

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

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
vs.)
)
THOMAS KEITH JENKINS, P.T.A.,)
LICENSE NO. TA 1141,)
)
Defendant.)

FILED

NOV 28 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 13-08-4790

**ORDER GRANTING MOTION TO ENFORCE BOARD ORDER AND
ORDER OF REVOCATION OF PHYSICAL THERAPIST ASSISTANT LICENSE**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on September 14, 2017, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and the rules of the Board.

Thomas Keith Jenkins, P.T.A. (“Defendant”), appeared in person, *pro se*. Joseph L. Ashbaker, Assistant Attorney General, appeared on behalf of Plaintiff.

1. The following exhibits were admitted into evidence:

- | | |
|----------------------|---|
| Plaintiff Exhibit 1: | Contract, executed by Tom Jenkins September 18, 2013
Allied Professional Peer Assistance Program of the
Oklahoma Board of Medical Licensure and Supervision |
| Plaintiff Exhibit 2: | APPA Letter to Thomas Jenkins, July 21, 2017
Discharge from Program
Attachment – Check-in History
November 13, 2016 to July 14, 2017 |
| Plaintiff Exhibit 3: | Chronology – Thomas Jenkins |
| Defendant Exhibit 1: | Letter of Reference for Thomas Jenkins, PTA, undated
Shanna Rierson, M.Ed., CCC-SLP
Director of Rehab Services, Phoenix Rehab |
| Defendant Exhibit 2: | Letter of Reference for Tom Jenkins, PTA, Sept. 6, 2017 |

Sara Richardson, COTA/L
Former Therapy Program Manager for
Phoenix Rehab at Southern Oaks Care Center

Defendant Exhibit 3: Letter of Reference for Tom Jenkins, August 28, 2017
Robin A. Roberts, Southern Oaks Care Center

The following witnesses were sworn and testified: Paul Cheng, MD, Associate Director of Oklahoma Health Professionals Program, Inc. ("OHPP"); Gary Ricks, Board Compliance Officer; and Defendant.

The Board considered testimony, arguments of counsel, exhibits admitted into evidence and being fully apprised of the premises, makes the following findings of fact, conclusions of law and orders.

FINDINGS OF FACT

2. Defendant, Thomas Keith Jenkins, P.T.A, holds Oklahoma Physical Therapist Assistant license number 1141, issued on December 17, 2002.
3. On September 18, 2013, Defendant entered a five-year contract with the Allied Professional Peer Assistance Program ("APPA"). See Plaintiff Exhibit 1.
4. At the September 18, 2014 Board meeting, Defendant was placed on terms of **FIVE (5) YEARS PROBATION**. A Final Order of Probation was filed October 17, 2014.
5. An Order Granting Motion to Modify Probation, removing Defendant's requirement for the use of Sober Link, was filed March 10, 2017.
6. On July 21, 2017, Defendant was discharged from the APPA program for multiple check-in failures, between November 13, 2016 and July 14, 2017. See Plaintiff Exhibit 2.
7. An Immediate Summary Suspension of Physical Therapist Assistant License ("ISS") was filed on July 26, 2017. A hearing on the ISS was set for September 14, 2017.
8. A Motion to Enforce Board Order was filed August 2, 2017; hearing was set for September 14, 2017.
9. At the September 14, 2017 Board meeting, Dr. Cheng stated that Defendant attended Caduceus meetings in Ponca City, Oklahoma. He further testified regarding Defendant's addiction and chronic knee pain issues.
10. Mr. Ricks testified regarding his interactions with Defendant. He noted that Defendant routinely reported to work, but missed fifteen call-ins during only nine months in APPA. He also stated that Defendant missed 39 times on SoberLink.

11. Defendant affirmed Mr. Ricks' testimony. He stated that he was easily distracted and sometimes would call in late or forgot to call in.

CONCLUSIONS OF LAW

12. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physical therapists and physical therapist assistants in the State of Oklahoma. 59 O.S. 2011, § 887 *et seq.* Okla. Admin. Code §§ 435:1-1-1 *et seq.*, 435:20-1-1 *et seq.*
13. Notice was given as required by law and the rules of the Board. 75 O.S. 2011, § 309A; 59 O.S. 2011, § 504; Okla. Admin. Code §§ 435:3-3-5, 3-3-6.
14. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physical therapist and physical therapist assistants holding a license to practice medicine in the State of Oklahoma for unprofessional conduct. 59 O.S. 2011, §§ 887(5) *et seq.*, 518.1(J), 513(B). Okla. Admin. Code §§ 435:20-5-8 *et seq.* These actions are authorized by 59 O.S. 2011, § 887.13(4), (7); Okla. Admin. Code §§ 435-20-5-8(b)(2), (4), (5), (9), (12), (13), (14).
15. The Board concluded that the Plaintiff has proven its case as set forth in their Motion to Enforce Board Order by clear and convincing evidence, that Thomas Keith Jenkins, P.T.A. did willfully violate the following term of his probation:

Paragraph (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;

16. Accordingly, the matter of the summary suspension of Mr. Jenkins license is moot.

ORDERS

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

1. Plaintiff's Motion to Enforce Board Order is **GRANTED**.
2. The **PHYSICAL THERAPIST ASSISTANT** license of **THOMAS KEITH JENKINS, P.T.A.** is **REVOKED**.
3. The **SUMMARY SUSPENSION** filed July 26, 2017, of **THOMAS KEITH JENKINS IS MOOT**.

4. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
5. A copy of this Order shall be provided to Defendant as soon as it is processed.

This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.

Dated this 28th day of November, 2017.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 29th day of November, 2017, a true and correct copy of the foregoing Order was transmitted as specified, postage prepaid, to the following:

U.S. Certified Mail
Thomas Keith Jenkins, P.T.A.
913 Brentwood Drive
Ponca City, Oklahoma 74601
Defendant, pro se



Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-804A

Billy H. Stout, M.D., Board Secretary
State Board of Medical Licensure and Supervision
101 N.E. 51st Street
Oklahoma City, OK 73105

November 17, 2017

Dear Dr. Billy H. Stout, M.D., Board Secretary:

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Medical Licensure and Supervision intends to take in case 13-08-4790. The licensee, a physical therapist, was charged with DUI while in the possession of a firearm and endangering others while attempting to elude police. The Board subsequently required the licensee to execute an Agreement Not to Practice and to enter a contract with the Allied Professional Peer Assistance Program ("APPA"). After another complaint, the Board placed licensee on five years of probation. The Board proposes to revoke the license for failure to complete the APPA program.

The Physical Therapy Practice Act authorizes the Board to discipline licensees who have "been guilty of any act in conflict with the ethics of the profession of physical therapy." 59 O.S.Supp.2017, § 887.13(A)(10). The "ethical and professional principles" required of physical therapists include "refus[ing] to participate in illegal or unethical acts[.]" OAC 435:20-5-9(10). The Board may reasonably believe that the proposed action is necessary to protect public health and deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State's policy of protecting the health, safety, and welfare of the citizens of Oklahoma.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL

RECEIVED

NOV 21 2017
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION