

**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.)

WALTER WILLIS BELL, M.D.,)
LICENSE NO. 13877,)

) **Defendant.**)

MAY 19 2011

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 08-10-3594

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, Walter Willis Bell, M.D., Oklahoma license no. 13877, who appears in person and through counsel, Kevin Driskill, offer 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 admits to certain of the allegations in the Complaint and Citation filed herein on October 8, 2010, and further acknowledges that hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Walter Willis Bell, 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 by 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, Walter Willis Bell, M.D., holds Oklahoma license no. 13877 and at the time of the events in questions, practiced as a general surgeon in Oklahoma City, Oklahoma.

3. On or about October 8, 2010, the Board filed a complaint against Defendant containing the following allegations regarding professional malpractice claims filed against the Defendant:

- a. On or about March 12, 2004, Defendant performed a laparoscopic cholecystectomy on Patient GHM, a 35-year-old female. During the surgery, Defendant injured both the common bile duct as well as the right hepatic artery. Another surgeon assisting during the surgery noted that a large segment of the hepatic artery was missing. However, Defendant's Operative Report mentions nothing of the injuries. Patient GHM continued to suffer problems and subsequently required a second surgery to repair the hepatic artery and the common bile duct. Patient GHM subsequently sued Defendant for utilizing an improper technique during surgery and settled for a payment of \$237,500.00.
- b. On or about December 27, 2005, Defendant performed a laparoscopic cholecystectomy on Patient LGM, a 32-year-old female. Two days later, on December 29, 2005, the patient went to the emergency department complaining of abdominal pain. An ultrasound revealed an early or partial bowel obstruction and a CT revealed a midline ventral hernia containing small bowel. Surgery was scheduled for the next day, but the patient died before the subsequent surgery. Defendant's Operative Note appears to be incomplete, in that his description of the size of the fascia defect near the umbilicus that caused the bowel obstruction was contrary to that reported on the autopsy. Patient LGM's family sued Defendant for failing to recognize a surgical complication and settled for a payment of \$310,000.00.
- c. On or about April 19, 2006, Defendant performed a colon resection on Patient SHM, a 49-year-old female. During the surgery, Defendant stapled the patient's colon to her vagina. The patient required a subsequent surgery to remove the staples from her vagina. Patient SHM sued

Defendant for utilizing an improper technique during surgery and settled for a payment of \$350,000.00.

- d. On or about October 31, 2007, Defendant performed a laparoscopic cholecystectomy on Patient BHM, a 19-year-old female. One (1) day later, on November 1, 2007, the patient went to the emergency department complaining of abdominal pain. The patient was treated by the ER physician, who consulted with Defendant by telephone. The patient was released and was advised to follow-up with Defendant that day, but she did not do so. The patient died the next day on November 2, 2007 due to peritonitis due to thermal injury, which caused the intestine to perforate subsequent to surgery. An autopsy performed on the patient revealed multiple holes in the small intestine, duodenum and mesentery, which likely occurred when Defendant inserted the trocar by "direct blind initial trocar placement." Defendant denied that the perforations found at the autopsy were cause by the initial trocar placement. Patient BHM's family sued Defendant for failing to recognize a complication of surgery and settled for a payment of \$350,000.00.
- e. On or about September 9, 2008, Defendant performed a laparoscopic appendectomy on Patient HHM, a 16-year-old female. During the surgery, Defendant inserted the trocar by "direct blind initial trocar placement." During this process, Defendant punctured the iliac artery. Defendant converted the surgery to an open procedure in an attempt to control the bleeding. The patient arrested and resuscitation efforts were unsuccessful. The patient died. Patient HHM's family sued Defendant for utilizing an improper technique and settled for a payment of \$690,000.00.

5. With regard to the allegations contained in the Board's Complaint regarding claims of professional negligence filed against him, Defendant admits to the following:

- a. On or about March 12, 2004, Defendant performed a laparoscopic cholecystectomy on patient GHM, a 35 year-old female. During the surgery, the defendant injured the common bile duct and the right hepatic artery. The injury was recognized by Defendant's examination of the surgical specimen after the operative report had been dictated. The patient was immediately transferred to the care of a liver transplant surgeon, who repaired the injury. The patient suffered no long-term sequelae and has completely recovered. The observation of the hepatic artery injury was made by the surgeon who performed the reconstruction later that day, after the transfer of the patient. In spite of complete recovery from a known complication of the operation, the patient sued, and the claim was settled without any admission of liability.
- b. On or about December 27, 2005, Defendant performed a laparoscopic cholecystectomy on patient LGM, a 32 year-old female. Two days later,

the patient went to the emergency department complaining of abdominal pain. An ultrasound revealed an early partial small bowel obstruction and a CT revealed a midline ventral hernia containing small bowel. Surgery was scheduled for the following morning, but the patient aspirated and arrested prior to operation. The fascial defect found at autopsy was not caused by the trocar used during the cholecystectomy, but was from a surgery performed months prior to the cholecystectomy. This preexisting hernia was not apparent at surgery due to the patient's obesity. The family sued resulting in a settlement agreement being reached with the family without any admission of liability.

