



## ***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, James Dull Rutter, IV, M.D., holds Oklahoma license no. 21574 and practices internal medicine and pediatrics in Grove, Oklahoma.

3. On or about July 7, 2009, Patient TDD, a 35 year old female, approached Defendant at the Grove Hospital. Defendant knew Patient TDD because she was a nursing instructor and often brought nursing students to the hospital. Patient TDD advised Defendant that she was seeing a pain specialist in Tulsa for chronic abdominal pain but that she would be out of her pain medication before she could get in to see her doctor. Patient TDD advised Defendant that she wanted Demerol so Defendant wrote her a prescription for ninety (90) Demerol pills "to get her through" until she could see her regular doctor. Unknown to Defendant, another physician had prescribed excessive amounts of Demerol to Patient TDD during this time period and was prescribing Demerol at the time Patient TDD asked Defendant for a prescription.

4. Defendant admits that Patient TDD had never been a patient of his, he never performed a physical examination on her, and he did not keep a medical chart or any record of his prescription to Patient TDD.

5. Defendant admits that at the time Patient TDD asked for the Demerol, he did not examine Patient TDD, nor did he notice any physical signs of pain. He also admitted that he did not see any prescription bottle to confirm that Patient TDD was actually taking Demerol.

6. Defendant did not obtain Patient TDD's medical records from her specialist in Tulsa to confirm what he was prescribing to her, but instead, immediately prescribed Demerol to Patient TDD on her request. In fact, Defendant's specialist in Tulsa had **not** prescribed Demerol to her for over three (3) years.

7. On or about September 5, 2009, **Patient TDD was found dead** in her home. Vinita police officers who first arrived at her home found that Patient TDD had been injecting Demerol that she had crushed and had accidentally overdosed.

8. An investigation was subsequently conducted by the State Medical Examiner's Office. The cause of Patient TDD's death was ruled to be "Acute combined drug toxicity. Due to: Meperidine, Normeperidine."

9. Defendant is guilty of unprofessional conduct in that he:
  - A. Failed to conduct an initial in-person patient examination and to maintain adequate medical records to support the diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. §509 (20).
  - B. 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).
  - C. Failed 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 59 O.S. §509 (18) and OAC 435:10-7-4(41).
  - D. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
  - E. 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).
  - F. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
  - G. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of OAC 435:10-7-4(49).

### *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, James Dull Rutter, IV, M.D., Oklahoma medical license no. 21574, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. Failed to conduct an initial in-person patient examination and to maintain adequate medical records to support the diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. §509 (20).
- B. 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).
- C. Failed 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 59 O.S. §509 (18) and OAC 435:10-7-4(41).
- D. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- E. 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).
- F. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- G. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of OAC 435:10-7-4(49).

***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.

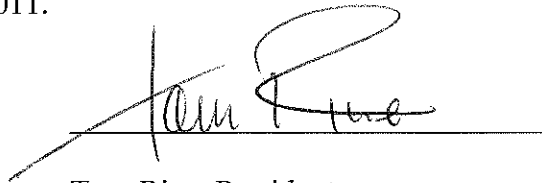
2. Defendant, James Dull Rutter, IV, M.D., Oklahoma license no. 21574, is hereby **FORMALLY REPRIMANDED**.

3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$5,000.00** to be paid on or before June 19, 2011.

4. On or before August 19, 2011, Defendant shall complete a course on prescribing controlled dangerous substances and proper documentation for the prescribing of controlled dangerous substances at a facility approved in advance in writing by the Board Secretary. Defendant shall provide to the Board Secretary proof of completion of said course.

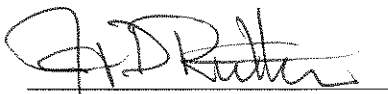
5. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 19 day of May, 2011.



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

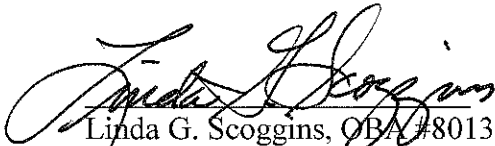
**AGREED AND APPROVED**



James Dull Rutter, IV  
License No. 21574



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

**CERTIFICATE OF MAILING**

I certify that on the 20 day of May, 2011, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Linda G. Scoggins, Scoggins & Cross, PLLC, 201 Robert S. Kerr, Suite 710, Oklahoma City, OK 73102.

  
Janet Swindle