

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,)

JUL 22 2010

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 09-10-3868

JONATHAN KEITH BREWER, M.D.,)
LICENSE NO. 20530,)

Defendant.)

**ORDER ACCEPTING
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, Jonathan Keith Brewer, M.D., Oklahoma license no. 20530, who appears in person and pro se, proffer this Agreement 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 the allegations in the Complaint and Citation filed herein on April 9, 2010, and 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, Jonathan Keith Brewer, 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 59 Okla. Stat. §480 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.
2. Defendant, Jonathan Keith Brewer, M.D., holds Oklahoma license no. 20530 and practices family medicine in Muskogee, Oklahoma.
3. Beginning in or around 2007 and continuing through at least April 21, 2009, Defendant abused Opiates, primarily Oxycodone, Percocet and Hydrocodone. Defendant obtained the medications from thirty-one (31) different physicians and filled the prescriptions at twenty-one (21) different pharmacies in the Tulsa area.
4. Defendant admits that he also obtained the opiates from patients who had returned medications to him.
5. Defendant additionally admits that he took a prescription pad from an ENT's office and forged approximately twenty (20) prescriptions for Percocet for his personal use.
6. In late April 2009, representatives from the DEA confronted Defendant about the forged prescriptions, as well as the number of physicians from whom he had obtained prescriptions for Opiates. Defendant then contacted the Oklahoma Health Professionals Program and agreed to obtain an assessment for drug dependence.
7. On or about May 4, 2009, Defendant submitted to an assessment at Bradford Health Services. Bradford recommended that Defendant submit to twelve (12) weeks of inpatient treatment for chemical dependency.
8. From April 28, 2009 until July 21, 2009, Defendant obtained treatment for chemical dependence at Bradford Health Services. Upon completion of treatment, Defendant returned to work in Oklahoma.
9. Approximately two and one-half (2 ½) months later, in or around early October 2009, Defendant relapsed on Hydrocodone. Defendant continued to use Hydrocodone at the rate of up to fifteen (15) Hydrocodone per day through October 24, 2009.
10. From October 27, 2009 until December 8, 2009, Defendant obtained treatment for a second time at Bradford Health Services for Opiate dependence.

11. On or about December 1, 2008, Defendant submitted his Application for Renewal of Oklahoma License for the period January 2, 2009 through January 1, 2010. On his Application for Renewal, Defendant was asked the following question: "Since the last renewal...[h]ave you been addicted to or abused any drug or chemical substance including alcohol?" In response to this question, Defendant answered "NO". Defendant admits that he was abusing drugs and forging prescriptions at the time he filled out the renewal application.

12. 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. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).

C. 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).

D. Is unable 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 physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Has engaged in 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 in violation of 59 O.S. §509(9).

F. Has 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).

G. Has confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government and the laws of this state in violation of 59 O.S. §509(7).

H. Wrote a false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).

I. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).

J. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(16).

K. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6).

L. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

M. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

N. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substance Act, for the physician's personal use in violation of OAC 435:10-7-4(5).

O. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

P. Prescribed, sold, administered, distributed, ordered, or gave 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 OAC 435:10-7-4(24).

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. Defendant, Jonathan Keith Brewer, M.D., Oklahoma medical license no. 20530, is guilty of unprofessional conduct set forth below based on the foregoing facts:

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

B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).

C. 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).

D. Is unable 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 physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Has engaged in 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 in violation of 59 O.S. §509(9).

F. Has 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).

G. Has confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government and the laws of this state in violation of 59 O.S. §509(7).

H. Wrote a false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).

I. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).

J. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(16).

K. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6).

L. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

M. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

N. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substance Act, for the physician's personal use in violation of OAC 435:10-7-4(5).

O. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

P. Prescribed, sold, administered, distributed, ordered, or gave 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 OAC 435:10-7-4(24).

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, Jonathan Keith Brewer, M.D., Oklahoma license no. 20530, is hereby **SUSPENDED** beginning April 22, 2010, and continuing for a period of three (3) months until July 22, 2010.
3. At the conclusion of the term of suspension, Defendant shall be placed on **PROBATION** for a period of **FIVE (5) 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 will not supervise allied health professionals that require surveillance of a licensed physician.
 - E. 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 physicians holding Defendant's records.

F. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

G. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

H. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation, or continuation of treatment.

I. 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.

J. Defendant will authorize in writing the release of any and all information regarding his treatment at Bradford and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

K. Defendant will abide by the recommendations of Bradford and with all terms of his postcare contract with Bradford.

L. Defendant will sign a contract with the Health Professionals Recovery Program and will abide by all terms of this contract.

M. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules I through V.

N. Defendant shall obtain individual and marital counseling at a counselor or counselors approved in advance in writing by the Board Secretary. Defendant shall provide quarterly reports from his counselor(s) to the Board Secretary for his review.

O. During the first month of Defendant's return to practicing medicine, Defendant shall work no more than twenty (20) hours per week. Thereafter, for

the next six (6) months, Defendant shall practice no more than forty (40) hours per week.

P. Defendant shall provide quarterly reports from his supervisor to the Board Secretary regarding Defendant's practice, including any concerns or complaints expressed by staff or patients.

Q. Defendant's practice setting shall be approved in advance in writing by the Board.

R. Defendant shall obtain a primary care physician to be approved in advance in writing by the Board Secretary. Defendant's primary care physician shall manage all of Defendant's medications and shall be made aware of any medications prescribed by any other physician to Defendant. All medications prescribed by Defendant's primary care physician or any other physician treating Defendant shall be filled at a single pharmacy. Defendant shall provide the name of this pharmacy to the Compliance Consultant.

S. Defendant shall designate a specific dentist as his dental care provider and shall provide this name to the Compliance Consultant.

T. Defendant shall attend ninety (90) 12-Step meetings in ninety (90) days following his release from Any Lengths Halfway House. Thereafter, Defendant shall attend a minimum of five (5) 12-Step meetings per week, one (1) of which shall be the Health Professionals Recovery Program meeting.

U. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

V. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

W. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

X. 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, which

shall include but is not limited to a one hundred-fifty dollar (\$150.00) per month fee during the term of probation.

Y. 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.

Z. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

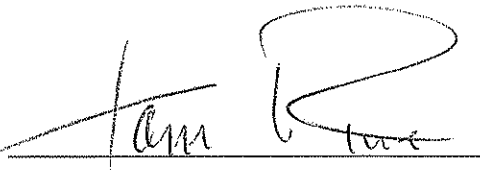
AA. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

BB. 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.

4. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.


5. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.


Dated this 22 day of July, 2010.

A handwritten signature in black ink, appearing to read "Tom Rine", is written over a horizontal line. The signature is stylized with a large, looped "R".


Tom Rine, President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED


Jonathan Keith Brewer
License No. 20530

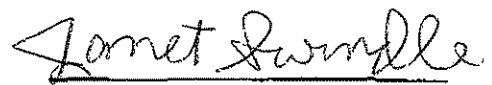

Elizabeth A. Scott, OBA #12470

Assistant Attorney General
State of Oklahoma
101 N.E. 51st Street
Oklahoma City, OK 73105


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

CERTIFICATE OF MAILING

I certify that on the 23 day of July, 2010, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Jonathan Keith Brewer, Jack C. Montgomery VA Medical Center, 1011 Honor Heights Drive, Muskogee, OK 74401.


Janet Swindle