients chart.

Dr. Tvedten delivers an average of thirty babies per month in his own practice. While working with us, he cared for our obstetric patients as well.

I have never known a more compassionate, caring physician as Tom. He genuinely puts the patient first. Southeast Arkansas needs Dr. Tvedten working and serving the medical needs of our community.

Singerely,

Susie Duke

Arkansas and Colorado Teacher Certification
Portland Park Commissioner

Ashley County Red Cross WSI Chairman

Rhythmic Aerobic Instructor

cc: Governor Bill Clinton

Tom Tvedten, M. D.

Joe D. Wray

ATTORNEY AT LAW

ARKANSAS & LOUISIANA

#1 WOOD STREET, P. O. BOX 3168

MONROE, LOUISIANA 71201

TELEPHONE (318) 325-3931 322-6094 March 31, 1983

Joe Verser, M.D., Secretary Arkansas State Medical Board P.O. Box 102 Harrisburg, Arkansas 72432

Re: Tom Tvedten, M.D.

Dear Dr. Verser:

Pursuant to our phone conversation of Friday last I am asking the board to consider granting a continuance in the above matter from April 8, 1983 to sometime in June. I feel a continuance is necessary in order to secure an expert witness who is unable to appear on April 8th.

Of course, Dr. Tvedten has agreed to hand in his DEA and BNDD and not request for them back during the interim if a continuance is granted. I understand too, that in conjuction with this letter Dr. Tvedten has written to you apologizing for his previous conduct.

If a continuance is not granted then please subpoena the following witnesses:

- 1) Jan Angle
 South Lake Shore Drive
 P.O. Box 826
 Lake Village, Arkansas
 - 2) Jerry Boyd 132 Oak Drive Greenville, Mississippi
 - 3) Brenda Clark V North Lake Shore Drive Lake Village, Arkansas
 - 4) Patricia Croff Lake Village, Arkansas
 - 5) James Daniels 732 Jefferson Drive
 Lake Village, Arkansas

6) Robert Winemiller (Coute 1, Box 254-A McGee, Arkansas

7) Monte Burgess
1260 South Colorado Drive
Greenville, Mississippi

8) Pam Pambianchi KUUZ Radio Station Lake Village, Arkansas

Lake Village,

Dr. Verser, to protect his medical license, Dr. Tvedten is willing to appear before the Board on April 8, 1983, but before the hearing is had, and voluntarily give up his DEA/BNDD for a probationary period to be set by the Board.

Please advise before April 8th if this "compromise" is agreeable to the Board.

Very truly yours,

Joe D. Wray

JDW: jdw

cc: Bob Cearley

Dr. Elvin Shuffield



The University of Alabama in Birmingham Department of Neurology 205/934-2400

March 29, 1983

Mr. Robert M. Cearley, Jr. 1014 West 3rd Street P.O. Box 1510 Little Rock, Arkansas 72203

Dear Mr. Cearley:

I am writing in response to your certified letter 570129 dated March 21, 1983. I am answering your questions in order according to the numbers in your letter.

- 1. The reference letter was written by me and signed by me.
- 2. The patient referred to was in the University Hospital, admitted on 12/26/82 and discharged on 2/5/83. She was actually under my care from sometime shortly after the first of January. She had been transferred to my care because I am Director of the Headache Clinic and have a special intrest in this kind of problem. While she was under my care she was seen also in consultation at my request by members of the Pain Team and the Psychiatric Department.
- 3. I do not know the actual cost of her evaluation. The average hospitalization cost at this hospital is about \$550/day, not including physician fees. Often special circumstances will greatly inflate these, including very expensive drugs, some of which she was receiving.
- 4. Our treatment program included trials of all of the non-narcotic drugs I am familiar with, which are sometimes effective in headache, psychotherapy, hypnosis, biofeedback, and nerve blocks. Our major achievement was a substantial reduction in her narcotic use to the presently recommended dose of 120 tablets per month of Percodan.
- I think this patient is probably not addicted to narcotics, at least as judged by the absence of withdrawal symptoms appearing in the course of her narcotic reduction in the hospital under our supervision.
- 6. I know of no alternative management now beyond the recommended dosage level of narcotics as a maximum together with continued supportive psychotherapy.
- 7. My opinion would be that this patient could probably be appropriately managed indefinitely by the presently recommended dose of the maximum of 120 tablets/month of Percodan. My own opinion, based on fairly substantial

Mr. Robert M. Cearley, Jr. Page 2 March 29, 1983

experience, is that this is probably not addictive. During the past ten years, I have managed a fairly large number of patients with doses up to this level, though not many higher, and have seen none develop increasing needs for narcotic drugs. In all cases, these were patients being personally managed by me, and in all cases requests for increases in the doses of drugs were refused. Moreover, each patient and I always had the agreement of understanding that I was the only physician prescribing pain relieving medications.

- 8. I do not believe that it would be feasible for me in Alabama to prescribe for her in Arkansas. I think this would be particularly difficult since it would be inevitable that another physician or physicians would be involved in her care as they should be. Further, I do not believe that drugstores in Arkansas would accept prescriptions for narcotics from me if I am not licensed to practice in Arkansas. Finally, due to the complexity of the case, I think that I would decline to do so in any case. I would be perfectly willing to treat her in Alabama, however.
- 9. It is always the goal of a Pain Clinic, as it is of myself and my Headache Clinic to seek methods of treatment of chronic pain which involve if possible freedom from narcotics or insofar as possible maximum reduction of dependency on narcotics. In fact, I think we achieved much of this goal in her case. The presently recommended narcotic dose is only about 10% of what she had been taking when she came here.

If you desire further information, please let me know.

Sincerely,

James H. Halsey, Jr., M.D. Professor and Chairman

JHHjr/dlj

LAKE VILLAGE CLINIC

LAKE VILLAGE, ARKANSAS 71653

March 28, 1983

Dr. Joe Verser Verser Clinic P.O. Box 106 Harrisburg, Ark.

Dear Dr. Verser:

I am writing asking that you and the other members of the Arkansas State Medical Board reach a favorable decision regarding Dr. Tom Tvedten's continuing medical licensure. I have been associated with Dr. Tvedten since he started practice here in Lake Village, approximately 5 years ago. I myself have been in general practice here in Lake Village for the past 7 years. I work in the Lake Village Clinic and Dr. Tvedten is one of my partners. I would like to make the following points about my feelings regarding Dr. Tvedten's past medical practice and the tremendous need for his continuing practice here in Lake Village.

