

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

FILED

FEB 03 2000

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

Plaintiff

v.

MILLARD L. HENRY, M.D.,
LICENSE NO. 18023,

Defendant.

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 99-09-2111

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, Millard L. Henry, M.D., Oklahoma license no. 18023, who appears in person and through his attorney, John Foley, offer 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 November 18, 1999, 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, Millard L. Henry, 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 by 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, Millard L. Henry, M.D., holds Oklahoma license no. 18023.
3. On or around August 28, 1998, Defendant engaged in physical conduct with a patient which was sexual in nature. Specifically, Defendant allowed manual genital manipulation upon himself to occur in his office.
4. 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 (9) and OAC 435:10-7-4 (11).
 - B. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509 (18).
 - C. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

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, Millard L. Henry, Oklahoma license 18023, is guilty of the unprofessional conduct set forth below:
 - A. Engaged in dishonorable or immoral 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. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509 (18).
- C. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

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, Millard L. Henry, M.D., holding Oklahoma license No. 18023, is hereby **FORMALLY REPRIMANDED**.

3. Defendant shall be placed on **PROBATION** for a period of two (2) years under the following terms and conditions:

A. Defendant will obtain counseling for his sexual misconduct from G. Richard Kishur, Ph.D. or another counselor to be approved in advance by the Board Secretary. Defendant shall continue in said counseling for a period of two (2) years or until discharged by said counselor. Defendant shall request that his counselor provide quarterly reports of his treatment to the Board Secretary or his designee for his review. Defendant shall submit to any polygraph examinations requested by said counselor.

B. Defendant shall not treat female patients without the presence of a female chaperone, who is to be a licensed health care provider.

C. Defendant will notify the Board or its designee of any entry or re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that

the Board may use such information against Defendant in any future disciplinary proceedings.

D. 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 any physicians holding Defendant's records.

E. Defendant shall attend a seminar approved in advance by the Board Secretary for a minimum of ten (10) hours on appropriate professional boundaries. Defendant shall provide to the Board Secretary proof of completion of said seminar.

F. 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.

G. 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.

H. Defendant will not supervise allied health professionals for whom a formal supervisory arrangement is required under Oklahoma law, e.g., physician assistants or advanced registered nurse practitioners.

I. Defendant will keep the Board informed of his current address.

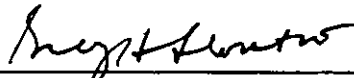
J. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case.

K. Until such time as all indebtedness to the Board 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.


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.

Dated this 3 day of ^{February}~~January~~, 2000.




Billy Stout, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision


AGREED AND APPROVED:



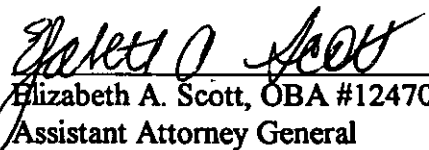
Millard L. Henry, M.D.
License No. 18023



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



John J. Foley
4312 N. Classen Blvd.
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Attorney for Defendant,
Millard L. Henry, M.D.
License No. 18023

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 4th day February, 2000, I mailed a true and correct copy of the Order accepting Voluntary Submittal to Jurisdiction to Millard L. Henry, M.D. 10506 Condor Terrace, Oklahoma City, Ok 73162 and Attorney John J. Foley, 4312 N. Classen Blvd, OKC 73118.