

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

FILED

JUN - 6 2002

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 01-05-2349

CARL P. GRIFFIN, M.D.,)
LICENSE NO. 16969,)

Defendant.)

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, Carl P. Griffin, M.D., Oklahoma license no. 16969, who appears in person and through counsel, R. Brown Wallace, offer this Agreement effective May 9, 2002 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 February 13, 2002, 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, Carl P. Griffin, 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 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.*

2. Defendant, Carl P. Griffin, M.D., holds Oklahoma license no. 16969.

3. From January 3, 2001 until July 22, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient SJB based upon alleged lower back pain. These prescriptions include eight (8) prescriptions for Duragesic and Morphine, Schedule II controlled dangerous drugs, for 973 dosage units, and sixteen (16) prescriptions Hydrocodone, a Schedule III controlled dangerous drug, for 2130 dosage units, and seven (7) prescriptions for Soma, a Schedule IV controlled dangerous drug, for 600 dosage units, for a total of 3703 dosage units at an average of **18.52 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals that she was a patient from January 27, 1995 through at least August 27, 2001, and that he prescribed controlled dangerous drugs to this patient throughout this time. Defendant's chart additionally reveals that he did not see the patient for over two (2) years from May 28, 1998 through July 17, 2000, yet he continued to prescribe controlled dangerous drugs to her during this entire time. Defendant's chart reveals that Patient SJB signed a contract with Defendant on December 4, 2000 regarding her use of controlled dangerous substances for treatment of pain. Patient SJB continually violated her contract with Defendant, yet Defendant nevertheless continued to prescribe controlled dangerous drugs to her. Defendant's chart further reveals that although he was treating the patient for alleged lower back pain, he failed to ever perform a back examination on the patient, and that he did not establish a legitimate medical need for the medications.

4. From January 11, 2001 until July 9, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient JBB based upon alleged fibromyalgia and depression. These prescriptions include fourteen (14) prescriptions for OxyContin, a Schedule II controlled dangerous drug, for 840 dosage units, seven (7) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 1260 dosage units, and twelve (12) prescriptions for Ambien, Temazepam and Lorazepam, Schedule IV controlled dangerous drugs, for 1060 dosage units, for a total of 3160 dosage units at an average of **16.99 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals that she was a patient from January 1995 through at least September 12, 2001, and that he prescribed controlled dangerous substances to this patient throughout this time. Defendant's chart on this patient reveals that he did not establish a legitimate medical need for the medications.

5. From February 8, 2001 through July 22, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient SBB, the husband of Patient JBB set forth in paragraph 4 above, based upon alleged back pain. These prescriptions include two (2) prescriptions for OxyContin, a Schedule II controlled dangerous drug, for 120 dosage units, five (5) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 750 dosage units, and one (1) prescription for Triazolam, a Schedule IV controlled dangerous drug, for 10 dosage units, for a total of 880 dosage units at an average of **5.37 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals nothing to substantiate any clinical symptoms, and that he did not establish a legitimate medical need for the medications.

6. From January 2, 2001 through July 26, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient MMB based upon alleged gastro paresis and rheumatoid arthritis. These prescriptions include eighteen (18) prescriptions for Demerol, Duragesic, Oxycodone and OxyContin, Schedule III controlled dangerous drugs, for 1090 dosage units, two (2) prescriptions for Hydrocodone and H-C Tussive, Schedule III controlled dangerous drugs, for 131 dosage units, and thirteen (13) prescriptions for Soma, Alprazolam and Temazepam, Schedule IV controlled dangerous drugs, for 1030 dosage units, for a total of 2251 dosage units at an average of **10.98 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals that the only sufficient physical examinations were on hospital admissions. Defendant's chart further reveals no original diagnosis of either gastro paresis or rheumatoid arthritis, the conditions for which the patient was allegedly being treated. The Defendant's chart additionally reveals that he failed to perform a sufficient physical examination on this patient prior to prescribing the controlled dangerous drugs and that he did not establish a legitimate medical need for the medications.

7. From January 16, 2001 through July 13, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient SSB based upon alleged knee pain and Attention Deficit Disorder. These prescriptions include six (6) prescriptions for Percocet and Ritalin, Schedule II controlled dangerous drugs for 480 dosage units, six (6) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug for 1200 dosage units, and nine (9) prescriptions for Valium, a Schedule IV controlled dangerous drug for 840 dosage units, for a total of 2520 dosage units at an average of **14.16 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals that he did not establish a legitimate medical need for the medications.

8. From February 19, 2001 through July 25, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient LCB based upon alleged back pain. These prescriptions include eight (8) prescriptions for Oxycodone and OxyContin, Schedule II controlled dangerous drugs for 1505 dosage units, at an average of **9.65 dosage units per day of controlled dangerous substances**. Defendant's chart on this patient reveals that he did not see her from April 7, 2000 until November 20, 2000 and from March 5, 2001 until July 23, 2001, yet he continued to prescribe controlled dangerous substances to her during this entire time. Defendant's chart on this patient reveals that he did not establish a legitimate medical need for the medications.

