

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

FILED
JAN 11 2016
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
THE OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
vs.)
)
MARIA M. KANE, M.D.,)
LICENSE NO. 11134,)
)
Defendant.)

Case No. 14-01-4902

ORDER ACCEPTING VOLUNTARY SUBMITTAL TO JURISDICTION

Plaintiff, the State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision (referred to herein as “State” or “Board”), by and through its attorney, Jason T. Seay, Assistant Attorney General, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with Maria M. Kane, M.D. (“Defendant”), Oklahoma medical license no. 11134, who appears in person and through counsel, Danny K. Shadid (collectively, the “Parties”), offer this Order Accepting Voluntary Submittal to Jurisdiction (herein referred to as “Agreement” or “Order”) for acceptance by the Board *en banc* pursuant to Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, the Defendant acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“Act”). 59 O.S. § 480 *et seq.*

The Defendant states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for an evidentiary hearing on the allegations made against her. The Defendant hereby voluntarily waives her right to a full hearing, submits to the jurisdiction of the Board, does not dispute the findings of fact and conclusions of law as set forth herein, and agrees to abide by the terms and conditions of this Order. The Defendant acknowledges that she has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with her and her legal counsel.

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If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by the Defendant herein, if any, shall not be regarded as evidence against her in a subsequent disciplinary hearing. The Defendant will be free to defend herself, and no inferences will be made from her willingness to have this Order accepted by the Board. The Parties stipulate that neither the presentation of this Order nor the Board's consideration of this Order shall be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

FINDINGS OF FACT

The Board finds as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 O.S. § 480, et seq.
2. The Defendant holds Oklahoma medical license no. 11134.
3. On February 10, 12, and 14, 2014, the Board served Defendant with formal record requests. In response to those requests, Defendant produced to the Board the files of the following sixteen patients and these files were submitted by the Board to its expert for review:
 - a. Patient "LC"
 - b. Patient "HC"
 - c. Patient "LS"
 - d. Patient "RH"
 - e. Patient "DG"
 - f. Patient "MB"
 - g. Patient "AS"
 - h. Patient "GW"
 - i. Patient "MK"
 - j. Patient "SD"

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- k. Patient "PR"
 - l. Patient "MS"
 - m. Patient "AA"
 - n. Patient "GM"
 - o. Patient "BL"
 - p. Patient "SC"
4. The records produced for patients "SD" and "PR" do not contain documentation of the performance of the initial examinations by Defendant.
 5. The records produced for patients "SD" and "PR" do not contain documentation of patient symptom histories.
 6. The records produced for patients "GW," "SD," and "PR" do not reflect the recordation of the diagnoses by Defendant.
 7. The records produced for patient "LC" do not document that Defendant advised patient "LC" of the risks associated with patient "LC's" abrupt self-discontinuance of Duloxetine.
 8. The Defendant executed an Agreement Not To Practice on March 12, 2015, which became effective the same day. In pertinent part, the ANTP states the Defendant agrees "not [t] practice in any manner as a Physician in the State of Oklahoma as of the date of execution of this Agreement by" the Defendant. The ANTP further states that, "[v]iolation of the terms of this Agreement may result in immediate Board action against your license."
 9. The Defendant violated the ANTP on or about March 16 and 17 of 2015.
 10. The ANTP was released by the mutual agreement of the parties on 22 June 2015.

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CONCLUSIONS OF LAW

Based upon the above findings of fact, the Board concludes as follows:

1. The Defendant failed to maintain an office record for each patient which accurately reflected the evaluation of the patient, in violation of 59 O.S. 2011, § 509(18) and Okla. Admin. Code § 435:10-7-4(36);
2. The Defendant failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. 2011, § 509(20) and Okla. Admin. Code § 435:10-7-4(41); and
3. The Defendant violated the terms violating the ANTP, in violation of Okla. Admin. Code § 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 as stated in this Order Accepting Voluntary Submittal to Jurisdiction;
2. The Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **NINE-THOUSAND-DOLLARS (\$9,000.00)**, payable within ninety (90) days from the date of this Order;
3. The Defendant shall attend two (2) continuing medical education ("CME") courses, one concerning proper charting for psychiatrists and one concerning psychiatric care of patients who are also undergoing pain management care, approved of by the Board Secretary within nine (9) months from the date of this Order, and such courses shall be in addition to the Defendant's normally required continuing medical education units;
4. The Defendant shall be subject to **TERMS OF PROBATION** for a period of one (1) year beginning the date this Order Accepting Voluntary Submittal to Jurisdiction is accepted by the Board, the specific terms of which are attached hereto as "**Exhibit A**" and incorporated herein by reference;
5. Within thirty (30) days of receipt of an invoice, the Defendant shall pay reasonable costs of this action authorized by law, including without limitation, legal fees and investigation costs;

