

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

FILED

NOV 23 1999

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 98-03-1976

ROBERT W. GIBSON, M.D.,)
LICENSE NO. 5958)

Defendant.)

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 5, 1999, 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.

Danny K. Shadid, appeared for the plaintiff and defendant appeared in person and through counsel, John Raley.

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, Robert W. Gibson, M.D., holds Oklahoma license no. 5958.

(COUNT 1)

4. According to the Food and Drug Administration (FDA), Laetrile is classified as an unapproved new drug within the meaning of 21 USC §§321(p) and 355. Laetrile is manufactured outside the United States and may not legally be shipped in interstate commerce without an approved new drug application from the FDA. The FDA does not recognize Laetrile as safe or effective and to date has not approved its import or use. Laetrile may not be imported, possessed, administered, dispensed or sold **legally** in the United States.

5. Dimethyl Sulfoxide (DMSO) is a widely used veterinary drug. DMSO at one time was approved for use in humans as treatment for interstitial cystitis. However, the drug was and is not approved for intra-muscular or intravenous use.

6. The Defendant went to Mexico in 1976 and observed patients being treated with Laetrile. As of July 8, 1998, the Defendant was using Laetrile to treat patients and had done so for some twenty (20) years. For the years 1997 and 1998, the Defendant illegally procured and administered Laetrile to numerous patients and received compensation therefor.

7. The Defendant telephoned Mexico to place orders for Laetrile, then received Laetrile from Chula Vista, California. The Defendant identified brothers who owned and operated Cyto-Pharma, the company which sold him Laetrile. The Defendant has done business with Cyto-Pharma, ordering Laetrile, for the past 2½ to 3 years.

8. The Defendant charged patients \$3,000.00 for an eighteen- (18) day treatment term that consisted of daily intravenous infusions of Laetrile, DMSO and Vitamin C. The Defendant described the mixture as follows: three (3), 10cc vials of Laetrile, 10cc DMSO and 60cc Vitamin C combined in one-liter of IV fluids.

9. The Defendant taught Chiropractor, John Mitchell, to give the IV treatments and that his nurse also administered the drugs. Following the IV treatments, patients were sent home with Laetrile tablets.

10. John Mitchell, DC, has worked for the Defendant for the past five (5) years. Mitchell and Elaine Trueblood did most of the Laetrile mixing and administration. Ms. Trueblood has worked for the Defendant since 1989 and she corroborated Mitchell's statement.

11. The Defendant, within the aforesaid time period, distributed and/or sold Laetrile to numerous third parties within the United States, all within interstate commerce, in violation of federal law. The bottles bear labels in Spanish "Amigdalina B-17".

12. In 1997, the Defendant treated twenty-seven (27) patients with intravenous Laetrile, DMSO and Vitamin C and received approximately \$81,000.00 according to his customary \$3,000.00 fee per treatment.

13. From January 1998, until July 8, 1998, the Defendant treated twenty (20) patients with intravenous Laetrile, DMSO and Vitamin C and received approximately \$60,000.00

according to his customary \$3,000.00 fee per treatment. These records include patients DWS and VVS.

14. In January 1998, Defendant accepted \$3,000.00 from **Patient DWS** who began what was to be an eighteen-day term of cancer treatment by the Defendant. The treatment consisted of daily intravenous infusions of a mixture of Laetrile, Dimethyl Sulfoxide (DMSO) and Vitamin C. Treatment began on January 9, 1998 and stopped on January 23, 1998, before the scheduled completion date. The chart reflects the Laetrile treatments through Monday, January 26, 1998. The Defendant failed to properly diagnose, treat and care for the patient.

15. On February 10, 1998, **Patient VVS**, a long time, controlled diabetic met with the Defendant to learn about Laetrile as a cancer treatment. The Defendant stated Laetrile was patient VVS's "best shot, there were no other alternatives" for treatment. VVS specifically asked how Laetrile might affect her diabetes and was told by the Defendant that the diabetes would not be affected by the treatment.

