

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

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
Plaintiff,)
)
v.)
)
DENNIS ROBERTS, MD.)
LICENSE NO. 17909)
Defendant.)
)

JAN 16 2014

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No: 10-10-4096

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Matthew Ryan Stangl, 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 Defendant, Dennis Roberts, M.D., Oklahoma license no. MD17909, who appears in person, offer this Agreement effective January 16, 2014, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 435:5-1-5.1.

By entering into this Order, Defendant voluntarily submits to the Board's jurisdiction in regard to the Complaint and Citation filed herein on March 22, 2013, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Dennis Roberts, 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 an 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.

Agreements and Stipulations

Plaintiff, Defendant and Board staff stipulate and agree as follows:

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, Dennis Roberts, M.D., holds Oklahoma medical license no. 17909.
3. On or around 10-11-2010, an Oklahoma licensed medical doctor filed a complaint alleging large-scale inappropriate prescribing by Defendant.
4. On or around 11-15-2010, a complaint was filed by CB, mother of adult patient RB, alleging that Defendant provided her son increasing amounts of CDS which she believed to have contributed to the death of RB.
5. Board Investigator Lane spoke with Defendant on three (3) different occasions about his prescribing habits and educated Defendant of possible prescribing red flags such as prescribing to spouses or parents and children the same medications. Board Investigator reminded Defendant narcotic abuse was an epidemic and of the importance of proper charting. He was provided the “Chronic Pain” guidelines from this Board.
6. On or around 01-24-2012, Defendant advised Investigator Lane he was formerly with Integris Family Care Southwest but had a disagreement with fellow physicians about varying perspectives in regard to treating patients with pain medication. He advised he has been with Midwest Physician’s since October 2011. He advised he is a salaried employee but admits he does get production bonuses.
7. On or around 01-24-2012, Board Investigator Lane obtained the medical records of Defendant’s patients CH, EH, DM, MT and LW from Midwest Physicians.
8. Board Investigator Lane obtained pharmacy records that show patients CH, EH, DM, MT and LW received the following medications from the Defendant:

Patient CH (From 12-07-2010 to 04-10-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Alprazolam 2mg	11 months	1,420
Carisoprodol 350mg	14 months	840
Hydrocodone 10mg	24 months	4,140

Oxycodone 15mg	13 months	1,790
Oxycodone 30mg	14 months	2,360
Oxycodone 10/325	1 month	90
TOTAL:	24 months	10,640

Patient EH (From 02-28-2008 to 12-24-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Alprazolam 0.5mg	26 months	3,120
Carisoprodol 350mg	54 months	5,280
Oxycodone 15mg	54 months	5,970
Oxycodone 30mg	53 months	7,380
TOTAL:	55 months	24,600

Patient DM (From 02-10-2009 to 11-11-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Alprazolam 1mg	15 months	2,110
Alprazolam 2mg	25 months	2,490
Carisoprodol 350mg	40 months	4,770
Oxycodone 10/325	28 months	6,480
Hydrocodone 10mg	21 months	4,880
Hydromorphone 2mg	3 months	320
Meperidine 50mg	8 months	784
Phentermine 37.5mg	1 month	60
Triazolam 0.25mg	18 months	1,050
TOTAL:	43 months	23,004

Patient MT (From 12-30-2010 to 11-15-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Carisoprodol 350mg	10 months	570
Diazepam 10mg	23 months	2,160
Fentanyl 25mcg	2 months	20
Hydrocodone 10mg	4 months	240
Methadone 10mg	1 month	90
Oxycodone 15mg	20 months	5,180
Phenobarbital 15mg	7 months	540
Phentermine 37.5mg	3 months	90
TOTAL:	23 months	8,890

Patient LW (From 07-12-2011 to 02-01-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Carisoprodol 350mg	5 months	630
Hydrocodone 10mg	6 months	1,020
Oxycodone 15mg	5 months	930
TOTAL:	7 months	2,580

9. On or around 08-21-12, Board Expert completed his review of the five (5) medical records belonging to patients CH, EH, DM, MT and LW. Board Expert's overall summary reads as follows:

“As of August 19, 2012, I have reviewed five charts of Dr. Dennis Roberts. In every case there was definitely an over prescription of controlled medications, most times 450 to 520 tablets every three-to-four weeks. There was never any questions if the request for medications was early, also, there was no real documented reasons given for increasing the medications to larger quantities at any given office visit. There were no documented discussions of the potential hazards of the medications in the quantities prescribed. Very little monitoring was done through the OBN or with labs, and if they were done, nothing was done with the results. In one case, a family member mentioned rehab but the prescriptions continued. I find it appalling that a 22-year-old patient went from a 15 tablet Lortab prescription to 480 tables of controlled medications within four months with no apparent reason and then she was involved in a motor-vehicle accident.

In summary, I feel that controlled medications in the form of OxyCodone, hydrocodone, Xanax, Valium and Soma were overprescribed in quantities that were dangerous to the patients' wellbeing in the charts reviewed. (Emphasis added.)”

