

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.)

HAISAM AL-KHOURI, M.D.,)
LICENSE NO. 18417,)

Defendant.)

MAY 16 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 10-09-4073

**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, Scott Randall Sullivan, Special Prosecutor, 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, Haisam Al-Khour, MD, Oklahoma License No. 18417, who appears in person, and with his counsel, Danny K, Shadid, offer this Agreement effective May 16, 2013, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Amended Complaint and Citation filed herein on April 9, 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, Haisam Al-Khour, MD, 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 the 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, Haisam Al-Khouri, M.D., holds Oklahoma License No. 18417 and practices psychiatry in Oklahoma City, Oklahoma and Ada, Oklahoma.
3. On or about September 24, 2009, Defendant entered into an agreement with the University of Oklahoma Physician Assistant Program whereby he agreed to act as a Preceptor for unlicensed Physician Assistant students.
4. In and around 2010, Defendant worked at three (3) clinics: (i) 23rd Street clinic in Oklahoma City; (ii) Hope Community Center in southeast Oklahoma City; and (iii) Mid-West Health Associates in Ada. During this time, Defendant acted as a Preceptor for Physician Assistant students from the University of Oklahoma Physician Assistant Program and utilized Physician Assistant students at the 23rd Street clinic in Oklahoma City.

ALLEGATIONS

AIDING AND ABETTING THE UNLICENSED PRACTICE OF MEDICINE PA STUDENT PHIL BURKE

5. Beginning August 2, 2010, Physician Assistant student Phil Burke participated in a clinical rotation at Defendant's offices.
6. Immediately upon beginning his rotation at Defendant's clinics, Defendant supplied PA Student Burke with numerous pre-signed prescriptions for his use at Defendant's clinics and at the hospital. Defendant told PA Student Burke to make sure he had plenty of pre-signed prescriptions with him at the beginning of each day so that they were always available for PA Student Burke's use.
7. According to PA Student Burke, the pre-signed prescriptions were available not only for the use by the Physician Assistant students, but also for all staff and the nurses at each of Defendant's clinics.
8. PA Student Burke admitted to Board investigators that although he began working for Defendant at 9:00 a.m. each day, Defendant rarely came to work until at least 11:00, leaving him (a PA student) to see and treat patients by himself and unsupervised until Defendant arrived at the clinic. During this time each day before Defendant arrived at the clinic, PA Student Burke also issued prescriptions to patients utilizing the pre-signed prescriptions left by Defendant for his use.

9. On or about August 6, 2010, PA Student Burke began working at approximately 9:00 a.m. At some point that morning, he heard clinic staff discussing the fact that someone was not coming in because their car broke down at the casino. Minutes later, Defendant called PA Student Burke and told him that he would not be coming in that day because he was having car problems. Defendant told PA Student Burke to see as many patients as he could and to call if he needed anything. PA Student Burke was not given the opportunity to leave.

10. On August 6, 2010, PA Student Burke treated every patient that came to the clinic that day and issued numerous prescriptions to them as instructed by Defendant on the pre-signed prescription pad left by Defendant for his use. PA Student Burke admitted that on that date, he wrote a prescription for any and all medications that had been written to the patients previously as noted in the patient charts. These prescriptions included a prescription for Dexedrine, a Schedule II controlled dangerous substance.

11. During this second week of rotation at Defendant's clinics, PA Student Burke reported to the Physician Assistant Program that he was being asked to issue prescriptions to patients in Defendant's absence and without his supervision. At that time, PA Student Burke showed the staff at the PA School some of Defendant's pre-signed prescriptions, which he still had in his pocket. PA School staff advised him to immediately return all pre-signed prescriptions to Defendant's office. PA Student Burke was subsequently notified by the PA School staff that he would no longer be required to complete his rotation at Defendant's office and would be assigned elsewhere.

PA STUDENT LACI DUGUAY

12. On or about February 1, 2010 and continuing through February 25, 2010, Physician Assistant student Laci Duguay completed a rotation at Defendant's offices.

13. Immediately upon beginning her rotation at Defendant's clinics, Defendant supplied PA Student Duguay with numerous pre-signed prescriptions for her use at Defendant's clinics. Defendant told PA Student Duguay that she was expected to write prescriptions for all medications needed by patients seen by her unsupervised at his clinics. PA Student Duguay admitted that she wrote only those prescriptions that had previously been prescribed by Defendant. Prescriptions written by PA Student Duguay included anti-psychotics, anti-depressants, Xanax and Adderall.

