

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,)

MAY 28 2010

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 07-08-3359

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

Defendant.)

FINAL ORDER OF COMMUNITY SERVICE

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on May 20, 2010, at the office of the Oklahoma State Medical Association, 313 N.E. 50th Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and through counsel, Andrew Harrison.

The Board *en banc* after hearing arguments of counsel, testimony of witnesses, and reviewing the pleadings filed, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

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. On or about October 2, 2007, the State filed a Complaint against Defendant whereby the State alleged that Defendant had conducted numerous instances of unprofessional conduct. Specifically, the State alleged that Defendant had allowed unlicensed individuals to operate laser machines under his direction as medical director. Defendant admitted that he was never present before, during or after the procedures, nor did he ever review any charts or records or perform any physical examinations on patients prior to the procedures.

4. On or about January 17, 2008, the Board approved an Order Accepting Voluntary Submittal to Jurisdiction whereby Defendant was **PUBLICLY REPRIMANDED**, he was ordered to complete **100 HOURS OF COMMUNITY SERVICE** within **ONE (1) YEAR**, and he was ordered to pay an **ADMINISTRATIVE FINE** in the amount of **\$20,000.00** within **TWO (2) YEARS**.

5. One (1) year after the Board approved the Order Accepting Voluntary Submittal to Jurisdiction, Tom Sosbee, the Board's Compliance and Education Coordinator, contacted Defendant to determine his compliance with the Board Order. Defendant admitted that he had not completed any of the community service ordered to be completed within one (1) year. He claimed that he thought he had two (2) years to complete the community service.

6. Over two (2) years after the Board approved the Order Accepting Voluntary Submittal to Jurisdiction, Mr. Sosbee determined that Defendant still had not completed the required 100 hours of community service. As of March 2, 2010, Defendant had completed only seventy-two (72) hours of community service.

7. Over two (2) years after the Board approved the Order Accepting Voluntary Submittal to Jurisdiction, Mr. Sosbee determined that Defendant still owed \$13,500.00 of the original \$20,000.00 administrative fine.

8. Defendant is guilty of unprofessional conduct in that he:

A. 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(13) and 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. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct in that he:
 - A. 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(13) and OAC 435:10-7-4(39).

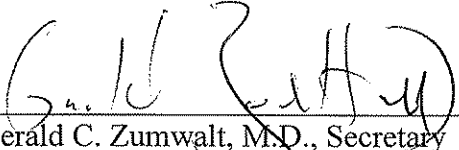
3. The Board further found that the Defendant should be ordered to complete an additional **50 HOURS of COMMUNITY SERVICE** based upon any or all of the violations of these unprofessional conduct provisions.

Order

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

1. Defendant shall complete an additional **50 HOURS of COMMUNITY SERVICE** between May 20, 2010 and May 20, 2011, to be approved in advance in writing by the Board Secretary.
2. Failure to meet any of the terms of the Order of Community Service may constitute cause for the Board to initiate additional proceedings, which may include suspension or revocation of Defendant's license, after due notice and hearing.
3. 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.
5. A copy of this written order shall be sent to Defendant as soon as it is processed.


Dated this 28 day of May, 2010.



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

CERTIFICATE OF SERVICE

I certify that on the 28 day of May, 2010, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Probation and Administrative Fine to Andrew T. Harrison, Sneed Lang Herrold, P.C., 1700 Williams Tower I, 1 West Third Street, Tulsa, OK 74103-4212 and to David P. Jubelirer, 6202 S. Lewis Avenue, Suite A, Tulsa, OK 74136.



Janet Swindle