

**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, )

**FILED**

NOV 19 2009

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

v. )  
 )  
ALDO ANTHONY BATTISTE, JR., M.D., )  
LICENSE NO. 16310, )  
 )  
Defendant. )

Case No. 09-08-3831

**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, Aldo Anthony Battiste, Jr., M.D., Oklahoma license no. 16310, 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 October 2, 2009 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, Aldo Anthony Battiste, Jr., 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.

## ***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, Aldo Anthony Battiste, Jr., M.D., holds Oklahoma license no. 16310 and practices radiology in Oklahoma City, Oklahoma.

3. Beginning July 6, 2000 and continuing through August 18, 2000, Defendant obtained treatment for substance abuse at Rush Behavioral Health Center.

4. On or about January 16, 2001, Defendant was granted an Oklahoma medical license under terms of an Agreement for Licensure based upon a history of substance abuse. The Agreement for Licensure provides as follows:

5. Applicant will have the affirmative duty not to ingest any other substance which will cause a body fluid sample to test positive for prohibited substances.

6. Applicant will participate in and abide by his post care contracts with Rush Behavioral Health Center and the Oklahoma Physicians Recovery Group.

14. Applicant will notify the Board or its designee of any relapse, including any entry (or) re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation.

16. Any violation of the terms, conditions and requirements of this agreement shall constitute conclusive evidence of unprofessional conduct, which may result in disciplinary action, including suspension or revocation.

5. Subsequent to obtaining his Oklahoma medical license under terms of the Agreement for Licensure, and while under contract with the Oklahoma Health Professionals Recovery Program, Defendant continued to consume alcohol. Defendant admits that he knew he

was not allowed to consume alcohol under his Agreement for Licensure or under his contract with the Oklahoma Health Professionals Recovery Program.

6. The Defendant's Agreement for Licensure was terminated in 2003.

7. Defendant continued to consume alcohol while under contract with the Oklahoma Health Professionals Recovery Program, increasing his use to 2-6 drinks per evening by 2004. Defendant quit drinking alcohol periodically, then returned to abuse in 2008 and 2009.

8. Defendant entered treatment for alcohol abuse at Talbott Recovery Campus on April 13, 2009 and was discharged June 24, 2009.

9. On or about August 4, 2003, Defendant submitted his Application for Renewal of his full medical license in the State of Oklahoma for the period September 2, 2003 through September 1, 2004. In response to the question "Have you been addicted to or abused any drug or chemical substance including alcohol?" Defendant answered "NO". Defendant answered "NO" to this same question for each of the subsequent yearly renewal periods through August 11, 2008. Defendant has admitted that he was abusing alcohol throughout this period of time.

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

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).

C. 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).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

F. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

### *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, Aldo Anthony Battiste, Jr., M.D., Oklahoma medical license 16310, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).

C. 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).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

F. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

### *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** 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 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.
  - 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 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.

F. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

G. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

H. 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 the Board Order immediately upon initiation, or continuation of treatment.

I. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances.

J. Defendant will authorize in writing the release of any and all information regarding his treatment at Talbott Recovery Campus and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

K. Defendant will abide by the terms and recommendations of Talbott Recovery Campus and with all terms of his postcare contracts with Talbott Recovery Campus and the Oklahoma Health Professionals Recovery Program.

L. Defendant will sign a contract with the Health Professionals Recovery Program and shall attend a minimum of one (1) meeting per week unless excused by the HPRP.

M. Applicant shall obtain a sponsor and shall additionally attend a minimum of four (4) meetings per week of a local 12-Step program.


N. Defendant shall obtain family therapy with a therapist approved in advance in writing by the Board Secretary. Defendant shall submit quarterly reports of his treatment from his therapist to the Board Secretary or his designee for his review. Defendant shall continue his therapy until his therapist and the Board Secretary deems it no longer necessary.

- O. Defendant shall obtain a primary care physician.
- P. Defendant shall not work more than ten (10) hours per day and shall not work more than one (1) weekend every two (2) months
- Q. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.
- R. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.
- S. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.
- T. 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.
- U. Until such time as all indebtedness to the Oklahoma State Board of Medial Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- V. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- W. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.
- X. 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.

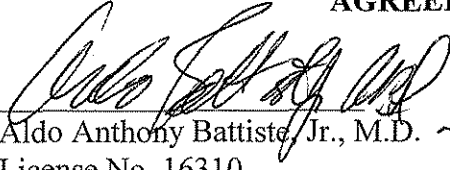
3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of \$12,000.00 to be paid on or before January 19, 2010.

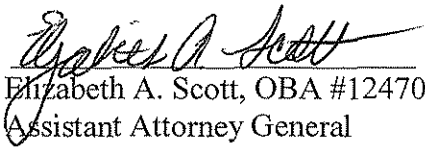
4. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 19 day of November, 2009.

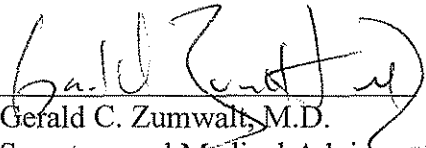
  
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Curtis Harris, M.D., President  
Oklahoma State Board of  
Medical Licensure and Supervision

**AGREED AND APPROVED**

  
\_\_\_\_\_  
Aldo Anthony Battiste, Jr., M.D. -  
License No. 16310

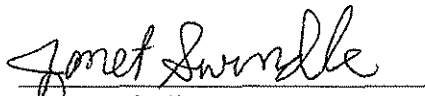
  
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Assistant Attorney General  
State of Oklahoma  
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Attorney for the Oklahoma State  
Board of Medical Licensure and  
Supervision

  
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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 20 day of November, 2009, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Aldo Anthony Battiste, Jr., 10900 S. Pennsylvania, #324, Oklahoma City, OK 73170.

  
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Janet Swindle