14. PA Student Duguay admitted to Board investigators that although she began working for Defendant at 9:00 a.m. each day, Defendant rarely came to work until at least 11:00, leaving her (a PA student) to see and treat patients **by herself** until Defendant arrived at the clinic. During this time each day before Defendant arrived at the clinic, PA Student Duguay also

issued prescriptions to patients utilizing the pre-signed prescriptions left by Defendant for her use.

PA STUDENT ANDREA WRAY

15. On or about June 1, 2010 and continuing through July 1, 2010, Physician Assistant student Andrea Wray completed a rotation at Defendant's offices.

16. Immediately upon beginning her rotation at Defendant's clinics, Defendant supplied PA Student Wray with numerous pre-signed prescriptions for her use at Defendant's clinics. Defendant told PA Student Wray that she was expected to write prescriptions for all medications needed by patients seen by her unsupervised at his clinics. PA Student Wray admitted that she wrote only those prescriptions that had previously been prescribed by Defendant.

17. PA Student Wray admitted to Board investigators that although she began working for Defendant at 9:00 a.m. each day, Defendant rarely came to work until at least 11:00, leaving her (a PA student) to see and treat patients **by herself** until Defendant arrived at the clinic. During this time each day before Defendant arrived at the clinic, PA Student Wray also issued prescriptions to patients utilizing the pre-signed prescriptions left by Defendant for her use.

PA STUDENT AMBER HAYNES

18. On or about March 1, 2010 and continuing through April 1, 2010, Physician Assistant student Amber Haynes completed a rotation at Defendant's offices.

19. Immediately upon beginning her rotation at Defendant's clinics, Defendant supplied PA Student Haynes with numerous pre-signed prescriptions for her use at Defendant's clinics. Defendant told PA Student Haynes that she was expected to write prescriptions for all medications needed by patients seen by her unsupervised at his clinics. PA Student Haynes admitted that she wrote only those prescriptions that had previously been prescribed by Defendant.

20. At some point after being asked to prescribe to patients using the pre-signed prescriptions and without any supervision, PA Student Haynes became uncomfortable with what she was being asked to do. With respect to prescriptions for Xanax, she began to withhold these prescriptions until she got Defendant's final approval to issue them. At that point, Defendant told her that this practice (of requiring him to approve prescriptions for controlled dangerous drugs) "would affect her grade", so she did as he instructed and issued the pre-signed prescriptions even though she was just a PA Student and not licensed.

PRESCRIBING VIOLATIONS

21. In September 2010, Board Investigators received information that Defendant was leaving blank pre-signed prescriptions for use by his unlicensed staff, his nurses, as well as by the PA Students in his absence. When questioned by Board Investigators, Defendant admitted that he does leave pre-signed prescriptions in his office for the use of his staff, his nurses, as well as to be used by the PA Students. He admitted that he allowed them for medications that had previously been prescribed to the patient and not for any “new” prescriptions that had never been prescribed to the patient.

22. Defendant admitted that it was not his practice to check to see what the PA Student had prescribed to the patients seen in his absence and without his supervision since the PA Student was merely prescribing the same medication that had previously been prescribed to the patients.

23. Defendant additionally claimed that his supervision of the PA Students where he allowed them to treat patients and prescribe medications was sufficient because his office staff and nursing staff were often present with the students when he was not there.

24. Defendant also admitted that he had on occasion left pre-signed prescriptions at the Hope Community Center in southeast Oklahoma City for his nurse to fill out if he wasn't there.

25. Under the Oklahoma Nursing Practice Act, nurses are not allowed to issue prescriptions.

26. Title 21 CFR §1306.05 provides as follows:

Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

CONTINUED PRESCRIBING VIOLATIONS AFTER INITIAL COMPLAINT FILED AND AFTER STAFF EDUCATION PROVIDED TO PHYSICIAN, VIOLATIONS FROM MEDICAL OFFICE AUDIT

Blank Pre-Signed Prescriptions

27. In May, 2012, Board Investigators received additional information that after the filing of the Complaint on March 23, 2012, Defendant was continuing to leave blank pre-signed prescriptions for use by Defendant's unlicensed staff, nurses, Physician Assistant, in his absence.

28. On or about May 2, 2012, Board Investigator served upon Defendant a subpoena for documents. Subsequently, on or about May 17, 2012, Board Investigator returned to Defendant's 23rd Street clinic to pick-up the subpoenaed documents and to conduct a follow-up medical office audit.

29. During the medical office audit, located on Defendant's desk in plain sight, were nine pre-signed prescriptions signed by Defendant. These prescriptions had no name, age, address or date on them.

30. During this on site audit visit, a staff member confirmed that Defendant continued to have pre-signed prescriptions and they would typically be in Defendant's desk drawer.

