

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

FILED

MAR 10 2022

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff,)

v.)

HENRY NDEKWE, M.D.,)
LICENSE NO. MD 21147,)

Defendant.)

Case No. 17-12-5525

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), by and through the undersigned counsel for the Plaintiff, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with Henry Ndekwe M.D. (“Defendant”), Oklahoma medical license no. 21147, who appears in person, and through counsel Curtis Dewberry (collectively, the “Parties”), and offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, “Order” or “Agreement”) for acceptance by the Board. Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant admits to the allegations herein contained and further acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“Act”). 59 O.S. § 480, *et seq.*

Defendant, Henry Ndekwe 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 may be reviewed and discussed with him by legal counsel prior to execution.

If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by Defendant herein, if any, shall not be regarded as evidence against him in a subsequent disciplinary hearing. Defendant will be free to defend himself and no inferences will be made from his willingness to have this Order accepted by the Board. The Parties stipulate

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that neither the presentation of this Order nor the Board's consideration of this Order shall be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

Findings of Fact

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

1. In Oklahoma, Defendant holds medical license no. 21147.
2. On March 22, 2020, a Verified Complaint ("2019 Complaint") and Citation were each filed by the Board. Defendant was served on or about April 29, 2020 by Professional Process Server.
3. This case was initiated by a complaint made by the daughter of patient Y.W. Complainant informed the Board Staff that doctors in California where patient Y.W. had recently moved, stated that the patient records for Y.W. were inadequate and failed to justify the high doses of opioids prescribed by Defendant.
4. Subpoenas were issued and records collected on 11 patients of Defendant. Those records were sent for expert review and the expert found several troubling trends that demonstrate unprofessional conduct on behalf of Defendant.
5. The expert further found that Defendant rarely used safety measures included in the standard of care when treating chronic patients with opiates. These included, the use of narcotics agreements signed prior to initiating opiate therapy, frequent monitoring of urine drug screens and PMP's to monitor patient compliance and to know exactly what is in the patient's system at any given time.
6. The expert concluded that Defendant either does not appreciate the risks of polypharmacy or is reckless in his prescribing practice. He did not use the safety tools allotted to him to protect his patients. By using high dose opiates alone, rather than multi-modal therapy or surgical intervention, he placed his patients at increased risk of addiction and drug abuse.
7. The expert found that many of the records were significantly lacking. Some cases never had a detailed history and physical examination. Some visits were exclusively patient complaints without any objective data. The plans were often "continue current meds," but going for months without mentioning medications. It was almost impossible to decipher what the patient was supposed to be taking.

Conclusions of Law

8. The Board has jurisdiction over the subject matter and is the duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and

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surgeons in the State of Oklahoma. 59 O.S. § 480 *et seq.* and Okla. Admin. Code §§ 435:5-1-1 *et seq.*

9. Notice was provided as required by law and the rules of the Board. 75 O.S. § 309; 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.
10. The Board is authorized to suspend, revoke or order any other appropriate conditions against the license of any physician or surgeon holding a license to practice medicine in the State of Oklahoma for unprofessional conduct. 59 O.S. §§ 503, 513(A)(1). The Board's action is authorized by 59 O.S. § 509.1.
11. The Board is authorized to accept voluntary submittals to jurisdiction mutually agreed to by parties to a disciplinary action to resolve the action without need for a hearing. 75 O.S. § 309(E); Okla. Admin. Code § 435:5-1-5.1.
12. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
 - a. 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 § 509(16) and OAC 435:10-7-4(2),(6):
 - b. 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 § 509(18):
 - c. Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic Drugs in violation of OAC 435:10-7-4(1):

Orders

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

1. The Board hereby adopts the Agreement of the Parties in this Order Accepting Voluntary Submittal to Jurisdiction, including the findings of fact and conclusions of law stated herein.
2. **HENRY NDEKWE M.D.**, Oklahoma medical license no. 21147, is formally **REPRIMANDED**.
3. **HENRY NDEKWE M.D.**, shall be placed on **PROBATION** for a period of five (5) years.
4. **HENRY NDEKWE M.D.**, is fined \$20,000 to be paid within one year of this Order.

