

**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,**

Plaintiff

v.

**ANDREW COOPER JOHN, M.D.,
LICENSE NO. 12045,**

Defendant.

JUL 29 2004

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 03-06-2673

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, Andrew Cooper John, M.D., Oklahoma license no. 12045, who appears in person and through counsel, Mack K. Martin, offer this Agreement effective July 29, 2004 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 April 15, 2004, and further 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, Andrew Cooper John, 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.*

2. Defendant, Andrew Cooper John, M.D., holds Oklahoma license no. 12045

3. Beginning on or around February 8, 1999 and continuing through March 21, 2003, Defendant purchased a total of **107,138 dosage units** of Cotuss-V Liquid 5 mg., a Schedule III controlled dangerous substance, for an average of **71.33 dosage units per day**. These drugs were purchased on twenty-seven (27) separate occasions by Defendant from Moore Medical Corp. The total amount of drugs purchased consisted of 1,116 bottles, each consisting of 480 ml. of Cotuss-V Liquid, for a total cost of \$11, 383.00.

4. Defendant has no patient charts reflecting the prescribing, dispensing or administering of any of the Cotuss-V Liquid he purchased. Defendant additionally failed to keep any records of the receiving or destruction of these drugs.

5. On or about November 12, 2003, pursuant to an investigation by the Drug Enforcement Administration, Defendant entered into a Settlement Agreement with the United States Department of Justice and the DEA based upon allegations that he ordered the Hydrocodone and failed to keep any receiving, dispensing or destruction records pertaining to the same. Defendant advised the DEA that he had destroyed the drugs without any witnesses, and had failed to keep adequate records of the destruction of the drugs. Pursuant to his Settlement Agreement, he paid \$75,000 and was prohibited from ordering, purchasing or dispensing any controlled dangerous drugs for two (2) years. In consideration for his agreement, Defendant required that the United States Attorney for the Western District of Oklahoma and the DEA were prohibited from disclosing the terms of the Settlement Agreement to the Oklahoma State Medical Board unless the Medical Board specifically requested it.

6. On or about February 3, 2004, Board investigator Washbourne and an OBN investigator interviewed Defendant regarding the drugs he had purchased and allegedly destroyed. During this interview, Defendant changed his story and advised the investigators that his wife had witnessed him destroy the drugs. He also told investigators that all of the drugs he had ordered had been destroyed and that he had no more drugs on the premises.

7. Defendant claimed that although he purchased the Hydrocodone cough syrup on 27 separate occasions (for a total of 1116 bottles), he never dispensed, prescribed or administered

any of it to anyone. He claimed that each time, he decided not to use it and flushed it down the toilet. He would then reorder it, then again decide not to use it and flush it down the toilet.

8. At the conclusion of the interview, Investigator Washbourne requested that Defendant provide a urine sample to test for the presence of opiates, which Defendant refused.

9. From March 15, 2004 until March 18, 2004, Defendant submitted to an assessment at Talbott Recovery Campus. At the conclusion of the assessment, the assessment team requested that Defendant provide a hair sample to rule out a history of sustained Hydrocodone use. Defendant initially agreed, then asked that his hair sample be returned. He claimed that he had a bottle of Hydrocodone (left over from an old prescription) in his shaving kit, and that the pills may have come out of the bottle. He believed that he might have touched the pills and then touched his hair, which may have contaminated his hair.

10. As a result of Defendant's refusal to submit to a hair screen, Talbott's assessment was considered incomplete.

11. After his return from Talbott, Investigator Washbourne and an OBN investigator again interviewed Defendant at his office. During his interview, the investigators found eleven (11) cases, containing twelve (12) bottles each, of Cotuss-V Liquid, and four (4) loose bottles of the drug. Defendant had advised the investigators in February 2004 that all of the drugs had been destroyed and that there were no drugs on the premises.

12. Defendant was subsequently reevaluated at Talbott from May 18, 2004 until May 28, 2004 at which time Talbott concluded that he was not impaired. Talbott did, however, recommend that Defendant submit to random urine drug screens.

13. 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(14) and OAC 435:10-7-4(39).

B. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).

C. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

D. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27),

E. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

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. Based on the foregoing facts, Defendant, Andrew Cooper John, Oklahoma license 12045, is guilty of the unprofessional conduct set forth below:

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(14) and OAC 435:10-7-4(39).

B. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).

C. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

D. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27),

E. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

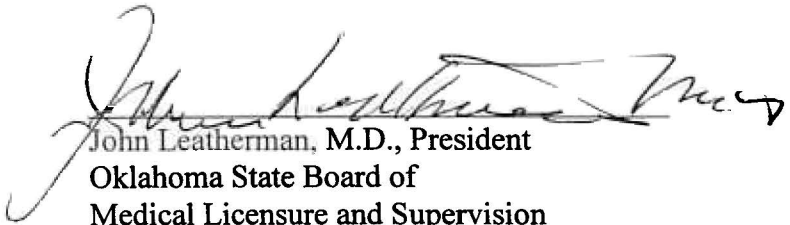
Order

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.

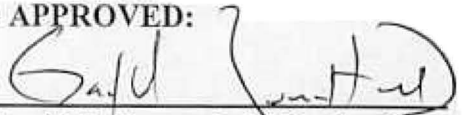
2. Defendant's license shall be **RESTRICTED** as follows:
- A. His practice shall be limited to performing insurance examinations, e.g., workers' compensation examinations and independent medical examinations.
 - B. He shall not be allowed to prescribe, order, dispense or administer any controlled dangerous substances without the prior express approval of the Board.
 - C. *He will execute a contract with the PRP and will be subject to random drug testing and will continue with the PRP.*
3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of \$10,000.00, \$5,000.00 of which shall be paid on or before July 30, 2004, and the remaining \$5,000.00 to be paid on or before January 30, 2005.
4. If the Board ever modifies the restriction on Defendant's Oklahoma medical license, it shall be under terms of probation to be determined at the time of modification.
5. Defendant shall allow the Board or its designee to monitor his practice to verify that the terms of the Voluntary Submittal to Jurisdiction are being followed by Defendant.
6. 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.

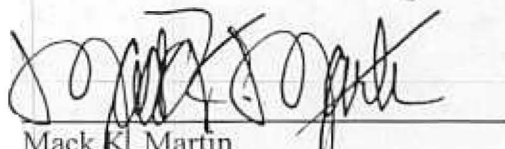
Dated this 29 day of July, 2004.

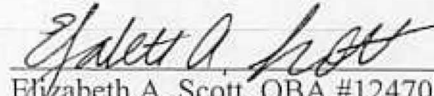

John Leatherman, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:


Andrew Cooper John, M.D.
License No. 12045


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


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Attorney for Defendant,
Andrew Cooper John, M.D.

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I CERTIFY THAT ON THE 30TH DAY OF JULY, 2004, I MAILED A TRUE AND CORRECT COPY OF THE VOLUNTARY SUBMITTAL TO JURISDICTION TO, MACK K. MARTIN, ATTORNEY 119 N. ROBINSON, SUITE 360, OKLAHOMA CITY, OK 73102.


JANET SWINDLE, SECRETARY