- c. On or about April 19, 2006, Defendant performed a colon resection on patient SHM, a 49 year-old female. During the surgery, Defendant stapled the patient's colon to her vagina. The patient required a subsequent operation at the same hospitalization for correction. The patient recovered, and then filed a lawsuit. The claim was settled without any admission of liability.
- d. On or about Oct. 31, 2007, Defendant performed a laparoscopic cholecystectomy on patient BHM, a 19 year-old female. On Nov. 1, 2007, the patient went to the emergency department complaining of abdominal pain. The patient was treated by the ER physician, who consulted with the Defendant by telephone. The ER physician felt it was safe to release the patient to follow-up that day in the Defendant's office. The patient did not follow-up with Defendant that day. The patient died the following day from peritonitis. Although an autopsy performed by the Oklahoma medical examiner's office stated the peritonitis was caused by multiple perforations in the small intestine from trocar placement, an independent pathological examination found that the perforations were actually made post-mortem. The independent pathologist determined that the duodenal injury was thermal in nature and was likely caused by an insulation defect in the laparoscopic cautery. The patient's family sued resulting in a settlement agreement being reached with the family without any admission of liability.
- e. On or about September 9, 2008, Defendant performed a laparoscopic appendectomy on patient HHM, a 16 year-old female. During the surgery, a laparoscopic trocar with a protective shield designed to engage once the trocar had pierced the abdominal wall was inserted using a direct entry technique. However, the protective shield failed to deploy and another instrument was requested and the abdomen was insufflated. Upon insertion of the laparoscope, Defendant discovered that there was bleeding in the abdominal cavity. The abdomen was opened and, although the bleeding was controlled by direct pressure, the patient arrested and died. The patient's family sued resulting in a settlement agreement being reached with the family without any admission of liability.

6. With regard to the allegations contained in the Board's Complaint regarding claims of professional negligence filed against him, Defendant further admits that his performance of the colon resection on patient SHM deviated from the standard of care and was a violation of the Act and Board rules and regulations pursuant to 59 O.S. §509(13) and OAC 435:10-7-4(39).

7. The Defendant stopped practicing surgery, and closed his office practice for economic reasons in December, 2008.

8. The Defendant was engaged in continuous private practice as a general surgeon in Oklahoma City for over 23 years, and performed thousands of open and laparoscopic operations with an operative complication rate well below the national average.

9. The Defendant does not contemplate reengaging in a general surgery practice and in the interest of resolving this matter without further cost to the Defendant or the State, Defendant hereby voluntarily agrees not to perform any surgery in this or any other state without first informing the Board of such an intent to perform surgery.

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 and admissions, Defendant, Walter Willis Bell, Oklahoma license 13877, is guilty of a violation of the medical practice act, 59 O.S. §509(13) and the rules and regulations of the Board, OAC 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 this Voluntary Submittal to Jurisdiction.

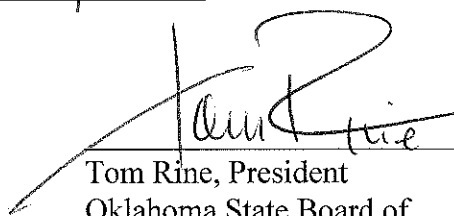
2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Walter Willis Bell, M.D., holding Oklahoma license No. 13877, is hereby **FORMALLY REPRIMANDED**.

3. Defendant hereby agrees that he will not perform any surgery without first informing the Board of his intent to perform surgery and without prior express approval by the Board. Defendant agrees to appear before the Board and comply with any requirements that the Board may deem necessary to prove his competency to perform any surgery.

4. Defendant shall allow the Board or its designee to monitor his non-surgical practice to verify that the terms of the Voluntary Submittal to Jurisdiction are being followed by Defendant.


5. 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 19 day of May, 2011.




Tom Rine, President
Oklahoma State Board of
Medical Licensure and Supervision


AGREED AND APPROVED:



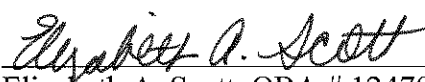
Walter Willis Bell, M.D.
License No. 13877



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



Kevin Driskill, OBA # 2497
C. Scott Jones, OBA # 21248
Driskill Law Firm
Chase Tower
100 N. Broadway, Suite 2300
Oklahoma City, OK 73102



Elizabeth A. Scott, OBA # 12470
Assistant Attorney General
State of Oklahoma
101 N.E. 51st Street

Oklahoma City, OK 73105
405/962-1400

Attorneys for the Defendant

*Attorney for the Oklahoma State Board of
Medical Licensure and Supervision*

CERTIFICATE OF MAILING

I certify that on the 20th day of May, 2011, I mailed a true & correct copy of the Voluntary Submittal Jurisdiction to Kevin Driskell, 100 N. Broadway Suite 2300, Oklahoma City, OK 73102.