

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

**FILED**

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

Plaintiff,

v.

JOHN MATTHEW NAVARRO, M.D.,  
LICENSE NO. 23253

Defendant.

APR 01 2004

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 03-05-2669

**FINAL ORDER OF SUSPENSION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 25, 2004, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and through counsel Linda G. Scoggins.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

***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. 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.

3. Defendant, John Matthew Navarro, M.D., holds Oklahoma license no. 23253

4. On or about October 30, 2002, while working at Jefferson Memorial Hospital in Crystal City, Missouri, Defendant, who is an anesthesiologist, was observed injecting an unknown substance into the IV of Patient RSB. When asked by the CRNA what the substance was, Defendant responded that it was Remifentanyl, a Schedule II controlled dangerous substance which was not on the hospital's approved formulary. The anesthesia administration log for Patient RSB does not document the administration of Remifentanyl.

5. On or about November 1, 2002, while working at Jefferson Memorial Hospital, Defendant was observed injecting an unknown substance from an unlabeled syringe into the IV of Patient CWB. When asked by the CRNA what the substance was, Defendant responded that it was Remifentanyl, a Schedule II controlled dangerous substance which was not on the hospital's approved formulary. When the CRNA asked for the dosage amount for charting, Defendant instructed the CRNA not to chart the administration of the Remifentanyl. A review of the anesthesia administration log for Patient CWB does not document the administration of Remifentanyl.

6. On or about November 4, 2002, while working at Jefferson Memorial Hospital, Defendant was observed injecting an unknown substance from an unlabeled syringe into the IV of Patient SDB. When asked by the CRNA what the substance was, Defendant responded that it was Remifentanyl, a Schedule II controlled dangerous substance which was not on the hospital's approved formulary. The anesthesia administration log for Patient SDB does document the administration of Remifentanyl.

7. On or about December 3, 20002, Defendant submitted his application for an Oklahoma medical license.

8. On or about January 10, 2003, and then again on February 27, 2003, Defendant was questioned by the Missouri Bureau of Narcotics and Dangerous Drugs regarding these incidents. Defendant admitted all of the allegations of the CRNA's as set forth above.

9. Defendant obtained the Remifentanyl from California, where he had practiced prior to coming to Missouri. Defendant admitted that he administered the drug in California and falsified charts in California by documenting that he had administered more than he actually had. He was then able to keep a supply of Remifentanyl in his possession, which he brought with him to the State of Missouri. He did not document the administration of Remifentanyl in charts of the Missouri patients because he admittedly knew what he had done was wrong.

10. Defendant stored the Remifentanyl at his home, which was an unregistered site for the storing of controlled dangerous substances. He did not maintain an initial inventory for the controlled dangerous substances in his possession, nor did he maintain an annual inventory of the controlled dangerous substances in his possession.

11. Defendant obtained the Remifentanyl without executing a DEA Form 222 Official Order Form, he did not maintain receipt records and record the date of receipt of the controlled

dangerous substances, and he did not maintain an administration log for the administration of the controlled dangerous substances in his possession.

12. Based upon these facts, the Missouri Bureau of Narcotics and Dangerous Drugs advised Defendant that it proposed to revoke his Missouri Controlled Substances Registration. Prior to the Missouri Bureau taking formal action, Defendant discontinued his practice in Missouri, thereby automatically terminating his Missouri Controlled Substances Registration. Accordingly, the Missouri Bureau of Narcotics and Dangerous Drugs dismissed its case against Defendant as moot.

13. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(14) and OAC 435:10-7-4(39).
- B. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government in violation of 59 O.S. §509(8).
- C. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- D. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- E. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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(19).

- H. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

*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 is guilty of unprofessional conduct in that he:

- A. Violated, directly or indirectly, the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, and the rules and regulations of the Board, either as a principal, accessory or accomplice in violation of 59 Okla. Stat. §509(14) and OAC 435:10-7-4(39).
- B. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government in violation of 59 O.S. §509(8).
- C. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- D. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- E. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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(19).

H. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(8), (9), (10), (11), (14) and (19) and OAC 435: 10-7-4 (11), (19), (27) and (39).

*Order*

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, John Matthew Navarro, M.D., Oklahoma license no. 23253, is hereby **SUSPENDED** as of the date of this hearing, March 25, 2004 for three (3) months.

2. At the conclusion of the term of suspension, 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 keep duplicate, serially numbered prescriptions of all controlled dangerous substances and addictive drugs readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents of the Board immediately upon request.

F. 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.

G. Defendant will authorize in writing the release of any and all information regarding his treatment at Rush and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

H. Defendant will abide by the terms and recommendations of Rush Behavioral Health Center.

I. Defendant will enter and continue treatment with a Board certified psychiatrist not previously disciplined by the Board for anger management, treatment of his bipolar disorder and medication management. Defendant's psychiatrist shall be approved in advance by the Board Secretary, and Defendant will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from his psychiatrist to the Board Secretary for his review. Defendant will remain in treatment with his psychiatrist until both the psychiatrist and the Board Secretary authorize his release from treatment.

J. Defendant will enter and continue counseling with a therapist approved in advance by the Board Secretary for anger management and treatment of his bipolar disorder. Defendant will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall attend

counseling not less than once per week. Defendant shall additionally submit quarterly reports from his therapist to the Board Secretary for his review. Defendant will remain in counseling until both the counselor and the Board Secretary authorize his release from counseling.

K. Within the first year of probation, Defendant shall attend a seminar approved in advance by the Board Secretary for a minimum of ten (10) hours on prescribing controlled dangerous substances and required record keeping. Defendant shall provide to the Board Secretary proof of completion of said seminar.

L. During the period of suspension, Defendant shall attend a seminar approved in advance by the Board Secretary for a minimum of ten (10) hours on ethics. Defendant shall provide to the Board Secretary proof of completion of said seminar.

M. Applicant will immediately obtain a mentor, who shall be a physician not previously disciplined by this Board and approved in advance by the Board Secretary. Defendant shall provide quarterly reports from his mentor to the Board Secretary regarding Applicant's practice, including any concerns or complaints expressed by staff or patients.

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

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

P. 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 dollar (\$100.00) per month fee during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

Q. 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.

R. Defendant shall make himself available for one or more

personal appearances before the Board or its designee upon request.

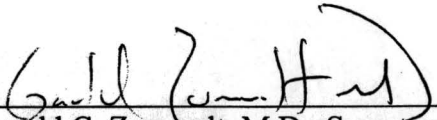
S. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

T. 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.

3. 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.

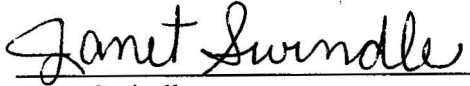
4. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this            day of April, 2004.

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

**CERTIFICATE OF SERVICE**

I certify that on the 1 day of <sup>April</sup>~~March~~, 2004, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Linda G. Scoggins, Scoggins & Cross, 3100 City Place Building, 204 N. Robinson, Oklahoma City, OK 73102 and to John Navarro, M.D., 1044 S.W. 44<sup>th</sup> Street, #600, Oklahoma City, OK 73109.

  
Janet Swindle