IN AND BEFORE THE OKLAHOMA STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel OKLAHOMA STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION,

Plaintiff,

v.

JOSEPH B. SIMMONS, M.D. Medical License No. 16721, Defendant.

) CASE NO. 92-02-1286

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on June 26, 1992, at the office of the Oklahoma State Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Joseph B. Simmons, M.D., Defendant, did not appear either in person, by representative or by pleading.

The Board of Medical Licensure and Supervision en banc heard testimony, reviewed exhibits and being fully advised in the premises, the Oklahoma Board of Medical Licensure and Supervision finds as follows:

FINDINGS OF FACT

1. That Defendant, Joseph B. Simmons, M.D., holds Oklahoma Medical License No. 16721.

2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That the Plaintiff did obtain lawful service of process on the Defendant by way of certified mail with a return receipt card signed by the Defendant personally on April 28, 1992.

4. That on or around August 15, 1991, the Credentials Hearing Committee, Noble Army Community Hospital, Ft. McClellan, Alabama, following notice and hearing, did enter the following findings concerning the Defendant, to-wit:

> "After carefully considering the testimony of all witnesses and the complete medical records of the three patients involved, the Credentials Hearing Committee makes the following findings:

> a. Dr. Simmons medically managed all three patients inappropriately;

b. Dr. Simmons did not fully document the medical records of all three patients;

c. Dr. Simmons did not perform physical examinations that all three patients required; and

d. Dr. Simmons failed to diagnose in all three cases."

The Credentials Committee then made the following recommendations, to-wit:

"In view of these findings, the Credentials Hearing Committee unanimously recommends that the following actions be taken:

a. That Dr. Simmons' privileges be reinstated with the limitation that he be scheduled for duty in the Outpatient Clinics only (that his practice be limited to Outpatient Clinics only);

b. That all medical records of those patients that Dr. Simmons treats over the next three months be reviewed;

c. That the Chief of Primary Care triage these medical records and forward them to the appropriate department for review; and

d. Dr. Simmons' credentials be re-evaluated by the Credentials Committee at the end of the three month period."

5. That on or around November 13, 1991, the Credentials Committee, Noble Army Community Hospital, Ft. McClellan, Alabama, met to review an audit of Dr. Simmons' professional activities as required in its previous order. After reviewing evidence, the Credentials Committee reached the following conclusions:

No improvement noted

2. Same type of deficiencies noted that existed when privileges were previously suspended.

3. Patients treated by this provider are at potential risk."

And the Committee took action to suspend the privileges of Dr. Simmons, to-wit:

"The Committee voted four yes and zero no to suspend privileges of Dr. Joseph Simmons based on the findings of the 100% medical records audit in which standards of care were not met."

6. That Defendant is perpetuating significant harm to public health, safety and welfare by continuing the acts and omissions set forth in the above allegations.

CONCLUSIONS OF LAW

1. That Joseph B. Simmons, M.D., holding Oklahoma Medical License No. 16721, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1991, Sec. 509, Paragraphs 13 and 16, to-wit:

- "13. Violation of prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship."
- "16. Inability 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 physical condition."

ORDER

IT IS THEREFORE ORDERED by the Oklahoma Board of Medical Licensure and Supervision as follows:

1. That the medical license of Defendant, Joseph B. Simmons, M.D., holding Oklahoma Medical License No. 16721, should be and the same is hereby REVOKED.

2. That Defendant should receive written copy of this Order as soon as it is processed.

DATED this 9 day of July, 1992.

GERALD C. ZUMWALT, M.D., Secretary State Board of Medical Licensure and Supervision

APPROVED AS TO FORM: -mill DANIEL J. GAMINO ØBA #3227 Daniel J. Gamino & Associates, P.C. 3315 NW 63

3315 NW 63 Oklahoma City, OK 73116 (405) 840-3741 ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this $_\underline{13}$ day of $\underbrace{\underline{July}}_{-}$, 1992, to:

JOSEPH B. SIMMONS, M.D. PO Box 1290 805 West 23 St. North Clanemore OK 74017 Janet & Dinens