

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

FILED

SEP 12 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff)

v.)

JOHN ALLISON HENSLEY, M.D.)
LICENSE NO. 20436)

Defendant.)

Case No. 12-01-4465

**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 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, John Allison Hensley, M.D., Oklahoma license no. MD 20436 who appears in person and through counsel, Mr. Mack Martin, offer this Agreement effective September 12, 2013, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* Rule 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on June, 10, 2013, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, John Allison Hensley, 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 an 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 legal counsel.

Agreements and Stipulations

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

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, John Allison Hensley, M.D., holds Oklahoma license no. 20436 and at the time of the filing of the Complaint herein, Defendant was currently working in the ER of Cushing Regional Hospital.

Current Allegations of Unprofessional Conduct

3. This case initiated on 1-12-2012 when RH, MD, from Integris Bass Baptist Health Center, Enid, OK, reported that Defendant prescribed CDS to an employee at the doctor's residence. The employee claimed to have back pain and needed pain medication. The employee was fired and Defendant was placed on administrative leave pending investigation.
4. A review of Defendant's prescribing record revealed he had been prescribing CDS to the W family for months without proper charting. JW was an EMT employee and Defendant was the ER doctor. Both JW and his wife, KW, visited the ER on several occasions reporting back and neck pain, and ultimately receiving CDS scripts from Defendant. Over time, Defendant began prescribing CDS to JW frequently, but "off the record." JW even went to Defendant's house to pick up prescriptions. Defendant did begin keeping a spiral notebook of some of the visits but they do not constitute a proper medical record nor is there any proof of continued medical need.
5. The hospital medical records reveal that between the dates of January 1, 2010 to January 25, 2012, JW (age 42) had **three (3) ER visits and 222 prescriptions**; KW (age 41) had **fourteen (14) ER visits and 224 prescriptions**. Defendant's notes for JW describe chronic lumbar back pain on 5-17-2011, another note on 5-21-2011, and medication notations on 6-18-2011 and 6-28-2011. The notes for KW dated 5-12-2011 indicate Migraine headache and mental health disorder, with medication notations on 6-18-2011 and 6-28-2012.
6. On 3-1-2012, Board Investigator RR spoke with Defendant wherein he admitted that he did write prescriptions to JW and his wife and did not keep good records, but he thinks JW forged some as well because there are more on his pharmacy record than Defendant wrote. He said he did not receive anything in return for prescribing. He stated it just got out of hand and he was a pushover and didn't know how to stop it because JW was manipulative and threatened to expose him if he didn't continue to cooperate.

7. Oklahoma Bureau of Narcotics (“OBN”) began an investigation into JW who stated that Defendant wrote prescriptions to he and his family, but admitted that he also forged scripts as well. OBN Agent C and Agent B pulled 45 prescriptions from Enid pharmacies. Defendant admitted writing 27 of them but failed to document any of them in any type of medical record. JW admitted to filling out the body of 10 of the remaining 18 prescriptions but stated that Defendant signed each of them.
8. OBN filed administrative charges against Defendant for failing to maintain effective controls against diversion and violating federal CDS laws. In lieu of prosecution, Defendant accepted an agreement to pay an \$8,000 fine and \$4,000 in investigative expenses. Evidence was then turned over to the Garfield County District Attorney’s office who filed charges against JW for one count of Obtaining Controlled Drug by Fraud. That case is currently pending in Garfield County.
9. On 9-6-2012 OBN Agent TB was notified by JW’s former employer that as they were cleaning out W’s locker, they found 16 blank prescriptions signed by Defendant including a script for Norco for JW and a script for KW for Lortab, both signed by Defendant. They also found a prescription bottle for JW labeled Hydrocodone/APAP 7.5/500. OBN agents took possession of the evidence and turned it over to the Garfield County District Attorney’s office for possible prosecution. As of the filing of this Complaint, no additional charges have been filed.
10. On 11-13-2012 Board Investigator RR was contacted by Integris Legal Services who advised Defendant failed to provide notice of proper insurance to include Integris’ requirements so he was offered the chance to voluntarily resign, which is reportable. Defendant asked for a waiver not to be reported to the NPDB, but Integris denied his request and the information was reported to the NPDB.

Conclusions of Law

11. Defendant is guilty of unprofessional conduct in that he engaged in:
 - a) Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of Title 59 O.S. sec. 509 (8);
 - b) The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician’s practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct in violation of Title 59 O.S. sec. 509 (9);
 - c) Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without

medical need in accordance with published standards in violation of Title 59 O.S. sec. 509 (16);


- 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 Title 59 O.S. sec. 509 (18);
- e) Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs in violation of Oklahoma Administrative Code Rule 435:10-7-4 (1);
- f) Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard in violation of Oklahoma Administrative Code Rule 435:10-7-4 (2);
- g) Dispensing, prescribing or administering a Controlled substance or narcotic drug without medical need in violation of Oklahoma Administrative Code Rule 435:10-7-4 (6);
- h) Conduct likely to deceive, defraud or harm the public in violation of Oklahoma Administrative Code Rule 435:10-7-4 (11);
- i) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of Oklahoma Administrative Code Rule 435:10-7-4 (24); and
- j) Violating any state or federal law or regulation relating to controlled substances in violation of Oklahoma Administrative Code Rule 435:10-7-4 (27).


Order

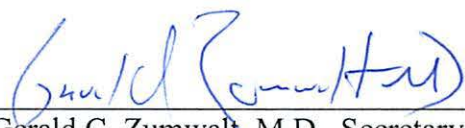
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:


1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction;
2. Defendant is hereby **PUBLICALLY REPRIMANDED**; and
3. Defendant shall complete 100 hours of **COMMUNITY SERVICE** in a volunteer medical clinic setting to be approved by Board Secretary.

Dated this 12 day of September, 2013.

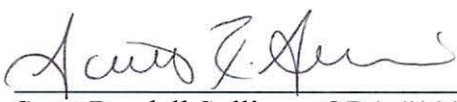

G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision


John Allison Hensley, M.D.
License No. MD 20436


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision


Mack Martin, OBA # 5738
Martin Law Office
125 Park Avenue, Suite 500
Oklahoma City, OK 73102

Attorney for Defendant


Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 12th day of September, 2013, a true and correct copy of this order was mailed, postage prepaid, to Mr. Mack Martin, Martin Law Office, 125 Park Avenue, Suite 500, Oklahoma City, OK 73102.


Barbara J. Smith, Legal Assistant