

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,)
)
v.)
)
ELIZABETH MUTZIG, M.D.)
LICENSE NO. 16940,)
)
Defendant.)

FILED
JAN 26 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 00-03-2171

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, Elizabeth Mutzig, M.D., Oklahoma license no. 16940, who appears in person and through her attorney, Kyle Goodwin, 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 the Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on July 3, 2000, 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, Elizabeth Mutzig, M.D., states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of the Order. Defendant acknowledges that she has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with her by her legal counsel.

PARTIES' AGREEMENT AND STIPULATIONS

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

Findings of Fact

1. The Board is 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, Elizabeth Mutzig, M.D., holds Oklahoma license no.16940.

3. On January 4, 2000, the Defendant states that she herniated a disc in her back while at work. As a result of the injury, the Defendant was forced to take a leave a absence from work for approximately six (6) weeks.

4. On February 7, 2000, the Defendant returned to work on a limited-duty basis, four (4) hours per day.

5. On or about February 16, 2000, Defendant received three hundred (300) Ultram sample tablets from a pharmaceutical representative. Defendant subsequently ingested some of the Ultram samples, none of which had been prescribed to her by a physician, in order to control the pain of her back injury. The Defendant states that she did not ingest the Ultram samples at work at any time. Immediately thereafter, the Defendant did receive a proper prescription for Ultram from her treating physician.

6. During February and early March 2000, Defendant's co-workers observed her at St. Francis Hospital, St. John Hospital and the University of Oklahoma Health Sciences Center in Tulsa, Oklahoma. On certain occasions during that time period, her co-workers noted that she appeared to be impaired, in that her speech was slurred, she acted inappropriately, and she had tic-like movements in her face.

7. Based upon these actions, on March 6, 2000, the Defendant requested and received medical leave of absence because of the pain associated with her back and in order to obtain an evaluation at Talbott Recovery Campus in Atlanta, Georgia.

8. From March 14, 2000 through March 17, 2000, Defendant underwent a comprehensive addictive disease and psychiatric assessment at Talbott Recovery Center, at which time her evaluators made no diagnosis of substance abuse or chemical dependence.

9. Defendant is guilty of unprofessional conduct in that she:

A. Prescribed, sold, administer, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

B. Was physically or mentally unable to practice medicine and surgery with reasonable skill and safety during February and early March, 2000, in violation of 435:10-7-4(17)

C. Violation 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)

Conclusion 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, Elizabeth Mutzig, Oklahoma license 16940, is guilty of the unprofessional conduct set forth below:

A. Prescribed, sold, administer, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

B. Was physically or mentally unable to practice medicine and surgery with reasonable skill and safety during February and early March, 2000, in violation of 435:10-7-4(17)

C. Violation 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)

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C. Violation 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)

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, Elizabeth Mutzig, M.D., holding Oklahoma License No. 16940, is hereby **FORMALLY REPRIMANDED**.

3. Defendant shall be placed on PROBATION for a period of one (1) year under the following terms and conditions:

A. Defendant will notify the Board or its designee of any entry or re-entry into a 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. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

B. 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 any physicians holding Defendant's records.

C. 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.

D. Defendant will conduct her 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.

E. Defendant will furnish a copy of this order to each and every state in which she holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which she holds or anticipates holding any form of staff privileges or employment.

F. Defendant will keep the Board informed of her current address.

G. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of her case, including but not limited to a \$100.00 per month probation monitoring fee.

H. Defendant will not supervise allied health professionals for whom a formal supervisory arrangement is required under Oklahoma Law, e.g., physician assistants or advanced registered nurse practitioners.

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

J. Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her of the Board Order immediately upon initiation, or continuation of treatment.

K. Defendant will have the affirmative duty not to ingest any substance which will cause body fluid sample to test positive for prohibited substances, with the specific exception of ingesting medications which have been properly prescribed by the Defendant's physician(s).

L. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

M. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.

N. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

O. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.


P. Upon request of the Board Secretary, Defendant will request all hospitals in which she anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of her practice while performing services in or to that hospital.

Q. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

R. Failure to meet any of the terms of the 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.

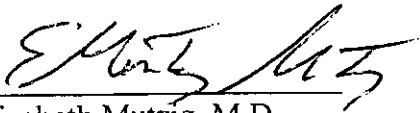
4. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 26 day of January, 2001.

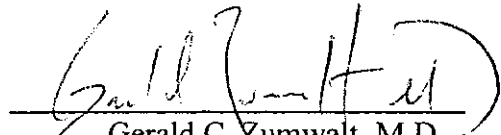


Tim Smalley, President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED



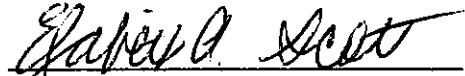
Elizabeth Mutzig, M.D.
License No. 16940



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



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Attorney For Defendant
Elizabeth Mutzig
License NO. 16940

Attorney for Oklahoma State
Board of Medical Licensure and
Supervision

CERTIFICATE MAILING

This is to certify that on this 31 day January, 2001, a true and correct copy of this VSJ was mailed, postage prepaid, to Elizabeth Mutzig, MD, 2808 S. Sheridan Road, Tulsa, Ok 74129 and attorney Kyle Goodwin, 5801 N. Broadway Ext. Suite 302, Oklahoma City, Ok 73118.


Janet Owens