

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

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

) **Plaintiff,**)

FILED

JAN 17 2008

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

v.)

) **DAVID PAUL JUBELIRER, M.D.,**)
LICENSE NO. 11710,)

) **Defendant.**)

Case No. 07-08-3359

**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, David Paul Jubelirer, M.D., Oklahoma license no. 11710, who appears in person and through counsel, Andrew T. Harrison, 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 as a full and final resolution of this matter, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on October 2, 2007 as specifically set forth below in the findings of fact 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").

Defendant, David Paul Jubelirer, M.D., 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, in resolution of this matter, 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 and 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 and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *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, David Paul Jubelirer, M.D, holds Oklahoma medical license no. 11710 and is a practicing pediatrician in Tulsa, Oklahoma.

3. Beginning on or around September 16, 2006 and continuing through approximately September 2007, Defendant entered into an independent contractor agreement with American Laser Centers to serve as its medical director in Tulsa, Oklahoma. During this time, Defendant allowed unlicensed individuals to operate at least two (2) different medical laser machines and to treat patients at the American Laser Center. Defendant admits that he was never present before or during any of the treatments, nor did he ever review any charts or records or perform physical examinations of patients receiving medical laser treatments prior to the procedures. Defendant admits that he examined only one (1) patient after a medical laser procedure for a minor burn on the skin.

4. In consideration for agreeing to act as the "medical director", Defendant was paid two thousand dollars (\$2,000.00) per month from American Laser Centers.

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

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(13) and OAC 435:10-7-4(39).

- B. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435:10-7-4(21).
- C. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(14).
- D. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).
- E. 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(18).
- F. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).

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. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant, David Paul Jubelirer, M.D., Oklahoma medical license 11710, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(13) and OAC 435:10-7-4(39).
- B. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435:10-7-4(21).

- C. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(14).
- D. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).
- F. 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(18).
- F. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).

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 Submittal to Jurisdiction, Defendant, David Paul Jubelirer, M.D., Oklahoma license no. 11710, should be and is hereby **PUBLICLY REPRIMANDED** for the conduct set forth above.


3. Within one (1) year of the date of this Voluntary Submittal to Jurisdiction, Defendant shall complete one-hundred (100) hours of **COMMUNITY SERVICE** at a facility approved in advance in writing by the Board Secretary.

4. Within two (2) years of this date of this Voluntary Submittal to Jurisdiction, Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$20,000.00**.


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


6. A copy of this written order shall be sent to Defendant as soon as it is processed.

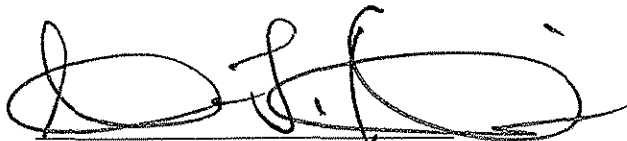
Dated this 17th day of January, 2008.


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

AGREED AND APPROVED

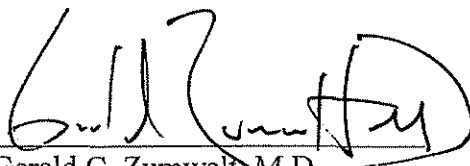

David Paul Jubelirer, M.D.
License No. 11710


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Attorney for the Oklahoma
State Board of Medical
Licensure and Supervision


Attorney for Defendant
David Paul Jubelirer, M.D.


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

CERTIFICATE OF MAILING

I certify that on the 18 day of January, 2008, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Andrew T. Harrison and Emily M.

Jones, Herrold, Herrold & Co., P.C., 300 ONEOK Plaza, 100 W. 5th Street, Tulsa, OK 74103-4212 and to David Paul Jubelirer, 6202 S. Lewis Avenue, Suite A, Tulsa, OK 74136.


Janet Swindle