

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

**FILED**

SEP 19 2002

STATE OF OKLAHOMA )  
EX REL. THE OKLAHOMA BOARD )  
OF MEDICAL LICENSURE )  
AND SUPERVISION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROBERT WALKER, R.C., )  
R.C. LICENSE NO. 445, )  
 )  
Defendant. )

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 01-01-2288

**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, Robert Walker, R.C., Oklahoma license no. 445, 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 June 14, 2002, and acknowledges that hearing before the Board would result in some sanction under the Respiratory Care Practice Act.

Defendant, Robert Walker, R.C., 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.

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## ***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 respiratory care practitioners in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*

2. Defendant, Robert Walker, R.C., holds Oklahoma respiratory care license no. 445, and is authorized to practice as a respiratory care practitioner under the terms of a Voluntary Submittal to Jurisdiction entered March 15, 2001, with a five (5) year term of probation.

3. The Voluntary Submittal to Jurisdiction sets forth Defendant's terms of probation and provides that Defendant shall be on probation as follows:

- (E) Defendant will attend 90 meetings in 90 days of a 12-Step Program. At the conclusion of 90 days, Defendant will attend at least two (2) weekly meetings of a 12-Step program, and will comply with all recommendations of the St. John Medical Center Employee Assistance Program including Aftercare (at least once per week) and Self-Help Meetings (at least twice per week) for a period of not less than one (1) year.
- (H) Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
- (O) Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include a one hundred dollar (\$100.00) per month probation monitoring fee.
- (S) 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. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's probation.

5. On or about June 5, 2002, Defendant admitted to Tom Sosbee, Compliance and Education Coordinator for the Board, that after attending the 90 meetings in 90 days, he had stopped attending 12-Step meetings. Defendant also admitted that he had not paid any of the charges billed to him by the Board. At that time, Mr. Sosbee obtained a urine specimen from Defendant.

6. On or about June 10, 2002, Defendant contacted Mr. Sosbee by telephone and admitted that he had smoked Marijuana several days prior to Mr. Sosbee obtaining the urine specimen from him.

7. On or about June 13, 2002, Board staff received the lab report on the urine specimen taken from Defendant on June 5, 2002, wherein Defendant tested positive for Marijuana.

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

- A. Is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. Is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4) and OAC 435:45-5-3(a)(1) and (2).
- C. Is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:45-5-3(24).
- E. Confessed to a drug related offense in violation of OAC 435:45-5-3(6).

### *Conclusions of Law*

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Respiratory Care Practice 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, Robert Walker, R.C., Oklahoma respiratory care practitioner license no. 445, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- A. Is unfit or incompetent by reason of negligence, habits or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. Is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4) and OAC 435:45-5-3(a)(1) and (2).
- C. Is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:45-5-3(24).
- E. Confessed to a drug related offense in violation of OAC 435:45-5-3(6).

***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. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on PROBATION for an INDEFINITE period of time under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Respiratory Care Practice 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. 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.

C. Upon request of the Board Secretary, Defendant will request all hospitals in which he practices to furnish to the Board Secretary a written statement regarding monitoring of his practice while performing services in or to that hospital.

D. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules II through V.

E. Defendant will attend 90 meetings in 90 days of a 12-Step Program. At the conclusion of 90 days, Defendant will attend at least three (3) weekly meetings of a 12-step program.

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 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.

H. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

I. Defendant will not prescribe, administer or dispense any medications for personal use.

J. Defendant will continue counseling with William H. Yarborough, M.D., will submit to monitoring by Dr. Yarborough, and will follow all recommendations set forth in the August 1, 2002 assessment completed by Dr. Yarborough. Defendant will authorize in writing the release of any and all information regarding said counseling and/or treatment to the Board.

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

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

M. Defendant will authorize in writing the release of any and all records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision and will authorize the Compliance Consultant to the Board to discuss his case and treatment with the individuals providing Defendant's treatment and/or any physicians holding Defendant's records.

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

O. Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include a one hundred dollar (\$100.00) per month probation monitoring fee.

P. 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.

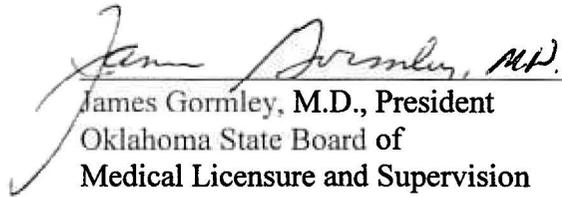
Q. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

R. Defendant will notify the Board or its designee of any slip, relapse, entry or re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

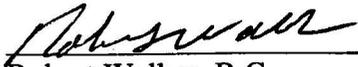
S. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

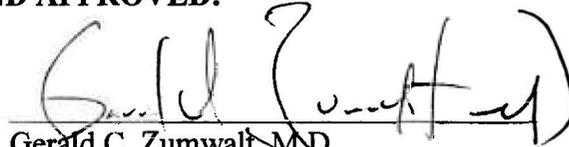
3. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs, and shall keep current all payments for monitoring his compliance with this agreement.

Dated this 16<sup>th</sup> day of September, 2002.

  
James Gormley, M.D., President  
Oklahoma State Board of  
Medical Licensure and Supervision

**AGREED AND APPROVED:**

  
Robert Walker, R.C.  
License No. 445

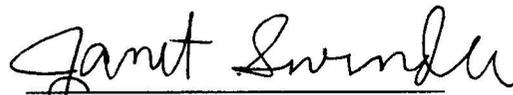
  
Gerald C. Zumwalt, M.D.  
Secretary & Medical Advisor  
Oklahoma State Board of  
Medical Licensure and Supervision

  
Elizabeth A. Scott OBA #12470  
Assistant Attorney General  
State of Oklahoma  
5104 N. Francis, Suite C  
Oklahoma City, OK 73118  
405/848-6841

Attorney for the Oklahoma State Board  
of Medical Licensure and Supervision

**CERTIFICATE OF SERVICE**

On the 23 rd day of September, 2002, a true and correct copy of this order was mailed, postage prepaid to Robert Walker, RC 310 West 32 nd, Sand Springs, Oklahoma 74063.

  
Janet Swindle