

**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

MAR 08 2012

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

v.)
)
STEVE L. SCHOELEN, M.D.,)
LICENSE NO. 17719,)
)
Defendant.)

Case No. 11-04-4407

**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, Steve L. Schoelen, M.D., Oklahoma license no. 17719 who appears in person and through counsel, Jaye Mendros, 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 January 27, 2012 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, Steve L. Schoelen, 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.

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, Steve L. Schoelen, M.D., holds Oklahoma license no. 17719 and practices as a family practice physician in Newcastle, Oklahoma.

PREVIOUS DISCIPLINARY ACTION

3. On or around June 8, 1992 until October 15, 1992, Defendant obtained treatment for substance abuse at COPAC in Jackson, Mississippi based upon a history of abusing Fentanyl.

4. One (1) day after returning from treatment at COPAC, Defendant relapsed on Ketamine.

5. In or around 2003, Defendant relapsed again and began abusing Lortab, Xanax and Marijuana. Defendant admits that he obtained the Lortab and Xanax from office samples.

6. On or about September 4, 2005, Defendant was pulled over by the Oklahoma City Police for driving erratically. Defendant was subsequently arrested and charged with Driving While Under the Influence of Drugs, Attempting to Elude Police, Failure to Keep Right of Center and Possession of a CDS Without a Prescription. At the time of his arrest, police found sample packages of Provigil 200 mg., a Schedule IV controlled dangerous substance and Xodol 10 mg., a Schedule III controlled dangerous substance, as well as other non-controlled drugs. Defendant admitted to the police that he had no medical need for the Xodol. Defendant admitted to the police that he did not have prescriptions for either of the controlled dangerous substances. Defendant was then transported to Southwest Medical Center Emergency Room for a blood test, and then to the Oklahoma County Jail, at which time he submitted to a D.R.E. evaluation. The D.R.E. evaluator concluded that Defendant was under the influence of CDS depressants, CDS stimulants and narcotic analgesics and was unable to safely operate a motor vehicle.

7. Beginning on or around February 13, 2006 and continuing until on or around February 17, 2006, Defendant obtained an assessment at Talbott Recovery Campus. Upon admission to Talbott, Defendant submitted to drug test, which tested positive for Marijuana and Propoxyphene.

8. At the conclusion of the assessment, Defendant continued his stay at Talbott for substance abuse treatment until May 20, 2006, for a total of fourteen (14) weeks. Defendant admitted to Talbott that he had been using Provigil at least two (2) times per day, and that at the time of his arrest on September 4, 2005, he had been using Ambien, Lortab and Xanax, which had not been prescribed to him but had been obtained from the sample cabinet at this office .

9. On or about July 20, 2006, the Board entered an Order Accepting Voluntary Submittal to Jurisdiction whereby Defendant's license was placed on a **FIVE (5) YEAR PROBATION** whereby Defendant was ordered to affiliate with the Oklahoma Health Professionals Program and to submit to monitoring for substance abuse by the Board.

10. On July 20, 2011, Defendant's five (5) year probation with the Board ended.

CURRENT UNPROFESSIONAL CONDUCT ALLEGATIONS

11. Defendant admits that on or around August 25, 2011, approximately one (1) month after his probation with the Board ended, he was at home because he had been sick. He claims that he was unable to sleep, so he searched his house and "found" some old Xanax that he had kept from before he first went on probation in 2005. He claims that he then took the Xanax to help him sleep. Defendant admits that the Xanax was not prescribed to him but had been left over from his days of abusing drugs back in 2005. Defendant claims that in searching his house for drugs, he also "found" some old Marijuana that had allegedly been in his house since before 2005. He claims that he also smoked the Marijuana to help him sleep.

12. The next day, August 26, 2011, Defendant still felt bad so he took four (4) Fioricet that he also "found" in his house when he found the Xanax and the Marijuana. He then got in his car to drive to the store.

13. A few blocks from his house, Defendant ran a stop sign and caused an accident. He did not stop at the accident but kept driving. Defendant was subsequently arrested by the Oklahoma City Police Department and taken to the hospital where blood was drawn for a drug test. Upon a finding that he was not injured, Defendant was then transported to the Oklahoma County Jail. Defendant was subsequently charged in Oklahoma City Municipal Court with **DRIVING UNDER THE INFLUENCE OF DRUGS, LEAVING THE SCENE OF AN ACCIDENT, and FAILURE TO STOP FOR STOP SIGN.**

14. On or about October 14, 2011, OSBI confirmed that Defendant tested positive for Xanax, Butalbital, Celexa and Marijuana.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).
- C. 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(15) and OAC 435:10-7-4(40).
- D. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- E. 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).
- F. 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).
- G. 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 (13) and OAC 435:10-7-4(39).
- H. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- I. Confessed to a crime involving violation of the antinarcotic laws and regulations of the federal government and the laws of this state in violation of 59 O.S. 509(7).

