

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, John Ryan Gallagher, M.D., holds Oklahoma license no. 22340 and at the time of the events in question, practiced as an orthopedic surgeon in Altus, Oklahoma.

3. On or about February 24, 2012, the Board received a complaint alleging concerns about Defendant's recent behavior, including concerns that Defendant was drinking heavily in the office.

4. A Board investigator traveled to Defendant's office in Altus, Oklahoma to make an unannounced visit on February 27, 2012. During the visit, Defendant admitted that he had been under considerable stress, carrying an extreme work load, and that he had been drinking heavily after work hours when not on call. Defendant also admitted that he occasionally drank beer at the clinic, but only after hours while working on the charts, and not during patient hours or at any time when he was involved in the care of patients. Other staff interviewed by the Board investigator provided information consistent with Defendant's admissions.

5. The Board investigator advised Defendant to contact Dr. Westcott at Oklahoma Health Professionals Program ("OHPP") to determine whether there was a need for a substance abuse assessment. On March 5, 2012, Defendant met with Dr. Westcott at OHPP, who determined that based upon the information presented, there was no evidence of alcoholism.

6. On March 24, 2012, Defendant was arrested for Actual Physical Control Of A Motor Vehicle While Intoxicated at the 3900 block of Pilgrim Lane in Altus, Oklahoma. He was charged with Actual Physical Control of a Motor Vehicle While Intoxicated, and Carrying Firearm While Under the Influence (of alcohol).

7. On March 26, 2012, the Board investigator received information about Defendant's arrest from the Altus Police Department. The Board investigator contacted OHPP, who advised him that Defendant had already contacted them and that Defendant was already in route to Talbott Recovery Campus for an assessment and extended treatment.

8. Defendant voluntarily checked himself in for treatment for alcohol abuse at Talbott Recovery Campus on March 28, 2012, and was discharged from treatment on June 25, 2012.

9. Upon returning from Talbott, Defendant entered into a contract with the Oklahoma Health Professionals Program (the "OHPP"), whereby he agreed to abstain from the use of alcohol.

10. On July 10, 2012, Defendant voluntarily signed an "Agreement Not To Practice," to be effective until released by the Board.

11. On July 12, 2012, Defendant entered an Alford plea of "no contest" in Jackson County District Court to a misdemeanor charge of Actual Physical Control of a Motor Vehicle While Under the Influence, relating to his arrest in Altus on March 24, 2012.

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

A. Is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

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).

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, John Ryan Gallagher, M.D., Oklahoma medical license no. 22340, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Defendant is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

B. Defendant 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).

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. Beginning November 8, 2012, Defendant shall be placed on **PROBATION** for a period of **FIVE (5) YEARS** under the following terms and conditions:
 - A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act 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 Oklahoma State Board of Medical Licensure and Supervision.

 - B. Upon request of the Board Secretary, Defendant will request all hospitals in which he anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing services in or to that hospital.

 - C. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

 - D. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.

 - E. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or physicians holding

Defendant's records.

F. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

G. Defendant will not prescribe, administer or dispense any medications for personal use and Defendant will not prescribe, administer or dispense any controlled and dangerous substances, Schedules II – V for that of any family member.

H. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation, or continuation of treatment.

I. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances.

J. Defendant will authorize in writing the release of any and all information regarding his treatment at Talbott's Recovery Campus and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

K. Defendant will abide by the recommendations of Talbott's Recovery Campus.

L. Defendant will abide by the terms of his contract with the Oklahoma Health Professionals Program.

M. Defendant will work no more than 40 hours per week until November 30, 2012, and then no more than 60 hours per week thereafter, to include his on-call; will not overbook, and will limit inpatient care.

N. Defendant will utilize the following monitoring team and will execute a continuing care release to each member: addictionologist, medication management, and monitoring will be performed by a physician approved by the Board Secretary; and professional program will be Oklahoma Health Professionals Program.

O. Defendant will continue attending daily 12-step meetings until October 4, 2012, and thereafter will attend 4 meetings per week and one OHPP meeting per week.

P. Defendant will participate in the following recommended therapy as determined by the therapists: a family therapist and an individual therapist approved by the Board Secretary. Reports will be provided by each therapist to the Board Secretary, annually and otherwise upon request of the Board Secretary.

Q. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

R. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

S. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

T. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred-fifty dollar (\$150.00) per month fee during the term of probation.

U. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

V. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

W. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

X. 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 Defendant's license after due notice and

hearing.

4. Defendant shall reimburse the Board for all taxed costs and expenses incurred by the State of Oklahoma.

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.


6. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 8th day of November, 2012.




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

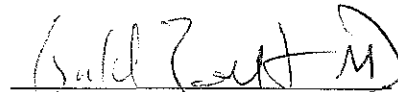
AGREED AND APPROVED



John Ryan Gallagher
License No. 22340



E. Marissa Lane, OBA #13314
Assistant Attorney General
State of Oklahoma
101 N.E. 51st Street
Oklahoma City, OK 73105



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

CERTIFICATE OF MAILING

I certify that on the 14 day of November, 2012, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to John Ryan Gallagher, M.D., 3804 Heritage Trail, Altus, Oklahoma 73521, and to his legal counsel, S. Gregory Frogge, McAfee & Taft, 10th Floor, Two Leadership Square, 211 N. Robinson, Oklahoma City, OK 73102 .

Shelley Crowder
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