

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

FILED

MAY 16 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
)
Plaintiff,)
)
)
)
v.)
)
JONATHAN KEITH BREWER, M.D.,)
LICENSE NO. 20530,)
)
)
Defendant.)

Case No. 09-10-3868

**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, Jonathan Keith Brewer, M.D., Oklahoma license no. 20530, who appears in person, offer this Agreement effective May 16, 2013, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 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 May 25, 2012, 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, 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 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 him and his legal counsel, Mr. Daniel Gamino.

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, Jonathan Keith Brewer, M.D., holds Oklahoma license no. 20530.

HISTORY WITH THE BOARD

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. Defendant obtained the drugs from patients who had returned medications to him and by forging prescriptions.

4. Defendant subsequently obtained an assessment and treatment for substance abuse at Bradford Health Services from April 28, 2009 until July 21, 2009.

5. Two and one-half (2 ½) months later, Defendant relapsed on Hydrocodone.

6. From October 27, 2009 until December 8, 2009, Defendant obtained treatment for a second time at Bradford Health Services.

7. Based upon these facts, the State subsequently filed a Complaint and on July 22, 2010, the Board entered an Order whereby Defendant's license was **SUSPENDED** for three (3) months beginning April 22, 2010 and continuing until July 22, 2010, to be followed by a **FIVE (5) YEAR PROBATION**.

8. The July 22, 2010 Order provides that Defendant shall be on probation as follows:

(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 medications 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.

(K) Defendant will abide by the terms and 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.

(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.

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

9. In or around September 2010, Defendant began to suffer significant mental health issues. He relapsed on alcohol, then went to a physician who was not his Board approved primary care physician and obtained a prescription for Lortab so that he could abuse it. As he continued to abuse Lortab, his mental health issues escalated. He was subsequently hospitalized for approximately one (1) week where he was stabilized.

10. Based upon these facts, the State subsequently filed a Complaint and on January 21, 2011, the Board entered a Final Order of Indefinite Suspension whereby Defendant's license was **SUSPENDED INDEFINITELY** beginning January 13, 2011 and continuing until he completed a psychiatric assessment and a substance abuse assessment and provided a report from his treatment facilities that he was safe to practice, at which time he could apply for reinstatement.

11. On or about May 19, 2011, the Board reinstated Defendant's license under **INDEFINITE PROBATION**.

CURRENT ALLEGATIONS

12. The May 19, 2011 Order provides that Defendant shall be on indefinite probation as follows:

(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.

(K) Defendant will abide by the recommendations of the VA 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.

(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.

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

13. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's probation.

14. On or around January 31, 2012, Defendant provided a urine specimen at the request of the Oklahoma Health Professionals Recovery Program ("HPRP"). The specimen subsequently tested positive for Hydrocodone and Hydromorphone. Defendant subsequently admitted to Board Compliance Officer Gary Ricks that he had relapsed and had fraudulently obtained Hydrocodone from six (6) different physicians, none of whom were his primary care physician, from January 18, 2012 through early-February 2012.

15. On February 9, 2012 Defendant voluntarily signed an Agreement not to Practice which currently remains in effect.

16. On or around June 25, 2012 Defendant entered the Talbott Recovery Campus for treatment. He successfully completed his initial phase of treatment on October 6, 2012. Defendant then transferred to our Talbott Transitional Living Program. He completed that phase of his treatment and was discharged home on November 2, 2012. One month after his discharge he returned for a three-day follow-up which he completed successfully. He is scheduled for his next follow-up with Talbott in June of 2013. After the follow-up in June of 2013, he will return to Talbott yearly for follow-ups.

17. Defendant is currently employed providing chart review for hospital patients wherein he reviews the patients' criteria to assist with determining their level of care. There is no clinical decision making or patient care provided in Defendant's current position.

18. Defendant has put together a "pain management team" to treat any pain he has as a result of injuries he sustained in Iraq. Currently, his pain team consists of his sponsor, his primary care physician and Dr. Yarborough.

Conclusions of Law

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

A. Habitually used 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. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).

F. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

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

H. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 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; and

2. It is **ORDERED** that the Defendant will be placed on **INDEFINITE PROBATION** and said probation shall have the following provisions:

Standard Terms:

- a) Defendant will conduct his 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.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- d) Defendant will keep the Board informed of his current address.

- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his 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.
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) 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.
- j) 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 license after due notice and hearing.

Specific Terms:

- k) Defendant shall 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.
- l) Defendant will not prescribe, administer or dispense any medications for personal use.
- m) 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 this Board Order immediately upon initiation, or continuation, of treatment.
- n) Defendant shall have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

- o) Defendant shall follow all guidelines and recommendations as set forth in the Talbott Recovery Campus Continuing Care Plan.
- p) Defendant shall sign a contract with Oklahoma Health Professionals Program (“OHPP”).
- q) Defendant shall attend an Alcoholics Anonymous meeting at least four (4) times weekly and Defendant will attend a Caduceus meeting at least once weekly.
- r) Defendant shall continue to follow any pain management guidelines as set forth in the recommendations of his pain management team.
- s) Defendant’s Agreement not to Practice which was effective beginning February 9, 2012 will remain in effect until Defendant requests release of same and appears before the Board.
- t) Defendant shall continue in his current employment which is to provide only chart and utilization review for hospital companies engaged in that activity. If, at such time, Defendant desires a change in employment, any proposed change must be approved by Board Secretary. Additionally, if for any reason Defendant’s current employment expands beyond his present duties of only chart and utilization review, said expanded duties must be approved by Board Secretary prior to undertaking.
- 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.
- w) Defendant shall execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator or other Board designee to obtain copies of medical records and authorize the Compliance Coordinator or other Board designee to discuss Defendant’s case with Defendant’s treating physicians and/or any physicians holding Defendant’s records.
- x) Defendant will not authorize any personnel under his supervision to initiate an

order for a prescription to be issued.

- y) Defendant shall request all hospitals, clinics and other facilities in which he practices to furnish to the Board a written statement monitoring his practice.
- z) Defendant is hereby placed on **INDEFINITE PROBATION..**

Dated this 16th day of May, 2013.



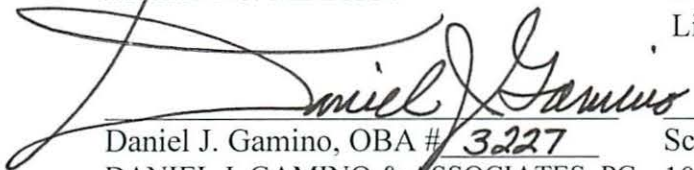
Deborah Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



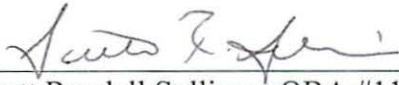
Jonathan Keith Brewer, MD
License No. MD20530



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



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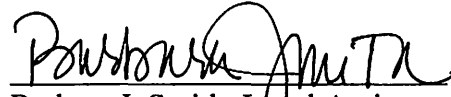


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Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 16th day of May, 2013, a true and correct copy of this order was mailed, postage prepaid, to Mr. Daniel Gamino, DANIEL J. GAMINO & ASSOCIATES, PC, Jamestown Office Park, North Building, 3035 NW 63rd Street, Suite 214, Oklahoma City, OK 73116.


Barbara J. Smith, Legal Assistant