

**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. )  
  
WILLIAM BROWNING O'BRIEN, M.D., )  
LICENSE NO. 20338, )  
  
Defendant. )

MAR 08 2013

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 10-06-4011

**ORDER ACCEPTING  
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Scott Randall Sullivan, Special Prosecutor for the Board, 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, William Browning O'Brien, M.D., Oklahoma license no. 20338 who appears in person with counsel, offer this Agreement effective March 7, 2013, for acceptance by the Board en banc pursuant to Oklahoma Administrative Code section 435:5-1-5.1.

**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 April 5, 2011, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, William Browning O'Brien, 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.

## **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 *Okla. Stat. tit. 59 §480 et seq.*

2. Defendant, William Browning O'Brien, M.D., holds Oklahoma license no. 20338.

3. In 1984, Defendant was a registered nurse in the State of Oklahoma. On or about May 24, 1984, Defendant entered treatment at St. John Medical Center in Tulsa, Oklahoma for alcoholism and chemical dependency. Defendant completed treatment approximately two (2) months later.

4. On July 26, 1984, Defendant's nursing license was suspended for one (1) year based upon a finding that he stole narcotics from the hospital where he was employed for his personal use, and that he falsified hospital records to cover the stealing of the narcotics.

5. On or about August 1, 1985, the Oklahoma State Nursing Board reinstated Defendant's nursing license under terms of probation, and on September 24, 1986, Defendant's probation with the Nursing Board was terminated.

6. On or about May 30, 1996, Defendant submitted his Application for Licensure as a physician in the State of Oklahoma. On his application, Defendant advised the Board of his prior disciplinary action before the Nursing Board, his addiction and treatment and disciplinary action by a hospital.

7. On or about July 24, 1997, the Board issued Defendant a medical license.

8. In or around November 1997, Defendant entered inpatient treatment at Rush-Presbyterian St. Luke's Medical Center in Chicago, Illinois for substance abuse.

9. In or around March 2006, Merlin Kilbury, M.D. of the Oklahoma Health Professionals Recovery Program (the "HPRP") received information that Defendant was overusing narcotic pain medications (Oxycodone) that he was receiving for back pain. Dr. Kilbury approached Defendant and asked him to sign a contract with the HPRP and join the program. Defendant agreed and was monitored by the HPRP for approximately two and one-half (2 ½) years, after which time Dr. Kilbury agreed to Defendant's request that he be released from the program.

10. In 2010, Dr. Kilbury received complaints regarding Defendant at the VA Medical Center in Muskogee where Defendant worked. Specific complaints included that Defendant often disappeared during his shifts to take “smoke breaks”, and he was taking prescribed controlled dangerous drugs.

11. Based upon these complaints, Dr. Kilbury travelled to the VA Medical Center in Muskogee to meet with Defendant and his supervisor, Wallace Love, M.D. At the meeting, Dr. Kilbury requested Defendant to provide a urine specimen. Defendant agreed then said he was unable to immediately provide a specimen. Dr. Kilbury waited for a period of time and then left. Defendant did provide a urine specimen that day which was observed and tested. The test was negative.

12. Defendant forwarded the negative urine specimen test result to Dr. Kilbury who informed Defendant that he was unhappy with the circumstances in which it was provided. Dr. Kilbury asked that Defendant renew his contract with the HPRP, which Defendant refused to do. Dr. Kilbury then advised Defendant that he would be reporting Defendant’s failure to cooperate with him to the Board.

13. Pharmacy records reflect that from March 9, 2009 until June 18, 2010, Defendant received eleven (11) prescriptions for Oxymorphone, Morphine Sulfate and Dextroamphetamine, Schedule II controlled dangerous substances, for 1000 dosage units, four (4) prescriptions for Phendimetrazine (Bontril), a Schedule III controlled dangerous substance, for 360 dosage units, and four (4) prescriptions for Alprazolam, a Schedule IV controlled dangerous substance, for 240 dosage units. Defendant also received eight (8) prescriptions for Tramadol, a non-controlled pain medication, for 800 dosage units. The majority of these prescriptions were given by Laura Beth Bilbruck, M.D., a long time friend and former medical school classmate of Defendant.

14. Based upon these facts, on or about June 30, 2010, Board Investigator Robert DuVall made an unannounced visit to Defendant at the VA Medical Center in Muskogee. At this time, Investigator DuVall requested that Defendant provide a urine and hair sample for testing. Defendant refused to provide either sample to Investigator DuVall. Mr. DuVall advised Defendant that if the only medications he had taken were from legitimate prescriptions, he had nothing to fear in a drug test. Defendant nevertheless refused to supply a specimen for testing.

15. Title 59 O.S. §509.1(C) provides as follows:

The Board may, upon reasonable cause, require professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.

