

Agreements and Stipulations

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

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, Bryan Alan Swietek, holds Oklahoma license no. OTA1345.

3. On October 11, 2012, Defendant entered into an Agreement for Licensure with the Board in response to questions raised during the application process concerning Applicant's fitness or ability to practice with reasonable skill and safety as a result of an arrest and plea of guilty in 2010 for Driving Under the Influence of Alcohol.

4. Pursuant to the Agreement for Licensure, Defendant is required to take random drug tests through the Affinity Program. On February 22, 2013 Defendant was drug tested and the result was positive for Ethyl. An ETG was subsequently performed on the test. The cutoff level for a positive result is set at **500**. Defendant tested at a level of **4003**.

5. On March 4, 2013, Board's Compliance Coordinator arrived at Defendant's place of employment to discuss the positive test results with Defendant. **Defendant signed an Agreement not to Practice effective until he met with Board Staff.**

6. On March 8, 2013, Board's Compliance Coordinator phoned Defendant and advised he go to The Medical Therapy Group in Oklahoma City for evaluation. Defendant was further advised to be prepared discuss the recommendations based on said evaluation in his meeting with Board Staff scheduled for March 15, 2013.

7. Defendant met with Board Staff on March 15, 2013 wherein his evaluation and recommendations from The Medical Therapy Group were reviewed and discussed. The Medical Therapy Group recommended "**intensive outpatient from a Board-approved entity.**"

8. Defendant phoned Board's Compliance Coordinator on or around March 19, 2013 and advised he will begin outpatient treatment at St. Anthony's Hospital.

9. On March 25, 2013, Lyle Kelsey, Executive Director of the Board, released Defendant to return to work.

10. Defendant is in violation of the following paragraphs of his Agreement for Licensure dated October 11, 2012:

Paragraph 4: Applicant will have the affirmative duty not to ingest any substance which will cause a body fluid

or hair follicle sample to test positive for prohibited substances, including but not limited to alcohol; and

Paragraph 9: Failure to meet any of the terms of this Agreement shall constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Applicant's license after due notice and hearing.

Conclusions of Law

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

Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of any action, stipulation or agreement of the Board as stated in *Oklahoma Administrative Code Rule 435:10-7-4 (39)*.

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 his Voluntary Submittal to Jurisdiction; and

2. It is **ORDERED** that the Defendant will be placed on **PROBATION** for a period of five (5) years and said probation shall have the following provisions:

Standard Terms:

- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order 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 Board or its designee.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a

licensed physician.

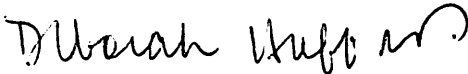
- d) Defendant will keep the Board informed of his current address.
- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case which shall include but is not limited to a one hundred fifty dollar (\$150.00) per month fee during the term of probation.
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- j) 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 license after due notice and hearing.

Specific Terms:

- k) Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.
- l) Defendant will not prescribe, administer or dispense any medications for personal use.
- m) Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Board Order immediately upon initiation, or continuation, of treatment.
- n) Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

- o) Defendant shall follow all guidelines and recommendations as set forth in the assessment from The Medical Therapy Group.
- p) Defendant will sign a contract with Oklahoma Health Professionals Program (“OHPP”).
- q) Defendant will attend a minimum of three (3) 12-Step meetings per week and one (1) Caduceus meeting (OHPP) per week. .
- r) Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.
- s) Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.
- t) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator or other Board designee to obtain copies of medical records and authorize the Compliance Coordinator or other Board designee to discuss Defendant’s case with Defendant’s treating physicians and/or any physicians holding Defendant’s records.
- u) Defendant shall obtain a sponsor.
- v) Defendant shall engage in individual therapy. The therapist must be approved in advance and in writing by the Board Secretary. Defendant shall submit quarterly reports of his treatment from his therapist to the Board Secretary or the Compliance Coordinator for review. Defendant shall continue his counseling until his therapist and Board Secretary deem it no longer necessary.
- w) Defendant is hereby placed on **PROBATION** for a term of five years beginning from the date of this Order.

Dated this 16th day of May, 2013.



Deborah Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

Bryan Alan Swietek

Bryan Alan Swietek
License No. OTA1345

Gerald C. Zumwalt

Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision

Scott Randall Sullivan

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Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 16th day of May, 2013, a true and correct copy of this Order Accepting Voluntary Submittal to Jurisdiction was mailed, postage prepaid, to Bryan Alan Swietek, 601 E Street, Elgin, OK 73538.

Barbara J. Smith
Barbara J. Smith, Legal Assistant