- 1. In the five years that I have worked with Dr. Tvedten I have never known of him to prescribe medications without having the patient's upmost care in mind.
- 2. He shows a greater than normal amount of compassion towards his patients, and is acutely aware of the suffering and misery that illness causes.
- 3.He shows concern not only for his patients but also takes a great deal of time with the patient's family, whether this is for the purpose to inform them of the patient's illness or to console them in times of need.
- 4. He takes special care to stay abreast of continuing medical education and has kept up with the latest advances in medicine to a superb degree.
- 5. He has an extremely busy obstetrical practice and I would expect he has the largest obstetrical practice in this part of the state. If he were not available to care for the patients in this area, most of them would have to go to Greenville, Mississippi (Arkansas Medicaid patient's would find this extremely difficult)

and many of them would be forced to possibly go as far as Little Rock. As you know transportation for the indigent is an extreme problem in the rural communities in which we practice.

6. Dr. Tvedten not only has a busy obstetrical practice but also a large general practice. As you know this area of the state is short of doctors in the field of general practice and most of us are doing as much in this field as we can comfortably handle.

Dr. Twedten presently is the physician that handles the family planning clinic and the chest clinic in this area.

- 7. Dr. Tvedten is always as readily available as humanly possible. He does not delegate his responsibilities to someone else and he readily shoulders the responsibility for things if they should not necessarily go well.
- 8. Perhaps, the best compliment a physician can give another is to send his family to him when they are ill. If my wife and I are out of town, whoever is keeping our children is always instructed to take them to Dr. Tvedten if any difficulties arise. My sister-in-law is presently seeing Dr. Tvedten for obstetrical care, with and EDC of April 10, 1983.

I do appreciate your receiving my letter and I again ask that you take it into consideration during Dr. Tvedten's hearing. I know that we both have been in practive a relatively short period of time and I know that I certainly have had my share of pain type patients in the past, as we all have. It has been in the past and I am sure will continue to be in the future a significant problem in the field of medicine, and I must admit I am still not comfortable with these patients either. Taking care of them is certainly a learning process as well as a frustrating one. I honestly believe that Dr. Tvedten has done his best with these patients, and if an error was made it certainly was not intentional or malicious, but certainly with the patient's best interest in the heart and mind of Dr. Tvedten. Again for the above reasons, I ask that your decision be favorable.

Sincerely,

J.R. Russell, M.D.

John R. Russell MD

JRR/mb

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON P. O. BOX 1510 LITTLE ROCK, ARKANSAS 72203

March 25, 1983

Re: Tom Tvedten, M.D.

Joe Verser, M.D. Arkansas State Medical Board P. O. Box 102 Harrisburg, Arkansas 72432

Dr. Verser:

I am enclosing for your signature a subpoena to Richard P. Allison of the Mississippi Board of Medical Licensure. I talked with Mr. Allison this morning and sent him a complete copy of the Tvedten file. He is more than willing to help us with this investigation and to appear at the hearing but would like to have a subpoena for his records. If you will sign the subpoena and forward it to him in the envelope which I am enclosing, he will appear here on April 8.

Yours truly,

Robert M. Cearley, Jr.

RMCjr/ksi enclosures

BEFORE THE ARKANSAS STATE MEDICAL BOARD

IN THE MATTER OF:

TO:

Tom Tvedten, M.D. P. O. Box 788 Lake Village, Arkansas 71653

Richard P. Allison

SUBPOENA

ADDRESS: 2688-D Insurance Center Drive Jackson, Mississippi 39216
You are hereby commanded to appear before the Arkansa
State Medical Board at o'clockm., or
April 8, 1983, and then and there give testimony in the
above captioned case.
You are also commanded to bring with you and produce
your complete file on this physician.
Joe Verser, M.D.

Dated:

Arkansas State Medical Board

H ELVIN SHUFFIELD, M.D. CHAIRMAN
LITTLE ROCK, AR
HUGH R EDWARDS, M.D.
SEARCY, AR
FHANK M BURTON, M.D.
HOT SPRINGS, AR
VERNON H CARTER, M.D.
HOGERS, AR
JOHN B CURRIE, SR.
WILMOT, AR

JOE VERSER, M.D SECHETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

March 23, 1983

C STANLEY APPLEGATE, M.D. VICE-CHAIRMAN SPRINGDALE, AR JOHN F. GUENTHNER, M.D. MOUNTAIN HOME, AR GEORGE F. WYNNE, M.D. WARREN, AR BASCOM P. RANEY, M.D. JONESBORO, AR ROBERT M. CEARLEY, JR. ATTORNEY LITTLE ROCK, AR

TO ALL BOARD MEMBERS:

Here is a copy of a letter which contains questions which we have had prepared by Bob Cearley, our attorney, for Dr. Halsey to answer.

This is in response to a letter apparently written by Dr. Halsey who suggests giving Percodan at a rate of 60 tablets every two weeks, and 30 tablets 500 mg of Noctec at bedtime each night to one of Dr. Tvedten's patients with headaches.

If we are to consider the letter from Dr. Halsey in passing judgement on Dr. Tvedten, I think it is imperative that we have an answer to these questions.

Sincerely,

Joe Verser, M.D., Sec'y. Ark. State Medical Board

JV:vsd

Enc.

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON P., O. BOX 1510 LITT'LE ROCK, ARKANSAS 72203

CERTIFIED MAIL 570129
RETURN RECEIPT REQUESTED

March 21, 1983

James H. Halsey, Jr., M.D. Professor and Chairman, Department of Neurology University of Alabama University Station Birmingham, Alabama 35294

Dr. Halsey:

I represent the Arkansas State Medical Board which is currently involved in an investigation of the prescribing of controlled substances by Dr. Tom Tvedten of Lake Village, Arkansas. In the course of this investigation, Dr. Tvedten has furnished to the Board a copy of your letter of March 1, 1983 concerning one of his patients. Dr. Tvedten has represented to the Board that the patient, about whom your letter of March 1 is written, was treated at a pain clinic operated by the University of Alabama, that she was evaluated for a total period of approximately five (5) weeks "...during which time she was treated with narcotic pain relievers for her continuing severe headaches." It has also been represented to the Board that the total charge for this hospitalization was approximately \$30,000.00. A copy of Dr. Tvedten's letter to the members of the Medical Board is attached hereto for your reference along with a copy of the letter of March 1, 1983 to which reference is made herein.

