

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 Title 59 O.S. §480 et seq.
2. Defendant Robert Michael Holbrook, MD, holds Oklahoma medical license no. 22135.

Background

3. At the time of the events in question, Defendant Holbrook practiced Internal Medicine and Gastroenterology at Norman Gastroenterology Associates in Norman, Oklahoma.
4. On or about December 27, 2012, the Drug Enforcement Agency [DEA] contacted the Board's Chief Investigator to report a concern regarding Defendant Holbrook's prescribing habits. The DEA's complaint consisted of relaying information they received from a Walgreen's pharmacist who reported that Defendant Holbrook had been prescribing Hydrocodone 10 mg long term to a patient in whom she had learned **did not have a medical record**. The Pharmacist later talked to Dr. Holbrook, who admitted to her he had written prescriptions to the patient and that the patient was his neighbor.
5. Additional information derived from pharmacy records led Board staff to gather information about more patients who were being prescribed long-term controlled and dangerous substances [CDS].

Prescribing Violations

Patient CGJ

6. Medical records belonging to patient CGJ were obtained from Defendant Holbrook. From 2008 to 2013, pharmacy records revealed that Defendant Holbrook had prescribed eighty-six [86] prescriptions of Hydrocodone 10 mg for a total of **6,610 dosage units**. **In the five [5] years of prescribing, only two [2] face to face patient encounters were documented in the medical records**. This extrapolates to 3.6 tablets/day. Defendant's chart on this patient reveals that he failed to perform adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

Patient SMJ

7. Medical records belonging to patient SMJ were requested from Defendant Holbrook. Defendant Holbrook's office staff informed Board staff that there were no medical records for the patient. Later, Defendant Holbrook produced **one [1] face to face patient encounter record** from 2008 which he reported to have found in the warehouse. Defendant Holbrook admitted to Board staff that SMJ was his neighbor. From 2008 to 2012, pharmacy records revealed that **Defendant Holbrook prescribed 103 prescriptions for Hydrocodone 10 mg for a total of 8,240 dosage units.** This extrapolates to 4.5 tablets/day. Defendant's chart on this patient reveals that he failed to perform adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

Patient RPJ

8. Medical records belonging to patient RPJ were obtained from Defendant Holbrook. The records reveal that **Defendant Holbrook had two [2] in office face to face patient encounters with patient RPJ in 2010.** In addition, he performed an endoscopy on patient RPJ in 2010. Pharmacy records reveal that Defendant Holbrook continued to prescribe controlled dangerous substances to RPJ from 2010 until 2013 in the way of **160 dosage units of Hydrocodone 10 mg, 480 dosage units of Phentermine and 250 dosage units of Tramadol.** Defendant Holbrook admitted to Board staff that RPJ was a female tech who worked at a rural hospital. Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

Patient BSJ

9. Medical records belonging to patient BSJ were obtained from Defendant Holbrook. **The records revealed no face to face patient encounters.** Later, Defendant Holbrook produced a record dated March 10, 2009 in which he informed Board staff that he found in the warehouse. In addition, he also informed Board staff that BSJ was an operating scrub tech who worked at an area hospital. Pharmacy records revealed that Defendant Holbrook began prescribing to BSJ in 2008 and continued until 2013. **He prescribed 102 prescriptions of Hydrocodone 10 mg for a total of 8,704 dosage units.** This extrapolates to 4.7

tablets/day. Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

Patient SWJ

10. Medical records belonging to patient SWJ were obtained from Defendant Holbrook. **The records revealed no face to face patient encounters.** Later, Defendant Holbrook produced a record dated December 10, 2008 in which he informed Board staff that he found in the warehouse. In addition, Defendant Holbrook informed Board staff that SWJ was an employee of one of his friends. Pharmacy records revealed that **Defendant Holbrook prescribed 309 controlled dangerous substances to SWJ from 2009 to 2013.** 33 other prescribers were also listed in the pharmacy records. **Defendant Holbrook prescribed 12,920 dosage units of Hydrocodone 10 mg, 1,340 dosage units of Diazepam and 2,010 dosage units of Alprazolam.** This extrapolates to 8.8 tablets/day of Hydrocodone. Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

Admissions by Defendant Holbrook

11. Defendant Holbrook admitted to Board staff that he did indeed write prescriptions for all the patients cited above. He further admitted that he gave the medical personnel patients prescriptions at their work place. His other patients listed above would call him when they needed a prescription and he would either allow them to pick up the prescription at his backdoor, or at another known location. Lastly, he admitted that he failed to maintain proper documentation.

Conclusions of Law

12. Defendant is guilty of unprofessional conduct in that he:
 - A. 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), OAC 435:10-7-4(39), and OAC 435:15-5-11(7).

- B. 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).
- C. 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).
- D. Prescribed, dispensed or administered a controlled substance 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).
- E. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- F. 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).

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 Defendant will pay an **ADMINISTRATIVE FINE** in the amount of **\$15,000.00**. Said administrative fine is to be paid in full within one (1) year of the date of this Order;

3. Defendant shall *not* prescribe any outpatient CDS during the term of his probation;
4. Defendant shall complete a standard prescribing course with comprehensive prescribing curriculum which is currently offered at Vanderbilt University or an equivalent course thereto. Said prescribing course shall be approved by Board Secretary;
5. Defendant shall complete 200 hours of community service during the term of his probation; and
6. Defendant is hereby placed on **PROBATION** for a term of two (2) years 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) 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.

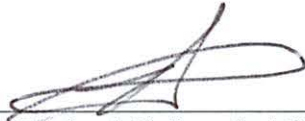
Specific Terms:

- j) Defendant will not authorize any personnel under his supervision to initiate an order for a controlled dangerous substance to be issued.
- k) Defendant will not prescribe, administer or dispense any medications for personal use.

Dated this 12th day of September, 2013.



G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



Robert Michael Holbrook, MD
License No. MD22135



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



Malinda Matlock, OBA#14108
Pierce Couch Hendrickson Baysinger & Green
1109 North Francis
Oklahoma City, OK 73105

Attorney for Defendant



Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

Certificate of Service

This is to certify that on this 12th day of September, 2013, a true and correct copy of this order was emailed to Ms. Malinda Matlock, counsel for Robert Michael Holbrook, M.D. at mmatlock@piercecouch.com.



Barbara J. Smith, Legal Assistant
Licensure and Supervision