

read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him and 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.* 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, Stephen Heimbach, M.D., holds Oklahoma license no. 18991.

3. Defendant has admitted that on or around February 27, 1998, he consumed alcohol while on call.

4. Defendant has admitted that he has used Fentanyl for the past four (4) years. He began by using two (2) to four (4) cc's of intravenous Fentanyl several times per week and increased over a four (4) year period until he was using sixteen (16) cc's per day. His last admitted use of Fentanyl was on May 27, 1999.

5. Defendant has admitted that he has smoked marijuana episodically beginning in 1985 at an increasing rate until his last use in October 1998.

6. On or about November 20, 1998, Defendant was confronted by a senior member of his anesthesiology group based upon the report of a pharmacist that Defendant was prescribing and administering more Fentanyl than any of the other physicians, and that personal use was suspected. Defendant was advised that he needed to get an assessment or volunteer for urine screens.

7. From November 30, 1998 until December 3, 1998, Defendant was assessed at Talbott Recovery Campus. Talbott concluded that Defendant was opioid dependant and in need of residential treatment. Defendant committed to return to Talbott on December 14, 1998 for treatment.

8. Defendant was admitted to Talbott on December 14, 1998 for residential treatment for opioid dependence. However, during treatment, while on a therapeutic leave, he relapsed on alcohol while on the plane. Defendant was immediately discharged from Talbott on January 19, 1999 and was admitted to Anchor Hospital for stabilization.

9. Defendant was readmitted to Talbott on January 21, 1999 and continued his residential treatment until April 10, 1999 when he was discharged. During his treatment at Talbott, Defendant was terminated from his job due to his chemical dependency.

10. In early May 1999, Defendant relapsed when he snorted one (1) cc of Fentanyl.

11. On May 27, 1999, Defendant again used Fentanyl when he injected four (4) cc's on two separate occasions on the same day.

12. Defendant had two (2) positive drug screens for Fentanyl as a result of his relapses in early May and on May 27, 1999.

13. On May 4, 1999, Defendant signed his "Application for Renewal for Oklahoma Medical License". On his application, Defendant checked "No" when asked the following questions:

- a. Are you now using any drug or chemical substance including alcohol which has an adverse impact on you ability to practice medicine and surgery?
- b. Have you been denied privileges, lost privileges or received discipline by any hospital or other professional medical organization?

Defendant has since admitted that he was illegally using Fentanyl through May 27, 1999 and that he was fired by his employer between January and April 1999.

14. On July 12, 1999, Defendant was readmitted to Talbott for assessment due to two (2) positive drug screens for Fentanyl after his discharge from Talbott on April 10, 1999. Talbott recommended that Defendant complete a treatment program rather than return to his medical practice. Talbott additionally recommended that Defendant pursue treatment at St. Jude's in Atlanta, Georgia. However, Defendant left St. Jude's prior to completing his interview at St. Jude's.

15. On August 16, 1999, Defendant entered Rush Behavioral Health Center for treatment. Defendant was subsequently released on September 30, 1999 with a discharge diagnosis of Opioid Dependence, Cannabis Dependence, in remission, Alcohol Dependence, in remission and Nicotine Dependence. The assessment team at Rush concluded that it was not appropriate for Defendant to return to the practice of anesthesiology for a minimum of twelve (12) months.

16. On or about December 7, 1999, Defendant's spouse as well as two (2) "A Chance to Change" employees, the Executive Director and the Children's Program Director, observed the strong and obvious smell of alcohol on Defendant. Although his spouse and his sponsor requested that Defendant submit to a urine test at that time, Defendant refused to do so. Defendant denies that he relapsed on alcohol at that time.

17. On or about December 30, 1999, after due notice and hearing, the Board Secretary entered an Order of Emergency Suspension based upon the aforementioned acts, wherein Defendant's license was suspended pending a full hearing before the Board.

18. Due to the reports by Defendant's spouse and treatment staff at "A Chance to Change" that he had relapsed, Defendant re-entered Rush Behavioral Health Center on January 24, 2000 for reassessment/treatment. Defendant remained at Rush until February 11, 2000.

19. The assessment team at Rush primarily recommended that Defendant go to a halfway house for three (3) months to strengthen his recovery program. Defendant declined to follow this recommendation. Rush secondarily recommended that Defendant return home and refrain from the practice of medicine for one (1) year, after which he could undergo reassessment for appropriateness to return to medical practice. Rush additionally concluded that Defendant should not return to the practice of anesthesiology. Defendant elected to pursue this second recommendation.

20. On or about August 24, 2000, Defendant completed a follow-up visit at Rush, at which time his assessors stated that they would support his re-entry into the practice of medicine under limited circumstances.

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

A. Habitually used 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. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and 435:10-7-4(6).

D. Was unable to practice medicine with reasonable skill 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).

G. Was guilty of fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

H. 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).

I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-406 and §2-407.

J. Committed an act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

K. Failed to report to the Board surrender of a license or other authorization to practice medicine and surgery in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(33).

L. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-406 and §2-407, and OAC 475:30-1-3.

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, Stephen Heimbach, Oklahoma medical license 18991, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually used 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. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and 435:10-7-4(6).

D. Was unable to practice medicine with reasonable skill 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).

G. Was guilty of fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

H. 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).

I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-406 and §2-407.

J. Committed an act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

K. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-406 and §2-407, and OAC 475:30-1-3.

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 a period of five (5) years following his suspension 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.

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 not prescribe, administer, dispense or possess any drugs in Schedules I through V.

F. Defendant will surrender his registration for state and federal controlled dangerous substances to the proper authorities and will not apply for state and federal registration for controlled dangerous substances until the term of his probation has expired unless authorized to do so by the Board.