I am writing, as counsel to the Board, to confirm that the attached letter, written over your signature, was actually written in reference to the same patient referred to in Dr. Tvedten's letter of March 10, 1983.

I am also writing to ask if you would be willing to provide the following information to the Board:

1. Was the referenced letter written by you and signed by you?

- 2. Was this patient actually under evaluation for five (5) weeks as represented?
- 3. Was the total cost of this evaluation approximately \$30,000.00?
- 4. What other courses of treatment were tried or considered?
- 5. Is this patient addicted to a narcotic drug or some other controlled substance?
- 6. What alternative courses of treatment are available that do not involve maintaining the current dosage levels of narcotics or controlled drugs?
- 7. How long can this patient be appropriately treated with what appears to be addicting levels of controlled substances?
- 8. Is there any specific legal or medical reason why you or another staff physician cannot prescribe the necessary narcotics to this patient? If not, would it not be preferable for you or your staff, as specialists, to prescribe for this patient and to continue to treat her?
- 9. Is it normally the goal of a pain clinic to seek alternative methods of treatment for chronic pain which methods do not involve continued reliance upon narcotic or other controlled drugs?

I am aware that you have no obligation whatsoever to respond to this inquiry and that it is somewhat unusual to be called upon to explain your recommendations. However, Dr. Tvedten has submitted your letter of March 1, 1983 to the Board as justification for continuing to prescribe what appears to be addicting levels of medication to this patient. If the Board is to consider your letter for the purposes for which it has been submitted, I am certain that the members of the Board would very much appreciate having these questions answered.

Dr. Tvedton is scheduled to appear before the Board on April 8, 1983. If you would be kind enough to respond prior to that date, the Board will be in a much better position to make a judgment on these issues.

Yours truly,

Original signed by Robert M. Cearley, Jr.

Robert M. Cearley, Jr.

RMCjr/sw

Arkansas State Medical Board 212 Jackson Harrisburg, Ark. 72432

Dear Sirs:

Earlier today I had a conversation with the Secretary of the Board, Dr. Joe Verser concerning one of my patients. This patient is one of the patients that I brought with me to the last Board meeting and the one that Dr. Rainey recommended I send to a super specialist for further evaluation. I did this. I sent this patient to the pain clinic at the University of Alabama. This clinic is supervised by a Dr. Halsey The patient was evaluated for about 5 weeks in the hospital during which time she was treated with narcotic pain relievers for her continuing severe headaches. The cost of her hospitalization, she tells me was approximately \$30,000.00. Her primary physician became Dr. Halsey and when she was to be discharged he spoke with me concerning her evaluation, treatment in the hospital and his recommendations for her continued treatment here in Arkansas. He recommended that the patient be given 60 percodan tablets every 2 weeks and 1 gram of Noctec at night each night and that these medications be continued on an indefinite and perhaps permanent basis but that she be given no increases in these medications and that any other pain that she had above the pain that was relieved with these medications, she must learn to tolerate.

I explained to this physician, the head of the neurology department at the University of Alabama, that I did not feel I would be able to comply with his recommended treatment and prescribe this medication to the patient without his written directive to do so and would appreciate it if he would instead of asking me to write these prescriptions, write them himself. At this point he informed me that he would be glad to write the prescriptions himself but was unable to do so as his license did not permit him to write narcotic prescriptions in Arkansas. He asked me at that point if his verbal recommendation was not adequate and I stated to him that I felt that due to my own personal situation regarding the prescribing of narcotics that I would have to have a written statement by a specialist before I could continue prescribing this medication for this patient. He understood and assured me that he would give me this written verification. He subsequently wrote me the enclosed letter. Upon receiving this letter, I attempted to contact Dr. Verser but he was out of his office at that time and though the letter was recieved on March 1, I was unable to contact Dr. Verser until the afternoon of March 10. At

this time I relayed the afore mentioned information to Dr. Verser and asked for his approval of following the therapeutic program outlined by the head of the neurology department and pain clinic at the University of Alabama. Dr. Verser stated to me that under no circumstances would he ever follow such a program as he felt that that would addict the patient. He stated that Percodan taken for a week could easily addict a patient. I did not argue this point with Dr. Verser though current medical literature repeatedly refutes this archaic idea.

I did ask Dr. Verser if his advise was that of one physician to another regarding a difference of opinion over a therapeutic protocol or was this to be taken as a statement of the position of the medical board concerning this issue and that were I to follow the protocol outlined by Dr. Halsey, would I further jeopardize my medical license. Dr. Verser then stated to me that once an orthopedic surgeon from Memphis had contacted him and recommended that he prescribe Talwin for a prolonged period of time to a patient of Dr. Verser's that had a severe pain producing back problem and that he had told that orthopedic surgeon, .Dr. Verser stated this was a famous orthopedic surgeon, that he would not under any circumstances do this. He stated the orthopedic surgeon thanked him for his time and he has not heard again from that surgeon. I at that point asked Dr. Verser if the patient had gone elsewhere to obtain the recommended treatment and Dr. Verser said that he supposed the patient had. At this point, I again asked Dr. Verser if my following the advice of this eminent specialist would result in afurther jeopardizing of my medical license. Dr. Verser said that he would not comment on this subject but that I already knew how the medical board felt and that I had in the past gone against the will of the medical board and that I would be subsequently tried for my willful defiance of the will of the board. Dr. Verser again stated that he would not follow the therapeutic advise of this "super specialist" and that he would recommend that I send the patient back to that super specialist for treatment. This of course would require that the patient either move to Alabama on a permanent basis or return to Alabama on a bi-weekly basis for her medications. Neither of these alternatives seems legitimately feasible.

I feel intimidated by Dr. Verser and through him by the medical board. It seems to me that Dr. Verser has establised himself as the conscious of medical practice in the state and feels that his treatment of the patient in pain represents the standard by which all other physicians handling of this problem should be evaluated. Without ever evaluating my patient, without even ever reviewing her past medical history, without physical examination and without even having spoken with this patient, Dr. Verser has decided that a rather famous specialist's decisions regarding this patient's therapy are not only incorrect but probably warrant expulsion from the medical profession, though this specialist has spent weeks of intensive evaluation, tried numerous

of numerous other specialists, and devoted his life to the treatment of people with problems similar to my patient's problem. Dr. Verser not only disagrees and disapproves but obstructs the implementation of this physician's therapeutic recommendations. According to the Arkansas Medical Practice Act, you, the members of the Arkansas Medical Board are responsible for selecting and maintaining your secretary. By allowing him to continue to intimidate other physicians to treating patients according to his interpretation of proper medical care, you are obviously in part responsible for this obvious injustice. It is my recommendation to you as a fellow physician who has dedicated his life to the improvement of the human condition that you replace Dr. Verser with a more compassionate physician who has kept up with advances in medicine and is less enamored with the power of his position.

