

**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, )

JUN 08 2012

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

v. )

Case No. 11-06-4238

FRANCES PETER ARMENDARIZ, M.D., )  
LICENSE NO. 22257, )

Defendant. )

**COMPLAINT**

COMES NOW the 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, and for its Complaint against the Defendant, Frances Peter Armendariz, M.D., alleges and states as follows:

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, Frances Peter Armendariz, M.D., holds Oklahoma license no. 22257 and at the time of the incidents in question, practiced psychiatry at Lawton Psychiatry Services in Lawton, Oklahoma.

3. In November 2011, Board Investigators received information that Defendant was leaving blank pre-signed prescriptions in his office for use by his employees, and that an employee, Francis Newsome, was using these pre-signed prescriptions to give herself and her husband controlled dangerous substances without Defendant's permission. Investigators also received information that Frances Newsome and other employees were using the pre-signed prescriptions to give prescriptions for controlled dangerous drugs to patients when they called or came by the office and Defendant was not there.

4. When first questioned by Board investigators, Defendant initially lied and stated that he did not use pre-signed prescriptions in his office. After further questioning by Board investigators, Defendant then admitted that he did leave pre-signed prescriptions in his office for the use of his staff.

5. As a result of this practice, between December 14, 2009 and October 27, 2011, Defendant's secretary, Frances Newsome, was able to issue numerous prescriptions to herself using the pre-signed prescriptions left by Defendant. These prescriptions include seventeen (17) prescriptions for Adderall, a Schedule II controlled dangerous substance, for 474 dosage units, one (1) prescription for Oxycodone, a Schedule II controlled dangerous substance, for 40 dosage units, and three (3) prescriptions for Ambien, a Schedule IV controlled dangerous substance, for 90 dosage units.

6. Defendant admits that he never authorized any of these prescriptions to Frances Newsome.

7. Pharmacy records additionally reflect that Frances Newsome also obtained three (3) prescriptions for Lyrica, a Schedule V controlled dangerous substance, and one (1) prescription for amoxicillin, a non-controlled dangerous drug. Defendant believes he may have authorized some of these prescriptions for Frances Newsome. However, Defendant admits he kept no medical record of his treatment of Frances Newsome and thus, cannot be sure what he may have prescribed to her.

8. As a result of this practice, between December 8, 2010 and July 6, 2011, Defendant's secretary, Frances Newsome, was also able to issue numerous prescriptions to her husband, CND, using the pre-signed prescriptions left by Defendant. These prescriptions include four (4) prescriptions for Oxycodone, a Schedule II controlled dangerous substance.

9. Defendant admits that he never authorized any of these prescriptions to CND.

10. Pharmacy records additionally reflect that CND also obtained five (5) prescriptions for Lyrica, a Schedule V controlled dangerous substance, five (5) prescriptions for Dovonex, one (1) prescription for Doxycycline, one (1) prescription for Metronidazol, and two (2) prescriptions for SMZ/TMP, all non-controlled dangerous drugs. Defendant believes he may have authorized some of these prescriptions for CND. However, Defendant admits he kept no medical record of this treatment of CND and thus, cannot be sure what he may have prescribed to him.

11. Office staff also confirmed to Board investigators that when Defendant was out of the office and patients came by or called for prescriptions, Defendant allowed Frances Newsome, his secretary, to decide which patients got prescriptions and what medications they were to be prescribed. Ms. Newsome would then direct the receptionist to fill out the pre-signed prescriptions and give the patient the prescription that Ms. Newsome felt they needed.

12. Title 21 CFR §1306.05 provides as follows:

**Manner of issuance of prescriptions.**

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

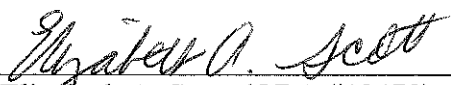
13. Defendant is guilty of unprofessional conduct in that he:
- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).
  - B. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(7).
  - C. 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 (18) and OAC 435:10-7-4(41).
  - D. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
  - E. 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(14) and OAC 435:10-7-4(21).
  - F. 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 59 O.S. §509(13) and OAC 435:10-7-4(39).
  - G. 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 (12).
  - H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. §509 (20).

