

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

FILED

JUN 29 2023

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
DONALD H. KIM, M.D.,)
LICENSE NO. MD 21721,)
)
Defendant.)

Case No. 18-11-5674

**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 Donald H. Kim M.D. (“Defendant”), Oklahoma medical license no. 21721, who appears in person, and through counsel Joseph Reinke (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 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, Donald H. Kim 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 that neither the presentation of this Order nor the Board’s consideration of this Order shall be

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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. 21721.
2. On December 4, 2020, a Verified Complaint ("2020 Complaint") and Citation were each filed by the Board.
3. This case was initiated by a patient complaint alleging a violation of patient confidentiality. That allegation was not proven, and the allegation was unconfirmed. During that investigation however, records were reviewed along with the Defendant's PMP records. Those gave rise to concerns of prescribing and standard of care. Ultimately, 4 patient records were reviewed. All four of those records had numerous instances rising to the level of unprofessional conduct.
4. Opioids were prescribed in conjunction with other, central nervous system depressants prescribed by Defendant as well as other physicians. Little attention was given to the use of non-opioid approaches to pain management. There were concerns about the documentation of treatment success including improvements in physical and psychosocial function.
5. Defendant was insufficient in documenting adequate periodic reviews of the course of treatment. There was some deficiency in review of the risk to benefit analysis of high-dose opioids.
6. Patient records were deficient in several respects. Current medication lists in medical records were often unreliable and pertinent surgical histories were not kept up to date.
7. Defendant completed a clinical skills evaluation in the area of pain management at Center for Personalized Education for Physicians (CPEP) and agrees to follow, abide by and complete all recommendations contained in the CPEP discharge report.

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 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.

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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 controlled substances or narcotic drugs in excess an amount considered greater than good medical practice, in violation of Title 59 § 509(16)
 - 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):

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. **DONALD H. KIM M.D.** shall comply with all of the following terms and conditions:

Specific Terms:

1. Defendant shall allow random review of patient charts as requested by the Board Secretary or Compliance Coordinator.
2. Defendant shall participate in a supervised remedial educational plan with the following recommendations providing the foundation for educational intervention.
 - a. Controlled Substance Point-of-Care (PoC) Experience: Dr. Kim shall participate in a clinical experience to provide the necessary support required when prescribing controlled substances, including but not limited to opiates, sedatives-hypnotics (including benzodiazepines and carisoprodol), and stimulants.

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The PoC experience is intended to allow appropriately graduated levels of independence through period of supervision as Dr. Kim addresses immediate practice needs.

- b. Dr. Kim shall initially engage in a structured review of the profile of each patient taking controlled substances, create a written inventory, and present all patients for whom he intends to prescribe controlled substances to a Preceptor to discuss medication selection and dosing, screening for substance use disorder, informed consent and monitoring.
- c. Educational Preceptor: Dr. Kim shall establish a relationship with an experienced educational Preceptor in Internal Medicine with expertise in Pain Management, or Family Practice with expertise in Pain Management. This may require two separate individual preceptors. 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. The Preceptor serves as an educator and is not intended to function a practice monitor. The schedule and frequency of the meetings will be determined by the Preceptor.
 - i. The Preceptor and remedial educational plan shall be approved of in advance by the Board Secretary.
 - ii. The Preceptor will make himself or herself available to Board staff and will cooperate with Board staff in their monitoring of the Defendant and his practice.
 - iii. Defendant shall ensure that quarterly reports from the Preceptor are provided to the Board Secretary and Compliance Coordinator.
 - iv. 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.
 - v. In the event the original Preceptor becomes unavailable, for any reason, a replacement shall be named by the Board Secretary who is acceptable to the Defendant. If the Parties are unable to agree to practice monitor/mentor 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.

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- 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 (1) year from the effective date of this order for consideration of modifications to the terms of this Order.
3. Continuing Medical Education (CME): Defendant should engage in a minimum of eight (8) hours of CME courses that include, but are not limited to, the following:
- a. Controlled substance prescribing course.
 - b. This CME course is in addition to Defendant's regular CME courses and shall be completed within one (1) year of the effective date of this Order.
 - c. Documentation of the completed CME course must be provided to the Board Secretary or Compliance Coordinator, within one (1) month of completion.

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

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hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.

- c. Defendant will keep the Board informed of his current address.
 - d. Until such time as all indebtedness to the Board has been satisfied, Defendant will 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.
4. Within sixty (60) days after, 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.
5. A copy of this Order shall be provided to Defendant as soon as it is processed.

Dated this 28 day of June, 2023.




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

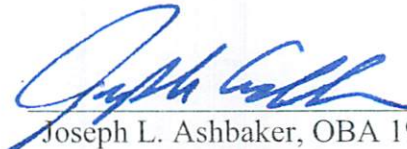


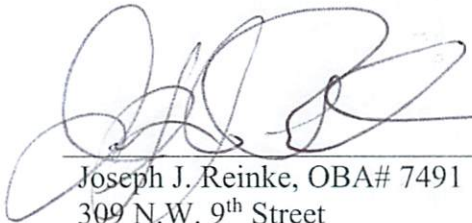
Steven Katsis, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

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Donald H. Kim M.D.
License MD 21721
Defendant

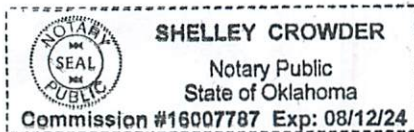

Joseph L. Ashbaker, OBA 19395
Assistant Attorney General
STATE OF OKLAHOMA,
OFFICE OF ATTORNEY GENERAL
Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision

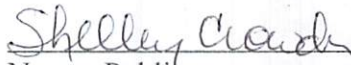

Joseph J. Reinke, OBA# 7491
309 N.W. 9th Street
Oklahoma City, OK 73102
Attorney for Defendant

ACKNOWLEDGMENT

STATE OF OKLAHOMA)
) ss.
COUNTY OF Oklahoma)

This instrument was acknowledged before me on the 29th day of June,
2023, by Donald H. Kim.




Notary Public
Commission Expiration: August 12, 2024

Certificate of Service

This is to certify that on the 29th day of June, 2023, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail
Donald H. Kim M.D.
2815 SW 119th Street
Oklahoma City, OK 73170
Defendant

E-Mail
Joseph L. Ashbaker
Assistant Attorney General
STATE OF OK, OFFICE OF ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision

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U.S. First Class Mail, and E-Mail

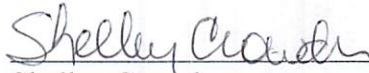
Joseph J. Reinke, OBA# 7491

309 N.W. 9th Street

Oklahoma City, OK 73102

Attorney for Defendant,

Donald H. Kim M.D.



Shelley Crowder

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Order Accepting Voluntary Submittal to Jurisdiction; 18-11-5674
Donald H. Kim MD 21721