A copy of this letter will be sent to all of the physicians on the board, and to the Govenor of the state of Arkansas, and to the Dean of the School of Medicine, the neurologist mentioned above and possibly to other concerned individuals. Enclosed find a copy of an article from the January 1983 issue of Post Graduate Medicine and Journal which I find very informative and recommend highly to you all. Thank you for your attention to this matter. I will see you in April.

Sincerely,

Jon mor

Tom H. Tvedten, M.D.

P.S. I would recommend to you, the members of the Arkansas State Medical Board that you make a random sampling of the physicians that you represent asking that they anonymously give you their opinion of Dr. Verser and his methods. According to the Arkansas State Medical Practice Act the Secretary is appointed by the other members of the Board and his job is subject to termination immediately without notice. His unilateral decision making concerning the "will of the Board" at the least deserves a stern reprimand.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE P. O. BOX 1700 JACKSON, MISSISSIPPI 39206

renk J. Morgan, Jr., M.D. Executive Officer March 2, 1983

Telephone: (601) 354-8645

Investigator J. R. Berry Arkansas Diversion Investigative Unit Department of Health 4815 West Markham Little Rock, Arkansas 72201

Dear Mr. Berry:

Attached are copies of profiles we discussed in October of 1982 regarding prescribing practices of Tom Tvedten, M.D., Lake Village, AR.

I took the liberty of placing a star beside those patients which are known to me or identified to me as being involved in drug abuse activities. Several other sources, including professional medical personnel and law enforcement officers, have advised me that Dr. Tvedten's prescribing is suspect.

I hope this will be of assistance to you in your investigating.

Sincerely,

Richard P. Allison

sbh

enclosure



The University of Alabama in Birmingham

Department of Neurology 205/934-2400

March 1, 1983

Dr. Tom Tvedten "Lake Village Clinic Lake Village, Arkansas 71653

RE:

Dear Dr. Tvedten:

This is to confirm our telephone conversation about As you know, her headaches are a refractory problem. I believe a reasonable management of her would be to allow her to have Percodan tablets at the rate of 60 tablets every 2 weeks, but not more than that regardless of how severe the pain is. Thirty 500 mg tablets of Noctec every 2 weeks also would be reasonable for bedtime sedation.

Sincerely

Joh Keley, Jr, mo (4)

James H. Halsey, Jr., M.D. Professor and Chairman Department of Neurology

JHHjr/cs

DERMOTT-CHICOT MEMORIAL HOSPITAL

700 WEST GAINES STREET DERMOTT, ARKANSAS 71638

February 24, 1983

d

Tom Tvedten, M. D. Highway 82 East Lake Village Clinic Lake Village, Arkansas 71653

Dear Doctor Tvedten:

It was with surprise and dismay that I learned, through the papers, of the difficulties you have recently encountered regarding your licensure and control drug utilization.

To what purpose it may apply, I submit this letter with the following comments in hopes that they may assist you in resolving this matter.

Your past initiative in notification of Dermott-Chicot Memorial Hospital, regarding being on alert for named - potential "chronic drug seekers", seems to me contrary to the implications made in the news media of your participation in provision of drugs for people without real and identifiable medical problems necessitating such treatments.

The above-mentioned contradiction would possibly not seem so stark to me if it were not for the personal knowledge I have of your adamant position in demanding more thoroughly documented drug utilization records. I refer to that period of time in which I served as an assistant administrative consultant with certain responsibilities for pharmaceutical services at Chicot Memorial Hospital.

The stands you took in requesting more detailed drug utilization records for the hospital record system and the concern you displayed for maximal patient safety and care, where drugs were concerned, seems in my thinking diametrically opposite the inferences made against you. Certainly indiscriminate drug utilization

would not best be nurtured in a more thoroughly documented system, nor would it appear logical for individuals participating in such activities to actively seek better controls.

Doctor Tvedten, let us hope that medical care is not compromised as a result of physician fear spawned in the prospect of interpretive reprimands such as you are experiencing.

Trusting that this will be beneficial in your endeavor to resolve this problem.

Since/ely,

William W. Bing Administrator

JOE D. Wray
ATTORNEY AT LAW
ARKANSAS & LOUISIANA
#1 WOOD STREET, P. O. BOX 3168
MONROE, LOUISIANA 71201
TELEPHONE (318) 325-3831

February 8, 1983

Mr. Robert M. Cearley, Jr. Attorney at Law 1014 West Third Street Little Rock, AR 72203

Re: Thomas H. Tvedten, M.D.

Dear Mr. Cearley:

Thank you for your quick response of January 26, 1983. As you probably ascertained from my letter of January 20, 1983, I am not well acquainted with administrative law or procedure. Accordingly, some of my inquires may seem out of place or unusual. Please forgive me; but, I make those inquiries in a good faith effort to represent my client in the best way possible.

My present concern is the matter of authenticating certain medical records Dr. Tvedten tenatively plans to use at the hearing. Some of the records are those of a deceased physician but that are still regularly kept by the hospital. Will you stipulate to the authenticity of the medical records or would you prefer affidavits from records personnel/bookkeepers or physicians as to the medical records? Does the Board allow other alternatives to this problem?

Please advise.

Again, thank you for your quick response.

Very truly yours,

JOE D. WRAY

JDW:gg

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. GEARLEY, JR., MICHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON P. O. BOX 1510 LITTLE ROCK, ARKANSAS 72203

January 26, 1983

Re: Thomas H. Tvedten, M.D.

Joe D. Wray Attorney at Law #1 Wood Street Monroe, Louisiana 71201

Mr. Wray:

Your letter of January 20, 1983 to the Secretary of the Arkansas State Medical Board has been referred to me for response. I am counsel to the Arkansas State Medical Board and will be representing the Board at any hearing which is held with regard to Dr. Tvedten. If a transcript of the proceedings that took place on December 9, 1982 is available, I will include a copy of it with this letter. The procedures followed by the Board in disciplinary hearings are governed by the Administrative Procedure Act, Ark. Stat. Ann. §5-701 et seq. The Board has not adopted any written policy with regard to the prescribing of narcotics or other controlled substances by physicians. There have been a number of cases handled by the Board involving these issues in recent years, however, and I should be happy to discuss these with you. There are also a few recent Arkansas Supreme Court decisions regarding these issues.