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, Steve L. Schoelen, M.D., Oklahoma medical license 17719, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).
- C. 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(15) and OAC 435:10-7-4(40).
- D. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- E. 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).
- F. 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).
- G. 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 (13) and OAC 435:10-7-4(39).

- H. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- I. Confessed to a crime involving violation of the antinarcotic laws and regulations of the federal government and the laws of this state in violation of 59 O.S. 509(7).

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, Steve L. Schoelen, M.D., Oklahoma license no. 17719, is hereby **SUSPENDED** beginning September 8, 2011, and continuing for a minimum period of a **ONE (1) YEAR** until September 8, 2012, after which time Defendant may apply for reinstatement by the Board. Prior to appearing before the Board, Defendant shall meet with Board staff to report on the status of his recovery efforts and his compliance with his municipal court probation.
3. At the conclusion of the period of suspension, if the Board chooses to reinstate Defendant, he shall be placed on **INDEFINITE PROBATION** under the following terms and conditions, as well as any additional terms to be determined by the Board at that time:
 - 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 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.

F. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, as well as hair follicle samples 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.

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

H. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need and only during that time in which he is being treated by the physician for that specific 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.

I. 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.

J. Defendant will authorize in writing the release of any and all information regarding his treatment at Palmetto and any other

records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

K. Defendant will abide by the terms and recommendations of Palmetto, including all follow-up visits and treatment, and with all terms of his postcare contracts with Palmetto and the Oklahoma Health Professionals Recovery Program.

L. Defendant will sign a lifetime contract with and attend a minimum of one (1) meeting per week of the Health Professionals Recovery Program unless excused by the HPRP.

M. Defendant shall attend ninety (90) 12-Step meetings in ninety (90) days from release from Palmetto, and thereafter will attend a minimum of three (3) meetings per week of a local 12-Step program, as well as the HPRP meetings.

N. Defendant will enter and continue counseling with Stewart Beasley, PhD or another counselor approved in advance in writing 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. Frequency of counseling shall be determined by the counselor. Defendant shall submit quarterly reports from his counselor to the Board Secretary for his review.

O. Defendant will obtain a primary care physician other than a practice partner.

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.

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 fifty dollar (\$150.00) per month fee during the term of probation.

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, accurate 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.

X. Defendant will comply with all terms and conditions of his probation with the Oklahoma City Municipal Court.

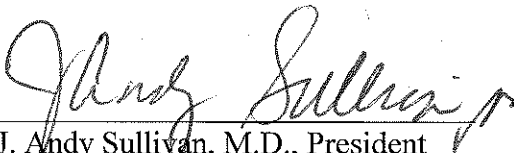
Y. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules I through III.

4. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$15,000.00** on or before March 8, 2013.

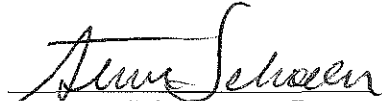
5. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

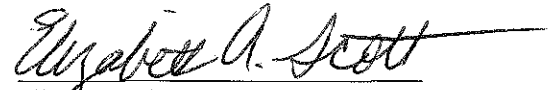
6. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 8 day of March, 2012.



J. Andy Sullivan, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

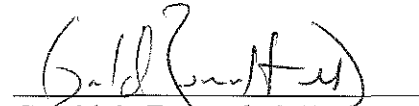
AGREED AND APPROVED


Steve L. Schoelen, M.D.
License No. 17719


Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for the Oklahoma State
Board of Medical Licensure and
Supervision

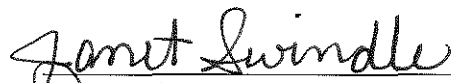

Jaye Mendros
3033 N.W. 63rd Street, Ste. E-105
Oklahoma City, OK 73116


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

Attorney for Defendant

CERTIFICATE OF MAILING

I certify that on the 9 day of March, 2012, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Jaye Mendros, 3033 N.W. 63rd Street, Suite E-105, Oklahoma City, OK 73116 and to Steve L. Schoelen, 300 Bypass Road, Newcastle, OK


Janet Swindle