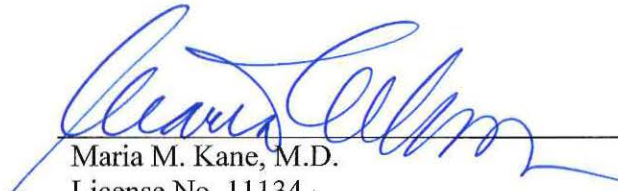
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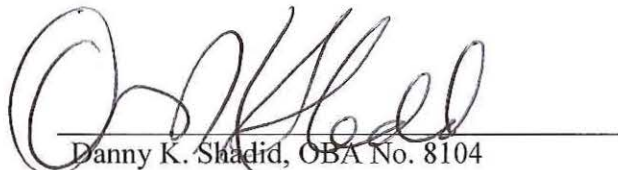
6. This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void; and
7. A copy of this written Order shall be sent to Defendant as soon as it is processed.

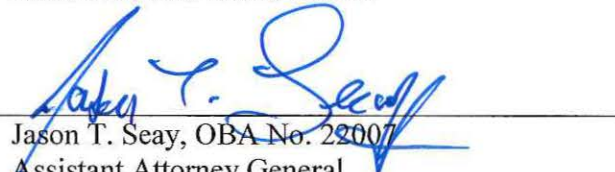
Dated this 16th day of Dec, 2015.

By: 
 OKLAHOMA STATE BOARD OF MEDICAL
 LICENSURE AND SUPERVISION


 Maria M. Kane, M.D.
 License No. 11134



 Billy H. Stout, M.D., Board Secretary
 OKLAHOMA STATE BOARD OF MEDICAL
 LICENSURE AND SUPERVISION


 Danny K. Shadid, OBA No. 8104
 DANNY K. SHADID, P.C.
 6301 Waterford Boulevard, Suite 110
 Oklahoma City, Oklahoma 73118
 405/810.9999
 405/810.9901 – Facsimile


 Jason T. Seay, OBA No. 22007
 Assistant Attorney General
 OKLAHOMA STATE BOARD OF MEDICAL
 LICENSURE AND SUPERVISION
 101 N.E. 51st Street
 Oklahoma City, Oklahoma 73105
 T: (405) 962-1400
 F: (405) 962-1499
 jseay@okmedicalboard.org

and

Linda Scoggins
 DOERNER, SAUNDERS, DANIEL
 & ANDERSON, L.L.P.
 105 North Hudson Avenue, Suite 500
 Oklahoma City, Oklahoma 73102
 Telephone: (405) 319-3500
 Facsimile: (405) 319-3509
 lscoggins@dnda.com

BOARD 

MMK 

and

Barry L. Smith
MCAFEE & TAFT
1717 South Boulder, Suite 900
Tulsa, Oklahoma 74119
Telephone: (918) 574-3015
Facsimile: (918) 574-3115

Counsel for Defendant

CERTIFICATE OF SERVICE

This is to certify that on the 12th day of January, 2015, a true and correct copy of this Order and the attached Exhibit A, was sent by U.S. first-class mail, postage prepaid, to the following:

Danny K. Shadid
Danny K. Shadid, P.C.
6301 Waterford Blvd., Suite 110
Oklahoma City, Oklahoma 73118
Telephone: (405) 810-9999
Facsimile: (405) 810-9901
Danny@ShadidLaw.com

and

Linda Scoggins
Doerner, Saunders, Daniel
& Anderson, L.L.P.
105 North Hudson Avenue, Suite 500
Oklahoma City, Oklahoma 73102
Telephone: (405) 319-3500
Facsimile: (405) 319-3509
lscoggins@dnda.com

and

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MMK mmk

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McAfee & Taft
1717 South Boulder, Suite 900
Tulsa, Oklahoma 74119
Telephone: (918) 574-3015
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Nancy Thiemann, Legal Secretary

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STATE OF OKLAHOMA, *ex rel.*)
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Plaintiff,)
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Case No. 14-01-4902

EXHIBIT A – TERMS OF PROBATION

I. STANDARD TERMS

1. The Defendant, Maria M. Kane, M.D., will conduct her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“Act”) as interpreted by the Board. Any question of interpretation regarding the Act, the Order Accepting Voluntary Submittal to Jurisdiction (“Order”) to which these Terms of Probation are attached, or these Terms of Probation, shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by the Defendant until clarification of interpretation is received by the Defendant from the Board or its designee.
2. The Defendant will furnish a copy of the file-stamped Order along with these Terms of Probation to each and every state in which she holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which she holds or anticipates holding any form of staff privileges or employment.
3. The Defendant will keep the Board informed of her current address.
4. Until such time as all indebtedness to the Board has been satisfied, the Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
5. The Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.
6. The Defendant will keep current payment of all assessments by the Board for prosecution, investigation and monitoring of her case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation, unless the

Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

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

8. Failure to meet any of the terms of the Order or these Terms of Probation shall constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify the Defendant's license after due notice and hearing. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

II. SPECIFIC TERMS


9. The Defendant will make herself and her patient records available to the Board staff and allow them access to the same. Further, the Defendant will cooperate with Board staff in their monitoring and supervision of the Defendant and her practice.