- I. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of OAC 435:10-7-4(49).
- J. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

***Conclusion***

WHEREFORE, the Plaintiff respectfully requests that the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,

  
\_\_\_\_\_  
Elizabeth A. Scott (OBA #12470)

Assistant Attorney General  
State of Oklahoma  
101 N.E. 51<sup>st</sup> Street  
Oklahoma City, OK 73105  
Attorney for the Plaintiff



**RETURN OF SERVICE BY AGENT**

Received the attached and foregoing Citation and Scheduling Order in the investigation of FRANCES PETER ARMENDARIZ, at Oklahoma City, Oklahoma, on the 16 day of July, 2012, and on the 16 day of July, 2012, at 10:15 o'clock A.M. served it on the within named by delivering a copy to FRANCES PETER ARMENDARIZ, MD

(Name of person served)

At (address):

605 WEST GORE

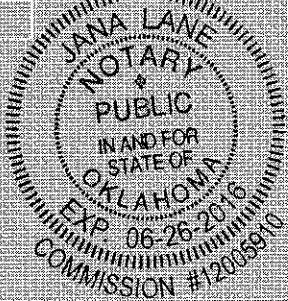
SUITE 1

LAWTON, OK 73501

Served by:

*Gary E. Richs*

Subscribed and sworn to before me on this 16<sup>th</sup> day of July, 2012



*Jana Lane*  
Notary Public

My Commission expires:

06-26-2016

CASE NAME: FRANCIS PETER ARMENDARIZ, MD

CASE #: 11-06-4238

**IN AND BEFORE THE OKLAHOMA STATE BOARD  
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STATE OF OKLAHOMA )  
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Plaintiff, )  
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v. )  
FRANCES PETER ARMENDARIZ, M.D., )  
 )  
LICENSE NO. 22257 )  
 )  
Defendant. )

Case No. 11-06-4238

**CITATION**

YOU ARE HEREBY NOTIFIED that on the 8 day of June, 2012, a sworn Complaint was filed with the undersigned Secretary of the Oklahoma State Board of Medical Licensure and Supervision, State of Oklahoma, charging you with violations of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act at 59 Okla. Stat. §509 (7), (8), (12), (13), (14), (18) and (20) and OAC 435:10-7-4 (11), (15), (21), (27), (39), (41) and (49). A copy of the Complaint is attached hereto and made a part thereof.


On July 12, 2012, the Board will be in regular session at 9:00 o'clock a.m., at its offices located in Oklahoma City, Oklahoma, at which time your Complaint will be considered by the Board, and a hearing will be held pursuant to the Oklahoma Administrative Procedures Act, 75 Okla. Stat. §309, *et seq.*, as amended.

If the Board decides, after considering all the testimony and evidence, that you are guilty as charged, your license to practice as a physician within the State of Oklahoma may be suspended or revoked or other disciplinary action may be taken by the Board as authorized by law, including the assessment of costs and attorney's fees for this action as provided by law.

Under the laws of the State of Oklahoma, you are required to file your written Answer under oath with the Secretary of the Board within twenty (20) days after the Citation is served upon you. Unless your Answer is so filed, you will be considered in default, and the Board may accept the allegations set forth in the complaint as true at the hearing of the complaint. If the charges are deemed sufficient by the Board, your license to practice as a physician in the State of Oklahoma may be suspended or revoked.

THEREFORE, you are cited to appear at the hearing. If you are not present in person, you may be present through your attorney.

DATED this 8 day of June, 2012 at 7<sup>55</sup><sub>a</sub> m o'clock.

