

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

FILED

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

Plaintiff,)

v.)

BROCK WESTBROOK, M.D.,)
LICENSE NO. 5562)

Defendant.)

FEB - 8 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 00-07-2235

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on January 25, 2001, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared not.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

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.*
2. 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.
3. Defendant, Brock Westbrook, M.D., holds Oklahoma license no. 5562.

4. On or around April 16, 2000, Defendant entered into a contract with Carol Martin, a licensed registered electrologist in the State of Oklahoma. Martin is an electrologist practicing laser hair removal in her Bartlesville, Oklahoma salon. Under this contract, Defendant was to review prospective patient histories proposed by Martin for laser hair removal. Under this contract, Defendant was to be paid fifty dollars (\$50.00) for each new laser hair removal patient upon whom Martin performed laser hair removal.

5. Defendant has admitted that he never performed a physical examination on any of these patients, nor did he ever see any of these patients prior to them obtaining laser hair removal by Martin.

6. Defendant received a fifty dollar (\$50.00) commission for each of his patients for whom he approved of laser hair removal procedures to be performed by Martin.

7. Defendant has not performed laser hair removal on any of his patients referred to Martin, nor has he supervised Martin's performing of laser hair removal on any of his patients.

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

- A. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- B. 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. 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). A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct.
- D. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(15) and OAC 435:10-7-4(21).
- E. 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).

- F. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).
- G. 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 OAC 435:10-7-4(39).
- H. Failed to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment in violation of OAC 435:10-7-4(41). Adequate medical records to support treatment or prescribed medications must be produced and maintained.

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 is guilty of unprofessional conduct in that he:

- A. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- B. 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. Committed any act which is a violation of the criminal laws of any state when such act in connected with the physician's practice of medicine in violation of 59 O.S. §509(10). A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct.
- D. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of

this state in violation of 59 O.S. §509(15) and OAC 435:10-7-4(21).

- E. 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).
- F. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).
- G. 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 OAC 435:10-7-4(39).
- H. Failed to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment in violation of OAC 435:10-7-4(41). Adequate medical records to support treatment or prescribed medications must be produced and maintained.


3. The Board further found that the Defendant's license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(1), (9), (10), (15) and (19) and OAC Title 435:10-7-4(11), (21), (30), (39) and (41).

Order

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

1. The license of Defendant, Brock Westbrook, M.D., Oklahoma license no. 5562, is hereby **REVOKED** as of the date of this hearing, January 25, 2001.
2. 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.
3. Defendant's revoked license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

Dated this 7 day of February, 2001.


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

CERTIFICATE OF SERVICE

I certify that on the 8 day of February, 2001, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Brock Westbrook, 3500 State Street, Bartlesville, OK 74006-2924.


Janet Owens