10. The Defendant shall obtain a practice monitor and mentor approved of by the Board Secretary. The practice monitor shall have not been used or named as an expert in the above-captioned proceeding, or was consulted regarding the above-captioned proceeding. The mentor shall review patients' records, observe the Defendant's interaction with patients and provide advice, where necessary, for improvement of the Defendant's psychiatric practice. Such includes, but is not limited to, treatment, diagnoses, patient management, practice management, and any other aspect of patient care. The practice monitor and mentor shall agree to make himself or herself available to Board staff and will cooperate with Board staff in their monitoring of the Defendant and her practice, including providing quarterly reports to the Board Secretary. If the parties are unable to agree to a practice monitor/mentor within thirty (30) days from the date of the Order to which this Exhibit is attached, then either may make application with the Board for the approval of a mentor for the purposes stated herein.

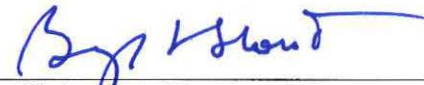
11. The Defendant shall attend two (2) Continuing Medical Education ("CME") courses as described in the Order to which these Terms of Probation are attached. These two CME courses shall be in addition to the Defendant's normally required CME courses and will be completed during the term of the probation as stated herein.

12. If the Defendant desires a change in employment, any proposed change shall be first approved by the Board Secretary.


AGREED TO BY:



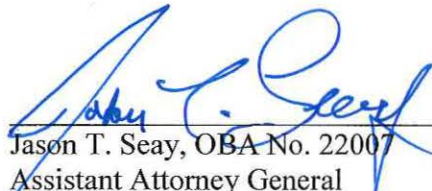
Maria M. Kane, M.D.
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Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
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Danny K. Shadid, OBA No. 8104
DANNY K. SHADID, P.C.
6301 Waterford Boulevard, Suite 110
Oklahoma City, Oklahoma 73118
405/810.9999
405/810.9901 – Facsimile
and



Jason T. Seay, OBA No. 22007
Assistant Attorney General
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
Oklahoma City, Oklahoma 73105
405/962.1400
405/962.1499 – Facsimile

Linda Scoggins
DOERNER, SAUNDERS, DANIEL
& ANDERSON, L.L.P.
105 North Hudson Avenue, Suite 500
Oklahoma City, Oklahoma 73102
Telephone: (405) 319-3500
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lscoggins@dnda.com

and

Barry L. Smith
MCAFEE & TAFT
1717 South Boulder, Suite 900
Tulsa, Oklahoma 74119
Telephone: (918) 574-3015
Facsimile: (918) 574-3115

Counsel for Defendant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-26A

FILED
JAN 11 2016
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

January 7, 2016

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take pursuant to a consent agreement in Board case 14-01-4902. Licensee, a psychiatric physician, failed to maintain records accurately reflecting patient evaluations or supporting diagnosis and prescribed medication for numerous patients even though licensee was prescribing controlled dangerous substances.

The proposed action is to impose a fine of \$9,000; require completion of two continuing education courses, one in recordkeeping for psychiatrists and another in psychiatric care of patients also receiving pain management care; and place terms of probation on licensee for one year. The probation terms include notifying potential employers about the discipline; making licensee's records available to the Board; maintaining currentness of all payments to the Board; and obtaining a practice monitor to review patient records and provide advice on improvement of licensee's psychiatric care.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480-518.1, authorizes the Board to impose discipline for the "[f]ailure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment" as well as failure to "produce[]" and "maintain[]" "[a]dequate medical records to support diagnosis, procedure, treatment or prescribed medications," 59 O.S.2011, § 509(18), (20). The Board's administrative rules clarify that "[i]ndiscriminate or excessive prescribing, dispensing or administering of" controlled substances violates the law. OAC 435:10-7-4(1). The action seeks to advance the medical recordkeeping requirement, particularly in light of the risks posed by indiscriminate prescription of controlled dangerous substances. The Board may reasonably believe that a year of probation, fines, and continuing education will prevent and deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy to protect public health and ensure patient welfare.



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA