

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

**FILED**

MAY 27 2011

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

IN THE MATTER OF THE )  
APPLICATION OF )  
 )  
 )  
MICHAEL CURTIS WEST, M.D., )  
 )  
 )  
FOR REINSTATEMENT OF OKLAHOMA )  
MEDICAL LICENSE NO. 20377 )  
 )  
 )  
 )  
 )

Case No. 09-08-3829

**ORDER GRANTING REINSTATEMENT OF  
LICENSE WITH RESTRICTION**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision on May 19, 2011, at the Board office, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and rules of the Board.

Defendant, Michael Curtis West, M.D., appeared in person and pro se.

Elizabeth A. Scott, Assistant Attorney General, appeared on behalf of the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision.

The Board *en banc* heard testimony, reviewed the exhibits presented, and being fully apprised of the premises, entered the following Findings of Fact, Conclusions of Law, and Orders:

***Findings of Fact***

1. The Board *en banc* has jurisdiction over the subject matter herein, and notice has been given in all respects as required by law and the rules of the Board.

2. Defendant, Michael Curtis West, M.D., holds Oklahoma license no. 20377 and previously practiced in Valiant, Oklahoma and Wright City, Oklahoma.

**AIDING AND ABETTING UNLICENSED  
PRACTICE OF MEDICINE**

3. In or around 2006, Defendant purchased the CosMedic Clinic, a weight loss clinic in Valiant, Oklahoma. When Defendant first purchased the clinic, he periodically worked at the clinic. He additionally hired a physician assistant to see patients at the clinic.

4. In or around December 31, 2007, Defendant's physician assistant left the clinic. Defendant did not replace her, nor did he begin working at the weight loss clinic. Instead, he allowed three (3) unlicensed individuals to examine patients, take vital signs, and prescribe controlled dangerous substances, which were dispensed out of the CosMedic Clinic by the unlicensed individuals.

5. A review of the PMP records at the CosMedic Clinic in Valiant, Oklahoma reveals that for an eleven (11) month period from September 1, 2008 until July 31, 2009, **6,215 prescriptions for controlled dangerous substances** were dispensed by Defendant and by the unlicensed individuals employed by Defendant. A total of **493,780 dosage units** of controlled dangerous substances were dispensed by Defendant and these unlicensed individuals during just eleven (11) months. These controlled dangerous drugs were primarily Phentermine, Supramine, Fastin and Bontril, all weight loss medications. Prescriptions were for thirty (30), sixty (60), ninety (90) or one-hundred twenty (120) dosage units of these medications.

6. Defendant admits that he never performed a physical examination on the majority of the patients who received the controlled dangerous drugs set forth in paragraph 5 above prior to the patients being dispensed controlled dangerous substances by his unlicensed employees. Defendant additionally never saw the majority of the patients prior to the patients receiving controlled dangerous substances prescribed by his unlicensed employees. Defendant further admits that the majority of these patients who received controlled dangerous substances did not see any licensed practitioner prior to being prescribed the drugs.

7. Defendant admits that when patients came to the clinic, if they met certain standards, they would be allowed to receive weight loss medications prescribed by his unlicensed employees when he was not present. The patients were not charged for office visits, but were only charged for the medications prescribed by the unlicensed employees. The patients were advised of the medication choices and the cost for differing dosage units. The patients then advised Defendant's unlicensed employees what controlled dangerous substance they wanted and the dosage units they were willing to pay for. The controlled dangerous substances were then dispensed by Defendant's unlicensed employees to the patients.

8. Defendant additionally admits that he devised an incentive bonus plan for his employees to encourage more prescribing of controlled dangerous substances by the unlicensed employees. Under Defendant's plan, the clinic employees would receive a \$250.00 bonus each

week that the clinic generated more than \$25,000.00 in sales of controlled dangerous substances. Defendant admits that his employees received this bonus on a few occasions.

### **UNDERCOVER INVESTIGATION**

9. On or about August 25, 2009, Board Investigator Jana Lane conducted an undercover office investigation into the allegations that Defendant was aiding and abetting the unlicensed practice of medicine at the CosMedic Clinic in Valiant, Oklahoma. Investigator Lane posed as patient "Jana Rhodes" for a "walk-in" visit at the clinic and wore a digital recorder to record the office visit.

10. When the undercover investigator first arrived, she inquired about the laser treatment the clinic was advertising on pamphlets in the waiting room. She was introduced to clinic employee Angela Wright who identified herself as a "laser tech". Ms. Wright advised that she was still in training but she could perform a laser treatment on Investigator Lane as part of her training at no charge. Paperwork was completed and Ms. Wright performed a laser treatment on the undercover investigator's leg. The undercover investigator was not examined by any licensed healthcare provider prior to receiving the laser treatment.

11. The undercover investigator was later called back to an exam room for the weight loss portion of her office visit. At this time, an unlicensed individual, Nancy Marx, weighed her and took her blood pressure. Ms. Marx then explained the choice of controlled dangerous substances available to the undercover investigator and the price for either thirty (30), sixty (60) or ninety (90) pills. The undercover investigator chose thirty (30) Phentermine and paid the clinic \$60.00 for the drugs. There was no charge for the actual office visit.

12. At no time during the undercover investigator's office visit was she treated or examined by any licensed healthcare provider.

13. After paying for the drugs, the undercover investigator received a prescription bottle with thirty (30) Phentermine 37.5 mg. The label identified the prescribing physician as "Dr. M.C. West Jr." of "CosMedic Inc." Investigator Lane then left the clinic.

### **FAILURE TO COMPLY WITH OBN LAWS AND RULES**

14. Oklahoma Bureau of Narcotics and Dangerous Drugs laws provide that a dispenser of drugs in Schedules II through V is required to transmit records of the dispensing the drugs to the central repository at OBN, known as the Prescription Monitoring Program ("PMP") within twenty-four (24) hours of the dispensing. Failure to do so constitutes a misdemeanor.

15. Defendant continued to operate the CosMedic Clinic and dispense large quantities of controlled dangerous substances until he closed it in early March 2010. However, the PMP

does not reflect that any medications were dispensed by the clinic during 2010 as required by OBN law.

16. Based upon these facts, the State filed a Complaint against Defendant. After hearing by the Board en banc, the Board issued an Order dated May 20, 2010 whereby Defendant's license was **REVOKED**.

17. Defendant is now seeking reinstatement of his Oklahoma medical license no. 20377.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction to reinstate the license of a physician pursuant to 59 O.S. §508.1.

2. The Board may impose practice parameters and other restrictions as necessary to protect the health, safety and welfare of the public under 59 O.S. §480 *et seq.*

### **ORDER**


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

1. Defendant's medical license shall be reinstated with the **RESTRICTION** that Defendant shall not be allowed to apply for this OBN or DEA permits for a minimum of two (2) years.

2. Defendant's license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma.

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

Dated this 27 day of May, 2011.

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

**Certificate of Service**

On the 27 day of May, 2011, a true and correct copy of this order was mailed, postage prepaid, to Michael Curtis West, Rt. 3 Box 514-4, Broken Bow, Oklahoma 74728.

A handwritten signature in cursive script that reads "Janet Swindle". The signature is written in black ink and is positioned above a horizontal line.

Janet Swindle