The Board next meets in April and the date and time have not yet been set. There have been no formal allegations prepared against Dr. Twedten but that responsibility will fall upon me and I will be happy to send copies of any formal notification and supporting documentation to

Joe D. Wray
Re: Thomas H. Tvedten, M.D.
page two

you as Dr. Tvedten's counsel. My understanding is that an investigation of Dr. Tvedten's prescribing habits has been prepared by an agency of the Arkansas State Health Department and as soon as I receive a copy of the investigative report, I will prepare a formal notice and furnish all of these documents to you. In the interim, if you have any further questions or would simply like to discuss any of these issues or others arising out of your representation of Dr. Tvedten, please feel free to call me.

Yours truly,

Robert M. Cearley, J.

RMCjr/ksi

cc: Joe Verser, M.D.

Joe D. Wray

ATTORNEY AT LAW ARKANSAS & LOUISIANA
#1 WOOD STREET, P. O. BOX 3168
MONROE, LOUISIANA 71201

TELEPHONE (318) 325-3931

January 20, 1983

Joe Verser, M.D., Sec'y Arkansas State Medical Board P.O. Box 102 Harrisburg, AR 72432

Re: Thomas H. Tvedten, M.D.

Dear Dr. Verser:

I represent the interest of Dr. Tvedten in reference to certain acts taken by the Board. I understand that Dr. Tvedten is in jeopardy of losing his license. With his interests in mind, I request the following information:

- A. A transcript of the hearing dated December 9, 1983;
- B. A copy of any appropriate rules of practice applicable to this type of hearing, or the name and address of the individual or agency where a copy can be obtained or the subject matter inspected;
- C. A copy of any written statements of policy or interpretations formulated, adopted, or used by the Board that are applicable to this situation; or the name and address of the individual or agency where a copy can be obtained or the subject matter inspected;
- D. A copy of all orders, decisions, and opinions applicable to this situation, or the name and address of the individual or agency where a copy can be obtained or the subject matter inspected.

Your immediate cooperation in these regards would be greatly appreciated.

On a personal note, please take a close look at my last name. I'm the son of Douglas and Patsy Wray and was delivered by you back in December, 1953. It's certainly a small world.

Very truly yours,

JOE D. WAY

JDW:gg

cc: Robert M. Cearley, Jr.
Thomas H. Tvedten, M.D.

ARKANSAS DEPARTMENT OF HEALTH 4815 West Markham Street Little Rock, Ark. 72201

January 18, 1983

Dr. Joe Verser Ark. Medical Board Hamburg, AR

Dear Dr. Verser:

I was distressed and dismayed to see the article in the Gazette recently on the Board's action in regard to Dr. Tom Tvedten of Lake Village. I have known Dr. Tvedten since 1972, well before he entered medical school and have followed his career with interest over the ensueing llayears. He has conducted our Chest Clinic in Chicot County for the past two years or more. I have known him to be a sensitive and compassionate doctor and feel certain that there must be some major missunderstanding in the matter against him.

My understanding is that Dr. Tvedten recognized the unusual requirement of his two patients for narcotic relief of pain and brought them to the Board for suggestions on other ways to handle the difficult problems. It would appear from the Gazette article and my conversation with Dr. Tvedten that the Board offered no help for the unusual situations but simply condemned Dr. Tvedten for the manner in which he was handling them. I would suggest that it might be better to suggest one of the new electrical methods of pain relief, coupled with bio-feedback training, as is available at the UAMS than to chastise him for his well-meaning efforts to be a compassionate physician. Indeed, we can't always cure, but we have to find the best way we can to help each patient with a problem.

I know Dr. Tvedten to be of the highest moral standards. I do hope the Board is not permitting his somewhat unorthodox manner of dress and his flowing beard to cause them to think otherwise. I urge you to give him a hearing and to answer his request for your help. This would best serve all concerned, it seems to me.

Sincerely,

Mn. M. Stead, M.D.

Director, TB Program
Division of Health Maintenance

WWS: ho

cc: Dr. Tom Tvedten

Dr. Ben Saltzman Dr. Steve Flanigan

Arkansas State Medical Board

H. ELVIN SHUFFIELD, M.D. CHAIRMAN
LITTLE ROCK, AR
HUGH R, EDWARDS, M.D. SEARCY, AR
FRANK M, BURTON, M.D. HOT SPRINGS, AR
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JOHN B, CURRIE, SR. WILMOT, AR

JOE VERSER, M.D SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

January 31, 1983

C. STANLEY APPLEGATE, M,O. VICE-CHAIRMAN
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JOHN F GUENTHNER, M,D.
MOUNTAIN HOME, AR
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WARREN, AR
BASCOM P, RANEY, M.D.
JONESBORO, AR
ROBERT M. CEARLEY, JR
ATTORNEY
LITTLE ROCK, AR

William W. Stead, M.D. Arkansas Department of Health 4815 W. Markham Little Rock, AR 72201

Re: Tom Tvedten, M.D.

Dear Dr. Stead:

This acknowledges your recent letter relative to the above named physician. Ordinarily when a physician has a Show Cause Order to appear before the Board pending, a Board member does not enter into a discussion on the case, however, since your letter seems to be critical of the Board's previous action, I feel I must explain the situation in order to defend the Board.

When Dr. Tvedten first started practicing in Lake Village some four years ago, he called me relative to what to do with those cases who seem to use Schedule Drugs excessively. At that time, I gave Dr. Tvedten my opinion on how to handle these cases which included, referring them to specialists, pain clinics, and other methods of treatment. This advise was based upon 47 years of practice and 30 years of having served on the State Medical Board. Dr. Tvedten did not seem to want to accept my advise, and stated that he would contact the DEA relative to the treatment of these individuals.

About one year ago, this office received a report that Dr. Tvedten had violated the regulation relative to the prescribing of Schedule II Drugs to individuals. Rather than bringing Dr. Tvedten before the Board, I personally talked to his colleague and senior member of his group, who told me he would talk to Dr. Tvedten and thought he could help him. I have also been advised that other physicians in the area have tried to advise Dr. Tvedten as to the proper method of prescribing Schedule Drugs. So it would appear that Dr. Tvedten had been made well aware of all the alternatives available in the treatment of people who have pain which does not respond to the ordinary method of treatment.