  
\_\_\_\_\_  
GERALD C. ZUMWALT, M.D., Secretary  
Oklahoma State Board of Medical  
Licensure and Supervision

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

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**Plaintiff,** )  
  
**v.** )  
  
**FRANCES PETER ARMENDARIZ, M.D.,** )  
**LICENSE NO. 22257,** )  
  
**Defendant.** )

**FILED**

SEP - 4 2012

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 11-06-4238

**ORDER OF CONTINUANCE**

The undersigned Secretary for the Oklahoma State Board of Medical Licensure and Supervision, in consideration of the Defendant's Motion For Continuance, enters the following findings of fact, conclusions of law and orders:

1. Defendant's hearing on the Complaint and Citation pending in this case was initially set for September 13, 2012.
2. Defendant requests a continuance based upon the fact that he recently retained counsel and needs additional time in which to prepare his defense to the charges against him. The State has no objection to the requested continuance.
3. For good cause shown, Defendant's Motion For Continuance is hereby granted and Defendant's hearing is rescheduled before the Oklahoma State Board of Medical Licensure and Supervision en banc at its next regularly scheduled meeting on November 8, 2012.



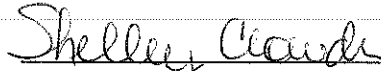
Entered this 31 day of August, 2012.



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

**Certificate of Service**

I certify that on the 7 day of <sup>September</sup>~~August~~, 2012, a true and correct copy of this order was mailed, postage prepaid, to Douglas A Rice, Derryberry & Naifeh, LLP, 4800 N. Lincoln Blvd., Oklahoma City, OK 73105.



Shelley Crowder

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

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**FRANCIS PETER ARMENDARIZ, M.D.** )  
**LICENSE NO. 22257,** )  
**Defendant.** )

**Case No. 11-06-4238**

**VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (“Board”), by and through its attorney, Kathryn R. Savage, 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, Francis Peter Armendariz, M.D., Oklahoma license no. 22257, who appears in person and through counsel, Doug Rice, offer this Agreement effective November 8, 2012, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 435:5-1-5.1.

***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 June 8, 2012, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“Act”).

Defendant, Francis Peter Armendariz, 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 and 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 *Okla. Stat. tit. 59 §480 et seq.*

2. Defendant, Francis Peter Armendariz, M.D., holds Oklahoma license no. 22257.

3. In November 2011, Board Investigators received information that Defendant was leaving blank pre-signed prescriptions in his office for use by his employees, and that an employee, Francis Newsome, was using these pre-signed prescriptions to give herself and her husband controlled dangerous substances without Defendant's permission. Investigators also received information that Frances Newsome and other employees were using the pre-signed prescriptions to give prescriptions for controlled dangerous drugs to patients when they called or came by the office and Defendant was not there.

4. When first questioned by Board investigators, Defendant initially misstated stated that he did not use pre-signed prescriptions in his office. After further questioning by Board investigators, Defendant then admitted that he did leave pre-signed prescriptions in his office for the use of his staff.

5. As a result of this practice, between December 14, 2009 and October 27, 2011, Defendant's secretary, Frances Newsome, was able to issue numerous prescriptions to herself using the pre-signed prescriptions left by Defendant. These prescriptions include seventeen (17) prescriptions for Adderall, a Schedule II controlled dangerous substance, for 474 dosage units, one (1) prescription for Oxycodone, a Schedule II controlled dangerous substance, for 40 dosage units, and three (3) prescriptions for Ambien, a Schedule IV controlled dangerous substance, for 90 dosage units.

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7. Pharmacy records additionally reflect that Frances Newsome also obtained three (3) prescriptions for Lyrica, a Schedule V controlled dangerous substance, and one (1) prescription for amoxicillin, a non-controlled dangerous drug. Defendant believes he may have authorized some of these prescriptions for Frances Newsome. However, Defendant admits he kept no medical record of his treatment of Frances Newsome and thus, cannot be sure what he may have prescribed to her.

8. As a result of this practice, between December 8, 2010 and July 6, 2011, Defendant's secretary, Frances Newsome, was also able to issue numerous prescriptions to her

husband, CND, using the pre-signed prescriptions left by Defendant. These prescriptions include four (4) prescriptions for Oxycodone, a Schedule II controlled dangerous substance.

