

read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with her and her legal counsel.

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 physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§480 *et seq.* and 887.1 *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, Bonnie D. Moss, P.A., holds Oklahoma physician assistant license no. PA431

3. From approximately November 2002 through August 2003, Defendant was employed as a physician assistant under the supervision of William E. Smith, M.D.

4. From November 4, 2002 through August 7, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient BBW, Defendant's sister-in-law. These prescriptions include nineteen (19) prescriptions for Histussin, Lortab, Hydrocodone and H-C Tussive, Schedule III controlled dangerous drugs, and twenty-one (21) prescriptions for Ambien, Soma and Valium, Schedule IV controlled dangerous drugs, for a total of forty (40) prescriptions for 2472 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

5. Defendant admits that approximately once per month, with respect to some of the prescriptions for Ambien and Soma, that she called them in under Patient BBW's name, then picked them up for her own personal use. Defendant admits that when she picked up the prescriptions in the name of Patient BBW, that she signed the insurance log at the pharmacy and represented herself as Patient BBW so that Patient BBW's insurance would pay for the prescriptions, rather than Defendant paying for them. Defendant did this with the knowledge and consent of Patient BBW and Patient DBW.

6. From November 22, 2002 through May 17, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient DBW, Defendant's brother-in-law. These prescriptions include twenty-five (25) prescriptions for Histussin, Hydrocodone, Lortab and H-C Tussive, Schedule III controlled dangerous drugs, and seven (7) prescriptions for Ambien, Soma and Diazepam, Schedule IV controlled dangerous drugs, for a total of thirty-two (32)

prescriptions for 1,410 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient DBW.

7. From November 26, 2002 through May 15, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient ABW, Defendant's five (5) year old niece. These prescriptions include twenty-four (24) prescriptions for Histussin and H-C Tussive, a Schedule III controlled dangerous drug, for a total of 1,122 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient ABW.

8. From December 4, 2002 through May 19, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient CBW, Defendant's five (5) year old niece. These prescriptions include seventeen (17) prescriptions for H-C Tussive, a Schedule III controlled dangerous drug, for a total of 816 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient CBW.

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

- A. Has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. Has engaged in dishonorable or immoral 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).
- C. Has 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(14) and OAC 435:10-7-4(39).

- D. Habitually used intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
 - E. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
 - F. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
 - G. Prescribed, sold, administered, distributed, ordered or gave a 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).
 - H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- 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).
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
 - L. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

- M. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- N. 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).
- O. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- P. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(8).
- Q. 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).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Physician Assistant 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, Bonnie D. Moss, P.A., Oklahoma physician assistant license PA431, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. Has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. Has engaged in dishonorable or immoral 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).

- C. Has 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(14) and OAC 435:10-7-4(39).
 - D. Habitually used intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
 - E. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
 - F. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
 - G. Prescribed, sold, administered, distributed, ordered or gave a 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).
 - H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- 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).
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).

- L. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- M. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- N. 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).
- O. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- P. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(8).
- Q. 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).

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, Bonnie D. Moss, P.A., Oklahoma physician assistant license no. PA431, is hereby **SUSPENDED** for a period of **nine (9) months** beginning August 20, 2003 and continuing until May 20, 2004.

3. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a term of **FIVE (5) YEARS** following her suspension under the following terms and conditions:

A. Defendant will conduct her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Oklahoma Physician Assistant Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Acts 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, clinics and other facilities in which she anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of her practice while performing services in or to that hospital, clinic or facility.

C. Defendant will furnish to each and every state in which she holds licensure or applies for licensure and hospitals, clinics or other institutions in which she 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 prescribe, administer, dispense or possess any drugs in Schedules I through V.

E. Defendant will surrender her registration for state and federal controlled dangerous substances to the proper authorities and will not apply for state and federal registration for controlled dangerous substances unless authorized to do so by the Board.

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 her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her 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 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.

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

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

M. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of her 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.

N. 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.

O. Defendant shall make herself 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 and prompt basis to the Compliance Coordinator or designee.

Q. 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.

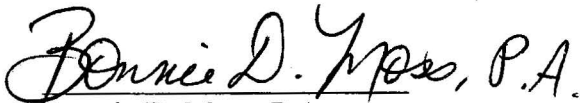
4. Defendant's suspension will be lifted, and her license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to May 21, 2004.

Dated this 20 day of May, 2004.

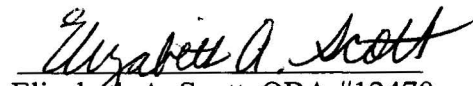


Eric Frische, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED

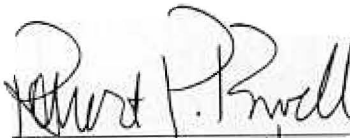


Bonnie D. Moss, P.A.
License No. PA431



Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118

Attorney for the Oklahoma State
Board of Medical Licensure and
Supervision



Robert P. Powell #19692
Rex D. Brooks & Associates
1904 N.W. 23rd Street
Oklahoma City, OK 73106



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

CERTIFICATE OF MAILING

I certify that on the 20 day of May, 2004, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Robert P. Powell, 1904 N.W. 23rd Street, Oklahoma City, OK 73104.


Janet Swindle
Janet Swindle