

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.)

GEORGE JOHN CARSTENS, M.D.,)
LICENSE NO. 20153,)

Defendant.)

MAY 17 2007

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 05-11-3020

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, George John Carstens, M.D., Oklahoma license no. 20153, who appears in person and through counsel, Mark Hammons, offer this Agreement as a settlement offer subject to the provisions of 12 O.S. §2408 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 some of the allegations in the Complaint and Citation filed herein on March 9, 2006 and the Amended Complaint filed on February 9, 2007, and further 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, George John Carstens, 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 acknowledges that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him by 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.*
2. Defendant, George John Carstens, M.D., holds Oklahoma license no. 20153 and practices as a radiologist in Tulsa, Oklahoma.
3. From 1993-1995, Defendant engaged in a sexual relationship with an employee at the hospital where he worked. The person involved was not a patient.
4. In or around 1994, while employed at the UT Southwestern Medical Center in Dallas, Texas, an employee submitted a complaint against Defendant based upon her claim of unwanted physical contact by Defendant. According to Defendant, no disciplinary action was taken against him at that time and this was not found to be substantiated.
5. In mid-1999, while working at St. Francis Hospital in Tulsa, Oklahoma, allegedly numerous employees complained about Defendant's conduct, including unwanted touching of employees, calling employees at home, and inviting employees out to eat. Defendant denies knowing of or being advised of numerous complaints.
6. Based upon this conduct, in September 1999, Defendant met with Robert Bruce, M.D., President of the Medical Staff of St. Francis Hospital, and a representative of his employer, Radiology Consultants of Tulsa, Inc., at which time he was advised of the complaints by hospital employees, including allegations of an inappropriate sexual relationship between Defendant and a hospital employee. Defendant was counseled against further such actions and was also advised that if the behavior continued, his privileges at the hospital could be restricted.
7. In late 2000, while working at St. Francis Hospital in Tulsa, Oklahoma, numerous employees continued to complain about Defendant's conduct.
8. Based upon conduct unrelated to professional competency but related to allegations of sexual harassment, Defendant was disciplined by St. Francis Hospital. Defendant executed an Agreement with St. Francis Hospital whereby he was **SUSPENDED** from November 14, 2000 until December 8, 2000. He was also required to obtain counseling, to be monitored by St. Francis' Physician Health Committee.

9. Based upon this conduct, in November 2000, Defendant was also disciplined by his employer, Radiology Consultants of Tulsa, Inc. Defendant's discipline by his employer included a twenty-eight (28) day **SUSPENSION**, as well as treatment and counseling.

10. On his April 30, 2001 Application for Renewal of Oklahoma License, Defendant was asked the following question:

"Since the last renewal...have you been denied privileges, lost privileges or received discipline by any hospital or other professional medical organization?"

In response to this question, Defendant answered "NO". Dr. Carstens states that he believed that because the suspension was not required to be reported to the Data Bank, it did not require a report on his application.

11. A review of Defendant's records reveals that Defendant began treating Patient MHD on or around June 15, 1999 and continuing through at least December 1, 2005. Defendant's records reflect that she sought treatment from Defendant for possible interventional radiology treatments. Defendant's records reflect that Patient MHD admitted daily marijuana use, current cocaine use, as well as prior severe cocaine addiction and prior LSD and methamphetamine use.

12. Beginning on or around January 20, 2003 and continuing through November 16, 2005, Defendant authorized at least thirty-one (31) prescriptions for controlled dangerous drugs to Patient MHD. These prescriptions include five (5) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, and twenty-six (26) prescriptions for Alprazolam, a Schedule IV controlled dangerous drug. Defendant additionally authorized prescriptions for non-controlled dangerous drugs to Patient MHD. The medications prescribed include nine (9) prescriptions for Levoxyl for treatment of her thyroid, and one (1) prescription for Ketorolac. Board investigators were unable to obtain pharmacy information prior to 2003.

13. Nowhere in Defendant's records is there any reference to the Hydrocodone, Levoxyl and Ketorolac prescriptions. Defendant's records contain only three (3) references to the Alprazolam, yet there are at least twenty-six (26) prescriptions for Alprazolam by Defendant. A review of Defendant's records reveals that Defendant did not document a legitimate medical need for the medical treatment, that he did not document a sufficient examination prior to prescribing medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. Dr. Carstens claims that although not properly documented, the prescriptions were not excessive in amount and were for a legitimate medical purpose.

14. Sometime after June 1999 and intermittently through December 2005, Defendant engaged in an inappropriate sexual relationship with Patient MHD.

15. On December 15, 2005, the Board's investigator questioned Defendant about Patient MHD, at which time Defendant denied being involved sexually with Patient MHD or having an affair with her.

