

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff,)

v.)

JUSTIN DANIEL BOYCE, P.A.)
LICENSE NO. PA1000,)

Defendant.)

JAN 29 2004

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 03-04-2660

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General for the State of Oklahoma, and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Justin Daniel Boyce, P.A., Oklahoma license no. PA1000, who appears in person and pro se, proffer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on December 11, 2003, and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and the Physician Assistant Act.

Defendant, Justin Daniel Boyce, P.A., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §519 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Justin Daniel Boyce, holds Oklahoma physician assistant license no. PA1000.

3. Beginning in or around May 2002, Defendant began to abuse alcohol.

4. On or about April 27, 2003, Defendant presented to a Walgreen's pharmacy in Oklahoma City a prescription he had forged in the name of Sherry Boyce for Xanax allegedly written by Richard Myers, D.O. The pharmacist contacted Dr. Myers and confirmed that no prescription had been written by him to Sherry Boyce.

5. Based upon this incident, on or about April 27, 2003, the pharmacist at Walgreen's contacted the police and Defendant was arrested in Oklahoma City, State of Oklahoma. Defendant was subsequently charged with Obtaining a Controlled Dangerous Substance by Fraud. At the time of his arrest, the police searched the Defendant's car and found a blank prescription pad which contained several blank prescriptions with Dr. Myers' alleged signature on them. The police also found numerous prescription bottles, some of which still contained medications. The prescriptions were made out to several Boyce family members, as well as to Nancy and Calvin Hillman.

6. Defendant has admitted that he had previously had his relatives fill prescriptions he had forged and that they had returned the drugs to him for his personal use.

7. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the

public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

- C. He has violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
- E. He is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).
- F. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- G. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
- H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- I. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) and 63 O.S. §§2-402, 2-404, 2-406

and 2-407 and OAC 435:25-1-3 and OAC 435:30-1-3.

- K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- L. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- M. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- N. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- O. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- P. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(8).
- Q. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509(19).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Physician Assistant Act, the Oklahoma Allopathic Medical and Surgical

Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant, Justin Daniel Boyce, Oklahoma physician assistant license no. PA1000, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- C. He has violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
- E. He is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).
- F. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- G. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
- H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted

therapeutic purposes in violation of OAC 435:10-7-4(24).

Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) and 63 O.S. §§2-402, 2-404, 2-406 and 2-407 and OAC 435:25-1-3 and OAC 435:30-1-3.
- K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- L. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- M. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- N. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- O. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- P. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(8).

- Q. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509(19).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.

2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of five (5) years under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physician Assistant Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.

B. Upon request of the Board Secretary, Defendant will request all hospitals, clinics and other facilities in which he practices to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing services in or to that hospital, clinic or other facility.

C. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

D. Defendant will fulfill all requirements of his deferred sentence in Case No. CF-2003-2751, in the District Court of Oklahoma County, State of Oklahoma.

E. Defendant will submit for analysis biological fluid specimens to include, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

F. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

G. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation, or continuation of treatment.

H. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

I. Defendant will affiliate with the Physicians' Recovery Program, will execute a postcare contract, and will abide by the terms and recommendations thereof.

J. Defendant will abide by the terms and recommendations of Clay Crossing Foundation.

K. Defendant will continue outpatient counseling with Jennifer Morris, M.D. or any other psychiatrist approved in writing by the Board Secretary. Defendant shall continue said counseling until both his counselor and the Board approve discontinuance of counseling. Defendant shall request his counselor to provide quarterly reports of his progress to the Board Secretary, and shall be responsible for submitting said reports on a timely basis.

L. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

M. Defendant shall practice no more than thirty (30) hours per week during the first month of his probation, and thereafter, no more than forty (40) hours per week.

N. Defendant will attend four (4) meetings per week of a local 12-step program, to include one (1) meeting per week of the Physician's Recovery Program.

O. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

P. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

Q. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

R. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

S. Until such time as all indebtedness to the Oklahoma State Board of Medial Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

T. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

U. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

V. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

W. Defendant will not prescribe, administer, dispense or

possess any drugs in Schedules II through V.

Dated this 29 day of January, 2004.



Eric Frische, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED

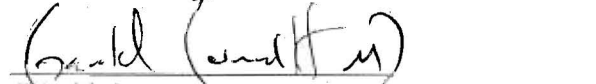


Justin Daniel Boyce, P.A.



Elizabeth A. Scott, OBA #12470

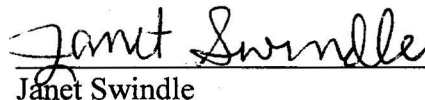
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118



Gerald C. Zumwalt, M.D.,
Secretary, Oklahoma State
Board of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 30 day of January, 2004, mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Justin Daniel Boyce, 2015 Redbud Circle NW, Piedmont, OK 73078.



Janet Swindle

CONTRACT BETWEEN THE
OKLAHOMA HEALTH PROFESSIONALS RECOVERY PROGRAM (OHPRP)
AND

Justin Boyce PA

The Purpose of this contract is for the Oklahoma Health Professionals Program to provide advocacy for Justin Boyce PA and in order to assure that such advocacy is appropriate, the below provisions will serve to aid you in strengthening his/her personal recovery program and to assure the Program representatives that a strong recovery program is in place.

I agree to remain abstinent from all psychoactive substances, legal or illegal, including alcohol. To validate that abstinence random urine drug screens will be obtained, as arranged by Dr. Wissner, and results furnished to the OHPRP contingent upon the approval of the monitoring plan by the program representative.

I agree to attend the Medical Professionals Support Group as well as three other community twelve step (A.A. or N.A.) meetings weekly. Upon request by the OHPRP the validation of that meeting attendance will be made available. In addition I agree to obtain a sponsor with at least two years abstinent recovery, with whom he/she will maintain at least weekly contact.

Should the urine drug screen tests be positive or questionable or should there be a significant lapse of any of the other aspects of the personal recovery program as outlined herein, the appropriate Board, licensing agency or insurance carrier may be notified immediately; and I agree to undergo appropriate evaluation and/or treatment at a treatment facility determined by the OHPRP Director.

I agree to advise any physician treating him/her of his alcoholism or chemical dependency history; and OHPRP Director or other Program representative agrees to provide consultation as to chemical dependency issues specifically as to use of certain medications to Justin Boyce PA or the treating physician.

I hereby, authorize release of information from the OHPRP to the appropriate Board, licensing agency or insurance carrier as outlined above and as requested for advocacy purposes.

This contract will be for five years.

[Signature]
Participating Physician

9-8-03
Date

[Signature]
OHPRP Representative

9/8/03
Date

- ① Weekly random drug screens x 1 yr then frequency to be determined
- ② abide by all of Dr. Morrison's Recommendations (psychiatrists)
- ③ Enroll & complete OP program @ St. Anthony's
- ④ TAKE only the meds prescribed by treating psychiatrist