16. On or about February 16, 1998, Defendant accepted \$3,000.00 from **Patient VVS** who began what was to be an eighteen-day term of cancer treatment by the Defendant. The treatment consisted of daily intravenous infusions of a mixture of Laetrile, Dimethyl Sulfoxide (DMSO) and Vitamin C.

17. VVS received the intravenous infusions in Defendant's clinic from a chiropractor, John Mitchell, and an unlicensed individual named Elaine Trueblood. VVS's blood sugar levels were checked on 2/16/98 by reference laboratory, and on 2/22/98, 2/25/98 and 2/28/98 by office equipment. Ms. Trueblood performed the in-office testing. Ms. Trueblood administered the IV Laetrile, DMSO and Vitamin C treatment on Saturday, February 28, 1998. Neither the Defendant nor any other physician or licensed nursing personnel were present on Saturday. Family members of VVS, who accompanied VVS to the Defendant's clinic for treatment, said VVS was not seen or evaluated by the Defendant after his initial interview and receipt of the \$3,000.00 fee.

18. On Saturday, February 28, 1998, **Patient VVS** complained of feeling bad and questioned her blood sugar level. Ms. Trueblood performed a blood sugar test and pronounced the blood sugar level normal. **Patient VVS** continued to feel bad following the treatment. Family members later sought emergency care and VVS was transported by ambulance to St. Joseph Medical Center in Ponca City. VVS was found to have profound anemia (Hgb. 6.7), marked hyperglycemia (blood sugar level of 567), profound bradycardia, and was in renal failure.

19. VVS was air-transported to Stormont-Vail Medical Center in Topeka, Kansas at the family's request on March 1, 1998. VVS died that same day. VVS's diabetic condition and renal impairment was not properly monitored or controlled, resulting in the patient's total renal failure and subsequent death on March 1, 1998. The Defendant failed to properly diagnose, treat, and care for the patient.

20. The importation, administration, distribution and/or sale of Laetrile by the Defendant constituted criminal conduct in violation of federal law, specifically, 21 U.S.C. §§331(k), 333(a)(2), (c) and 352.

21. Defendant is guilty of unprofessional conduct in that he has:

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. §509 (9) and OAC 435:10-7-4 (11).

B. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4 (15)

C. Prescribed or administered drugs without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509(13).

D. Used 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).

(COUNT 2)

22. From January 1, 1997 through July 7, 1998, and at numerous times prior to and after the aforesaid time period, the Defendant consistently and repeatedly, in a deceptive and a deceitful manner, advised patients, orally and in writing, that he would administer Laetrile to the patients knowing that the patients were coming to him for the treatment of cancer. The Defendant accepted remuneration in the amount of \$3,000.00 per patient regarding the administration of Laetrile for cancer patients, while at the same time advising the patients in writing that he would not treat them for cancer or any other specific diseases. The Defendant did this knowing that the primary purpose of said patients seeking his care was specifically for the treatment of cancer. These patients included, but are not limited to, Patients **VVS** and **DWS**.

23. The Defendant's deceptive and deceitful conduct constitutes unprofessional conduct.

24. Defendant is guilty of unprofessional conduct in that he has:

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. §509 (9) and OAC 435:10-7-4 (11).

B. Used 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).

(COUNT 4)

25. The Defendant repeatedly, consistently, indiscriminately and excessively prescribed controlled drugs to his patients. The information and documentation in the charts do not substantiate the frequency and/or quantities of controlled drug prescriptions. The information and documentation in the medical charts often do not establish the medical need for such prescribing. The Defendant consistently prescribed controlled drugs without establishing a medical need for such drugs. The Defendant prescribed controlled drugs to the following patients as follows:

- a. Patient CWS received 123 controlled drug prescriptions (5,692 tablets) from the Defendant during the time period 7/2/97 – 6/2/98 as follows:

DRUGS			# OF RXs
TYLOX (oxycodone)	2	60	1
ROXIPRIN (oxycodone)	2	60	1
ROXILOX (oxycodone)	2	360	6
PROPOXYPHENE N 100	4	3892	97
PROPOXYPHENE 65MG	4	600	8
PERCODAN (oxycodone)	2	120	2
OXYCODONE 5MG	2	600	8

Patient CWS's medical chart revealed that the Defendant knowingly prescribed controlled drugs to an addict. The Defendant administered 48 injections of Depo-Medrol (long acting corticosteroid) in a sixty-five month time period without establishing and documenting medical need. Additionally, the amount and frequency of such injections is against published medical standards. The Defendant failed to properly diagnose, treat and care for the patient.

- b. Patient RBS received 71 controlled drug prescriptions from the Defendant, which included 1,126 prepared syringes of 100mg meperidine (Demerol) during the time period 7/8/97 – 6/27/98 as follows:

DRUGS		S	# OF RXs
CLORAZEPATE 7.5	4	960	8
DILAUDID SYRUP	2	240 ml	2
MEPERIDINE 100MG INJ	2	1126 SYRINGES	45
MEPERIDINE 50MG	2	600	10
ROXANOL SYRUP	2	480 ml	1
TRANXENE 7.5	4	600	5

Patient RBS's medical chart revealed that the Defendant referred to the patient as "my little Demerol addict", clearly establishing that the Defendant knowingly prescribed controlled drugs to an addicted patient. The information and diagnosis in the chart does not substantiate the

treatment given to the patient by the Defendant. The Defendant failed to properly diagnose, treat and care for the patient.

- b. Patient VPS received 70 controlled drug prescriptions from the Defendant, totaling 6,932 tablets, during the time period 7/5/97 – 7/1/98 as follows:

DRUGS	SCH	Sum Of Qty	# Of Rx's
PROPOXYPHENE N 100	4	32	1
MEPROBAMATE 400MG	4	3600	36
APAP/CODEINE 30MG	3	3300	33

Patient VPS's medical chart revealed the Defendant noted that the patient was addicted to Meprobamate and Tylenol with Codeine and "must have it". The Defendant knowingly prescribed controlled drugs to an addicted patient. The Defendant failed to diagnose, treat and care for the patient.

- d. Patient DDS received 56 controlled drug prescriptions from the Defendant and 10 controlled drug prescriptions from the Defendant's associate during the time period 7/8/97 – 6/24/98 as follows:

Defendant's prescriptions to Patient DDS:

DRUGS	SCH	Sum Of Qty	# Of Rx's
LORTAB 7.5MG (hydrocodone)	3	303	24
LORTAB 10MG (hydrocodone)	3	409	21
LORTAB 5MG (hydrocodone)	3	69	4
PERCODAN	2	48	2
VALIUM 5MG	4	68	1
PERCOCET	2	24	1
LORCET 10MG (hydrocodone)	3	24	1
HYDROCODONE 5MG	3	24	1
DIDREX 50MG	3	100	1

Associate's prescriptions: (noted in the same medical chart)

DRUGS	SCH	Sum Of Qty	# Of Rx's
LORTAB 10MG (hydrocodone)	3	336	4
PERCODAN	2	24	1
RESTORIL 30MG	4	30	1
VALIUM 5MG	4	250	4

Patient DDS's medical chart revealed a diagnosis of "partial bowel obstruction". However, the Defendant recorded no physical findings, vital signs or evaluation substantiating the diagnosis. The chart also revealed that the Defendant knowingly prescribed controlled drugs to the patient who was, in the Defendant's words, "hooked on hydrocodone". The Defendant failed to properly diagnose, treat and care for the patient.

e. Patient ABS received 99 controlled drug prescriptions from the Defendant during the time period 7/7/97 – 6/2/98 as follows:

DRUGS	SGH	# OF PILLS	# OF RXs
ROXICET (oxycodone)	2	1584	44
OXYCODONE 5MG	2	340	10
SERAX	4	1431	44
OXAZEPAM 15MG	4	28	1

Patient ABS's medical chart revealed that the Defendant inappropriately diagnosed, treated and prescribed medications to the patient. No medical need was established and documented. The Defendant administered Depo-Medrol (long acting corticosteroid) to the patient in amounts that produced symptoms of Iatrogenic Cushing's disease. Additionally, the Defendant increased the patient's Zoloft prescription even though the patient had been diagnosed with diarrhea, a known side effect of the drug. The Defendant failed to properly diagnose, treat and care for the patient.

f. Patient NTS received 113 controlled drug prescriptions from the Defendant during the time period 7/10/97 – 7/1/98 as follows:

DRUGS	SGH	Sum Of Qty	# OF RXs
LORTAB 10mg	3	1982	29
DARVOCET N 100	4	2602	28
XANAX 0.5mg	4	904	16
SOMA 350MG	4	1300	13
XANAX 1mg	4	416	10
CARISOPRODOL 350mg	4	700	7
PROPOXYPHENE N 100	4	100	2
XANAX .25mg	4	24	1
TEMAZEPAM 15mg	4	12	1
LORCET PLUS	3	24	1
HYDROCODONE 7.5mg	3	24	1
HYDROCODONE 10mg	3	24	1
HISTINEX HC	3	120 ml	1
AMBIEN 10mg	4	12	1
ALPRAZOLAM 1mg	4	36	1

Patient NTS's medical chart revealed a diagnosis of myositis. Medical evaluations, vital signs or consultations were not documented. The Defendant prescribed weight medication without evaluation or follow-up. The Defendant did not establish or document medical need for the medications prescribed or administered. The patient averaged approximately twenty-three (23) pills of controlled drugs per day. The Defendant failed to properly diagnose, treat and care for the patient.

g. Patient DTS received 71 controlled drug prescriptions from the Defendant during the time period 7/10/97 – 6/1/98 as follows:

DRUGS	SCH	Sum Of QTY	# OF Rxs
HYDROCODONE 7.5MG	3	378	21
DIDREX 50MG	3	180	3
STADOL/PROMETHAZINE	4	18 ml	6
STADOL NOSE SPRAY	4	3 ml	1
RESTORIL 15MG	4	12	1
DIAZEPAM 5MG	4	36	2
DARVON 65MG	4	2,040	34
DIPHENOXYLATE	5	72	3

The Defendant prescribed controlled drugs Fastin (phentermine) and Pondimin (fenfluramine), both Schedule IV, without an evaluation and failed to follow up. The Defendant failed to properly diagnose, treat and care for the patient.

25. Defendant is guilty of unprofessional conduct in that he has:
- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. §509 (9) and OAC 435:10-7-4 (11).
 - B. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
 - C. Prescribed, dispensed or administered controlled or narcotic drugs in an indiscriminate or excessive manner in violation of OAC 435:10-7-4 (1).
 - D. Prescribed or administered drugs without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509(13).
 - 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 Okla. Stat. §509(19).
[Applies to records made after 5/28/98]
 - F. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4 (15)

(COUNT 5)

26. The Defendant documented several patients as being addicted to controlled drugs. The Defendant continued to prescribe controlled drugs with the knowledge of the patient's addiction as follows:

a. Patient CWS received 123 controlled drug prescriptions (5,692 tablets) from the Defendant during the time period 7/2/97 – 6/2/98 for a total of 362 days as follows:

DRUGS	SCH	Sum Of QTY	# OF RXS
TYLOX (oxycodone)	2	60	1
ROXIPRIN (oxycodone)	2	60	1
ROXILOX (oxycodone)	2	360	6
PROPOXYPHENE N 100	4	3892	97
PROPOXYPHENE 65MG	4	600	8
PERCODAN (oxycodone)	2	120	2
OXYCODONE 5MG	2	600	8

