

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

STATE OF OKLAHOMA, *ex rel.*)
 THE OKLAHOMA STATE BOARD)
 OF MEDICAL LICENSURE AND)
 SUPERVISION,)

Plaintiff,)

vs.)

ERIC ALAN WEST, M.D.,)
 LICENSE NO. MD 19818,)

Defendant.)

FILED

JUN 16 2016

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 15-01-5097

ORDER ACCEPTING VOLUNTARY SUBMITTAL TO JURISDICTION

1. The State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision (the "Board" or "State"), by and through its attorney, Jason T. Seay, Assistant Attorney General, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with the Defendant, Eric Alan West, M.D., Oklahoma Medical License No. 19818, who appears in person and through counsel, Elizabeth Scott, of Crowe & Dunlevy (collectively, the "Parties"), offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, "Agreement" or "Order") effective 12 May 2016, for acceptance by the Board *en banc* pursuant to Okla. Admin. Code § 435:5-1-5.1.
2. By voluntarily submitting to jurisdiction and entering into this Order, Dr. West admits to the allegations herein contained and further acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. § 480, *et seq.* ("Act").
3. Doctor West, 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. Dr. West 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. Dr. West acknowledges he has read and understands the terms and conditions stated herein, and this Agreement has been reviewed and discussed with him and his legal counsel.
4. If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by Dr. West herein, if any, shall not be regarded as evidence

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against him in a subsequent disciplinary hearing. Dr. West will be free to defend himself, and no inferences will be made from his willingness to have this Order accepted by the Board. The Parties stipulate that neither the presentation of this Order nor the Board's consideration of this Order shall be deemed to have unfairly or illegally prejudiced the Board or its individual members and therefore shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

FINDINGS OF FACT

5. The State, Dr. West and the Board Staff stipulate and agree as follows:
- A. 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 O.S. § 480 *et seq.*, and the Board has jurisdiction over this matter.
 - B. Dr. West holds Oklahoma medical license no. 19818.
 - C. This case arises from a complaint made stating that patient J.B. was receiving large quantities of Opioids from the Defendant. The complainant was concerned that J.B. is driving while taking these medications.
 - D. On February 4, 2015, Board Investigator S.W. served a Subpoena for 8 patient charts on the Defendant's place of practice and made arrangements to speak with the Defendant.
 - E. On February 5, 2015, S.W. met with the Defendant. S.W. took custody of copies of the 11 subpoenaed patient charts and interviewed the Defendant. After reviewing selected patient charts, S.W. discussed with the Defendant some of the issues regarding the prescribing opiates, benzodiazepines and muscle relaxers to patients. S.W. spoke with the Defendant about patient J.A. This patient is a 23 year-old woman with no previous physician records in the chart, and she claims to have been involved in a motor vehicle accident. J.A., however, had no documentation of the accident in her chart. Yet, the Defendant continually increased prescriptions for Oxycodone to J.A. without any imaging or studies to make some objective finding of pain, let alone a treatment plan.
 - F. S.W. spoke with the Defendant about patient Z.B., a 24 year-old man. This patient was receiving 12 mg. of Alprazolam every day. Widely accepted medical literature indicates that a maximum of 8-10 mg. per day is indicated for severe panic and agoraphobia diagnoses.
 - G. S.W. spoke with the Defendant about patient Z.W., a 23 year-old man. Like with patient J.A., patient Z.W. claimed he was in a motor vehicle accident and the chart contains documentation of (two) 2 visits to Oklahoma Sports Science and

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Orthopedics at the time of the motor vehicle accident. Z.W. received a prescription of Oxycodone 30mg #30 on the first visit. The Defendant subsequently increased the dosage units to #90 and then to #120.

- H. S.W. spoke with the Defendant about patient F.P. This patient was prescribed Hydrocodone 10 mg. along with soma and Oxycodone. In all, the Defendant was prescribing F.P., 13.2 dosage units of controlled dangerous substances ("CDS") per day.
- I. In response to these observations, the Defendant stated to S.W. that he "may be over [his] head when it comes to pain management."
- J. A qualified expert was retained to review the subpoenaed charts. Overall, the expert opined that the Defendant did not adhere to the requirements of Okla. Admin. Code § 435:10-7-11 and the accepted standard of care in prescribing CDS to the eight (8) patients whose charts were subpoenaed. The expert also opined the charts reflected a pattern of underutilization of other methods of managing pain, such as anti-inflammatory medications, physical therapy, or other non-controlled adjunctive medications. The expert also found that some of the patients possibly had significant adverse reactions to the combinations of CDS prescribed by the Defendant.