10. On or around 04-19-2012, Board Staff was notified by the Pharmacy Board of a concern from a pharmacist regarding Defendant prescribing without establishing a proper doctor/patient relationship. Those prescriptions were being filled at a pharmacy in Elk City. This reporting pharmacist advised she called Defendant's office and was told the two individuals in question (Patient TC and Patient CC) did not have charts and were not patients. Defendant admitted he did not have a chart on Patient TC at the clinic. He stated he would simply write the prescriptions when

Patient TC came in with Patient CC. He admitted he did not keep records of patient TC's prescriptions.

11. On or around 07-27-2012, JS filed a complaint alleging Defendant prescribed JS's wife, Patient AS, Ultram while she was breastfeeding her opioid addicted newborn. A review of pharmacy records for Patient AS was conducted and it did not show large quantities of CDS, however, at that time, Ultram (aka Tramadol) was not a scheduled drug. AS's medical records were obtained. Board Investigator Lane contacted Patient AS's obstetrician and was asked if he ever said he was "okay" with Patient AS taking Ultram as prescribed by Defendant and as stated in Defendant's 04-03-2012 progress note. AS's obstetrician said, "I never said that!" He advised he was surprised when the infant went to the NICU for opioid withdrawals as he was unaware of the patient being on any narcotics. When AS's obstetrician was advised it appeared the patient was getting approximately 240 Ultram per month after her first trimester, the doctor said it made sense why the infant went to the NICU. When asked if he would ever give a pregnant patient that much Ultram he responded, "Good Lord, no; I wouldn't even give a cancer patient that much!"
12. Patient AS's care was discussed with Dr. Roberts. AS's medical records included Discharge Instructions from St. Anthony's South dated 08-01-12 that stated Patient AS's "Current Biopsychosocial Status: Opiate dependency, continuous." St. Anthony's recommended follow-up care to include "90 AA/NA meetings in 90 days, get and utilize a sponsor, and attend aftercare on Wednesdays at 7:30 p.m." This document shows Patient AS was admitted there for five (5) days; from 07-28-12 to 08-01-12. Defendant saw Patient AS on 08-30-12 and he once again provided her with a prescription for Tramadol #240. When asked by Board Investigator Lane why he would provide Patient AS with more Tramadol when St. Anthony South had diagnosed her with "opiate dependency," he advised he didn't think she was an addict. He stated she had been stable on Tramadol #240 for years. He stated he believed Patient AS had always been truthful to him and he had no reason to distrust her up until that time.
13. Board Investigator Lane obtained pharmacy records that show patients RB, AS, TC and CC received the following medications from the Defendant:

Patient RB (From 10-07-2008 to 10-18-2009)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Alprazolam 1mg	13 months	1,350
Amphetamine Salt 10	10 months	900
Hydrocodone 10mg	3 months	2,840

Oxycodone 10/325	3 months	150
TOTAL:	13 months	5,240

Patient AS (From 01-24-2008 to 12-14-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Carisoprodol 350mg	31 months	3,021
Hydrocodone 7.5mg	1 month	90
Lorazepam 1mg	1 month	90
Tramadol 50mg	39 months	7,150
Zolpidiem 10mg	35 months	1,110
TOTAL:	39 months	12,871

Patient TC (From 10-27-2008 to 07-18-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Hydrocodone 10mg	14 months	890
TOTAL:	14 months	890

******These 14 prescriptions were not documented in any medical record******

Patient CC (From 04-10-2008 to 12-11-2012)

<u>Drug</u>	<u>Amount of Time</u>	<u>Quantity</u>
Hydrocodone 7.5mg	7 months	1,260
Hydrocodone 10mg	51 months	10,180
Lorazepam 1mg	13 months	510
Oxycodone 5mg	5 months	660
Oxycodone 15mg	2 months	120
Oxycodone 10mg	12 months	750
Phentermine 37.5mg	6 months	180
Temazepam 30mg	2 months	60
Triazolam 0.25mg	39 months	1,710
TOTAL:	57 months	15,430

14. On or around 10-25-12, the four medical records for Patients RB, AS, TC and CC were provided, along with their pharmacy records, to Board Expert, for his expert review. His overall summary reads as follows:

“In August 2012 I submitted my report after reviewing five charts

of Dr. Dennis Roberts. You have that report. I was then asked to review four more charts. In all cases there were quite large quantities of controlled medications prescribed. One case ended with the death of a patient from an overdose of narcotics. I could not find out whether it was accidental or otherwise. Another case involved a pregnant mother who was prescribed medications during her pregnancy and gave birth to an addicted baby. The two other patient charts were related to the physician through family ties and were given prescriptions for period of time with no recorded office visits. I also quickly reviewed five other charts that revealed large quantities of controlled medications prescribed.

On overview, Dr. Roberts rarely used lab work or OBN reports to monitor [sic] his patients' medication use. He appears to be dealing with a difficult patient clientele, Medicaid or patients with no insurance who are usually very "streetwise." He did have signed narcotic contracts on most of the patients at some time. Of greatest concern was the lack of meaningful HPI's, physical exams, or, comprehensive plans of care. Most records were identical in content, possibly a fault of EMR's. Diagnoses were vague and pain levels ranged from 0 to 7. One visit in 2003 was excellent in all aspects of charting.

