

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, )

MAY 11 2000

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff )

v. )

Case No. 95-07-1726

MARY ANN GILLIAM, M.D., )  
LICENSE NO. 9089, )

Defendant. )

**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, Mary Ann Gilliam, M.D., Oklahoma license no. 9089, who appears in person and pro se, 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 July 31, 1995 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, Mary Ann Gilliam, M.D., 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 further acknowledges that she is entitled to have her interests represented by legal counsel and that she has elected to proceed without legal representation, thereby waiving her right to an attorney. Defendant acknowledges that she has read and understands the terms and conditions stated herein.

## ***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, Mary Ann Gilliam, M.D., holds Oklahoma license no. 9089.
3. From approximately December 1994 through January 1995, Defendant rendered medical care to patients known to her as A.P., D.C., G.H., P.B. and R.C. in an unlawful and unprofessional manner.
4. The acts, omissions and admissions of the Defendant regarding said patients include but are not limited to the following:
  - a. Negligent examination and inadequate testing of patients to reach any diagnosis.
  - b. Inadequate medical records.
  - c. Patient examinations so brief to not constitute the establishment of a valid physician/patient relationship.
  - d. The preparation and filing of numerous false claims with Oklahoma Medicaid for medical services not performed.
  - e. Billing Medicaid for EPSDT examinations when the Defendant did not perform an examination of that nature.
  - f. Billing for EPSDT examinations and for office calls on the same day for the same patient.
  - g. Instructing the office staff to follow a practice of "upcoding" billing to Medicaid to obtain larger payments than were supported by medical services rendered.
  - h. On or around March 29, 1995, Defendant admitted that she falsified 50% of medical records subpoenaed by the Medicaid Fraud Control Unit, Office of the Oklahoma Attorney General, by placing new physical exam forms in those records.

5. Based on the above allegations, Defendant is guilty of unprofessional conduct in that she:

- 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).
- d. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).
- e. Wrote false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- f. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship in violation of 59 O.S. §509(13).
- g. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).
- h. 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).
- i. 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).
- j. Obtained any fee by fraud, deceit or misrepresentation, including fees from Medicare, Medicaid or insurance in violation of OAC 435:10-7-4(28).
- k. Employed abusive billing practices in violation of OAC 435:10-7-4(29).
- l. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

6. Defendant has admitted to Board staff all of the foregoing allegations made against her.

7. On October 2, 1995, the Board Secretary entered an Order whereby Defendant agreed to voluntarily suspend her license until the next Board meeting, which was set for November 17-18, 1995. Hearing on the matter was subsequently continued on numerous occasions, the last of which occurred on May 16, 1996, wherein the Defendant agreed to continue with her voluntary suspension until further order of the Board.

8. Defendant's voluntary suspension has remained in continuous effect from October 2, 1995 until the present.

9. From July 1996 through the present, Defendant has been under the psychiatric treatment of Linda S. Layton-Bowlby, M.D.

10. On October 11, 1999, Defendant took the SPEX examination and received a passing score of 76.

#### *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, Mary Ann Gilliam, Oklahoma license 9089, is guilty of the unprofessional conduct set forth below:

- 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).
- d. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).

- e. Wrote false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- f. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship in violation of 59 O.S. §509(13).
- g. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).
- h. 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).
- i. 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).
- j. Obtained any fee by fraud, deceit or misrepresentation, including fees from Medicare, Medicaid or insurance in violation of OAC 435:10-7-4(28).
- k. Employed abusive billing practices in violation of OAC 435:10-7-4(29).
- l. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

**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, Mary Ann Gilliam, M.D., holding Oklahoma license No. 9089, is hereby **REINSTATED** and placed on **PROBATION** for an indefinite period of time under the following terms and conditions:

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

B. Defendant will continue with her medications and

counseling, therapy or psychiatric treatment with Linda S. Layton-Bowlby, M.D. or another therapist approved in advance by the Board Secretary and will authorize in writing the release of any and all records of that treatment to the Board.

C. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

D. Defendant will practice in a structured, controlled, supervised environment approved in advance by the Board Secretary.

E. A retrospective random chart review of Defendant's patients will be conducted periodically by the Compliance Consultant or other designated representative of the Board. Defendant shall allow the Compliance Consultant or other designated representative of the Board access to all patient charts at any time and shall allow for the immediate copying of said charts for review by the Board Secretary. The Board Secretary shall review the patient charts to determine Defendant's practices and record keeping habits.

F. Within the first year after her reinstatement, Defendant shall complete a minimum of fifty (50) hours of continuing medical education, a minimum of twenty (20) of which must be Category I as defined by the American Medical Association/Oklahoma State Medical Association/American Academy of Family Physicians or other certifying organization recognized by the Board. During the second year after her reinstatement, Defendant shall complete a minimum of fifty (50) hours of continuing medical education, a minimum of twenty (20) of which must be Category I.

G. Defendant will conduct her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order 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 Board or its designee.

H. Defendant will furnish a copy of this order to each and every state in which she holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which she holds or anticipates holding any form of staff privileges or employment.

I. Defendant will not supervise allied health professionals for whom a formal supervisory arrangement is required under Oklahoma law, e.g., physician assistants or advanced registered nurse practitioners.

J. Defendant will keep the Board informed of her current address.


K. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of her case.

L. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

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

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.

Dated this 11<sup>th</sup> day of May, 2000.

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

AGREED AND APPROVED:

Mary Ann Gilliam, M.D.  
Mary Ann Gilliam, M.D.  
License No. 9089

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

Elizabeth A. Scott  
Elizabeth A. Scott, OBA #12470  
Assistant Attorney General  
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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 Mary Ann Gilliam, M.D., 3211 East 14, Ada, Oklahoma 74821.

Janet Owens  
Janet Owens