William W. Stead, M.D. January 31, 1983 Page 2

It was not until Dr. Tvedten found out that he was being investigated by an agency of the state relative to his prescribing of Schedule Drugs that he again called me for advise. I repeated the advise that I had previously given him as to what to do with these patients. He did not listen and demanded that he be allowed to appear before the Board to present his case. Dr. Tvedten was allowed to appear before the Board and based upon statements made and records presented by Dr. Tvedten, and based on evidence obtained by another state agency, the Board voted to issue a Show Cause Order for this physician to appear before the Board at the April meeting.

I am surprised that you might think this Board would take action against a physician because of his dress or length of hair. This shows that you know nothing about the character of the members of the Medical Board, Medical Practice Act or Administrative Procedures Act.

Once a Show Cause Order is issued against a physician, under the due process of law, and at a public hearing, any action taken against this physician can be appealed by the physician to the Circuit Court, the decision of the Circuit Court can then be appealed either by the physician involved or by the Medical Board to the Supreme Court. I am proud to advise that during the 30 years I have been a member of the State Medical Board, many cases have been appealed to the Supreme Court after the Board had taken action, and the Supreme Court has upheld the decision of the State Medical Board in every instance. I do not know of any lower court, board, agency, or commission that can boast this record.

Need I say anything further relative to the ability, honesty, and integrity of the Board members and the fact that your friend, Dr. Tvedten, will be given a fair and impartial hearing.

I am sending a copy of your letter and my answer to each Board member.

I remain,

obé Verser, M.D., Sec'y. Ark. State Medical Board

Dzv:VG

cc: All Board Members

Dr. Ben Saltzman Dr. Steve Flanigan

ARKANSAS DEPARTMENT OF HEALTH 4815 West Markham Street Little Rock, Ark. 72201

January 18, 1983

Dr. Joe Verser Ark. Medical Board Hamburg, AR

Dear Dr. Verser:

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Sincerely,

William W. Stead, M.D.

Director, TB Program

Division of Health Maintenance

WWS: ho

cc: Dr. Tom Tvedten

Dr. Ben Saltzman

Dr. Steve Flanigan

Arkansas State Medical Board

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CHAIRMAN
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ROGERS, AR
JOHN B CURRIE, SR.
WILMOT AR

JOE VERSER, M.D SECRETARY-TREASURER P.O. BOX 102 HARRISBURG, AR 72432

January 10, 1983

C STANLEY APPLEGATE, M.D VICE-CHAIRMAN SPRINGDALE, AR JOHN F GUENTHNER, M.D MOUNTAIN HOME, AR GEORGE F. WYNNE, M.D. WARREN, AR BASCOM P. RANEY, M.D. JONESBORO, AR ROBERT M. CEARLEY, JR. ATTORNEY LITTLE ROCK, AR

Tom H. Tvedten, M.D. P.O. Box 788 Lake Village, AR 71653

Dear Dr. Tuedten:

This acknowledges your letter of January 3, 1983 and I will attempt to answer same. The next Board meeting will be sometime in April, the exact date has not been set as yet. A tentative date of April 12th has been set for the meeting. In 30 days before that time, or before, you will receive a Show Cause Order which will list the specific charges against you. Since our investigation is not complete, it will be impossible for the attorney to prepare a Show Cause Order this early in advance.

I assure you the Show Cause Order will contain all charges, and copies of all prescriptions or other information contained in the Show Cause Order will be made available to you and your attorney in order that you can properly prepare your case.

I assure you that the Board will give you a fair and impartial hearing and should the Board take any action, you will have the right to appeal to a higher court.

We have had letters from your wife and two of your patients which I have not attempted to answer. You will have the right to use these individuals as witnesses at the hearing. Action by the Board will not be based upon letters written, but upon facts presented and statements made at the hearing.

If you feel that you have not violated any law in the treatment of your patients as sited in the Show Cause Order, I would strongly suggest that you bring physicians that would agree with your method of treatment. This would be expert textimony and would certainly have a bearing on the Board's decision.

Trusting this is the information you desire, I remain

Yours very truly,

Joe Versen, M.D., Sec'y. Ark. State Medical Board

JV:vsd cc: All Board Members, Robert M. Cearley, Ms. Brenda Clark, Jackie Nowlen, ARI Arkansas State Medical Board 212 Jackson Harrisburg, Ark. 72432

Dear Sirs:

As you probably recall I came before you after requesting a hearing early in December and attempted to discuss the nature of a problem I was facing in my practice. At that time I asked for advice concerning the treatment of two patients who accompanied me to your meeting. Perhaps you also recall that no helpful advise was given but that the results of the meeting ended up in my being rescheduled for a "show cause" hearing this coming April. Being a young physician, I am not very familiar with the nature of medical politics and am still not quite certain what the import or nature of a show cause hearing is but have been led to believe that this is a rather serious matter and that at the hearing my right to practice medicine will be possibly revoked. It was explained to me by one of the members of the board, I forget just exactly which one, that a show cause hearing was one in which I was to show cause why my license should not be revoked. This seems unusual in that it would apparently presume the assumption that I was guilty of some charge, punishable by revocation of my license and I should therefore show my innocence. Thus far, I have received no commuincation from the board regarding this issue. I am not certain what I have been charged with and find it difficult to develop a defence without first being charged with some offence. I presume that the charges were that I excessively prescribed marcotics in the two cases that I brought before you. This is of course is an assumption and I certainly would appreciate clarification on this issue as I still feel that my prescribing practices in these two particular patient's cases were and are entirely within the limits of good medical practice. I am sure that if I had been allowed to present the cases as I might at attending rounds that you gentlemen would have agreed with my work up of these cases and my present therapeutic decisions concerning these two women. Your @Smments and suggestions regarding these two cases Would be helpful as the problems that these women face still exist and are relatively unchanged. These two patients are the only patients in my practice that require such frequent high dosages of narcotics But they certainly are not the only patients in my practice that require narcotic analgesics though they require much more that other patients with less severe and chronic pain problems. I feel that my narcotic prescribing practice is above reproach. I have certainly made efforts to control the abuse of narcotics in my community and in no way condone narcotics abuse. I am asking the pharmacists in my area and the police

