

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

FILED

MAR 10 2011

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

Plaintiff,)

v.)

TYSON DINH QUY, M.D.,)
LICENSE NO. 25749,)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 10-09-4075

**ORDER ACCEPTING
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, Tyson Dinh Quy, M.D., Oklahoma license no. 25749, who appears in person and pro se, proffer 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 the allegations in the Complaint and Citation filed herein on January 28, 2011, and 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, Tyson Dinh Quy, 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.* 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, Tyson Dinh Quy, M.D., holds Oklahoma license no. 25749 and at the time of the events in question, practiced family medicine in Purcell, Oklahoma.

3. On or about September 6, 2010, Defendant went to work at Purcell Hospital. Defendant was scheduled to begin work at 6:00 a.m. Hospital staff noticed that Defendant appeared to be impaired so they reported this to Berry Winn, M.D. Dr. Winn called Defendant and advised him to sleep in a room at the hospital.

4. Defendant slept until approximately 12:45 p.m. at which time he left the hospital and attempted to drive himself home. While driving home, Defendant was pulled over by the Purcell Police Department on suspicion of driving while under the influence. Defendant admitted to Board investigators that he was impaired at the time he was pulled over. Defendant performed poorly on the field sobriety test and he agreed to submit to a drug test at the Purcell Municipal Hospital.

5. When Defendant was pulled over by the Purcell Police Department, police found a 9mm sub-compact pistol with 13 rounds of ammunition in the weapon and an extra magazine with 16 rounds of ammunition. Police also found a Kabar fixed blade knife. Defendant was then arrested for **DRIVING UNDER THE INFLUENCE (DRUGS)** and **POSSESSION OF A LOADED WEAPON WHILE UNDER THE INFLUENCE OF NARCOTICS**.

6. On or about September 7, 2010, Defendant was charged with **DRIVING UNDER THE INFLUNCE (DRUGS)**, Case No. CM-2010-00330, in the District Court of McClain County, State of Oklahoma. On or about February 24, 2011, plead no contest to the charge and received a six (6) month deferred sentence. Defendant was additionally ordered to complete a substance abuse evaluation and treatment, attend DUI School and pay court costs and fines.

7. At the time of his arrest, Defendant tested **POSITIVE** for Ambien, Alprazolam, Butalbital, Chlorpheniramine, and Citalopram.

8. When initially questioned by Board investigators, Defendant admitted that he had taken two (2) Ambien 10 mg. at 10:00 p.m. and one (1) Ambien 10 mg. at 2:30 a.m. before his 6:00 a.m. shift at the hospital. He also admitted that he had ingested some Tussicaps containing

Hydrocodone and some Butalbital that had not been prescribed to him. He claimed that he had obtained these through samples at his work. Additionally, Defendant admitted that he had ingested some Xanax prescribed to his grandmother that he claimed she had left at his house before she returned to Laos in 2009. He confirmed these admissions in a written statement he sent to the Board.

9. A review of the PMP reveals that from October 28, 2009 until August 16, 2010, Defendant was regularly obtaining Ambien from three (3) different physicians.

10. From September 27, 2010 through December 31, 2010, Defendant obtained treatment at Pine Grove for substance abuse.

11. On or about January 25, 2011, Board investigators again interviewed Defendant. When questioned about the Tussicaps and Butalbital he had ingested prior to his DUI arrest, Defendant continued to claim that he obtained these drugs through samples at his place of employment. When questioned further, Defendant admitted that he had lied to Board investigators and that he had actually stolen these sample medications from his father's locked drug cabinet. Defendant's father is a licensed physician in Oklahoma City, Oklahoma. He admitted that he had also stolen Lunesta from his father's drug cabinet in the past.

12. When questioned about the Xanax he had ingested prior to his DUI arrest, Defendant continued to claim that he had obtained the drugs from a blister pack left by his grandmother when she moved to Laos in 2009. He showed an empty blister pack to Board investigators. When questioned by investigators as to how the drugs in the empty blister pack could have a manufacture date of February 2010 when he claimed his grandmother left them at his house in 2009, he admitted that he had been lying to Board investigators about how he obtained these drugs. He told Board investigators that he would now be completely honest. He then admitted that he had bought the Xanax, along with some Ambien, on the Internet. He admitted that he did not tell Pine Grove that he had been purchasing Xanax and Ambien on the Internet. He also admitted that he had lied to Board investigators when he was first interviewed and had decided to continue lying at this interview until he was caught in his lie by Board investigators.

13. When questioned on how much Xanax he had allegedly purchased on the Internet, Defendant admitted that he had purchased sixty (60) dosage units of Xanax 2mg. Defendant admitted that he had told Pine Grove that he had only ingested ten (10) dosage units over a period of time, when in fact he had ingested all sixty (60) dosage units, and had ingested ten (10) dosage units just prior to his DUI arrest.

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

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).

B. 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).

C. 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).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).

F. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

G. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

H. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

I. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

J. 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, Tyson Dinh Quy, M.D., Oklahoma medical license no. 25749, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).

B. 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).

C. 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).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).

F. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

G. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

H. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

I. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

J. 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).

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, Tyson Dinh Quy, M.D., Oklahoma license no. 25749, is hereby **SUSPENDED** beginning March 10, 2011, and continuing for a period of **THIRTY (30) DAYS** until April 9, 2011.
3. Beginning April 9, 2011, 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 or 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 Pine Grove 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 Pine Grove and with all terms of his postcare contract with Pine Grove.

L. Defendant will sign a contract with the Health Professionals Recovery Program and will abide by all terms of this contract.

M. Defendant shall obtain individual therapy to address his depression, anxiety and possible anger issues at a therapist approved in advance in writing by the Board Secretary. Defendant shall continue individual therapy until released by both his therapist and the Board Secretary in writing. Defendant shall provide quarterly

reports from his therapist to the Board Secretary for his review.

N. Defendant shall obtain treatment with a board certified psychiatrist not previously disciplined by the Board as needed for his medication management for his depression and anxiety. Defendant's psychiatrist shall be approved in advance in writing by the Board Secretary. Defendant shall continue treatment by his psychiatrist until his psychiatrist determines that treatment is no longer necessary. Defendant shall provide quarterly reports from his psychiatrist to the Board Secretary for his review.

O. Defendant shall attend four (4) 12-Step meetings per week, one (1) of which shall be the Health Professionals Recovery Program meeting.

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

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

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

S. 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.

T. 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.

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

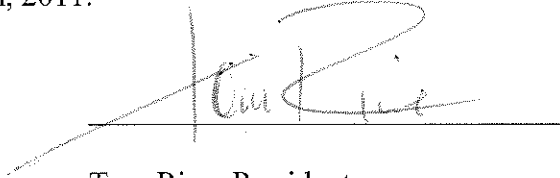
V. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

W. 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. 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.

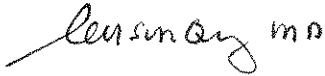
5. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this 10 day of March, 2011.




Tom Rine, President
Oklahoma State Board of
Medical Licensure and Supervision


AGREED AND APPROVED



Tyson Dinh Quy
License No. 2574



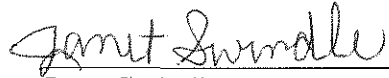
Elizabeth A. Scott, OBA #12470
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Gerald C. Zumwalt, M.D.,
Secretary, Oklahoma State
Board of Medical Licensure
and Supervision

CERTIFICATE OF MAILING

I certify that on the 11 day of March, 2011, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Tyson Dinh Quy, 1204 N.W. 15th Street, Moore, OK 73170.



Janet Swindle