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11. Office staff also confirmed to Board investigators that when Defendant was out of the office and patients came by or called for prescriptions, Defendant allowed Frances Newsome, his secretary, to decide which patients got prescriptions and what medications they were to be prescribed. Ms. Newsome would then direct the receptionist to fill out the pre-signed prescriptions and give the patient the prescription that Ms. Newsome felt they needed.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of *Okla. Stat. tit. 59, §509(8)* and *Oklahoma Administrative Code* section 435:10-7-4(11).
- B. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of *Okla. Stat. tit. 59, §509(7)*.
- C. 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 *Okla. Stat. tit. 59, §509 (18)* and *Oklahoma Administrative Code* section 435:10-7-4(41).

- D. Violated any state or federal law or regulation relating to controlled substances in violation of *Oklahoma Administrative Code* section 435:10-7-4(27).
- E. 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 *Okla. Stat. tit. 59, §509(14)* and *Oklahoma Administrative Code* section 435:10-7-4(21).
- F. 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 *Okla. Stat. tit 59, §509(13)* and *Oklahoma Administrative Code* section 435:10-7-4(39).
- G. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of *Okla. Stat. tit. 59, §509 (12)*.
- H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of *Okla. Stat. tit. 59, §509 (20)*.
- I. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of *Oklahoma Administrative Code* section 435:10-7-4(49).
- J. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of *Oklahoma Administrative Code* section 435:10-7-4(15).

### ***Conclusions of Law***

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to 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, Francis Peter Armendariz, Oklahoma license 22257, is guilty of the unprofessional conduct set forth below:

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of *Okla. Stat.*

*tit. 59, §509(8) and Oklahoma Administrative Code section 435:10-7-4(11).*

- B. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of *Okla. Stat. tit. 59, §509(7)*.
- C. 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 *Okla. Stat. tit. 59, §509 (18) and Oklahoma Administrative Code section 435:10-7-4(41)*.
- D. Violated any state or federal law or regulation relating to controlled substances in violation of *Oklahoma Administrative Code section 435:10-7-4(27)*.
- E. 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 *Okla. Stat. tit. 59, §509(14) and Oklahoma Administrative Code section 435:10-7-4(21)*.
- F. 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 *Okla. Stat. tit 59, §509(13) and Oklahoma Administrative Code section 435:10-7-4(39)*.
- G. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of *Okla. Stat. tit. 59, §509 (12)*.
- H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of *Okla. Stat. tit. 59, §509 (20)*.
- H. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of *Oklahoma Administrative Code section 435:10-7-4(49)*.
- J. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of *Oklahoma Administrative Code section 435:10-7-4(15)*.

**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, Francis Peter Armendariz, M.D., Oklahoma license no. 22257, is hereby **PUBLICLY REPRIMANDED**.

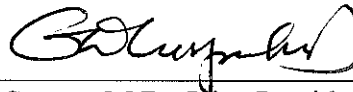
3. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of **\$15,000.00** to be paid on or before February 15, 2013.

4. Beginning November 8, 2012 and continuing through January 7, 2013, Defendant shall not prescribe, order, authorize, administer or dispense any drugs in Schedules II through V, with the exception of Adderall and Concerta. This limitation applies to both new prescriptions and refills. Additionally, Defendant shall not pre-sign or post date any prescriptions for controlled dangerous drugs to be filled during this time.

5. On or before February 15, 2013, Defendant shall complete a course on prescribing controlled dangerous substances and proper documentation for the prescribing of controlled dangerous substances at a facility approved in advance in writing by the Board Secretary. Defendant shall provide to the Board Secretary proof of completion of said course.

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 \_\_\_\_\_ day of November 8, 2012.



G. David Casper, M.D., Vice President  
Oklahoma State Board of Medical  
Licensure and Supervision

**AGREED AND APPROVED:**



Francis Peter Armendariz, M.D.  
License No. 22257



Gerald C. Zumwalt, M.D.  
Secretary and Medical Advisor to the  
Board



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Doug Rice, Attorney at Law  
Derryberry & Naifeh  
4800 N. Lincoln Blvd.  
Oklahoma City, Oklahoma 73105

Attorney for Defendant



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Kathryn R. Savage, OBA #18990  
Assistant Attorney General  
State of Oklahoma  
101 N.E. 51<sup>st</sup> Street  
Oklahoma City, Oklahoma 73105

Attorney for the Oklahoma State Board  
of Medical Licensure and Supervision