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departments in my area to contact you regarding my numerous attempts to curtail narcotics abuse by reporting known or suspected abusers whenever they have come to my attention. Speaking with the hospital administrators, pharmacists and police officials in my area, I find that I am the only physician in this area that has attempted to help with this problem. I am a general practitioner in a small rural delta commuinty and since I am the only physician in my area practicing obstetrics at this time a great deal of my practice is obstetrics. Only a small percentage, perhaps 10% of my practice is comprised of patients with complaints directly related to pain and this percentage is probably not much different from that of my peers with a similar general practice. One of my main concerns throughout my years of practice has been the appropriate prescription of narcotic analgesics. I have found that many of the physicians in my area, mostly the foreign medical graduates from southeast Asia, are very reticent to prescribe any narcotic analgesics even in the face of such pain problems such as sickle cell pain crises and the pain of terminal cancer. I feel that this reticence comes from a fear of being reprimanded rather than from a feeling that these medications are infact dangerous to the patients to which they are prescribed. The "hush-hush" nature of narcotics prescribing has concerned me since my first year of practice and I have attempted to find guidelines regarding the use of narcotic analgesics by both contacting such control agencies as the DEA, Bureau of Narcotics and Dangerous Drugs, the State Health Department's Drug Investigation Unit and of course the State Medical Board. Thus far I have been unable to obtain any concise and clear guidelines regarding the subject and have followed the guidelines set forth in Harrisons text book of medicine which I consider to be the gold standard of medical care in this country. Having patterned my practice regarding the prescription of narcotic analgesics around the protocols set forth in Harrisons I have felt secure in my prescribing habits. I have requested at least on 3 occasions that my prescribing habits be monitored and that an investigation of my practice be done to ascertain whether or not I was in fact practicing what my peers would consider to be good medicine in regards to my handling of the patient with severe pain. Whether or not these investigations have been performed, I do not know. After our meeting early in December, I once again called the State Health Department Drug Investigation Unit and asked them to please investigate my practice as I feel that it is proper and that an investigation would reveal that I am infact practicing good medicine in this area. I still feel that such an investigation would be helpful both to me and to the State Medical Board in its efforts to evaluate my prescribing habits. I am a committed Physician with a large and varied practice. I am the State County Health Officer for my area being the only physician in the county that Flins public health family planning clinics, chest clinics, etc.: I am the secretary for my rather inactive county medical society. f am the director of the newborn nursery and the department of obstetrics at my hospital. I have the most hours of continuing education per year for the past five years of any physician in practice in my area, have been my county societies delegate to the State Medical Society Meeting, did well academically in med school, had a very high score on the FLEx and feel that the vigorous support and allegiance given me by my patients

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indicates a high level of medical care. The rather diffuse defence of my practice that I am having to make at this time is extremely time consuming and certainly detracts from my patient care efforts. This is costly in time, money and of course the quality of care rendered by me to my patients but I feel that this time and effort must be expended as my very right to practice my calling for which I spent so many years in training and therefore the subsistance of my family is at stake. As a member of the Arkansas Foundation for Medical Care Reviewing Team I have a basis for comparison by which I can compare my practice habits to those of other physicians around the state and feel that my habits are good. As far as I know the only area in which my practice is even being questioned is in the area of narcotics prescribing. In fact the only questions being raised are in my treatment of two patients and yet I apparently stand to lose my right to practice medicine if the members of the Arkansas State Medical Board disagree with my treatment of these patients or with my treatment of even one of these two patients. This somehow seems like a punishment far in excess of the "crime". The other problem that I feel must be assessed by the Medical Board and that is brought to their attention by this case is that of the fear of physicians to treat pain patients with narcotic analgesics. Many times I have been amazed at the intensity of patients pain and the total lack of response by these patients to pain medications short of narcotic analgesics. Fortunately most of these patients in pain have acute pain of a transitory nature that require narcotics sometimes in high doses but only for short periods of time. In my commuinty even these patients often times are treated with such medications as Anaprox, Vistaril, Phenergan, Benadryl, Zomax with absolutely no positive response to these medications, often times the side effects of the medication compounding the patients problem rather than relieving their pain. Some of these patients respond to Stadol and Nubaine, some don't. It has been my observation that many patients must continue to suffersevere pain because of what I feel is a fear by their attending physician to prescribe a strong-analgesic and thus encounter the wrath of some regulatory body. In observing the charts and past histories of the patients that I treat I note that some physicians never prescribe narcotic analgesics, some prescribe them infrequently, some prescribe them to about the same extent that I do and others prescribe narcotics more frequently than me. One of my best friends in medical school who is now in the practice of opthalmology told we when we were both starting out in practice and doing alltile amendancy room work that he absolutely refused to ever prescribe harcoli Bain relievers for fear that his name would "get 38 a list Somewhees and cost him his license at some point in the Future. I expressed to him at that time and still feel that this attitude was incompatable with the Hypocratic oath, that narcotic pain relievers definitely had a place in our pharmacopeia and that when used judiciously for the indication of severe pain were wonderful tools the physician should use to help his patients. I still believe this to be true.

It is my feeling that clear, concise, well publicized guidelines regarding the prescription of narcotic analgesics are needed and that perhaps "pain centers" need to be established around the state where patients with extraordinary pain problems could go for moré complete evaluation and coordinated treatment using a multispecialty approach following the guidelines set forth in Harrisons textbook of medicine. Finally I wish that you gentlemen would review my case, the materials sent to you by my medical co-workers, patients and friends and if after this evaluation you feel no charges are in order, please drop what ever charges have been leveed against me and allow me to proceed with the uninterrupted care of my patients. If you still feel further action need be taken, please show me the courtesy of defining your charges against me so that I might adequately prepare a defense of my practice. I would welcome any questions you might have regarding my practice and would appreciate the opportunity of discussing this matter with you at any time at your convenience. I wish you a Happy New Year and Godspeed and guidance in performing your important missions.

Sincerely,

Tom H. Tvedten, M.D.

THE PARTY OF THE P

CEARLEY, MITCHELL AND ROACHELL

ATTORNEYS

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7870

EUGENE R. WARREN (1909-1980) ROBERT M. CEARLEY, JR. MIGHAEL W. MITCHELL RICHARD W. ROACHELL CHARLES D. HARRISON

P. O. BOX 1510 LITTLE ROCK, ARKANSAS 72203

February 14, 1982

Re: Thomas H. Tvedten, M.D.

