

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

FILED

JAN 25 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff)

v.)

ROGER TIMM, P.A.,)
LICENSE NO. PA1027,)

Defendant.)

Case No. 00-09-2248

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, Roger Timm, P.A., Oklahoma license no. PA1027, who appears in person and through counsel, Kyle Sweet, offer 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 October 5, 2000 and further 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, Roger Timm, 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 by his legal counsel.

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. §§ 480 *et seq.* and 887.1 *et seq.*

2. Defendant, Roger Timm, P.A. holds Oklahoma license no. PA1027.

3. On or about June 12, 2000, Defendant wrote a prescription for Darvocet, a Schedule IV controlled dangerous drug, to a patient.

4. Defendant has no DEA permit authorizing him to write prescriptions for controlled dangerous substances.

5. Defendant has admitted that he has an application to obtain a DEA permit but that he has not completed it.

6. 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 OAC435:15-5-11(7).

B. He has been convicted of or confessed to a crime involving violation of:

1. the antinarcotic or prohibition laws and regulations of the federal government,

2. the laws of this state, or

3. State Board of Health rules,

in violation of 59 O.S. §509(8).

C. 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).

- D. He has written 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).
- E. He has used a 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).
- F. He has violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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 OAC 435:10-7-4(39).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations, and the Physician Assistant Act. The Board is authorized to enforce these Acts as necessary to protect the public health, safety and welfare.

2. Based on the foregoing facts, Defendant, Roger Timm, Oklahoma license PA1027, is guilty of the unprofessional conduct set forth below:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC435:15-5-11(7).
- B. He has been convicted of or confessed to a crime involving violation of:
 - 1. the antinarcotic or prohibition laws and regulations of the federal government,
 - 2. the laws of this state, or
 - 3. State Board of Health rules,

in violation of 59 O.S. §509(8).

- C. 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).
- D. He has written 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).
- E. He has used a 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).
- F. He has violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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 OAC 435:10-7-4(39).

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, Roger Timm, P.A., holding Oklahoma license No. PA1027, is hereby **FORMALLY REPRIMANDED**.

3. 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 not prescribe, administer, dispense or possess any drugs in Schedules II through V.

B. Defendant will surrender his registration for state and federal controlled dangerous substances and will not apply for state and federal registration for controlled dangerous substances until the term of his probation has expired unless authorized to do so by the Oklahoma State Board of Medical Licensure and Supervision in writing.

C. Defendant will keep duplicate, serially numbered prescriptions of all substances readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.

D. Defendant will conduct his practice in compliance with the Oklahoma Physician Assistant Act as interpreted by the Board. Any question of interpretation regarding the 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 Board.

E. 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 Board.

F. Defendant will keep the Board informed of his current address and will submit any required reports and forms on a timely and prompt basis.

G. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case.

H. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

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


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

K. During the first year of probation, Defendant shall complete continuing education on controlled substances, which shall be approved in advance by the Board Secretary.

4. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

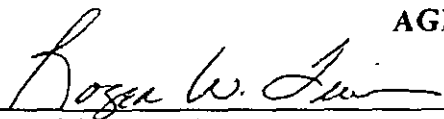
5. At the end of one (1) year, the Board Secretary will review Defendant's probation reports to determine whether or not early termination or modification of probation may be warranted.

Dated this 25 day of January, 2001.

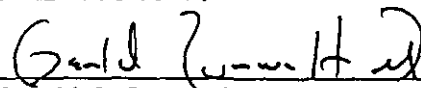


Tim Smalley, President
Oklahoma State Board of
Medical Licensure and Supervision


AGREED AND APPROVED:



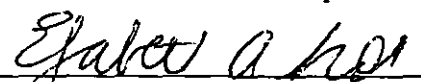
Roger Timm, P. A.
License No. PA1027



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



Kyle Sweet, OBA # 17711
Johnson, Hanan, Heron & Trout
Bank One Center, Suite 2750
100 N. Broadway
Oklahoma City, OK 73102



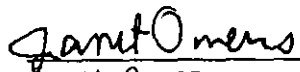
Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118
405/848-6841

Attorney for the Defendant

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 31 day January, 2001, a true and correct copy of this order was mailed, postage prepaid, to Roger Timm, PA, 12008 Sundance Mt Road, Oklahoma City, Ok and attorney Kyle Sweet, 100 N. Broadway Bank One Center, Suite 2750, Oklahoma City, Ok 73102.



Janet Owens