Patient CWS's medical chart revealed that the Defendant knowingly prescribed controlled drugs to an addict.

c. Patient RBS received 71 controlled drug prescriptions from the Defendant, which included 1,126 prepared syringes of 100mg meperidine (Demerol) during the time period 7/8/97 – 6/27/98 for a total of 354 days as follows:

DRUGS	SCH	Sum Of QTY	# OF RXS
CLORAZEPATE 7.5	4	960	8
DILAUDID SYRUP	2	240 ml	2
MEPERIDINE 100MG INJ	2	1126 SYRINGES	45
MEPERIDINE 50MG	2	600	10
ROXANOL SYRUP	2	480 ml	1
TRANXENE 7.5	4	600	5

Patient RBS's medical chart revealed that the Defendant referred to the patient as "my little Demerol addict", clearly establishing that the Defendant knowingly prescribed controlled drugs to an addicted patient.

d. Patient VPS received 70 controlled drug prescriptions from the Defendant totaling 6,932 tablets, during the time period 7/5/97 – 7/1/98 as follows:

DRUGS	SCH	Sum Of QTY	# OF RXS
PROPOXYPHENE N 100	4	32	1
MEPROBAMATE 400MG	4	3600	36
APAP/CODEINE 30MG	3	3300	33

Patient VPS's medical chart revealed the Defendant noted that the patient was addicted to Meprobamate and Tylenol with Codeine and "must have it". The Defendant knowingly prescribed controlled drugs to an addicted patient.

e. Patient DDS received 56 controlled drug prescriptions from the Defendant and 10 controlled drug prescriptions from the Defendant's associate during the time period 7/8/97 – 6/24/98, for a total of 351 days as follows:

Defendant's prescriptions:

DRUGS	SCH	Sum Of QTY	# OF Rxs
LORTAB 7.5MG (hydrocodone)	3	303	24
LORTAB 10MG (hydrocodone)	3	409	21
LORTAB 5MG (hydrocodone)	3	69	4
PERCODAN	2	48	2
VALIUM 5MG	4	68	1
PERCOCET	2	24	1
LORCET 10MG (hydrocodone)	3	24	1
HYDROCODONE 5MG	3	24	1
DIDREX 50MG	3	100	1

Associate's prescriptions: (noted in the same medical chart)

DRUGS	SCH	Sum Of QTY	# OF Rxs
LORTAB 10MG (hydrocodone)	3	336	4
PERCODAN	2	24	1
RESTORIL 30MG	4	30	1
VALIUM 5MG	4	250	4

Patient DDS's medical chart revealed that the Defendant knowingly prescribed controlled drugs to the patient who was, in the Defendant's words, "hooked on hydrocodone".

e. Patient RDS received 46 controlled drug prescriptions from the Defendant and 1 controlled drug prescription from the Defendant's associate during the time period 7/9/97 – 6/26/98 for a total of 346 days as follows:

Defendant's prescriptions:

DRUGS	SCH	Sum Of QTY	# OF Rxs
DIDREX 50MG	3	1920	22
LORCET 10MG	3	100	1
LORTAB 10MG	3	1800	18
PROPOXYPHENE N 100	4	424	5

Defendant's Associate's prescriptions: (noted in same medical chart)

DRUGS	SCH	Sum Of QTY	# OF Rxs
LORTAB 10MG	3	100	1

Patient RDS's medical chart contained notation of the patient's "poly-substance abuse". The Defendant knowingly prescribed controlled drugs to an addict.

f. Patient BGS received 38 controlled drug prescriptions from the Defendant during the time period 7/7/97 – 6/17/98 for a total of 335 days as follows:

DRUGS	SCH	Sum Of QTY	Of Rx's
APAP/CODEINE 60MG	3	2700	29
DIAZEPAM 10MG	4	900	9

Patient BGS's medical chart revealed a notation by the Defendant on July 7, 1991, that the patient "is addicted to Tylenol #4". However, the Defendant authorized a prescription for the drug with three refills and continues to prescribe controlled drugs to the patient.

g. Patient MJS contacted Board investigator Stratton in April 1998, and stated that he was addicted to hydrocodone and had been receiving large quantities from the Defendant and the Defendant's associate even though he had informed them of his drug dependence.

