

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

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
BRYAN LEE, M.D.,)
LICENSE NO. MD 29559,)
)
Defendant.)

FILED

MAR 08 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 14-10-5055

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, *ex rel.*, the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Joseph L. Ashbaker, Assistant Attorney General, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with the Bryan Lee, M.D. ("Defendant"), Oklahoma medical license no. 29559, who appears in person and with counsel, Malinda S. Matlock and C. Scott Jones, (collectively, the "Parties"), offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, "Order" or "Agreement") effective November 3, 2016, for acceptance by the Board *en banc* pursuant to Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, the Defendant admits to some of the allegations in the Complaint and Citation filed herein on December 29, 2015, and further acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Bryan Lee, 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 an 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.

STATE 

B.L. 

If the Board does not accept this Order, the Parties stipulate that: (1) it shall be regarded as null and void; (2) Admissions by the Defendant herein, if any, shall not be regarded as evidence against him in a subsequent disciplinary hearing; and (3) the Defendant will be free to defend himself, and no inferences will be made from his willingness to have this Order accepted by the Board. The Parties stipulate that neither the presentation of this Order nor the Board's consideration of this Order shall be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

FINDINGS OF FACT

The Plaintiff, the Defendant and the Board staff stipulate and agree as follows:

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 O.S. § 480 *et seq.*
2. Defendant, Bryan Lee, M.D., held Oklahoma medical license number 29559 which expired on November 1, 2016.
3. Defendant agrees not to reapply for his Oklahoma medical license as partial consideration for this agreement.

CONCLUSIONS OF LAW

1. Defendant is found to have committed the following violations:
 - a. Prescribing or administering a drug or treatment without sufficient examination, 59 O.S. 2011, § 509(12);
 - b. Prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards, 59 O.S. 2011, § 509(16), Okla. Admin. Code § 435:10-7-4(2) and (6);
 - c. Failure to maintain or manage an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient, 59 O.S. 2011, § 509(18); Okla. Admin. Code § 435:10-7-4(36).

ORDERS

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

STATE 

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Order Accepting Voluntary Submittal to Jurisdiction
Bryan Lee, MD 29559

1. The Board *en banc* hereby adopts the Agreement of the Parties in this Voluntary Submittal to Jurisdiction and incorporates all findings of fact and conclusions of law by reference in these orders;

2. It is **ORDERED** that the Defendant is **PUBLICALLY REPRIMANDED**.

3. It is **ORDERED** that the Defendants will pay a fine of **FORTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$42,500)**. Defendant will set up a payment plan with Board staff and make payments for this fine to be paid within two years from the date of this order.

4. The Board shall maintain continuing jurisdiction over this matter for enforcement purposes.

5. A copy of this Order shall be provided to Defendant as soon as it is processed.

6. **This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.**

Dated this 3rd day of November, 2016.


Bryan Lee, M.D.
License No. 29559
Defendant


Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION


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OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

MAR 08 2017

ATTORNEY GENERAL OPINION
2017-147A

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Billy H. Stout, M.D., Board Secretary
Oklahoma State Board of Medical Licensure
and Supervision
101 N.E. 51st Street
Oklahoma City, Oklahoma 73105

March 6, 2017

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with regard to Medical Doctor Licensee 29559. After an investigation that included two Board investigators posing as patients, the Board alleged that the licensee, while associated with two internet-based weight loss outlets, prescribed weight-loss medication for patients without performing any physical examination. The Board also alleged that when confronted with the allegations, the licensee falsely claimed that each patient received a full examination to determine whether medication was an appropriate treatment. The licensee's medical doctor license expired on November 1, 2016.

The action proposed by the Board is in the form of a Voluntary Submittal to Jurisdiction, through which the Board and the licensee agree that the licensee (i) will not reapply for licensure in the State of Oklahoma, (ii) will receive a public reprimand, and (iii) will be assessed an administrative penalty of \$42,500, to be paid in full within two years.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480–518.1, authorizes the Board to suspend or revoke or order any other appropriate sanctions against the license of a physician for “unprofessional conduct”. 59 O.S.2011, § 503. Board discipline may also include censure or reprimand and administrative fines. *Id.* § 509.1. The Act defines “unprofessional conduct” to include, among other things, the “[d]ishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;” “[p]rescribing . . . a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship;” and “[f]ailure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment.” *Id.* § 509(8), (12) & (18). Here, the licensee elected not to renew the license and agreed to public reprimand and administrative fines. The Board may reasonably believe that such action is sufficient to penalize the licensee and deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy of ensuring the adequate regulation of dangerous substances.

A handwritten signature in black ink, reading "Mike Hunter". The signature is written in a cursive, slightly stylized font.

MIKE HUNTER

ATTORNEY GENERAL OF OKLAHOMA