The most important principal of practicing medicine is to do no harm. I do feel that Dr. Roberts has some compassion for his patients **but his prescribing habits are dangerous, excessive and have caused harm to his patients.** (Emphasis added.)"

15. On 03-06-2013 during an interview with Board Investigator Lane, Dr. Roberts advised he was "given the pink slip" from Midwest Physicians on 11-20-2012. He stated they "didn't like all the junk going on. They didn't like the pain management."
16. Defendant voluntarily completed a CPEP evaluation in Colorado at his own expense in August of 2013.

ALLEGATIONS

17. Unprofessional conduct of Defendant in that he engaged in:
 - A. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public as stated in 59 O.S. §509.8;

- B. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship as stated in 59 O.S. §509.12;
- C. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards as stated in 59 O.S. §509.16;
- D. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient as stated in 59 O.S. §509.18;
- E. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained as stated in 59 O.S. §509.20;
- F. Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs as stated in Oklahoma Administrative Code Rule 435-10-7-4(1);
- G. Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard as stated in Oklahoma Administrative Code Rule 435-10-7-4(2);
- H. Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need as stated in Oklahoma Administrative Code Rule 435-10-7-4(6);
- I. Conduct likely to deceive, defraud, or harm the public as stated in Oklahoma Administrative Code Rule 435-10-7-4(11);
- J. Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes as stated in Oklahoma

Administrative Code Rule 435-10-7-4(24);

- K. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug as stated in Oklahoma Administrative Code Rule 435-10-7-4(25);
- L. Violating any state or federal law or regulation relating to controlled substances as stated in Oklahoma Administrative Code Rule 435-10-7-4(27);
- M. Improper management of medical records as stated in Oklahoma Administrative Code Rule 435-10-7-4(36); and
- N. Failure to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment. Adequate medical records to support treatment or prescribed medications must be produced and maintained as stated in Oklahoma Administrative Code Rule 435-10-7-4(41).

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, the license of Defendant is hereby **SUSPENDED** for a period of sixty ("60") days from the date of this Order.
 - a) During the period of suspension, Defendant will present a plan for approval to the Board Secretary for complying with the family medicine educational requirements as set forth in the Educational Recommendations of the assessment report from CPEP from August 29-30, 2013.
 - b) Once the plan is approved by the Board Secretary, Defendant will begin the process of complying with the CPEP Education Recommendations.
3. At the conclusion of the period of suspension, Defendant shall be placed on **PROBATION** for a period of **FIVE (5) YEARS** under the following terms and conditions:

Standard Terms:

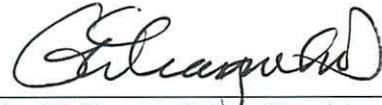
- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board or its designee.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- d) Defendant will keep the Board informed of his current address.
- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

- j) 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 license after due notice and hearing. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

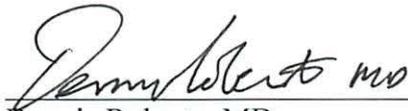
Specific Terms:

- k) Defendant will restrict his practice to the area of family medicine.
- l) Defendant will not practice pain management. If and when Defendant wants to practice pain management, Defendant will show compliance with the pain requirements set forth in the assessment report from the Center for Personalized Education for Physicians (CPEP) from August 29-30, 2013.
- m) Defendant will not prescribe, administer or dispense any medications for personal use.
- n) Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses.
- o) Defendant will **not** prescribe any drugs in Schedules I, II, III, IV or V.
- p) Defendant shall complete the educational requirements as set forth in the Educational Recommendations of the assessment report from CPEP from August 29-30, 2013, as it relates to family medicine.
- q) Defendant will request all hospitals, clinics and other facilities in which he practices to furnish to the Board a written statement monitoring his practice.
- r) 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. Such costs and fees may be paid in a structured payment plan.
- s) A copy of this written order shall be sent to Defendant as soon as it is processed.

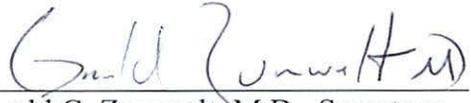
Dated this 16 day of January, 2014.



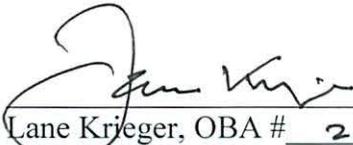
G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



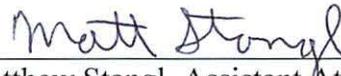
Dennis Roberts, MD
License No. MD17909



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

CERTIFICATE OF SERVICE

This is to certify that on this 16 day of January, 2014, a true and correct copy of this order was sent to Mr. Lane Krieger via email at lkrieger@wsolaw.net. and mailed to 210 Park Ave., Oklahoma City, OK, 73102.



Kathy Plant, Executive Secretary