Defendant's prescriptions:

DRUGS	SCH	Sum Of QTY	# Of Rx's
CARISOPRODOL 350MG	4	384	14
PHENOBARBITAL 1 1/2 G	4	600	6
HYDROCODONE 10MG	3	174	6
HYDROCODONE 5MG	3	72	4
HYDROCODONE 7.5MG	3	48	3
PROPOXYPHENE N 100	4	24	1
NORCO (hydrocodone)	3	18	1
LORTAB 7.5MG	3	12	1
LORTAB 10MG	3	42	1
LORCET PLUS	3	18	1
FIORINAL/CODEINE	3	12	1
DIPHENOXYLATE	5	24	1
ALPRAZOLAM 1MG	4	42	1

Defendant's associate's prescriptions: (noted in same medical chart)

DRUGS	SCH	Sum Of QTY	Count Of
CARISOPRODOL 350MG	4	940	8
LORTAB 10MG	3	325	4
HYDROCODONE 10MG	3	400	4
PHENOBARBITAL 1 1/2 G	4	200	2
ALPRAZOLAM 1MG	4	200	2
XANAX 1MG	4	100	1
KLONIPIN 1MG	4	100	1

Patient MJS's medical chart revealed that the Defendant knowingly prescribed to an addict and attempted to illegally treat drug addiction.

27. Defendant is guilty of unprofessional conduct in that he has:
- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. §509 (9) and OAC 435:10-7-4 (11).
 - B. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
 - C. Prescribed, dispensed or administered controlled or narcotic drugs in an indiscriminate or excessive manner in violation of OAC 435:10-7-4 (1).
 - D. Prescribed or administered drugs without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509(13).
 - 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 Okla. Stat. §509(19).
[Applies to records made after 5/28/98]
 - F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - G. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).
 - H. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

(COUNT 7)

28. On or about July 8, 1998, Board Investigator Stratton inspected the Defendant's stock of controlled drugs. The Defendant kept controlled drug samples in an unlocked room on open shelves, co-mingled with legend drugs. The room was accessible to all employees and potentially, patients or other individuals coming into the clinic.

29. The Defendant did not make or maintain an inventory of controlled drugs in his possession, as required by state and federal law. The Defendant stated he did not keep such records, in that it would take up too much time.

30. Defendant is guilty of unprofessional conduct in that he has:

A. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), specifically, 63 O.S. §2-307 and 21 CFR 1301.72-1301.76.

(COUNT 8)

31. Defendant's patient charts, pharmacy records and the summaries taken therefrom as admitted into evidence reveal a pattern of improperly prescribing large numbers of controlled drugs, prescribing controlled drugs to known addicts and illegally treating drug addiction during the time period January 1996 through March 1999. Controlled drug prescriptions were not accurately recorded and patient evaluations were not sufficient to document medical need.

32. Patient records from 1991 into 1999 reflect little or no physical examination findings, few records of vital signs and little or no history, followed mostly by notations of prescriptions written or authorized with little follow-up and almost no documentation of medical need. Specific and accurate quantities of controlled drug medications and non-controlled drug medications are not recorded. Medications that were recorded do not correlate with published standards of medical care.