16. The Board's investigator challenged that statement and Defendant admitted that he engaged in these sexual acts with Patient MHD at the same time that he was maintaining a doctor-patient relationship and prescribing controlled dangerous substances and other dangerous drugs to this patient. Defendant admitted that he was still having an affair with Patient MHD and that he had last been with her three (3) days earlier on December 12, 2005.

17. Defendant is guilty of unprofessional conduct in that he:
- A. Engaged in dishonorable or immoral conduct ... in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
 - B. Engaged in physical conduct with a patient which is sexual in nature, ... in violation of 59 O.S. §509 (17).
 - C. Committed an act of sexual ... misconduct ... related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
 - D. 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).
 - E. Failed 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).
 - F. By failing to maintain an accurate and complete record, violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - G. 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).

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. Based on the foregoing facts, Defendant, George John Carstens, M.D., Oklahoma license 20153, is guilty of the unprofessional conduct set forth below:

- A. Engaged in dishonorable or immoral conduct ... in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Engaged in physical conduct with a patient which is sexual in nature, ... in violation of 59 O.S. §509 (17).
- C. Committed an act of sexual ... misconduct ... related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
- D. 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).
- E. Failed 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).
- F. By failing to maintain an accurate and complete record, violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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).

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. The license of Defendant, **GEORGE JOHN CARSTENS, M.D.**, Oklahoma license no. 20153, is hereby **SUSPENDED** for a period of **NINETY (90) DAYS** beginning April 17, 2007 and continuing until July 17, 2007.

3. The license of Defendant, **GEORGE JOHN CARSTENS, M.D.**, Oklahoma license no. 20153, is hereby placed on **PROBATION** beginning July 18, 2007 and continuing for a period of **THREE (3) YEARS** 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 shall comply with all recommendations of the Psychological Counseling Services, Ltd.

- E. Defendant will not treat himself or his family, and will not prescribe, administer, or dispense any medications for personal use or for that of any family member.
- F. 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.
- G. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.
- H. 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, including but not limited to a \$100.00 per month probation monitoring fee.
- I. 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.
- J. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- K. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.
- L. 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.
- M. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- N. Defendant shall obtain individual counseling at least one (1) time per week under the direction of a board certified psychiatrist approved in advance 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. Defendant shall additionally submit quarterly reports from his psychiatrist to the Board Secretary for his review. Defendant will remain in treatment until both his psychiatrist and the Board authorize his release from counseling. Such counseling shall continue until such time as the designated psychiatrist determines that some other period of counseling is more appropriate. In that event Dr. Carstens may present a statement from the counselor to the Board and request that the frequency of the counseling be modified as the counselor has recommended. This provision shall be reviewed by the Board two years from the date of the entry of this Order to determine if a modification or alteration is warranted.

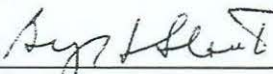
O. Defendant shall obtain marital counseling so long as Defendant is married at least one (1) time per week under the direction of a board certified psychiatrist approved in advance by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from his psychiatrist to the Board Secretary for his review. Defendant will remain in treatment until both his psychiatrist and the Board authorize his release from counseling.

P. Defendant shall submit to polygraph examinations every six (6) months during the term of his probation, the first of which must occur prior to June 17, 2007. The polygraph examinations will be coordinated and arranged by Richard Kishur, Ph.D. The polygraph examiner must be approved by Dr. Kishur and must be experienced in boundary violations. All evidence obtained by the Board during the investigation of this case must be given to Dr. Kishur and the polygraph examiner prior to the first examination performed by the examiner. Reports of the polygraph examiner shall be provided to the Board Secretary for this review and Defendant shall authorize in writing the release of any and all records of the polygraph examinations to the Board or its designee.


4. 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 May 18, 2007.

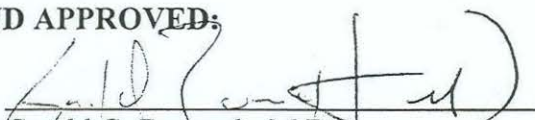
5. A copy of this written order shall be sent to Defendant as soon as it is processed.

Dated this 17 day of May, 2007.


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

AGREED AND APPROVED:


George John Carstens, M.D.
License No. 20153


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


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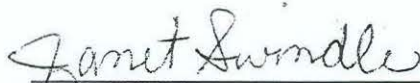
Attorney for the Defendant


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State of Oklahoma
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405/848-6841

Attorney for the Oklahoma State Board
Of Medical Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 18 day of May, 2007, I mailed, via first class mail, postage pre-paid, a true and correct copy of this pleading to Mark Hammons, Hammons & Associates, Inc., 325 Dean A. McGee, Oklahoma City, OK 73102.


Janet Swindle