

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

FILED

MAY 11 2000

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

Plaintiff)

v.)

ELLIS OSTER, M.D.,)
LICENSE NO. 8748,)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 98-12-2050

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, Ellis Oster, M.D., Oklahoma license no. 8748, who appears in person and through counsel, Mack Martin, offer 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 December 2, 1999 and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Ellis Oster, M.D., 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 by his 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 physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.*

2. Defendant, Ellis Oster, M.D., holds Oklahoma license no. 8748.

3. From May 24, 1994 until March 15, 1997, Defendant admitted that he wrote prescriptions for controlled dangerous drugs for his wife and two (2) sons. These prescriptions include five (5) prescriptions for Dilaudid syrup, a Schedule II narcotic, for his wife. Defendant admitted that he kept no medical charts for these family members.

4. A review of pharmacy records from Ponca City, Oklahoma pharmacies revealed that from July 1, 1997 until July 1, 1998, Defendant wrote numerous prescriptions for controlled dangerous drugs for ten (10) patients. Defendant admitted that he failed to make and keep adequate records of the controlled dangerous drugs he was prescribing. Charts also revealed that Defendant failed to document performing physical examinations on these patients prior to prescribing the controlled dangerous drugs. A review of Defendant's charts for these same patients revealed that Defendant wrote these prescriptions without establishing a legitimate medical need for the medications.

5. A review of pharmacy records from Ponca City, Oklahoma pharmacies revealed that from July 1, 1997 until July 1, 1998, Defendant wrote numerous prescriptions for controlled dangerous drugs for five (5) additional patients. Defendant admitted that he could not locate patient charts for these patients. Defendant also admitted that he failed to make and keep any medical records for at least two (2) of these patients.

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

A. Engaged in 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).

B. 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).

C. 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).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-404.

F. Prescribed a controlled substance 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).

G. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

H. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.

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. Based on the foregoing facts, Defendant, Ellis Oster, Oklahoma license 8748, is guilty of the unprofessional conduct set forth below:

A. Engaged in 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).

B. 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).

C. 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).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-404.

F. Prescribed a controlled substance 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).

G. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

H. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.

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, Ellis Oster, M.D., holding Oklahoma license No. 8748, is hereby **FORMALLY REPRIMANDED**.


3. Defendant shall immediately turn in his Drug Enforcement Agency and Oklahoma Bureau of Narcotics permits to the appropriate authorities. Defendant further agrees that he will never reapply for his Drug Enforcement Agency or Oklahoma Bureau of Narcotics permits.

4. Defendant will be allowed to practice only as a radiologist in the State of Oklahoma.

5. Defendant shall allow the Board or its designee to monitor his practice to verify that the terms of the Voluntary Submittal to Jurisdiction are being followed by Defendant.

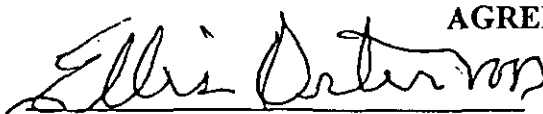
6. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 11th day of May, 2000.




Billy Stout, President
Oklahoma State Board of
Medical Licensure and Supervision

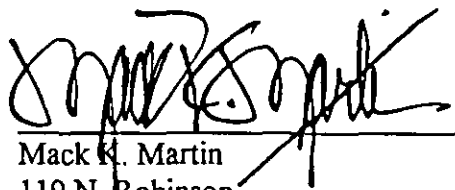
AGREED AND APPROVED:



Ellis Oster, M.D.
License No. 8748

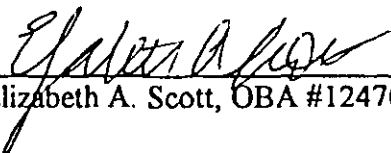


Gerald C. Zumwalt, M.D.
Secretary & Medical Advisor
Oklahoma State Board of
Medical Licensure and Supervision



Mack N. Martin
119 N. Robinson
Oklahoma City, OK 73102

Attorney for the Defendant

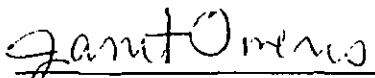


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405/848-6841

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 15 day of May, 2000, I mailed a true and correct copy of the Order accepting Voluntary Submittal to Jurisdiction to Ellis Oster, M.D. and Mack Martin, Attorney 119 N. Robinson, Oklahoma City, Ok 73102.



Janet Owens