9. From January 11, 2001 through July 26, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient CMB based upon alleged fibromyalgia and Attention Deficit Disorder. These prescriptions include five (5) prescriptions for Methylphenidate, a Schedule II controlled dangerous drug for 1060 dosage units, seven (7) prescriptions for Butalbital, Fioricet/Codeine, Schedule III controlled dangerous drugs for 1680 dosage units, and ten (10) prescriptions for Ambien and Alprazolam, Schedule IV controlled dangerous drugs for 255 dosage units, for a total of 2995 dosage units at an average of **15.28 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals no initial diagnosis of Attention Deficit Disorder, and that he did not establish a legitimate medical need for the medications.

10. From January 12, 2001 through July 13, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patient RTB based upon alleged psoriatic arthritis. These prescriptions include eleven (11) prescriptions for Duragesic and Oxycodone, Schedule II controlled dangerous drugs for 1130 dosage units, seven (7) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 330 dosage units, and thirteen (13) prescriptions for Ambien and Valium, Schedule IV controlled dangerous drugs, for 570 dosage units, for a total of 2030 dosage units at an average of **11.15 dosage units of controlled dangerous substances per day**. Defendant's chart on this patient reveals that he failed to perform a sufficient physical examination on this patient prior to prescribing the controlled dangerous drugs and that he did not establish a legitimate medical need for the medications.

11. From January 1, 2001 through July 24, 2001, Defendant wrote prescriptions for controlled dangerous drugs to Patients DNB, FLB, KTB and JWB. During this period, Patient DNB received 4015 dosage units at an average of **20.59 dosage units of controlled dangerous substances per day**, Patient FLB received 2160 dosage units at an average of **11.93 dosage units of controlled dangerous substances per day**, Patient KTB received 2000 dosage units at an average of **11.63 dosage units of controlled dangerous substances per day**, and Patient JWB received 1545 dosage units at an average of **8.93 dosage units of controlled dangerous substances per day**. Defendant's charts on these patients reveal that he did not perform a sufficient physical examination prior to prescribing the controlled dangerous drugs and that he did not establish a legitimate medical need for the medications.

12. A review of the patient charts set forth in paragraphs 3 through 11 above reveals numerous irregularities including, but not limited to, the following: (a) he overused of narcotics when non-narcotics would work equally well, (b) he prescribed narcotics in the doses and quantities requested by the patients even when the purported diagnosis would not support it, (c) he made medication changes at the patient's request without requiring the patient to bring in unused portions of narcotics, (d) he allowed his patients to take potentially hepatotoxic doses of acetaminophen with the daily numbers of combination analgesics he was also giving, (e) he prescribed narcotics to patients who were allegedly "allergic" to the narcotics prescribed, (f) he simultaneously prescribed multiple immediate and sustained release opiate formulations at the patient's request, (g) he required that some patients sign an opiate prescribing agreement, yet he continued to prescribe to these patients despite continued violations of the agreements, (h) he gave patients access to syringes and needles for unclear and unsubstantiated diagnoses, (i) he

allowed patients to "double up" on pain medications on their requests alone, (j) he failed to obtain psychiatric or addiction consultations for patients even while prescribing uncommonly high doses and simultaneous combinations of psychoactive medications, (k) he wrote for large numbers of antibiotic prescriptions at the patients' request without examining the patient or ever documenting what infection was being treated, and (l) he frequently wrote prescriptions for antihypertensive medications yet rarely documented blood pressures on his examinations.

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

A. Engaged in 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).

B. 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 59 O.S. §509(19).

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

D. Engaged in practice or behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

E. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).

F. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

G. Committed gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

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, Defendant, Carl P. Griffin, Oklahoma license 16969, is guilty of the unprofessional conduct set forth below:

- A. Engaged in 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).
- B. 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 59 O.S. §509(19).
- C. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- D. Engaged in practice or behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- E. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- F. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- G. Committed gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

Order

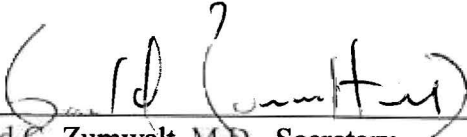
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

- 1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.
- 2. Defendant's license shall be **RESTRICTED** in that he shall not be allowed to prescribe any controlled dangerous substances without the prior express approval of the Board.
- 3. If the Board ever modifies the restriction on Defendant's Oklahoma medical license, it shall be under terms of probation to be determined at the time of modification.

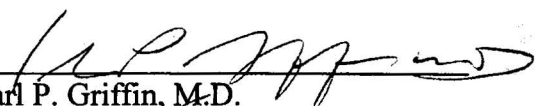
4. Defendant shall allow the Board or its designee to monitor his practice to verify that the terms of the Voluntary Submittal to Jurisdiction are being followed by Defendant.


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 6 day of ^{June}~~May~~, 2002.
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Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:


Carl P. Griffin, M.D.
License No. 16969


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Attorney for Defendant,
Carl P. Griffin, M.D.

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 6th day of June, 2002, I mailed, via first class mail postage, prepaid a true and correct copy of this Voluntary Submittal Jurisdiction to R. Brown Wallace, Attorney, 101 Park Ave, Suite 700, Oklahoma City, OK 73102.


Janet L. Owens