

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

FILED

SEP 18 2008

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 08-05-3507

JOHNNY MCKAY FOWLER, JR., M.D.,)
LICENSE NO. 22822,)

Defendant.)

VOLUNTARY SUBMITTAL TO JURISDICTION

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Johnny McKay Fowler, Jr., M.D., Oklahoma license no. 22822, who appears in person and pro se, offer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to some of the allegations in the Complaint and Citation filed herein on July 25, 2008, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Johnny McKay Fowler, Jr., 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 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 has been reviewed and discussed with him.

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.*

2. Defendant, Johnny McKay Fowler, Jr., M.D., holds Oklahoma license no. 22822 and practices internal medicine in Tulsa, Oklahoma.

3. On May 9, 2008, Defendant approached an undercover Tulsa police officer at Turkey Mountain Park, a public park in the City of Tulsa. Defendant asked the undercover officer if he would like to take a walk. They walked approximately one hundred (100) yards, at which time Defendant grabbed his own crotch, then firmly grabbed and rubbed the undercover officer's crotch. Defendant was arrested by the undercover officer at this time.

4. On or about May 27, 2008, Defendant was charged with the crime of **SEXUAL BATTERY**, a felony, in violation of 21 O.S. §1123(B), in the District Court of Tulsa County, State of Oklahoma.

5. 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 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

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. Based on the foregoing facts, Defendant, Johnny McKay Fowler, Jr., Oklahoma license 22822, 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 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

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 license of Defendant, Johnny McKay Fowler, Jr., M.D., Oklahoma license no. 22822, is hereby placed on **PROBATION** for a period of three (3) 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 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 shall obtain individual sex-specific psychotherapy with a therapist to be approved in advance in writing by the Board Secretary. Treatment shall include relapse prevention, examination of cognitive distortions, appreciation of the antecedents to the inappropriate behavior, victim empathy, and how to avoid boundary violations. Defendant shall submit quarterly reports of his treatment from his therapist to the Board Secretary or his designee for his review. Defendant shall continue

his psychotherapy until his therapist and the Board Secretary deems it no longer necessary.

D. Defendant will obtain couples therapy with a therapist to be approved in advance by the Board Secretary. Defendant shall submit quarterly reports of his treatment from his therapist to the Board Secretary or his designee for his review. Defendant shall continue his couples counseling until his therapist and the Board Secretary deems it no longer necessary.

E. Defendant shall attend a three (3) day boundary course at a nationally recognized facility to be approved in advance in writing by the Board Secretary.

F. Defendant shall obtain a supervising therapist who shall be a physician licensed by the Board with no prior disciplinary action and who shall be approved in advance in writing by the Board Secretary.

G. Defendant shall not return to work until the Board Secretary receives written confirmation from Defendant's therapist that Defendant has established a therapeutic relationship with his therapist, the therapist is supportive of Defendant's return to work, and the therapist believes that Defendant poses no safety threat to his patients.

H. Defendant shall submit to polygraph examinations every six (6) months during the term of his probation, the results of which shall be incorporated into the quarterly reports to be submitted by Defendant's therapist. Defendant shall additionally submit the results of his polygraph examinations to the Board Secretary or his designee for his review.

I. 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 any physicians holding Defendant's records.

J. Defendant will not supervise allied health professionals for whom a formal supervisory arrangement is required under Oklahoma law, e.g., physician assistants or advanced registered nurse practitioners.

K. Defendant shall promptly notify the Board of any citation or arrest for any criminal offenses, excluding traffic violations.

L. Defendant will keep the Board informed of his current address.

M. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case, including but not limited to a \$100.00 per month monitoring fee.

N. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

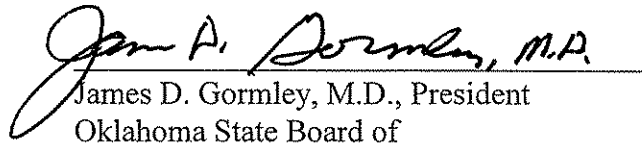
O. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

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

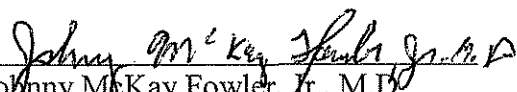
Q. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify your license after due notice and hearing.


3. 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.

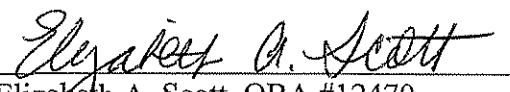
Dated this 15th day of September, 2008.


James D. Gormley, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:


Johnny McKay Fowler, Jr., M.D.
License No. 22822

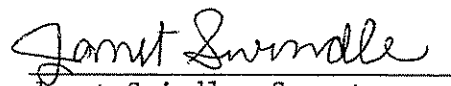

Gerald C. Zumwalt, M.D.
Secretary & Medical Advisor
Oklahoma State Board of
Medical Licensure and Supervision


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Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 19th day of September 2008, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Johnny M. Fowler, MD, 9919 South Irvington Ave, Tulsa, Ok 74137.


Janet Swindle, Secretary