

**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,

v.

**RICHARD ZIELINSKI, M.D.,
LICENSE NO. 18795,**

Defendant.

Case No. 99-03-2076

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, Richard Zielinski, M.D., Oklahoma license no. 18795, who appears in person, 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 June 11, 1999 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, Richard Zielinski, 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 further acknowledges that he is entitled to have his interests represented by legal counsel and that he has elected to proceed without legal representation, thereby waiving his right to an attorney. 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, Richard Zielinski, M.D., holds Oklahoma license no. 18795.

3. On November 22, 1993, Defendant entered into a Voluntary Submittal to Jurisdiction whereby he was granted SMD certification and was placed on probation for a period of five (5) years due to substance abuse.

4. By Order dated February 17, 1994, Defendant was granted a license to practice in Oklahoma with his probation to continue for the remainder of the five (5) year term.

5. On November 22, 1998, Defendant's probation expired by its own terms.

6. In or around January 1999, after an incident that occurred in the emergency room where Defendant was working, Defendant admitted to his employer that he had utilized drugs while on duty at the Woodward Hospital and Health Center. During this time, Defendant additionally had a positive drug screen and attempted to cover up his misconduct at the Woodward Hospital and Health Center.

7. Defendant's employment with the Woodward Hospital and Health Center was subsequently terminated effective February 12, 1999 based upon the above-referenced misconduct.

8. From January 26, 1999 until January 29, 1999, Defendant underwent a Multidisciplinary Assessment at Talbott Recovery Campus where it was recommended that he complete a relapse "autopsy" in order to identify the relapse and plan for ongoing recovery.

9. From February 8, 1999 until March 5, 1999, Defendant was treated at Rush Behavioral Health Center for Opioid Dependence with Relapse.

10. Based on the above allegations, Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).

B. 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).

C. 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(14) and OAC 435:10-7-4(39),

D. 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(16) and OAC 435:10-7-4(40).

E. 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).

F. 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).

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, Richard Zielinski, Oklahoma medical license 18795, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).

B. 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).

C. 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(14) and OAC 435:10-7-4(39),

D. 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(16) and OAC 435:10-7-4(40).

E. 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).

F. 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).

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, Defendant shall be placed on PROBATION for an indefinite period of time under the following terms and conditions:

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 or its designee.

B. 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.

C. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.

D. Defendant will not prescribe, administer, dispense or possess any drugs in Schedule II.

E. Defendant will keep duplicate, serially numbered prescriptions of all controlled dangerous substances and addictive drugs readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.

F. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, 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. 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 which will cause a body fluid sample to test positive for prohibited substances.

J. Defendant will abide by the terms and recommendations of his postcare contracts with Rush and the Physicians' Recovery Program, copies of which are attached hereto, including psychiatric treatment or counseling with a doctor or therapist approved by the Oklahoma State Board of Medical Licensure and Supervision.

K. 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.

L. Defendant will attend periodic meetings of a local 12-step program and will attend one (1) meetings per week of the Caduceus group that meets in Oklahoma City, Oklahoma.

M. Defendant will enter and continue counseling, therapy or psychiatric treatment with a therapist approved 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.

N. Defendant will practice in a controlled environment approved by the Board or it designee and will limit his practice to a multi-doctor, general medicine clinic. Defendant is not allowed to practice in an emergency room setting of any kind.

O. Defendant will not allow the independent practice of medicine by any personnel under his supervision or employment.

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 unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

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 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.

Dated this 22nd day of July, 1999.

A handwritten signature in cursive script, appearing to read "Billy Stout", is written above a horizontal line.

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

AGREED AND APPROVED

Richard Zielinski MD
Richard Zielinski, M.D.
License No. 18795

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

Elizabeth A. Scott
Elizabeth A. Scott
(OBA #12470)
Assistant Attorney General
5104 N. Francis, Suite C
Oklahoma City, OK 73118

Attorney for the Oklahoma
State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT ON THIS 28 DAY OF July, 1999 A TRUE AND CORRECT
COPY OF THE ABOVE AND FOREGOING ORDER WAS MAILED TO:

RICHARD FREDERICK ZIELINSKI, MD
900 17TH STREET
WOODWARD, OK 73801

RUSH-PREBYTERIAN-ST. LUKE'S MEDICAL CENTER
RUSH UNIVERSITY

301 BUTTERFIELD RD. - SUITE 320, DOWNERS GROVE, IL 60515 - (630) 999-7300
FAX: 630.999.4050



RUSH BEHAVIORAL HEALTH CENTER

CADUCEUS AFTERCARE AGREEMENT

I, Richard Zielinski, having completed the primary treatment phase of the Rush Behavioral Health Professional's Program, agree to the following terms concerning my on going aftercare and monitoring. I understand that Rush Behavioral Health will act in an advocacy capacity regarding my professional standing so long as I adhere to the following conditions:

1. The terms of this contract shall be in effect for a period of twenty months from the contract date.
2. I agree to enroll in and abide by the conditions of my State Professional's Assistance Program under the direction of: Oklahoma Recovering Physicians Program - Dr. Harold Thiessen.
3. I agree to practice my profession in the following location (specify profession, specify type of practice and location):
 Profession: Medicine
 Type of practice: Family
4. I agree to the following terms concerning the prescribing of handling of mood-altering chemicals: see #5.
5. I agree to the following restrictions or conditions regarding my professional practice:
 - a. I agree to renew my 5 year contract with the Oklahoma Recovering Physicians Program under the direction of Dr. Harold Thiessen.
 - b. I agree not to practice Emergency Room medicine until Dr. Thiessen feels I can do so safely.
 - c. I agree to seek employment in a Group Family Practice setting or another group setting that would be appropriate for my recovery and afford me the ability to comply with the other practice suggestions in this contract.
 - d. I agree to inform potential employers of my contract with the Oklahoma Physicians Program.
 - e. I agree to have a physician practice monitor, i.e., possibly my supervising physician.
 - f. I agree to work in a setting where I have no direct access to controlled drugs.
 - g. I agree to have the nursing staff obtain, administer, and waste all narcotic medications.
 - h. I agree to not have access to or handle samples for controlled drugs at any time.