G. 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.

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

I. 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.

J. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

K. Defendant will practice in a controlled environment approved in advance by the Board Secretary and will not practice anesthesiology under any circumstances.

L. Defendant will authorize in writing the release of any and all information regarding his treatment at Talbott and Rush and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

M. 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.

Defendant will authorize in writing the release of any and all records of that treatment to the Oklahoma State Board of Medical Licensure and Supervision and will authorize the Compliance Consultant to the Board to discuss his case and treatment with the individuals providing Defendant's treatment.

N. Defendant will attend three (3) meetings per week of a local 12-step program.

O. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

P. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

Q. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

R. 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 dollar (\$100.00) per month fee during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

S. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

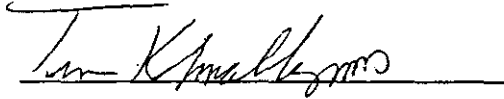
T. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

U. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

V. 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.

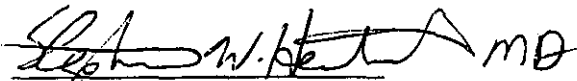
3. This Voluntary Submittal to Jurisdiction and Order will go into effect, Defendant's suspension will be lifted, and his license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to September 28, 2000.

Dated this ~~27th~~ day of September, 2000.



Tim Smalley, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED



Stephen Heimbach, M.D.
License No. 18991



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

Attorney for the Oklahoma State
Board of Medical Licensure and
Supervision



Lana Tyree, Esq.
Cartwright & Tyree
2516 N.W. Expressway
Oklahoma City, OK 73112

Attorney for the Defendant

CERTIFICATE OF MAILING

I certify that on the 5 day of ^{Oct}September, 2000, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Lana Tyree, Cartwright & Tyree, 2516 N.W. Expressway, Oklahoma City, OK 73112.

Janet Owens
Janet Owens

CONTRACT BETWEEN THE OKLAHOMA STATE MEDICAL

ASSOCIATION

RECOVERY COMMITTEE AND Steve Humberch MD

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

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

Dr. Humberch 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. Humberch agrees to attend the OKC - OKC Medical Professional Support Group as well as 3(three) 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. Humberch 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. Humberch agrees to undergo appropriate evaluation and/or treatment at a treatment facility chosen by the Committee or Program representative.

Dr. Humberch 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. Humberch or the treating physician.

Dr. Humberch 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 5 (five) years.

[Signature] 10/11/99
Participating Physician. Date

for Physician Recovery Program

10/11/99
Date

- ① Drug Screen: Bi weekly X 6 mo, along w/ Random drug screen for Ben fast right of future
- ② next 6 mo - Random weekly to include 2 + Naloxone.
- ③ All after care & discharge recumbent for Reich Behav Health Center
- ④ No anesthesia of a maximum of 1 yr - must be re-evaluated prior to any return to work must have recumbent of Reich of Reich etc.



RUSH BEHAVIORAL HEALTH CENTER

CADUCEUS AFTERCARE AGREEMENT

I, Stephen Heimbach, M.D., 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: Harold Thiessen, M.D., Oklahoma State Medical Association, Physician Recovery Program.
3. I agree to practice my profession in the following location (specify profession, specify type of practice and location):

Profession: Medical Doctor

Type of practice: Anesthesiology

4. I agree to the following terms concerning the prescribing of handling of mood-altering chemicals: Keep a personal log of prescribed controlled substances. Agree to take naltrexone, 50 mg daily, on return to clinical practice.
5. I agree to the following restrictions or conditions regarding my professional practice: Not to return to the practice of anesthesiology for one year; possible return contingent on results of re-evaluation at Rush Behavioral Health in 12 months.
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 determined by Dr. Heimbach and Oklahoma State Med. Assoc.

Frequency: 1x weekly for 6 months, 2x monthly for 6 months, re-evaluate frequency at one year RBH evaluation. Will evaluate need for fentanyl screens based on employment.

Monitor: Oklahoma PAP

Rush Behavioral Health Center - DuPage

Heimbach, Stephen

Page 2

- 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: _____

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

Address: _____

Phone: _____

- 9. I agree to the following recommendations concerning individual therapy, family therapy, or halfway house placement: continue individual therapy

- 10. I agree to attend the following professional's monitoring and support group: continue Caduceus aftercare 1x weekly.

- 11. I agree to attend a recovery self-help group and obtain a sponsor. (Indicate self-help group and frequency): minimum 4x weekly, daily sponsor contact.

- 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: quarterly visits with Paul Feldman, M.D..

- 14. I agree to attend the Rush Behavioral Health-DuPage Alumni Renewal on the following dates: Spring 2000.

- 15. I agree to abstain from the use of all mood-altering chemicals, except as prescribed by my primary or treating physicians, and, whenever possible, in consultation with my supervising physician at Rush Behavioral Health at the earliest opportunity. Further, I agree to a policy of not self-prescribing medications for any reason.

- 16. I agree to notify Rush Behavioral Health immediately in the event of a relapse.

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.

Stacy W. Hester MD 9/28/99
Signature of Caduceus Enrollee Date

Address: 11208 Queenswick Dr. Oklahoma City OK 73162
Street City State Zip Code

Home Phone: (405) 773-5804

Work Phone: _____

Pager: (405) 770-1365

Other: (405) 831-7248 cellphone

Special Instructions for Caller: _____

Patricia McCarroll _____
Signature of Primary Counselor Date

Paul Feldman 9/24/99
Signature of Supervising Physician Date

First appointment scheduled with on: 11/10/00 with Paul Feldman MD.
1:30 (Date) (Rush Physician)