

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

FILED

OCT 17 2014

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
)
v.)
)
THOMAS K. JENKINS, P.T.A.)
LICENSE NO. PTA1141)
)
Defendant.)

Case No: 13-08-4790

FINAL ORDER OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 18, 2014, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Joseph L. Ashbaker, Assistant Attorney General, appeared for the plaintiff and Defendant appeared *pro se*.

The Board *en banc* after hearing arguments of counsel, testimony of witnesses, and reviewing the pleadings filed, 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. This Board is the duly authorized State agency empowered to license and oversee the activities of physical therapist assistants in the State of Oklahoma pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. 2011 & Supp. 2013, §§ 480-518.1, and the Physical Therapy Practice Act, 59 O.S. 2011 & Supp. 2012, §§ 887.1-887.18.
2. The Defendant holds Oklahoma Physical Therapist Assistant License No. PTA 1141.

3. This case initiated on or about August 1, 2013, when the Defendant's employer reported home health patients had made complaints of prescription medications missing from their homes.
4. On or about August 30, 2013, Board Investigator RD interviewed the Defendant at the Board offices. The Defendant stated he was an alcoholic who had been attending AA meetings "off and on since 1989" and had recently "developed a problem with Hydrocodone" after a medical procedure.
5. The Defendant admitted that in June of 2013 he had a "lapse in sanity" and began stealing Hydrocodone from the homes of some of his patients. The Defendant admitted to stealing a total of two (2) to four (4) doses of Hydrocodone on one (1) or two (2) occasions from four different patients. The Defendant also admitted he began taking Suboxone to help him with his "addiction to Hydrocodone."
6. At the conclusion of the interview with Board Investigator RD, the Defendant voluntarily signed an Agreement not to Practice.
7. On or about October 1, 2013, the Defendant was arrested by the Ponca City Police Department for Felony Eluding, DUI Drugs and Possession of a Firearm While Intoxicated.
8. On April 14, 2014, the Defendant pled guilty to these violations and received a two (2) year deferred sentence.
9. On or about June 10, 2014, in a follow-up interview with Board Investigator RD, the Defendant admitted he was guilty of these charges, but that he had very little memory of the incident because he had taken Soma which he had "borrowed" from a friend.
10. In light of these facts, the Defendant committed unprofessional conduct by:
 - a) Used drugs, narcotics, medication, or intoxicating liquors to an extent which affects the professional competency of the applicant or licensee in violation of 59 O.S. §887.13(4);
 - b) Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant in violation of 59 O.S. §887.13(7);;
 - c) Habitual intemperance or the habitual use of habit-forming drugs in violation of Okla. Admin. Code § 435:20-5-8(b)(2);
 - d) Conviction or confession of a crime involving violation of the laws of this state in violation of Okla. Admin. Code § 435:20-5-8(b)(4);

- e) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the Public in violation of Okla. Admin. Code § 435:20-5-8(b)(5);
- f) Any conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of Okla. Admin. Code § 435:20-5-8(b)(9);
- g) Negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board in violation of Okla. Admin. Code § 435:20-5-8(b)(12);.
- h) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of physical therapy and the responsibilities of the licensee in violation of Okla. Admin. Code § 435:20-5-8(b)(13); and
- i) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of Okla. Admin. Code § 435:20-5-8(b)(14).

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 found guilty by clear and convincing evidence of the following unprofessional conduct:
 - a) Used drugs, narcotics, medication, or intoxicating liquors to an extent which affects the professional competency of the applicant or licensee in violation of 59 O.S. §887.13(4);
 - b) Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant in violation of 59 O.S. §887.13(7);;
 - c) Habitual intemperance or the habitual use of habit-forming drugs in violation of Okla. Admin. Code § 435:20-5-8(b)(2);
 - d) Conviction or confession of a crime involving violation of the laws of this state in violation of Okla. Admin. Code § 435:20-5-8(b)(4);

- e) Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the Public in violation of Okla. Admin. Code § 435:20-5-8(b)(5);
- f) Any conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of Okla. Admin. Code § 435:20-5-8(b)(9);
- g) Negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board in violation of Okla. Admin. Code § 435:20-5-8(b)(12);.
- h) Habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of physical therapy and the responsibilities of the licensee in violation of Okla. Admin. Code § 435:20-5-8(b)(13); and
- i) Unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of Okla. Admin. Code § 435:20-5-8(b)(14).

Order

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

1. The license of Defendant, **THOMAS KEITH JENKINS, PTA**, Oklahoma Physical Therapist Assistant License No. PTA 1141, is hereby placed on **PROBATION** for a period of **FIVE (5) YEARS** commencing on September 18, 2014, under the following terms and conditions:
 - a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physical Therapy Practice Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act 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 Oklahoma State Board of Medical Licensure and Supervision.
 - b) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physical Therapist Practice 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.

- c) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- d) Defendant will not supervise allied health professionals that require surveillance of a licensed physical therapist assistant.
- e) Defendant will keep the Board informed of his current address.
- f) Defendant will be financially responsible all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation. Defendant will keep current these payments unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- g) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- h) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- i) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- j) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- k) Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or

modify license after due notice and hearing.

- l) Defendant will submit for analysis biological specimens including, but not limited to, blood, urine and hair follicle, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.
 - m) Defendant shall sign a contract with the Allied Health Professionals Program, (“APPA”), and said contract shall remain in effect for a minimum of five (5) years during which time Defendant will satisfactorily meet all requirements of the treatment plan including, but not limited to, biological specimen testing through Affinity, AA meetings as required, and the use of Sober Link;
 - n) Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Board Order immediately upon initiation, or continuation, of treatment.
 - o) Defendant will have the affirmative duty not to ingest any substance which will cause a biological specimen to test positive for any prohibited substance, including, but not limited to, alcohol, street drugs, and any mind-altering or mood-altering drugs.
 - p) Defendant will notify the Board or its designee of any relapse, including any entry, or re-entry, into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation.
 - q) Defendant will notify the Board or its designee of any arrest or charge filed against him of any conviction for driving under the influence or while intoxicated or involving alcohol or any other prohibited substance, or for any criminal offense involving substance abuse. This notification will include any complaint of intoxication or severe hangover at place of employment or while rendering health services.
2. 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.
 3. A copy of this written order shall be sent to Defendant as soon as it is processed.

Dated this 17 day of October, 2014.



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

Certificate of Service

This is to certify that on this 17th day of October, 2014, a true and correct copy of this Final Order of Probation was mailed, with proper postage thereon, to Thomas Keith Jenkins, PTA 1141, 913 Brentwood Drive, Ponca City, OK 74601.



Barbara J. Smith, Legal Assistant