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Specific Terms:

- a. Defendant shall allow random review of patient charts as requested by the Board Secretary or Compliance Coordinator.
- b. Defendant shall participate in a structured individualized educational intervention to address identified areas of need.
- c. Defendant shall establish a relationship with an experienced educational Preceptor in **Pain Management**. This involves regularly scheduled meetings to review cases and documentation, discuss decisions related to those cases, review specific topics, and make plans for future learning.
 - i. This includes but is not limited to the following: Controlled Substances, Intensive Chart Review: Defendant should initially engage in a structured review of the profile of each patient taking controlled substances, create written inventory, and present all patients for whom he intends to prescribe controlled substances to a Preceptor to discuss confirmation of diagnosis, risk of abuse and addiction, informed consent, and monitoring. Subsequently, Defendant should review all patients for whom he plans to initiate controlled substances or increase the dosage of existing medications with the Preceptor.
 - ii. The interventional Preceptor shall serve as a mentor, and who is Board Certified, or equivalent, in Pain Management. The Preceptor and educational intervention plan shall be approved of in advance by the Board Secretary.
 - iii. Upon request, the Preceptor shall make himself or herself available to Board staff and will cooperate with Board staff in their monitoring of the Defendant and his practice.
 - iv. Defendant shall ensure that quarterly reports from the Preceptor are provided to the Board Secretary and Compliance Coordinator.
 - v. If the Parties are unable to agree to a Preceptor within ten (10) days from the effective date of this Order, then either party may make application with the Board for the approval of a Preceptor for the purposes stated herein.
 - vi. The Defendant shall be responsible for any costs of mentoring by the Preceptor.
 - vii. The relationship between the Preceptor, including their recommendations for the Defendant, shall be reviewed by the Board Secretary at one year from the effective date of this order for consideration of modifications to the terms of this Order.

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- viii. In the event the original Preceptor becomes unavailable, for any reason, a replacement shall be named by the Board Secretary acceptable to the Defendant. If the Parties are unable to agree to an interventional Preceptor within thirty (30) days, then either party may make application before the Board for the approval of a replacement Preceptor for the purposes stated herein.

Standard Terms:


- a. Defendant shall conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("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 authorized designee. 59 O.S. § 480, et seq.
- b. Defendant shall furnish a file-stamped copy of this Order stipulating terms imposed by the Board, 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 shall keep the Board informed of his current address.
- d. Until such time as all indebtedness to the Board has been satisfied, Defendant shall reaffirm said indebtedness in any bankruptcy proceeding.
- e. Upon request, Defendant shall make himself available for one or more personal appearances before the Board or its authorized designee.
- f. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or authorized designee.
- g. If Defendant moves his residence or practice location out of the State of Oklahoma during this Order, this Order will be tolled until such time as Defendant returns to the State of Oklahoma and begins practicing within the state. Defendant will notify the Board Secretary and Compliance Coordinator prior to moving out-of-state.
- h. Failure to meet any of the terms of this Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.
- i. The Parties, the Board or its designee, or the Defendant may file a motion for a Board hearing and possible new Board order.

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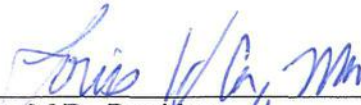
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5. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
6. A copy of this Order shall be provided to Defendant as soon as it is processed.

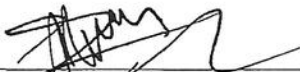
Dated this 10th day of MARCH, 2022.



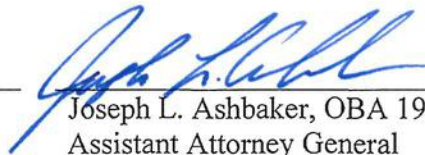
 Billy H. Stout, M.D., Board Secretary
 OKLAHOMA STATE BOARD OF MEDICAL
 LICENSURE AND SUPERVISION




 Louis H. Cox, M.D., President
 OKLAHOMA STATE BOARD OF MEDICAL
 LICENSURE AND SUPERVISION



 Henry Ndekwe M.D.
 License MD 21147
Defendant



 Joseph L. Ashbaker, OBA 19395
 Assistant Attorney General
 STATE OF OKLAHOMA,
 OFFICE OF ATTORNEY GENERAL
**Attorney for Plaintiff,
 Oklahoma State Board of Medical
 Licensure and Supervision**



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 Curtis J. Dewberry OBA #19445
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 24 West Park Place
 Oklahoma City, OK 73103
**Attorneys for Defendant
 Henry-Norbert O. Ndekwe, M.D.**

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ACKNOWLEDGMENT

STATE OF OKLAHOMA)
)
COUNTY OF Oklahoma) ss.

This instrument was acknowledged before me on the 4th day of March,
2022 by Henry Ndekwe.



Jennifer Chambers
Notary Public
Commission Expiration: 3/30/24

Certificate of Service

This is to certify that on the 11th day of March, 2022, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail
Henry Ndekwe M.D.
3805 W. Gore Blvd
Lawton, OK 73505
Defendant

E-Mail
Joseph L. Ashbaker
Assistant Attorney General
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313 N.E. 21st Street
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Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision

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24 West Park Place
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Attorneys for Defendant
Henry-Norbert O. Ndekwe, M.D.

Nancy Thiemann
Nancy Thiemann, Legal Assistant

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