

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 *Okla. Stat. tit. 59 §480 et seq.*

2. Defendant, Francis Peter Armendariz, M.D., holds Oklahoma license no. 22257.

3. In November 2011, Board Investigators received information that Defendant was leaving blank pre-signed prescriptions in his office for use by his employees, and that an employee, Francis Newsome, was using these pre-signed prescriptions to give herself and her husband controlled dangerous substances without Defendant's permission. Investigators also received information that Frances Newsome and other employees were using the pre-signed prescriptions to give prescriptions for controlled dangerous drugs to patients when they called or came by the office and Defendant was not there.

4. When first questioned by Board investigators, Defendant initially misstated stated that he did not use pre-signed prescriptions in his office. After further questioning by Board investigators, Defendant then admitted that he did leave pre-signed prescriptions in his office for the use of his staff.

5. As a result of this practice, between December 14, 2009 and October 27, 2011, Defendant's secretary, Frances Newsome, was able to issue numerous prescriptions to herself using the pre-signed prescriptions left by Defendant. These prescriptions include seventeen (17) prescriptions for Adderall, a Schedule II controlled dangerous substance, for 474 dosage units, one (1) prescription for Oxycodone, a Schedule II controlled dangerous substance, for 40 dosage units, and three (3) prescriptions for Ambien, a Schedule IV controlled dangerous substance, for 90 dosage units.

6. Defendant admits that he never authorized any of these prescriptions to Frances Newsome.

7. Pharmacy records additionally reflect that Frances Newsome also obtained three (3) prescriptions for Lyrica, a Schedule V controlled dangerous substance, and one (1) prescription for amoxicillin, a non-controlled dangerous drug. Defendant believes he may have authorized some of these prescriptions for Frances Newsome. However, Defendant admits he kept no medical record of his treatment of Frances Newsome and thus, cannot be sure what he may have prescribed to her.

8. As a result of this practice, between December 8, 2010 and July 6, 2011, Defendant's secretary, Frances Newsome, was also able to issue numerous prescriptions to her

husband, CND, using the pre-signed prescriptions left by Defendant. These prescriptions include four (4) prescriptions for Oxycodone, a Schedule II controlled dangerous substance.

9. Defendant admits that he never authorized any of these prescriptions to CND.

10. Pharmacy records additionally reflect that CND also obtained five (5) prescriptions for Lyrica, a Schedule V controlled dangerous substance, five (5) prescriptions for Dovonex, one (1) prescription for Doxycycline, one (1) prescription for Metronidazol, and two (2) prescriptions for SMZ/TMP, all non-controlled dangerous drugs. Defendant believes he may have authorized some of these prescriptions for CND. However, Defendant admits he kept no medical record of this treatment of CND and thus, cannot be sure what he may have prescribed to him.

11. Office staff also confirmed to Board investigators that when Defendant was out of the office and patients came by or called for prescriptions, Defendant allowed Frances Newsome, his secretary, to decide which patients got prescriptions and what medications they were to be prescribed. Ms. Newsome would then direct the receptionist to fill out the pre-signed prescriptions and give the patient the prescription that Ms. Newsome felt they needed.

12. Title 21 CFR §1306.05 provides as follows:

Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of *Okla. Stat. tit. 59, §509(8)* and *Oklahoma Administrative Code* section 435:10-7-4(11).
- B. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of *Okla. Stat. tit. 59, §509(7)*.
- 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 *Okla. Stat. tit. 59, §509 (18)* and *Oklahoma Administrative Code* section 435:10-7-4(41).

- D. Violated any state or federal law or regulation relating to controlled substances in violation of *Oklahoma Administrative Code* section 435:10-7-4(27).
- E. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of *Okla. Stat. tit. 59, §509(14)* and *Oklahoma Administrative Code* section 435:10-7-4(21).
- F. 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 *Okla. Stat. tit 59, §509(13)* and *Oklahoma Administrative Code* section 435:10-7-4(39).
- G. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of *Okla. Stat. tit. 59, §509 (12)*.
- H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of *Okla. Stat. tit. 59, §509 (20)*.
- I. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of *Oklahoma Administrative Code* section 435:10-7-4(49).
- J. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of *Oklahoma Administrative Code* section 435:10-7-4(15).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to 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. Based on the foregoing facts, Defendant, Francis Peter Armendariz, Oklahoma license 22257, is guilty of the unprofessional conduct set forth below:

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of *Okla. Stat.*

tit. 59, §509(8) and Oklahoma Administrative Code section 435:10-7-4(11).

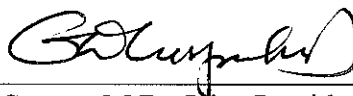
- B. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of *Okla. Stat. tit. 59, §509(7)*.
- C. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of *Okla. Stat. tit. 59, §509 (18) and Oklahoma Administrative Code section 435:10-7-4(41)*.
- D. Violated any state or federal law or regulation relating to controlled substances in violation of *Oklahoma Administrative Code section 435:10-7-4(27)*.
- E. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of *Okla. Stat. tit. 59, §509(14) and Oklahoma Administrative Code section 435:10-7-4(21)*.
- F. 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 *Okla. Stat. tit 59, §509(13) and Oklahoma Administrative Code section 435:10-7-4(39)*.
- G. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of *Okla. Stat. tit. 59, §509 (12)*.
- H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of *Okla. Stat. tit. 59, §509 (20)*.
- H. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of *Oklahoma Administrative Code section 435:10-7-4(49)*.
- J. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of *Oklahoma Administrative Code section 435:10-7-4(15)*.

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, Francis Peter Armendariz, M.D., Oklahoma license no. 22257, is hereby **PUBLICLY REPRIMANDED**.
3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$15,000.00** to be paid on or before February 15, 2013.
4. Beginning November 8, 2012 and continuing through January 7, 2013, Defendant shall not prescribe, order, authorize, administer or dispense any drugs in Schedules II through V, with the exception of Adderall and Concerta. This limitation applies to both new prescriptions and refills. Additionally, Defendant shall not pre-sign or post date any prescriptions for controlled dangerous drugs to be filled during this time.
5. On or before February 15, 2013, 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.
6. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this _____ day of November 8, 2012.



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


AGREED AND APPROVED:



Francis Peter Armendariz, M.D.
License No. 22257



Gerald C. Zumwalt, M.D.
Secretary and Medical Advisor to the
Board



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