Joe D. Wray Attorney at Law P. O. Box 3168 Monroe, Louisiana 71201

Mr. Wray:

In response to your letter of February 8, 1983, the Board does not adhere to formal rules of evidence. Ark. Stat Ann. 5-709 (The Administrative Procedure Act) provides that "(a)ny other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs". As far as I am concerned there would be no problem with your introducing medical records if they are identified by Dr. Tvedten. I would not require that you have the custodian of the records attach an affidavit.

If I can be of further help to you, please feel free to call on me.

Yours truly,

Original signed by Robert M. Cearley, Jr.

Robert M. Cearley, Jr.

RMCjr/ksi

cc: Joe Verser, M.D.

CEARLEY, GITCHEL, MITCHELL AND BRYANT, P.A.

ATTORNEYS AT LAW

1014 WEST THIRD STREET

LITTLE ROCK, ARKANSAS

(501) 378-7670

EUGENE R. WARREN (1909-1980)
ROBERT M. CEARLEY, JR.
W. DENT GITCHEL
MICHAEL W. MITCHELL
JAMES M. BRYANT II
RICHARD W. ROACHELL
CHARLES D. HARRISON

February 7, 1981

P. O. BOX 1510 LITTLE ROCK, ARKANBAS 72203

Re: Tom Tvedten, M.D.

Lake Village, Arkansas

Joe Verser, M.D. Arkansas State Medical Board P. O. Box 102 Harrisburg, Arkansas 72432

Joe:

Enclosed is a copy of a report from the DIU regarding Tom Tvedten, M.D. of Lake Village, Arkansas. My review of this report does not indicate to me that any action is warranted if this physician has ceased writing prescriptions for his wife. Please give me your advise.

Yours truly

Robert M. Cearley, Jr.

RMCjr:lm

Enclosure

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STATE OF ARKANSAS

DIVERSION INVESTIGATION UNIT State Health Building 4815 West Markham Little Rock, AR 72201

January 26, 1981

JAN 29 REC'D

Robert M. Cearley Attorney Arkansas State Medical Board 1014 West Third Street Little Rock, AR 72201

Dear Mr. Cearley:

Enclosed please find a copy of Case File # 80-0212-MD concerning TOM TVEDTEN, M.D. of Lake Village, Arkansas.

This file is being forwarded to you in regard to possible action being taken against the above Subject.

If this Unit can be of further assistance, please do not hesitate to contact this office at 661-2394.

Singerely,

Samuel R. Probasco

Agent-In-Charge

Diversion Investigation Unit

iobaseo (dp)

Arkansas

SRP:dp

Enclosure

STATE OF ARKANSAS

DIVERSION INVESTIGATION UNIT State Health Building 4815 West Markham Little Rock, AR 72201

November 13, 1980

Robert M. Cearley Attorney Arkansas State Medical Board 1014 West Third Street Little Rock, AR 72201

Dear Mr. Cearley:

Enclosed please find a copy of Case File # 80-0212-MD concerning TOM TVEDTEN, M.D. of Lake Village, Arkansas.

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Sincerely,

Samuel R. Probasco Agent-In-Charge

Diversion Investigation Unit

Arkansas

CASE ACTION TO DATE:

	SUBJECT HAS	BEEN ARRESTED.
XX	REFERRED TO	PROFESSIONAL LICENSING BOARD.
	REFERRED TO	OTHER STATE OR FEDERAL AGENCY
,	REFERRED TO	ADDRESSEE AS INFORMATION ONLY.
	REFERRED TO	PROSECUTING ATTORNEY FOR ISSUANCE OF WARRANTS.

STATE OF ARKANSAS DIVERSION INVESTIGATION UNIT

INVESTIGATIVE DEDODT.

County: CHICOT

INVESTIGATIVE REPORT:	
Status: OPEN	File No: 80-0212-MD
Subject: TOM TVEDTEN, MD.	Date:8/19/80
Address:	Investigator:
LAKE VILLAGE, ARKANSAS	DEA/License No:

SYNOPSIS

OVERPRESCRIBING FOR SCHEDULE II PRESCRIBING SCHEDULE II TO IMMEDIATE FAMILY

DETAILS

On August 12, 1980, this Investigator went to Dermott, Arkansas, and checked the Schedule II files at Delta and Perry Pharmacies. No overprescribing was noted.

At approximately 4:30 PM, this Investigator arrived at Howell Pharmacy in McGehee and examined the schedule II files. There were three prescriptions found for TVEDTEN, but no overprescribing was noted.

On August 13, 1980, this Investigator returned to McGehee and visited Holly Pharmacy and P & S Pharmacy. No prescriptions were found for TVEDTEN at Holly Pharmacy and only two prescriptions were found at P & S Pharmacy.

This Investigator then went to the Gibson Pharmacy and was given a computer print-out for Dr. TVEDTEN for the year. Although there are a large number of his prescriptions filled at this Pharmacy, no overprescribing was noted.

At approximately 1:30 PM, this Investigator arrived at Hunter Pharmacy in Lake Village and checked the Schedule II files. No overprescribing was noted.

This Investigator contacted the Lake Village Pharmacy and checked the Schedule II files. This Pharmacy is located next door to the Lake Village Clinic and fills the majority of the prescriptions written by the Clinic. Approximately three months of the Schedule II prescriptions were checked.

All of the above Pharmacies were asked if they had ever turned down a prescription from a Doctor in the Lake Village area and each replied they had heard the rumor, but they had not.

Page 2 TOM TVEDTEN 80-0212-MD

-Holloway Pharmacy in Lake Village was also contacted. Mr. MAZZANTI, the Pharmacist, advised he had turned down prescriptions from TOM TVEDTEN, MD. MAZZANTI advised he did this because he felt that some of these people did not need what was being prescribed as often or as much as they were getting.

After compiling all the information obtained in each Pharmacy the following was noted:

- 1. TVEDTEN has been prescribing Mepregan Fortis for his wife, BETSY TVEDTEN.
- 2. as seen TVEDTEN 17 times in the last six months. : has received 13 prescriptions for 173 Percodan and three (3) prescriptions for 35 Mepregan Fortis.
- has seen TVEDTEN 15 times in two (2) months.
 has received 15 prescriptions for 100 mgs of Demerol
 and 15 prescriptions for 25 mgs of Demerol. was
 receiving a total of 125 mgs. of Demerol per visit.

Attached is a breakdown, by name, date, drug and amount, from the prescriptions noted at each Pharmacy.

TVEDTEN will be contacted at a later date and advised to place his wife under the care of another Physician.

A letter will be sent to the Medical Board advising them of the findings.

:nsa