

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,

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OKLAHOMA STATE BOARD OF MEDICAL LICENSURE & SUPERVISION

OK STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION JUL 20 09 20

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v.

ALEXANDER THEODORE, M.D., LICENSE NO. 11907,

Defendant.

Case No. 05-04-2945

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, Alexander Theodore, M.D., Oklahoma license no. 11907, who appears in person and pro se, 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, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on March 31, 2005 as set forth below 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, Alexander Theodore, 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 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, Alexander Theodore, M.D., holds Oklahoma license no. 11907.

3. On or about February 28, 2005, Defendant was disciplined by the Utah Division of Occupational and Professional Licensing of the Department of Commerce whereby his license to practice medicine was suspended on an emergency basis based upon a finding that his continued practice represented an immediate and significant danger to the public health, safety and welfare. Specifically, the emergency suspension was based upon allegations by the State of Utah that Defendant was involved in an elaborate insurance fraud and narcotics distribution scheme that involved the recruiting of patients to obtain prescriptions for Oxycontin, a Schedule II controlled dangerous substance. The State alleged that Defendant worked with "recruiters", who found patients who had insurance that would cover the prescribing of Oxycontin. The State also alleged that the recruiters met the patients at Defendant's office, and the recruiters would pay \$400.00 to \$500.00 per visit. The State alleged that at the visits, no medical examinations were performed, nor were appropriate diagnoses made. The State further alleged that the patients got a prescription for Oxycontin from Defendant, then turned over the majority of the Oxycontin to the recruiters for them to sell. The State alleged that the patient was then reimbursed for the Oxycontin by insurance.

4. Pursuant to Utah law, the emergency suspension was issued by the Utah Board, with the Defendant subsequently being given the chance to request a hearing to determine if the emergency order should be affirmed, set aside or modified. Defendant denied the allegations of the State set forth above and requested a hearing to dispute the emergency suspension.

5. Prior to the scheduled hearing on Defendant's appeal of the emergency suspension, on or about May 9, 2005, Defendant entered into an agreed Stipulation and Order with the Utah Division of Occupational and Professional Licensing whereby he admitted the following facts:

- a. He provided medical services in the area of chronic pain management without any specialized training or knowledge in chronic pain management.
- b. His practice in chronic pain management was beyond the scope of the licensee's abilities and/or education.

Defendant further admitted that his conduct constituted unprofessional conduct and that his conduct justified disciplinary action.

6. Based upon Defendant's admissions, the Utah Board revoked Defendant's medical license, which revocation was immediately stayed. His license was then placed on a five (5) year term of probation.

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

- A. Was subject to disciplinary action of another state or jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section pursuant to OAC 435:10-7-4(31).

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, Alexander Theodore, M.D., Oklahoma medical license 11907, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. Was subject to disciplinary action of another state or jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section pursuant to OAC 435:10-7-4(31).

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, Defendant shall be placed on **PROBATION** for a period of five (5) years, which probation shall be tolled until Defendant returns to the State of Oklahoma, under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said 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 Oklahoma State Board of Medical Licensure and Supervision.

B. Upon request of the Board Secretary, Defendant will request all hospitals, clinics or other practice settings in which he anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing services in or to that hospital, clinic or other practice setting.

C. 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 Oklahoma State Board of Medical Licensure and Supervision.

D. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.

E. Defendant will not prescribe, order, administer or dispense any prescription drugs to himself, his spouse, or any family members.

F. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules I through V for a minimum period of two (2) years, at which time he may appear before the Board and request that this restriction be modified.

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

H. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or physicians holding Defendant's records.

I. Defendant will not practice in the State of Oklahoma until he completes an assessment of clinical competence at CPEP, provides the results of the assessment to the Board, and completes the Educational Intervention Plan, if any, developed by CPEP.

J. Defendant will abide by all of the terms and conditions of his Stipulation and Order with the Utah Division of Occupational and Professional Licensing.

K. Defendant shall promptly notify the Board of any entry or re-entry into a treatment program for substance abuse or dependence on any chemical substance or for the treatment of any emotional or psychological disorder.

L. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses, including but not limited to those involving substance abuse.

M. Upon his return to the practice of medicine and surgery, Defendant shall practice in a controlled environment approved in advance in writing by the Board Secretary.

N. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

O. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon

presentation of evidence that is acceptable to the Board Secretary.

P. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

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

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

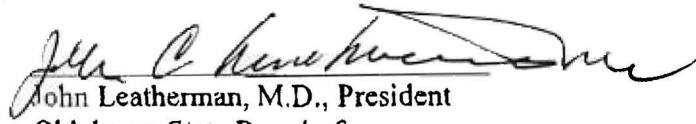
S. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

T. Defendant shall not return to the practice of medicine and surgery in the State of Oklahoma until he personally appears before the Board and the Board approves his return to practice.

U. Defendant shall authorize the Utah Division of Occupational and Professional Licensing of the Department of Commerce to send the Oklahoma State Board of Medical Licensure and Supervision all performance evaluations by his supervising physician, all chart reviews submitted to the Utah Board, and all performance evaluations by Defendant's employer.

3. 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.

Dated this 21 day of July, 2005.


John Leatherman, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision



Alexander Theodore, M.D.
License No. 11907

AGREED AND APPROVED



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

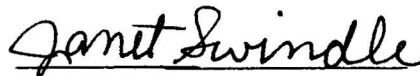
Attorney for the Oklahoma State
Board of Medical Licensure and
Supervision



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 25 day of July, 2005, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Alexander Theodore, 8015 Royal Lane, Sandy, UT 84093.



Janet Swindle