CONCLUSIONS OF LAW

- 6. The State, Dr. West and the Board Staff stipulate and agree as follows:
 - A. Dr. West is guilty of unprofessional conduct by:
 - 1. Prescribing, dispensing or administering CDS in a manner prohibited by:
 - a. 59 O.S. 2011, § 509(16);
 - b. Okla. Admin. Code § 435:10-7-4(2);
 - c. Okla. Admin. Code § 435:10-7-4(6); and
 - 2. Failing to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications, in violation of 59 O.S. 2011, § 509(20) and Okla. Admin. Code § 435:10-7-4(41);
 - 3. Engaging in the improper management of medical records, in violation of Okla. Admin. Code § 435:10-7-4(36); and

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ORDERS

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, including the findings of fact and conclusions of law stated herein;
2. It is **ORDERED** as follows:
 - A. Dr. West is hereby **PUBLICLY REPRIMANDED**;
 - B. Dr. West is hereby **FINED** ten-thousand-dollars (\$10,000.00);
 - C. Within one (1) year from the date of this Order, Dr. West shall attend two (2) category one CME courses (not online courses), one on Prescribing controlled dangerous substances, and one on records keeping and records management, which are in addition to his normally required CME courses and subject to approval by the Board Secretary; and
 - D. Dr. West is hereby placed on **PROBATION** for a period of **TWO (2) YEARS** under the following terms and conditions:

Standard Terms

- a) Dr. West 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 Dr. West until clarification of interpretation is received by Dr. West from the Board or its designee.
- b) Dr. West will furnish a copy of this Order to each and every state in which he holds licensure or applies for 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) Dr. West will not supervise allied health professionals that require surveillance of a licensed physician.
- d) Dr. West will keep the Board informed of his current address.
- e) Until such time as all indebtedness to the Board has been satisfied, Dr. West will reaffirm said indebtedness in any and all bankruptcy proceedings.

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- f) Dr. West shall make himself available for one or more personal appearances before the Board or its designee upon request.
- g) Dr. West shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- h) Dr. West will keep current payment of all assessments by the Board for prosecution, investigation and monitoring of his case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation, unless Dr. West affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- i) Dr. West 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 Dr. West's case with Dr. West's treating physicians and/or any physicians holding Dr. West's records.
- j) Failure to meet any of the terms of this Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Dr. West's 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.

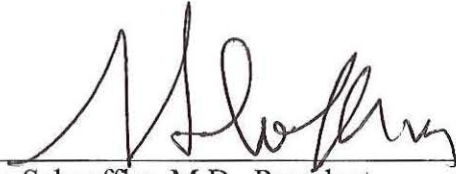
Specific Terms

- k) Dr. West will make himself and his records available to Executive Board staff and allow them access to the same. Further, Dr. West will cooperate with Board staff in their monitoring and supervision of himself and his practice.
 - l) If Dr. West desires a change in employment, any proposed change must be approved of by the Board Secretary.
3. Promptly upon receipt of an invoice, Dr. West shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
 4. A copy of this written order shall be sent to Dr. West as soon as it is processed.
 5. **This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.**

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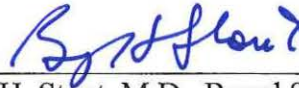
Dated this 12th day of may, 2016.



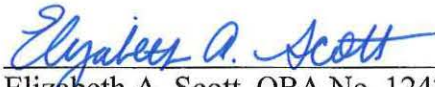
Lee Schoeffler, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION



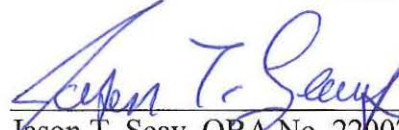
Eric Alan West, M.D.
License No. 19818



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

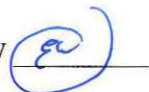


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Certificate of Service

This is to certify that on the 17th day of ~~May~~ ^{JUNE}, 2016, a true and correct copy of this Order was sent by U.S. first-class mail, postage prepaid, to the following:

Eric Alan West, M.D.
4221 South Western, #3030
Oklahoma City, Oklahoma 73109
VIA Certified Mail, Return Receipt Requested, Restricted Delivery

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Attorneys for Dr. West



Nancy Thiemann, Legal Secretary

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OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED
JUN 16 2016
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

ATTORNEY GENERAL OPINION
2016-391A

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

June 15, 2016

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take pursuant to a consent agreement with respect to medical doctor licensee 19818. The licensee prescribed large amounts of controlled dangerous substances for pain management to at least eight patients. The medical records for some of those patients did include documentation supporting the prescriptions.

The proposed action is to reprimand the licensee, impose a \$10,000 fine, require completion of courses in prescribing controlled dangerous substances and record keeping. The action also imposes two years of probation on the licensee. The terms of probation prohibit the licensee from supervising other allied health professionals and require the licensee to make probation fee payments, provide practice and personal medical records to the Board upon request, notify the Board of any change in address, obtain pre-approval before changing employment, and inform employers as well as other states' licensing boards of the discipline.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480-518.1, authorizes the Board to discipline licensees who engage in unprofessional conduct, 59 O.S.Supp.2015, § 503. Unprofessional conduct includes "[p]rescribing or administering a drug or treatment without sufficient examination" as well as "[p]rescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice." 59 O.S.2011, § 509(12), (16). The action seeks to enforce these requirements that ensure controlled dangerous substances are used appropriately in medical practice. The Board may reasonably believe that fines, a reprimand, additional education, and a definite period of monitoring through probation are necessary to ensure that the licensee does not engage in additional violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy requiring that medical doctors observe standards of professionalism.

A handwritten signature in black ink, appearing to read "Scott Pruitt". The signature is stylized with a large initial "S" and a horizontal line extending from the end of the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA