

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

FILED

MAR 11 2010

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

Plaintiff)

v.)

DUNCAN LANGSTON MCRAE, M.D.,)
LICENSE NO. 17600,)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-08-3819

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, Duncan Langston McRae, M.D., Oklahoma license no. 17600, who appears in person and through counsel, Chris Condren, offer this Agreement effective March 11, 2010 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 filed herein on February 7, 2010, 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, Duncan Langston McRae, 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, Duncan Langston McRae, M.D. holds Oklahoma medical license no. 17600 and practices in Tulsa, Oklahoma.

3. From February 14, 2008 until August 18, 2009, Defendant was the primary supervising physician for a physician assistant named Betti Wymer, Oklahoma P.A. license no. 467, at the Thomas Family Clinic in Chickasha, Oklahoma. Ms. Wymer owned or controlled the day to day operations of the clinic.

4. Defendant was Ms. Wymer's only supervisor at the Thomas Family Clinic in Chickasha.

5. During this period of time, Defendant failed to adequately supervise Ms. Wymer in the performance of her duties as a physician assistant. Defendant admits that during the time he was Ms. Wymer's supervisor, he came to the clinic only one (1) day per month. Defendant was paid \$1,000.00 per month for working at the clinic one (1) day per month.

6. As a result of Defendant's failure to supervise, Defendant's patients' care was jeopardized due to Ms. Wymer's negligence in utilizing unlicensed persons to treat clinic patients, as well as her inability to diagnose and treat Defendant's patients with appropriate skill and safety due to her own health issues and inability to practice with reasonable skill and safety. Defendant admits that he spoke with Ms. Wymer only once every two (2) to three (3) weeks while he was employed by Ms. Wymer's clinic.

7. On or about August 6, 2009, Board investigators advised Defendant that a physician assistant may not employ his or her supervising physician pursuant to 59 O.S. §519.6(B)(e), which provides as follows:

[I]t remains clear that the physician assistant is an agent of the supervising physician; but, **in no event shall the supervising physician be an employee of the physician assistant.**

After being advised of this statute, Defendant advised Ms. Wymer that he would no longer act as her supervising physician. Defendant confirmed this in a letter to Ms. Wymer dated August 18,

2009 where he formally withdrew as her supervising physician at all clinics owned or controlled by her.

~~8. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follow:~~

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(13) and OAC 435:10-7-4(39).
- B. 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).
- C. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435: 10-7-4(21).

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, Duncan Langston McRae, Oklahoma license17600, is guilty of the unprofessional conduct set forth below:

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(13) and OAC 435:10-7-4(39).
- B. 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).
- C. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435:10-7-4(21).

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, Duncan Langston McRae, M.D., Oklahoma license no. 17600, is hereby **SUSPENDED** beginning March 11, 2010 for a period of sixty (60) days.

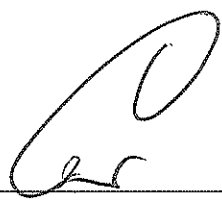
3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of \$5,000.00, to be paid on or before September 11, 2010.

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.

5. Upon reinstatement of his suspended license, Defendant's license shall be **RESTRICTED** in that he shall not be allowed to supervise physician assistants.


6. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.


Dated this 11th day of March, 2010.

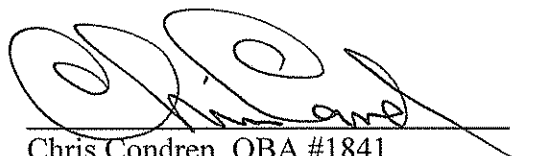


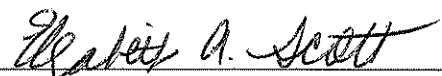
Curtis Harris, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:


Duncan Langston McRae, M.D.
License No. 17600


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
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Attorney for Defendant,
Duncan Langston McRae, M.D.

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 15th day of March, 2010, I mailed, via first class mail postage prepaid, a true & correct copy of this Order Suspension to Duncan L. McRae, MD, at 2119 E. 48th Place, Tulsa, Okla 74105, and Chris Condren, 1109 N. Francis, Oklahoma City, OK 73106.


Janet Swindle, Secretary