31. These nine pre-signed prescriptions were taken into custody by the Board Investigator and a receipt provided to Defendant's office staff.

32. The Board Investigator contacted Defendant by telephone and advised him that the pre-signed prescriptions had been removed and advised the reason for the follow up medical office audit. Defendant verbalized acknowledgment of the Board Investigator being on premises and regarding the pre-signed prescriptions being removed.

Pre-Signed Prescriptions Used by Defendant's Employee P.A.

33. In addition to the nine blank pre-signed prescriptions that were discovered during the May 17, 2012, medical office audit, the Board Investigator found evidence that Mebin Thomas, P.A., Defendant's employee had also utilized pre-signed prescriptions for Schedule II Controlled Dangerous Substance, left by Defendant as follows:

Patient PHR:	Focalin XR 5 mg #30
Patient DCR:	Focalin XR 15 mg #30
Patient CLR:	Focalin XR 15 mg #30
Patient AHR:	Focalin XR 5 mg #30
Patient JBR:	Concerta 18 mg #30
Patient CTR:	Focalin XR 10mg # 30
Patient MHR:	Vyvanse 50 mg #30
Patient DTR:	Focalin XR 25 mg #30

34. Defendant was not on site at the 23rd Clinic at the time the patients identified in the above paragraph 34 were seen by Mebin Thomas, P.A. It was confirmed by the Board Investigator that Mebin Thomas, P.A. utilized pre-signed blank prescriptions left by Defendant, and Mebin Thomas filled in the patient's name, date, medication name, dosage and number for each of these eight prescriptions.

CONCLUSIONS OF LAW

35. 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. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509 (12).
 - C. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509 (11).
 - D. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
 - E. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - F. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(14) and OAC 435:10-7-4(21).
 - 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).

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; and
2. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$25,000.00** to be paid on or before one year from the date of this Voluntary Submittal to Jurisdiction.
3. A copy of this written order shall be sent to Defendant as soon as it is processed; and
4. Defendant will be placed on **PROBATION** for a period of 30 months and said probation shall have the following provisions:

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 keep the Board informed of his current address.
- d) 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.
- e) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- f) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

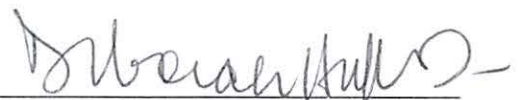
- g) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- h) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain 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.
- i) 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.

Specific Terms:

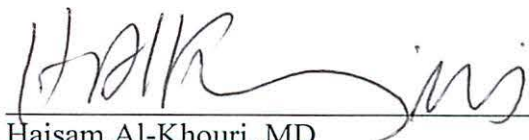
- j) Defendant will not supervise, either in a primary or secondary/backup role, any allied health professionals that require surveillance of a licensed physician, specifically any physician's assistant(s) or physician's assistant student(s). This term of probation shall remain in effect until such time as the defendant returns before the Board and demonstrates that he is capable of supervising allied professionals.
- k) Defendant shall be restricted from prescribing any Schedule II CDS medications other than those necessary in his practice of psychiatry which include the following:

Ritalin, Ritalin LA, Ritalin ER, Metadate, Metadate CD, Concerta, Concerta ER, Focalin, Focalin XR, Adderall, Adderall XR, Vyvanse, Methylin, Daytrana Patches, Provigil, Nuvigil, and similar stimulant medications.

Dated this 16th day of May, 2013.



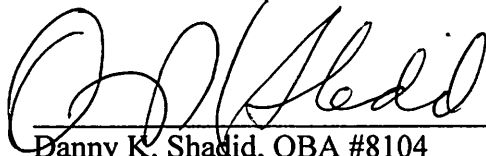
Deborah Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



Haisam Al-Khour, MD
License No. MD18417

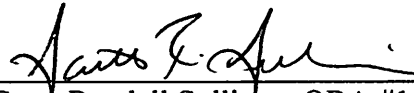


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision



Danny K. Shadid, OBA #8104
DANNY K. SHADID, PC
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Attorney for the Defendant

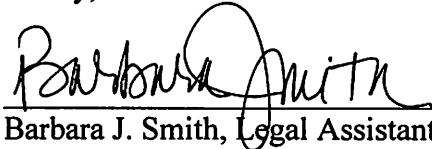


Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 16th day of May, 2013, a true and correct copy of this Order was mailed, postage prepaid, to Attorney Danny K. Shadid, DANNY K. SHADID, PC., 6301 Waterford Boulevard, Suite 110, Oklahoma City, OK 73118.



Barbara J. Smith, Legal Assistant