

**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

JUL 21 2005

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

v.)
DAVID NORMAN DONNELL, M.D.,)
LICENSE NO. 17314,)
Defendant.)

Case No. 05-05-2961

**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, David Norman Donnell, M.D., Oklahoma license no. 17314, who appears in person and through counsel, Linda Scoggins, 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 June 1, 2005 as set forth below 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, David Norman Donnell, 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.* 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, David Norman Donnell, M.D., holds Oklahoma license no. 17314.

3. On March 1, 2002 and August 7, 2003, Defendant ordered Cocaine HCL Powder and Cocaine HCL 10% solution for his office use. When Defendant ordered the Cocaine, he did so in the name of an employee rather than in the name of the intended patient and without completing the required DEA-222 form.

4. On or about April 28, 2004, an investigator for the Texas State Board of Medical Examiners inspected Defendant's medicine cabinet at his office and found that he failed to keep adequate records of drugs and failed to keep adequate receipts and distribution logs of numerous controlled substances and dangerous drugs. Specifically, Defendant failed to properly document pharmaceutical Cocaine, Vicoprofen, Promethazine syrup with Codeine, Demerol, Xanax, Diazepam, Depo-Testosterone, human growth hormone, Nandrolone Decandate, and Testosterone.

5. Defendant admits that he dispensed a bottle of Ketamine to a friend for use on a pet.

6. On or about April 8, 2005, Defendant executed an Agreed Order with the Texas Board whereby he admitted the above facts and agreed that his license should be **SUSPENDED**, with the **SUSPENSION STAYED**, and that his license would be placed on **PROBATION** for a period of five (5) years. Under the terms of probation, Defendant agreed that he could not possess or administer any Schedule II controlled dangerous substances at his office, that he must maintain a logbook of all prescriptions written by him for controlled dangerous substances or dangerous drugs with addictive potential, that he must submit within 120 days of the entry of the Agreed Order a written policy for the safeguarding, purchasing and dispensing of medications in his office, that he must complete within 120 days of the entry of the Agreed Order a ten hour course in pain management, that he must submit to five (5) unannounced visits per year by Board employees who may examine his computers, office records and medical records, that his practice

must be monitored by a Board approved physician monitor, that his records will be subject to random review by the Board, that he must complete the Vanderbilt boundary course in March 2005, that he must pay an administrative fine of \$5,000.00, and other standard terms of monitoring.

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

A. Was subject to disciplinary action of another state against a license to practice medicine and surgery based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(31), to wit:

i. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(10).

ii. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

iii. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

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, David Norman Donnell, M.D., Oklahoma medical license 17314, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Was subject to disciplinary action of another state against a license to practice medicine and surgery based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(31), to wit:

i. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(10).

ii. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

iii. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

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. Defendant's practice in the State of Oklahoma shall be under the following probationary 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, clinics or other practice settings 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, clinic or other practice setting.

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.

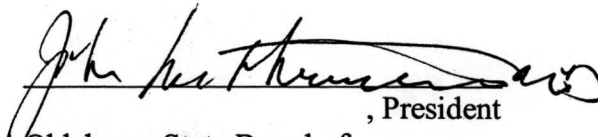
- D. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- E. Defendant will not prescribe, order, administer or dispense any prescription drugs to himself, his spouse, or any family members.
- F. Defendant will not administer or possess any Schedule II drugs at his office.
- G. Defendant will keep duplicate, serially numbered prescriptions of all controlled dangerous drugs or dangerous drugs with addictive potential readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.
- H. Defendant will abide by all of the terms and conditions of his Agreed Order with the Texas Board.
- I. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.
- J. 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.
- K. 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.
- L. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- M. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Consultant or designee.
- N. 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.

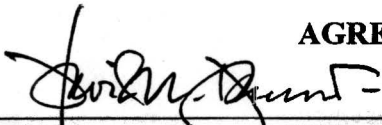
O. Defendant shall authorize the Texas Board to send the Oklahoma State Board of Medical Licensure and Supervision any or all reports and chart reviews made by his monitoring physician and submitted to the Texas Board.

3. 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 21 day of July, 2005.


_____, President
Oklahoma State Board of
Medical Licensure and Supervision

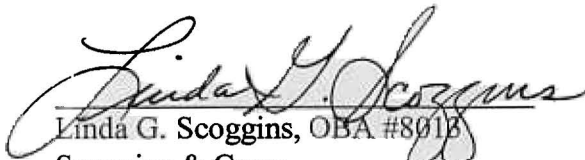
AGREED AND APPROVED



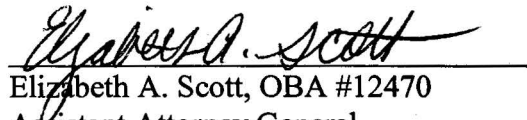
David Norman Donnell, M.D.
License No. 17314



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



Linda G. Scoggins, OBA #8018
Scoggins & Cross
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204 N. Robinson
Oklahoma City, OK 73102



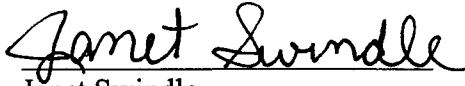
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405/848-6841

Attorney for Defendant,
David Norman Donnell, M.D.

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 22 day of July, 2005, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Linda Scoggins, Scoggins & Cross, 3100 City Place Building, 204 N. Robinson, Oklahoma City, OK 73102.


Janet Swindle