**Defendant, Dr. O’Brien’s, Treatment**

16. Prior to treatment, Dr. O'Brien had three (3) addiction evaluations. He had his first evaluation done at Palmetto Addiction Recovery Center in Louisiana, and he had the second one done by Dr. William Yarborough at the Oklahoma University School of Community Medicine. The Palmetto evaluation recommended residential treatment for Opioid Dependence, and Dr. Yarborough's recommendation was for him to enter into a monitoring agreement with the Oklahoma Health Professionals Program. The third evaluation was performed at Pine Grove Health and Addiction Services. Dr. O'Brien specifically went to Pine Grove to resolve any questions or conflict between the other two evaluations. Pine Grove agreed with Palmetto and recommended inpatient treatment.

17. As a result of the Palmetto and Pine Grove assessments, Dr. O'Brien entered inpatient treatment at Resurrection Behavioral Health Center in Chicago, Illinois. His treatment was from December 18, 2012 until February 1, 2013. Dr. O'Brien successfully completed his treatment and was discharged on February 1, 2013.

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

- A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).
- B. 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).
- C. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- D. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

### **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 ("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, William Browning O'Brien, M.D., Oklahoma license 12150, is guilty of the unprofessional conduct set forth below:

- A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).

- B. 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).
- C. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- D. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

**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. It is **ORDERED** that Defendant will be placed on **PROBATION** for a period of five (5) years and said probation shall have the following provisions:
3. Defendant will conduct his/her 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 Defendant until clarification of interpretation is received by Defendant from the Board or its designee.
4. Defendant will keep the Board informed of his/her current address.
5. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his/her 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. Additionally, it is agreed that any amount of assessment by the Board for prosecution, investigation and monitoring will be negotiated by the parties in good faith within a reasonable time from the date of entry of this Order due to the fact that some portion of the assessment for the prosecution, investigation and monitoring is the result of procedural difficulties and personnel changes at the Board which should not be attributable to Defendant. Upon resolution of a reasonable assessment, the parties further agree to negotiate in good faith a payment plan if necessary.
6. Subject to Paragraph 5 above, until such time as all indebtedness to the Board has

been satisfied, Defendant will furnish a copy of this order to each and every state in which he/she holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he/she holds or anticipates holding any form of staff privileges or employment

7. Defendant will not supervise allied health professionals who require surveillance of a licensed physician.

8. Subject to Paragraph 5 above, Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his/her 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.

9. Subject to Paragraph 5 above, until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings said indebtedness in any and all bankruptcy proceedings.

10. Defendant shall make himself/herself available for one or more personal appearances before the Board or its designee upon request. The Board agrees that any such request shall afford Defendant reasonable notice and an opportunity to make reasonable travel and work arrangements.

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

12. Defendant 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 Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

13. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify license after due notice and hearing.

14. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

15. Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

16. Defendant will not prescribe, administer or dispense any medications for personal use.

17. Defendant will take no medication except that which is authorized by a physician treating him/her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him/her of this Board Order immediately upon initiation, or continuation, of treatment.
18. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
19. Defendant will sign a five (5) agreement with Oklahoma Health Professionals Program.
20. Defendant will abide by the post-care contract from Resurrection Health Care.
21. Defendant will attend three meetings of Alcoholics Anonymous, Narcotics Anonymous and/or another 12-step program per week and will attend one meeting per week of the Caduceus (OHPP) group that meets in Tulsa, Oklahoma, another Oklahoma location of that meeting or if Defendant relocates to another state, an approved Caduceus group of that state.
22. Defendant will work with OHPP and Dr. Yarborough in the event Defendant has a legitimate medical condition requiring potentially addicting substances and will inform the Board of such necessity.
23. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.
24. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.
25. 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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

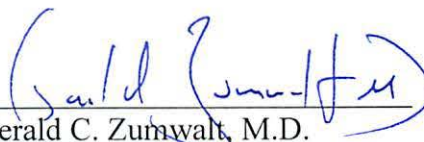


Deborah Huff, M.D., President  
Oklahoma State Board of Medical  
Licensure and Supervision

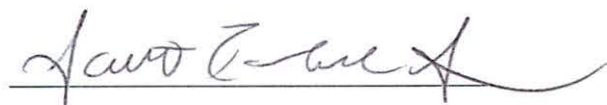
**AGREED AND APPROVED:**



William Browning O'Brien, MD



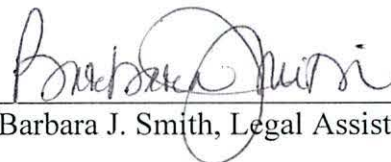
Gerald C. Zumwalt, M.D.  
Secretary & Medical Advisor  
Oklahoma State Board of Medical  
Licensure and Supervision



Scott Randall Sullivan, OBA #11179  
Special Prosecutor for OKLAHOMA  
STATE BOARD OF MEDICAL  
LICENSURE AND SUPERVISION  
101 N.E. 51<sup>st</sup> Street  
Oklahoma City, OK 73105

**CERTIFICATE OF MAILING**

The undersigned hereby certified that on the 8<sup>th</sup> day of March, 2013, a true and correct copy of the above and foregoing *Voluntary Submittal to Jurisdiction* was mailed to the following with sufficient postage thereon prepaid to attorney for Defendant: Michael L. Barkett, 1408 S. Harvard Avenue, Tulsa, OK 74112.



Barbara J. Smith, Legal Assistant