

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

STATE OF OKLAHOMA, *ex rel.*)
 OKLAHOMA STATE BOARD)
 OF MEDICAL LICENSURE)
 AND SUPERVISION,)
)
 Plaintiff,)
)
 v.)
)
 JERI LYNN ELLIS, M.D.,)
 LICENSE MD 20048,)
)
 Defendant.)

FILED

FEB 05 2018

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 17-06-5476

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), by and through the undersigned counsel for the Plaintiff, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, and Jeri Lynn Ellis, M.D. (“Defendant”), Oklahoma medical license no. 20048, who appears in person *pro se* (collectively, the “Parties”), and offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, “Order” or “Agreement”) for acceptance by the Board. Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant 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”).

Defendant, Jeri Lynn Ellis, M.D., states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for an evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her 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 she has read and understands the terms and conditions stated herein, and that this Agreement may be reviewed and discussed with her by legal counsel prior to execution.

If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by Defendant herein, if any, shall not be regarded as evidence against her in a subsequent disciplinary hearing. Defendant will be free to defend herself and no inferences will be made from her willingness to have this Order accepted by the Board. The

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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

The Plaintiff, Defendant, and Board staff stipulates and agree as follows:

1. In Oklahoma, Defendant holds medical license no. 20048, issued February 24, 1997.
2. Defendant executed an Agreement Not to Practice on November 2, 2017.
3. This action was referred to Board investigators by agents of the Oklahoma Bureau of Narcotics and Dangerous Drugs ("OBNDD") and the United States Drug Enforcement Agency ("DEA"). A large portion of the information provided deals with undercover transactions by an OBNDD agent who ultimately received a Hydrocodone prescription from Defendant in spite of never having met her.
4. OBNDD Agent Elsa Castro accompanied OBNDD Agent Desirae Ferguson to her first appointment. Agent Ferguson met with Dennis Roberts, M.D., who is currently on Board ordered probation. As part of the probation, Dr. Roberts is restricted from prescribing Controlled Dangerous Substances ("CDS"). Dr. Roberts' examination essentially consisted of having Agent Ferguson bend at the waste to demonstrate any limitations in her range of motion. Dr. Roberts did tell Agent Ferguson that she needed to bring her past medical records with her to the next appointment. After the examination, Dr. Roberts had Ferguson return to the waiting room. Several hours later, a clinic employee brought Agent Ferguson prescriptions signed by Defendant for Hydrocodone and an x-ray. The entire appointment lasted approximately seven hours.
5. At a second appointment, Agent Ferguson failed to bring any medical records with her. Agent Ferguson claimed to be in no pain, yet was still given a new Hydrocodone prescription. The prescription was signed by Defendant who had never seen Agent Ferguson.
6. K.M.C. was working as an Advanced Registered Nurse Practitioner at the Urgent Care Travel ("UCT") clinic, located at I-40 and Mustang Road in Oklahoma City, OK, where Defendant serves as the medical director. K.M.C. stated to investigators that Defendant authorized her to sign Defendant's name to prescriptions for CDS.
7. On June 15, 2017 Agent Castro, Investigator Schickedanz and Board Investigator Larry Carter met Defendant at her clinic located in Shawnee, OK. Agent Castro began by asking Defendant to identify all of the individuals to whom she provided medical supervision. Defendant could not recall the name of the nurse practitioner at UCT, but stated that she has supervised the nurse at the Pilot truck stop on I-40 west of Oklahoma City, for approximately the last year and one-half. When asked if the name of the nurse

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practitioner could be K.M.C., Defendant said she believed that was correct. Defendant claimed she has met K.M.C. on approximately four separate occasions. Defendant seemed somewhat confused however, so Agent Castro asked Defendant to describe K.M.C. Defendant said that K.M.C. was an African American woman, approximately 5'4" or 5'5". Agent Castro stopped Defendant to inform her that K.M.C. is a Caucasian female.

