

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,)

MAR 22 2007

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

v.)

KRISTIN LYNNETTE SELLS, PA,)
LICENSE NO. PA742,)

Defendant.)

Case No. 06-06-3134

**ORDER ACCEPTING
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, Kristin Lynnette Sells, P.A., Oklahoma license no. PA742, who appears in person and through counsel, Linda Scoggins, 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 January 17, 2007 and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and the Physician Assistant Act.

Defendant, Kristin Lynnette Sells, P.A., states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her 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 she has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with her.

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 physicians 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, Kristin Lynnette Sells, P.A., holds Oklahoma license no. PA742. At the time of the events which are the subject of this Complaint, Defendant practiced at the Chandler Outreach Medical Clinic, L.L.C. (the "Chandler Clinic"), a limited liability company owned (99%) and operated by her, which she formed on or about March 17, 2004.

3. Beginning on or about March 11, 2004 and continuing through November 2, 2006, Defendant's supervising physician was Billy Beets, M.D. On November 2, 2006, the Board suspended the license of Dr. Beets. At that time, Colm McCauley, D.O. became her supervising physician.

4. During this time that Dr. Beets was her supervising physician, Dr. Beets was paid a monthly fee to act as Defendant's supervising physician. Bank records provided by Defendant reveal the following checks on the account of the Chandler Clinic signed by Defendant, Kristin Sells, P.A.C., payable to Dr. Beets or Beets Primary Care:

04/20/04	1,000.00
05/18/04	1,000.00
06/07/04	1,000.00
01/05/05	1,000.00
01/26/05	1,250.00
02/08/05	1,000.00
04/04/05	1,000.00
05/09/05	1,000.00
06/17/05	1,000.00
07/13/05	1,000.00
09/23/05	1,200.00
11/29/05	2,500.00
12/30/05	1,250.00
03/01/06	1,250.00
04/07/06	1,250.00
05/03/06	1,250.00
05/23/06	1,250.00
06/12/06	1,250.00
07/16/06	1,250.00

At the time these payments were made to Dr. Beets, there was no written contract between Dr. Beets and the Chandler Clinic or Defendant.

5. After being notified that the State was investigating her for employing her supervising physician, on or about August 28, 2006, in an attempt to comply with Board rules, Defendant transferred a majority of her ownership interest in the Chandler Clinic to the minority owner, Susan Morton, who was also Defendant's sister and the Chandler Clinic's business manager. Contemporaneous with the transfer, a written Physician Assistant Employment Agreement was prepared and executed by Defendant and Susan Morton, the new majority owner of the Chandler Clinic. A Physician Service Agreement was also prepared and executed by Dr. Beets and Susan Morton on behalf of the Chandler Clinic. Although the Employment Agreement and Service Agreement were dated August 28, 2006, they reflect that they are retroactively effective March 17, 2004, the day the Chandler Clinic was formed by Defendant.

6. Title 59 O.S. §519.6(B)(e) provides as follows:

[I]t remains clear that the physician assistant is an agent of the supervising physician; but, **in no event shall the supervising physician be an employee of the physician assistant.**

7. Defendant is guilty of unprofessional conduct in that she:
 - A. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(7), 59 O.S. §519.6(B)(e) and OAC 435:15-5-1(b)(6).

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 and its applicable regulations and the Physician Assistant Act. The Board is authorized to enforce the acts as necessary to protect the public health, safety and welfare.

2. Defendant, Kristin Lynnette Sells, P.A., Oklahoma physician assistant license PA742, is guilty of unprofessional conduct set forth below based on the foregoing facts:


- A. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(7), 59 O.S. §519.6(B)(e) and OAC 435:15-5-1(b)(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. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of \$2,500.00, to be paid on or before May 22, 2007.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.
4. A copy of this written order shall be sent to Defendant as soon as it is processed.

Dated this 22 day of March, 2007.

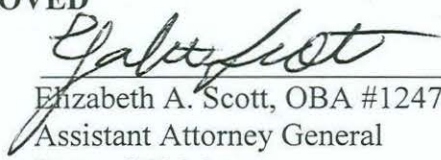


Billy H. Stout, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED



Kristin Sells, P.A.
License No. PA742

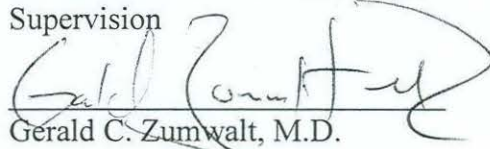


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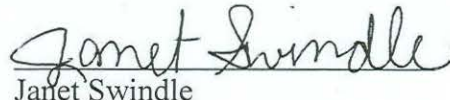


Gerald C. Zumwalt, M.D.
Secretary and Medical Director
Oklahoma State Board of
Medical Licensure and Supervision

Attorney for the Defendant

CERTIFICATE OF MAILING

I certify that on the 23 day of March, 2007, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Linda G. Scoggins, Scoggins & Cross, LLC, 204 N. Robinson, Suite 3100, Oklahoma City, OK 73102.



Janet Swindle