33. From 1991 through April 1999, the Defendant repeatedly and consistently treated numerous patients without sufficient examination and in a negligent manner. These patients include, but are not limited to, the following:

a. Patient VPS's medical chart revealed that the Defendant noted that the patient was addicted to Meprobamate and Tylenol with Codeine and "**must have it**". The Defendant knowingly prescribed controlled drugs to an addicted patient. The Defendant failed to diagnose, treat and care for the patient.

b. Patient DDS received 56 controlled drug prescriptions from the Defendant and 10 controlled drug prescriptions from the Defendant's associate during the time period 7/8/97 – 6/24/98, a total of 351 days. Patient DDS's medical chart revealed a diagnosis of "partial bowel obstruction". However, the Defendant recorded no physical findings, vital signs or evaluation substantiating the diagnosis. The chart also revealed that the Defendant knowingly prescribed controlled drugs to the patient who was, in the Defendant's words, "**hooked on hydrocodone**". The Defendant failed to properly diagnose, treat and care for the patient.

c. Patient RDS received 46 controlled drug prescriptions from the Defendant and 1 controlled drug prescription from the Defendant's associate during the time period 7/9/97 – 6/26/98, a total of 346 days. Patient RDS's medical chart contained a notation of the patient's

“poly-substance abuse”. The Defendant knowingly prescribed controlled drugs to an addict. The Defendant administered approximately 91 injections of Depo-testosterone in sixty-six months to the patient without any evidence or documentation of a medical work-up for impotence. The Defendant administered excessive Depo-Medrol (long acting corticosteroid) injections and continued to administer the injections after the patient requested they be discontinued. The Defendant failed to properly diagnose, treat and care for the patient.

d. **Patient BGS** received 38 controlled drug prescriptions from the Defendant during the time period 7/7/97 – 6/17/98, a total of 335 days. **Patient BGS’s** medical chart revealed a notation by the Defendant on July 7, 1991, that the patient “is addicted to Tylenol #4”. However, the Defendant authorized a prescription for the drug with three refills. Further, in 1993, the Defendant increased the dosage of Tylenol with Codeine to two tablets every three hours, a toxic level. The Defendant failed to properly diagnose, treat and care for the patient.

e. **Patient BDS** received 15 controlled drug prescriptions from the Defendant during the time period 7/24/97 through 6/29/98, for a total of 340 days. **Patient BDS’s** medical chart revealed a history of depression. However, the Defendant continued to administer and prescribe corticosteroids, which are known to produce depression. The Defendant conducted no medical work-up and made no referral to specialists when the patient exhibited symptoms consistent with stroke. The Defendant referred to the incident as “exam negative” and a “vasoconstrictor thing”. No blood pressure readings were made or documented. The chart reflects that the Defendant noted persistent albuminuria in the patient but no medical evaluation or diagnostics were performed. The chart also reflects an incident of the Defendant treating the patient with coated aspirin and Vitamin K when the patient was losing blood through the GI tract. The Defendant failed to make a proper, timely diagnosis of the condition. The Defendant failed to properly diagnose, treat and care for the patient.

f. **Patient BBS** received 61 controlled drug prescriptions from the Defendant during the time period 7/9/97 – 6/25/98, for a total of 351 days. **Patient BBS’s** medical chart revealed a diagnosis of Rheumatoid Arthritis. The chart did not contain documentation of a medical work-up or consultation to support the diagnosis. The Defendant administered and prescribed medications without evaluation and follow-up. The Defendant prescribed Methotrexate, a potentially toxic drug, without obtaining base line liver function tests or monitoring blood chemistries. The Defendant failed to properly diagnose, treat and care for the patient.

g. **Patient WGS** received 49 controlled drug prescriptions from the Defendant during the time period 7/7/97 – 6/19/98, for a total of 347 days. **Patient WGS’s** medical chart revealed that the patient is a diabetic and hypertensive. The Defendant administered numerous injections of corticosteroid to the patient and continued the injections after noting increasing depression. Depression is a known side effect of corticosteroid use. The Defendant also prescribed an amphetamine to the patient, a known hypertensive. The Defendant failed to properly diagnose, treat and care for the patient.