8. Defendant went on to say that there should never have been any CDS prescriptions issued from UCT, because that facility catered to truck drivers, and it would be improper to prescribe drugs that might interfere with their ability to safely operate a vehicle. Defendant believed that the only types of prescriptions that might ever be issued from UCT would be things that were immediately medically necessary, such as blood pressure medication. Defendant made these statements in spite of the demonstrable facts to the contrary.
9. Board Investigator Carter asked Defendant if she saw all of the patients before prescribing to them. Defendant said that she did see each patient initially, but not necessarily on every visit. Agent Castro reminded Defendant of an earlier statement, wherein Defendant admitted to signing CDS prescriptions for patients she had never met.
10. Throughout the interview Defendant spoke very slowly and deliberately, and at times seemed to be confused about the answers to several of the questions she was asked. Defendant's assistant, was present during the interview and at times had to answer on behalf of Defendant, or explain the answer Defendant provided. Similar problems were reported by patients who voiced significant concerns about Defendant's psychological state.
11. OBND Agent Castro and DEA Investigator Ginger Schickedanz interviewed patients J.S.C., J.T.C. and J.D.C. separately. Each of these patients received prescriptions signed by Defendant and each stated they had never met her.

CONCLUSIONS OF LAW

12. The Board has jurisdiction over the subject matter and 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 Okla. Admin. Code §§ 435:5-1-1 *et seq.*
13. Notice was given as required by law and the rules of the Board. 75 O.S. § 309(A); 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.
14. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice medicine in the State of Oklahoma for unprofessional conduct. This authority is quasi-judicial. 59 O.S. §§ 503, 513(A)(1). The Board's action is authorized by 59 O.S. §§ 509(8), (10),

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(12), (15), (8); 509.1(A)(2), (8), (C), (D); Okla. Admin. Code § 435:10-7-4(7), (11), (18), (40), (49).

15. The Board is authorized to accept voluntary submittals to jurisdiction mutually agreed-to by parties to a disciplinary action to resolve the action without need for a hearing. 75 O.S. 2011, § 309(E); Okla. Admin. Code § 435:5-1-5.1.
16. Based on the foregoing, the Parties stipulate and agree that Defendant is guilty of unprofessional conduct as follows:
 - a. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public, in violation of 59 O.S. § 509(8) and Okla. Admin. Code § 435:10-7-4(11);
 - b. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship, in violation of 59 O.S. § 509(12) and Okla. Admin. Code § 435:10-7-4(49);
 - c. The inability 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 physical condition. In enforcing this subsection the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it. If the physician refuses to submit to the examination, the Board shall issue an order requiring the physician to show cause why the physician will not submit to the examination and shall schedule a hearing on the order within thirty (30) days after notice is served on the physician. The physician shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the physician and the physician's attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. The medical license of a physician ordered to submit for examination may be suspended until the results of the examination are received and reviewed by the Board, in violation of 59 O.S. § 509(15) and Okla. Admin. Code § 435:10-7-4(18), (40);
 - d. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient, in violation of 59 O.S. § 509(18);
 - e. The delegation of authority to another person for the signing of prescriptions for either controlled or non-controlled drugs, except as provided for in 59 O.S., 519.6D, in violation of Okla. Admin. Code § 435:10-7-4(7).

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ORDERS

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. Effective from the date of an approved Attorney General Opinion, the Board 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** that **JERI LYNN ELLIS, M.D.**, shall comply with all of the following terms and conditions:

Standard Terms:

- a. Defendant will conduct her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“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 authorized designee. 59 O.S. § 480, *et seq.*
- b. Defendant will furnish a file-stamped copy of this Order to each and every state in which she holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which she holds or anticipates holding any form of staff privileges or employment.
- c. Defendant will keep the Board informed of her current address.
- d. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- e. Defendant will not supervise allied health professionals that require surveillance of a licensed medical practitioner.
- f. Defendant will submit for analysis biological fluid specimens, including but not limited to, blood and urine, as well as hair follicle, upon request of the Board or its designee, and Defendant will pay the costs attendant thereto.
- g. Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her of the Board Order immediately upon initiation, or continuation of treatment.
- h. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances.

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- i. Defendant shall make herself available for one or more personal appearances before the Board or its authorized designee upon request.
- j. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or authorized designee.
- k. Defendant will execute such releases of medical and psychiatric records during the entire term of this Agreement as necessary for use by the Compliance Coordinator to obtain copies of medical records and assessments, and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- l. 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 Defendant'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.
- m. If Defendant moves her residence or practice location out of the State of Oklahoma during this Agreement, the Agreement will be tolled until such time as Defendant returns to the State of Oklahoma and begins practicing within the state. Defendant will notify the Board Secretary prior to moving out-of-state.

