



that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him and 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.* 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, Clifton Charles Murphy, M.D., holds Oklahoma license no. 16963.

3. Beginning on or around January 19, 2001 and continuing through January 29, 2003, Defendant wrote at least thirty-one (31) prescriptions for Butalbital, a habit-forming non-controlled substance, in the name of Patient CBW, a former employee and patient of Defendant. Patient CBW kept some of the Butalbital and gave approximately 85% of it back to Defendant for his personal use. Defendant additionally wrote at least two (2) prescriptions to Patient CBW for Xanax, and took some of it back for his personal use. Defendant's chart on this patient reveals that he failed to keep any records of the prescribing or ordering of thirty-one (31) of the prescriptions to Patient CBW, that he failed to perform a sufficient physical examination on this patient prior to prescribing the drugs, and did not establish a legitimate medical need for the medications.

4. During or around this same period of time, Defendant wrote prescriptions for Butalbital to Glenda Hull, his office receptionist, and to Charlene and Andy Hill, his mother and stepfather. Each of these persons kept some of the Butalbital and gave back a portion to Defendant for his personal use.

5. During or around this same period of time, Defendant was obtaining Butalbital from Ellen Hope, M.D., Michael Carl, M.D. and Randy Morgan, M.D. During this same period of time, Defendant prescribed Butalbital to himself to supplement the amount he was obtaining from his three (3) physicians. Defendant did not advise any of his physicians that he was obtaining Butalbital from any other physician.

6. Defendant has admitted that he took between ten (10) and fifteen (15) Butalbital per day.

7. On Defendant's Application for Renewal of Oklahoma License dated July 1, 2001, in response to the question "Are you now using any drug or chemical substance including alcohol

which has an adverse impact on your ability to practice your profession" within the past year, Defendant answered "NO".

8. On Defendant's Application for Renewal of Oklahoma License dated July 2, 2002, in response to the question "Have you been addicted to or abused any drug or chemical substance including alcohol" within the past year, Defendant answered "NO".

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

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(5) 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(9) 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(14) 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(16) and OAC 435:10-7-4(40).

E. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of OAC 435:10-7-4(19).

F. Prescribed, sold, administered, 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).

G. 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).

H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).

I. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

J. 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, Clifton Charles Murphy, M.D., Oklahoma medical license 16963, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(5) 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(9) 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(14) 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(16) and OAC 435:10-7-4(40).

E. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of OAC 435:10-7-4(19).

F. Prescribed, sold, administered, 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).

G. 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).

H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).

I. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

J. 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. The license of Defendant, Clifton Charles Murphy, M.D., Oklahoma license no. 16963, is hereby **SUSPENDED** for a period of ninety (90) days beginning July 1, 2003 and continuing until September 29, 2003.

3. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of five (5) years following his suspension 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 keep triplicate, serially numbered prescriptions of all substances readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.

F. 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.

G. 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.

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


I. 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.

J. 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.

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

L. Defendant will abide by the terms and recommendations of his postcare contracts with Talbott and the Physicians' Recovery Program, copies of which are attached hereto, and will abide by all continuing care recommendations of Talbott.

M. Defendant will attend ninety (90) 12-Step meetings in ninety (90) days, and thereafter will attend ~~five~~ <sup>five</sup> (5) meetings per week of a local 12-step program, to include the weekly Physicians' Recovery Program meetings. 

N. Defendant will enter and continue counseling with a therapist approved in advance by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from his therapist to the Board Secretary for his review. Defendant will remain in counseling until both the counselor and the Board Secretary authorize his release from counseling.

O. Defendant shall not practice in excess of forty (40) hours per week unless agreed to in advance in writing by the Board Secretary.

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

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

R. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

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S. 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, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

T. 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.

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

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

W. 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.

4. Defendant's suspension will be lifted, and his license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to November 21, 2003.

Dated this 20 day of November, 2003.

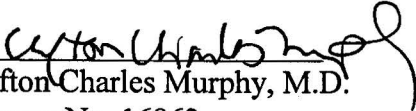



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Eric Frische, M.D., President  
Oklahoma State Board of  
Medical Licensure and Supervision

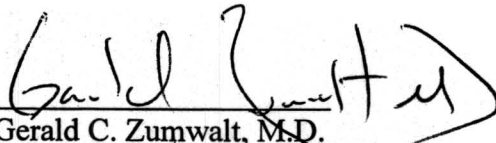



**AGREED AND APPROVED**

  
Clifton Charles Murphy, M.D.  
License No. 16963

  
Elizabeth A. Scott, OBA #12470  
Assistant Attorney General  
State of Oklahoma  
5104 N. Francis, Suite C  
Oklahoma City, OK 73118

Attorney for the Oklahoma State  
Board of Medical Licensure and  
Supervision

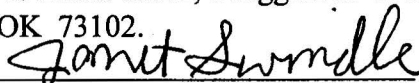
  
Gerald C. Zumwalt, M.D.  
Secretary and Medical Advisor  
Oklahoma State Board of Medical  
Licensure and Supervision

  
Laura Cross  
3030 City Place Bldg.  
204 N. Robinson  
Oklahoma City, OK 73102

Attorney for Defendant

**CERTIFICATE OF MAILING**

I certify that on the 25 day of November, 2003, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Laura Cross, Scoggins & Cross, 3030 City Place Bldg., 204 N. Robinson, Oklahoma City, OK 73102.

  
Janet Swindle