h. **Patient JCS** received 37 controlled drug prescriptions from the Defendant during the time period 7/11/97 – 6/17/98. According to **Patient JCS’s** medical chart, the patient received

67 injections of Depo-Medrol (long acting corticosteriod) in fifty-four (54) months. The chart contains little physical findings, and the medical need for long-term corticosteroid use is not established or documented. The Defendant failed to properly diagnose, treat and care for the patient.

i. **Patient CMS** received 28 Schedule II controlled drug prescriptions from the Defendant during the time period 7/2/97 – 6/20/98, a total of 353 days. Additionally, according to the patient's medical chart, the patient received numerous injections of Depo-Medrol, long acting corticosteriod (51 injections in forty-four months, 10/11/91 – 6/21/95). The Defendant continued to administer Depo-Medrol injections after the patient was diagnosed and treated by an ophthalmologist for bilateral glaucoma. Following treatment for glaucoma the Defendant then administered 44 injections of Depo-Medrol in 36 months, 6/21/95 – 6/15/98. The Defendant failed to properly diagnose, treat and care for the patient.

j. **Patient VVS**, as previously described in paragraph nos. 15 through 19, above.

34. Defendant is guilty of unprofessional conduct in that he has:

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. §509 (9) and OAC 435:10-7-4 (11).

B. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).

C. Prescribed, dispensed or administered controlled or narcotic drugs in an indiscriminate or excessive manner in violation of OAC 435:10-7-4 (1).

D. Prescribed or administered drugs without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509(13).

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 Okla. Stat. §509(19). **[Applies to records made after 5/28/98]**

F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

G. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).

H. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4 (15).

I. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4 (18)

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 is in violation of the Oklahoma Allopathic and Surgical Licensure and Supervision Act, 59 O.S. §509, paragraphs 9, 13, 17, and 19 as follows:

9. Dishonorable or immoral conduct which is likely to deceive, defraud or harm the public.
13. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship.
17. Prescribing, dispensing or administering controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards.
19. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient.

3. Defendant is guilty of unprofessional conduct in that he is in violation of the

provisions of the Rules and Regulations of the Oklahoma State Board of Medical Licensure and Supervision, as codified in Title 435, Chapter 10, Subchapter 7, Paragraph 4, Subparagraphs 1, 2, 6, 11, 15, 18, 19, 25, and 27 of the Oklahoma Administrative Code as follows:

- (1) Indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs.
- (2) Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard.
- (6) Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need.
- (11) Conduct likely to deceive, defraud, or harm the public.
- (15) Gross or repeated negligence in the practice of medicine and surgery.
- (18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery.
- (19) The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine or surgery.
- (25) Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.
- (26) Violating any state or federal law or regulation relating to controlled substances, including but not limited to 63 O.S. §2-307 and 21 CFR 1301.72-1001.76.

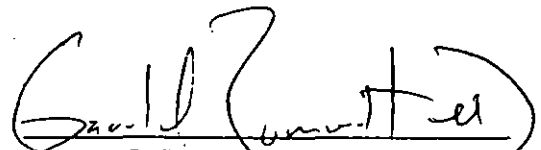
4. The Board further found that the Defendant's license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. (9), (13), (17), and (19) and OAC Title 435:10-7-4(1), (2), (6), (11), (15), (18), (19), (25), and (26).

Order

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

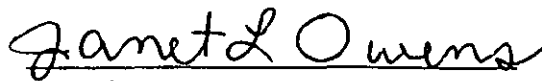
1. The license of Defendant, ROBERT W. GIBSON, M.D., Oklahoma license no. 5958, is hereby **REVOKED** as of the date of this hearing, November 5, 1999.
2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 25 day of November, 1999.


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

CERTIFICATE OF SERVICE

I certify that on the 24 day of November, 1999, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to John Raley, Esq., 4th Floor, Commercial Federal Building, 400 E. Central, Ponca City, OK 74602.


Janet Owens