

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

**FILED**

JUL - 6 2022

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.* )  
OKLAHOMA STATE BOARD )  
OF MEDICAL LICENSURE )  
AND SUPERVISION, )

Plaintiff, )

v. )

Case No. 22-01-6087

WHITAKER MICHAEL SMITH, M.D. )  
LICENSE NO. MDC 38296, )

Defendant. )

**VERIFIED COMPLAINT**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision ("Board"), alleges and states as follows for its Complaint against **WHITAKER MICHAEL SMITH, M.D.** ("Defendant"):

**I. JURISDICTION**

1. The Board has jurisdiction over the subject matter and 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. 59 O.S. § 480, *et seq.* and Okla. Admin. Code 435:5-1-1 *et seq.*
2. In Oklahoma, Defendant holds medical license No. 38296.
3. The acts and omissions complained of herein were made while Defendant was licensed to practice medicine by the State of Oklahoma.

**II. ALLEGATIONS OF UNPROFESSIONAL CONDUCT**

4. Defendant was a licensed physician in Oklahoma under the Interstate Medical Licensure Compact. His license expired on May 1, 2022.
5. On November 2, 2021, Defendant signed a Consent Order with the Tennessee Board of Medical Examiners wherein he agreed to discipline by that body for acts that, had they been done in Oklahoma or while engaging in the practice of medicine or surgery pursuant

to his Oklahoma medical license, would constitute violations of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. The acts for which Defendant was disciplined in Tennessee included the following:

6. Defendant wrote several prescriptions for Concerta, a schedule II controlled substance, for his son from approximately April 2010 through April 2014. Defendant maintained a medical record for his son, although the record did not contain periodic visits to coincide with the prescriptions written.
7. Defendant wrote prescriptions for Concerta, a schedule II controlled substance, for his daughter from approximately March 2010 through June 2014. Defendant maintained a medical record for his daughter, although the record did not contain periodic visits to coincide with the prescriptions written.
8. The Board in Tennessee also included allegations of substance abuse by Defendant and an inappropriate sexual relationship with a patient to whom he wrote approximately ten (10) prescriptions of Alprazolam (schedule IV) and eight (8) prescriptions of Oxycodone (schedule II).
9. The Tennessee Board reprimanded defendant. They further required him to maintain the advocacy of TMF (equivalent of OHPP) and authorize quarterly reports to the Board. Defendant was further ordered not to prescribe opioids for at least six (6) months, and until successful completion of specified continuing education. Those courses consist of a two (2) day medical course entitled "Medical Ethics, Boundaries and Professionalism" offered at the Case Western Reserve University Continuing Medical Education Program or equivalent course with prior approval. Defendant was also required to complete the three (3) day medical course entitled "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls" offered by Vanderbilt University Medical Center or equivalent course with prior approval. Defendant was also fined \$5,000 and made to pay costs.

### III. VIOLATIONS

10. Based on the foregoing, **WHITAKER MICHAEL SMITH, M.D.**, is guilty of unprofessional conduct as follows:
  - a. Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state, in violation of 59 O.S. § 493.7(10)(a)
11. 59 O.S. § 493.7(10)(c): If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

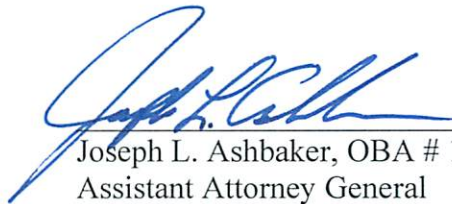
(1) impose the same or lesser sanction(s) against the physician so long as such sanction(s) are consistent with the Medical Practice Act of that state, or

(2) pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

#### IV. CONCLUSION

Given the foregoing, the undersigned respectfully request the Board to conduct a hearing, and upon proof of the allegation(s) contained herein, impose an appropriate punishment pursuant to the applicable law and rule on **WHITAKER MICHAEL SMITH M.D.**, including an assessment of costs and attorneys' fees incurred in this action as provided by law.

Respectfully submitted,



Joseph L. Ashbaker, OBA # 19395  
Assistant Attorney General  
OKLAHOMA STATE BOARD OF MEDICAL  
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#### VERIFICATION

I, Jim Stokes, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding **WHITAKER MICHAEL SMITH, M.D.**  
and,
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



**Jim Stokes, Investigator**  
OKLAHOMA STATE BOARD OF MEDICAL  
LICENSURE AND SUPERVISION

Executed this 6<sup>th</sup> day of July, 2022, in Oklahoma County, State of Oklahoma.