- 6. I agree to provide urine toxicology screens at a frequency indicated below or whenever requested by Rush Behavioral Health, the State Professional's Assistance Program, or my primary care physician. The urine monitoring shall be random, observed, and performed through an approved agency. (Specify which facility will be handling the monitoring and frequency of drops.

Facility: to be arranged
 Frequency: to be determined by Dr. Thiessen
 Monitor: _____

- 7. If forms need to be sent, such as quarterly reports, toxicologies, etc. please state which forms need to be sent and frequency of mailing:

Forms: N/A
 Frequency of mailing: _____
 Name: _____
 Address: _____

If this information changes, please contact the M.D. Secretary at Rush Behavioral Health at (630) 969-7300.

- 8. I agree to obtain a primary care physician who will assume responsibility for my medical health maintained. Preferably one knowledgeable about addiction.

Primary Physician: to be arranged by Dr. Thiessen
 Address: _____
 Phone: _____

- 9. I agree to the following recommendations concerning individual therapy, family therapy, or halfway house placement: individual therapy with Kay Peters, 405-843-0674; marital therapy to be arranged

- 10. I agree to attend the following professional's monitoring and support group: Caduceus - Oklahoma Recovering Physicians Program

- 11. I agree to attend a recovery self-help group and obtain a sponsor. (Indicate self-help group and frequency): minimum of 3 meetings/week

- 12. I agree to take responsibility for expenses associated with treatment and aftercare.

- 13. I agree to meet with my Rush Behavioral Health aftercare coordinator on a quarterly basis, or as indicated. If located outside the area, indicate type and frequency of aftercare contact: see #14

- 14. I agree to attend the Rush Behavioral Health-DuPage Alumni Renewal on the following dates: Alumni Renewal May 15-16, 1999.

RUSH PENNSYLVANIA HEALTH CENTER - Blue Age
Caduceus Aftercare Contract
Page 3.

17. I understand that failure to comply with the terms of this contract may result in termination of professional advocacy, and that the appropriate monitoring agencies will be informed as necessary.

Rich Zielinski _____ 3-5-99 _____
Signature of Caduceus Enrollee Date

Address: _____
Street City State Zip Code

Home Phone: _____ Work Phone: _____

Pager: _____ Other: _____

Special Instructions for Caller: _____

Signature of Primary Counselor Date

W. Joe C... RPH, NHS CADC 3/5/99
Signature of Supervising Physician Date

First appointment scheduled with on: _____ with _____
(Date) (Rush Physician)

CONTRACT BETWEEN THE OKLAHOMA STATE MEDICAL ASSOCIATION RECOVERY COMMITTEE AND Richard Zielinski MD

The purpose of this contract is for the Oklahoma State Medical Association Physician Recovery Program to provide advocacy for Dr.

Zielinski and in order to assure that such advocacy is appropriate, the below provisions will serve to aid Dr. Zielinski in strengthening his personal recovery program and to assure the Program representatives that a strong recovery program is in place.

Dr. Zielinski agrees to remain abstinent from all psychoactive substances, legal or illegal, including alcohol. To validate that abstinence random urine drug screens will be obtained, as arranged by Dr. Thiessen and results furnished to the Physician Recovery Program contingent upon the approval of the monitoring plan by the program representative.

Dr. Zielinski agrees to attend the OPC Medical Professional Support Group as well as three (3) other community twelve step (A.A. or N.A.) meetings weekly. Upon request by the Physician Recovery Program the validation of that meeting attendance will be made available. In addition Dr. Zielinski agrees to obtain a sponsor with at least two years abstinent recovery, with whom he/she will maintain at least weekly contact.

Should the urine drug screen tests be positive or questionable or should there be a significant lapse of any of the other aspects of the personal recovery program as outlined herein, the appropriate Board, licensing agency or insurance carrier may be notified immediately; and Dr. Zielinski agrees to undergo appropriate evaluation and/or treatment at a treatment facility chosen by the Committee or Program representative.

Dr. Zielinski agrees to advise any physician treating him/her of his alcoholism or chemical dependency history; and Dr. Thiessen or other Program representative agrees to provide consultation as to chemical dependency issues specifically as to use of certain medications to Dr. Zielinski or the treating physician.

Dr. Zielinski hereby authorizes release of information from the Physician Recovery Program to the appropriate Board, licensing agency or insurance carrier as outlined above and as requested for advocacy purposes.

This contract will be for five years.

Richard Zielinski
Participating Physician.

3-8-99
Date

Paul Huns
for Physician Recovery Program

3-8-99
Date

* also all of other care contract agreements from Risk Behavior Health Center ~~at~~ abstinence + insight.