Specific Terms:

- n. Defendant shall not prescribe any controlled dangerous substances ("CDS").
- o. Defendant shall sign a lifetime contract with the Oklahoma Health Professionals Program ("OHPP") and abide by all recommendations. This shall include, but is not limited to, urine drug screens, Sober Link, and meeting attendance records.
- p. Defendant's practice plan terms, including type, setting, location, must be approved of in advance by the Board Secretary.
 - 1. Defendant shall practice in structured setting with other fully licensed physicians.
 - 2. Defendant shall practice under supervision of a fully licensed physician to serve as practice monitor. Supervisor shall submit quarterly evaluations to the Board Secretary.
 - 3. Defendant shall not see more than 20-25 patients per day.
 - 4. Defendant shall not supervise any mid-level providers.

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5. If Defendant finds employment that does NOT involve direct patient care (for example, administrative medicine), the practice terms could be modified by the Board Secretary.
 - q. Defendant shall complete follow-up evaluation appointment(s) with all of her current OUHSC physicians, Department of Psychiatry and Behavioral Sciences, within six (6) months after receipt of an approved Oklahoma Attorney General Opinion. OUHSC physicians will submit report(s) to the Board Secretary following evaluation appointment(s).
 - r. Defendant shall complete a follow-up evaluation appointment with a Board approved Neurologist (currently, Tehseen Khan M.D.), within six (6) months after receipt of an approved Oklahoma Attorney General Opinion. The Neurologist will submit a report to the Board Secretary following the evaluation appointment.
 - s. Defendant shall complete a follow-up evaluation appointment with a Primary Care Physician (currently, Steven Burner M. D.), within three to six (3-6) months after receipt of an approved Oklahoma Attorney General Opinion. The PCP will submit a report to the Board Secretary following the evaluation appointment.
 - t. Defendant shall repeat a neuropsychological assessment within eighteen to twenty-four (18-24) months from the date of last assessment. The assessor or evaluator will submit a report to the Board Secretary.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
 4. A copy of this Order shall be provided to Defendant as soon as it is processed.

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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Order Accepting Voluntary Submittal to Jurisdiction; 17-06-5476
Jeri Lynn Ellis, MD 20048

Dated this 11th day of January, 2018.

[Handwritten initials]

Henry P. Ross, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

[Handwritten signature: Jeri Lynn Ellis, MD.]

Jeri Lynn Ellis, M.D.
License MD 20048

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

[Handwritten signature]

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Attorney for Plaintiff

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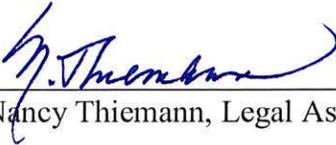
Certificate of Service

This is to certify that on the 6th day of February, 2018, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

Jeri Lynn Ellis, M.D.
3101 Hackberry Road
Oklahoma City, Oklahoma 73120

Defendant, pro se



Nancy Thiemann, Legal Assistant

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OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-25A

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

January 31, 2018

Dear Dr. Billy H. Stout, M.D., Board Secretary:

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Medical Licensure and Supervision intends to take with respect to medical doctor licensee 20048 in case number 17-06-5476. The licensee was investigated for prescribing controlled dangerous substances (CDS) to patients without a legitimate medical need, for failing to oversee and monitor patients receiving CDS, and for allowing someone to forge the licensee's signature on CDS prescriptions. The Board proposes to accept the licensee's voluntary submittal to jurisdiction of the Board.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act authorizes the Board to suspend or revoke a license or impose other sanctions for unprofessional conduct. 59 O.S. Supp. 2017, § 503. Unprofessional conduct includes "[d]ishonorable or immoral conduct which is likely to deceive, defraud, or harm the public," "[p]rescribing, or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship," and "[f]ailure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient." 59 O.S. 2011, § 509(8), (12), (18). The Board may reasonably believe that the proposed action is necessary to protect public health and deter future 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's policy to ensure the adequate regulation of dangerous substances and require that medical doctors observe minimum standards of professionalism.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL

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OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION