

Conclusions of Law

6. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians, surgeons and other allied health professionals in the State of Oklahoma. 59 O.S. 2011, § 480 *et seq.*
7. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice medicine in the State of Oklahoma for unprofessional conduct. 59 O.S. 2011, § 503; 59 O.S. 2011, § 513(B); 59 O.S. 2011, § 509.1(A)(3), (8). This authority is quasi-judicial. 59 O.S. 2011, § 513(A)(1).
8. The burden of proof shall be upon the agency to prove the allegations contained in the complaint by clear and convincing evidence. Okla. Admin. Code § 435:3-3-11(b).

Order

IT IS THEREFORE ORDERED by the Board of Medical Licensure and Supervision that State's Motion to Terminate Probation and Enter into Agreement is hereby **GRANTED**.

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.

Dated this 19th day of JUNE, 2017.



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

Certificate of Service

This is to certify that on the 20th day of JUNE, 2017, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

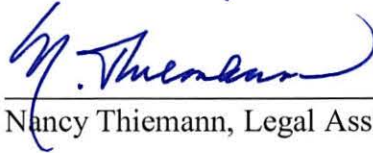
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Defendant

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OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-423A

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

June 12, 2017

Dear Dr. Billy H. Stout, M.D., Board Secretary:

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 with respect to Medical Doctor Licensee 11134. The proposed action is to approve the termination of probation and the terms of licensure under agreement subject to certain terms and conditions in response to questions raised concerning the licensee's fitness or ability to practice with reasonable skill and safety as a result of disciplinary actions taken against the licensee.

The licensee was issued a medical license on February 17, 1977. On August 4, 2014, a complaint was filed alleging the licensee was prescribing alprazolam to numerous family members without medical need. On January 11, 2016, the licensee entered into a consent agreement for failing to maintain records accurately reflecting patient evaluations or supporting diagnosis, procedure, treatment, or prescribed medications for numerous patients. The licensee was ordered to pay a \$9,000 fine and complete continuing medical education ("CME") courses within nine months in proper charting for psychiatrists and psychiatric care of patients who are also undergoing pain management care. The licensee was also subject to terms of probation for one year with additional standard and specific probation terms, later modified on January 14, 2016.

On March 28, 2017, a motion to enforce terms of probation was granted resulting from the licensee's failure to submit certificates of completion for the two required CME courses in violation of the order and probation was extended until such time as the licensee completed the required CME courses. On May 4, 2017, the licensee entered into a consent agreement terminating probation and the terms of licensure under agreement subject to the following terms and conditions requiring the licensee to: (1) comply with the Oklahoma Physical Therapy Practice Act; (2) furnish a copy of the agreement to any facility employing or offering staff privileges to the licensee; (3) keep the Board informed of current address; (4) pay all associated costs; (5) be available for personal appearances before the Board; (6) timely submit any required reports and forms to the compliance coordinator; (7) make patient records available and cooperate with monitoring and supervision of licensee and licensee's practice; (8) continue with a practice monitor and mentor,

who is board certified in psychiatry and participates in maintenance of certification, and comply with requirements regarding same, as more particularly described in the agreement; and (9) agree to recommendations of practice monitor and mentor regarding patient care operations, prescribing Benzodiazepines, and peer mentoring sessions, as more particularly described in the agreement.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480–518.1, authorizes the Board to discipline licensees who engage in unprofessional conduct. 59 O.S.Supp.2016, § 503. Unprofessional conduct includes “[f]ailure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment” and failure to produce and maintain “[a]dequate medical records to support diagnosis, procedure, treatment or prescribed medications,” 59 O.S.2011, § 509(18), (20); OAC 435:10-7-4(41). Further, the Board’s administrative rules prohibit “[i]mproper management of medical records” and “[v]iolation of any provision(s) of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.” OAC 435:10-7-4(36),(39). This action seeks to enforce these requirements. The Board may reasonably believe that the disciplinary action is necessary to 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 the public health and welfare by upholding minimum standards of professionalism among physicians.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL

RECEIVED

JUN 14 2017
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION