

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

FILED

NOV 20 2009

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 08-12-3638

JOEL ALLAN ORMSBY, P.A.,)
LICENSE NO. PA1148)

Defendant.)

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 19, 2009, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, 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. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 887.1 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Joel Allan Ormsby, P.A., holds Oklahoma license no. PA1148 and Previously practiced as a physician assistant in Alva, Oklahoma.

3. On or about February 27, 2009, the State filed a Complaint against Defendant based upon a long history of substance abuse which resulted in several accidents and two (2) arrests for DUI.

4. On July 23, 2009, Defendant appeared before the Board at which time the Board entered an Order Accepting Voluntary Submittal to Jurisdiction whereby Defendant was placed on a **FIVE (5) YEAR PROBATION**. The Order provides as follows:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physician Assistant 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.

5. The provision cited above has not been modified or deleted but remains in full force and effect as a term and condition of Defendant's licensure under the terms of the Order Accepting Voluntary Submittal to Jurisdiction.

6. While Defendant holds a valid physician assistant license under terms of probation, he does not have a current application to practice on file with the Board signed by him and any supervising physician. In the absence of a current application to practice on file, Defendant may not practice as a physician assistant pursuant to 59 O.S. §519.6 (A).

7. On or about August 17, 2009, Defendant called the Walgreens Pharmacy in Stillwater, Oklahoma and attempted to call in a prescription for Tramadol for patient RAS. Defendant used the name "Kirt Bierig, D.O." as his supervising physician.

8. The Walgreens pharmacist attempted to confirm the prescription through Dr. Bierig's office but was advised that he did not supervise Defendant and had not authorized the Tramadol prescription.

9. The Walgreens pharmacist additionally recognized Patient RAS as a known Tramadol abuser, so the pharmacist contacted Defendant about the prescription. Defendant then came to the pharmacy and identified himself as Joel Ormsby, P.A. Defendant advised the pharmacist that he was "doing a favor for a friend".

10. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has 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).
- C. He has 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 OAC 435:10-7-4(39).
- D. He has confessed to a crime involving violation of the laws of this state in violation of 59 O.S. §509(7).
- E. He has violated or attempted to violate, directly or indirectly, any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice in violation of 59 O.S. §509(13).
- F. He has engaged in the use of 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).
- G. He 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 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).

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 Oklahoma Physician Assistant Practice Act,

and their applicable regulations. The Board is authorized to enforce the acts as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct in that:
 - A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
 - B. He has 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).
 - C. He has 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 OAC 435:10-7-4(39).
 - D. He has confessed to a crime involving violation of the laws of this state in violation of 59 O.S. §509(7).
 - E. He has violated or attempted to violate, directly or indirectly, any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice in violation of 59 O.S. §509(13).
 - F. He has engaged in the use of 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).
 - G. He 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 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).

3. The Board further found that the Defendant's license should be **SUSPENDED** based upon any or all of the violations of the unprofessional conduct provisions of OAC 435:15-5-11 (7), 59 O.S. §509 (7), (8), (12), (13) and (18), and OAC 435:10-7-4 (11), (19), (39) and (41).

Order

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

1. The license of Defendant, Joel Allan Ormsby, P.A., Oklahoma physician assistant license no. PA1148, is hereby **SUSPENDED** as of the date of this hearing, November 19, 2009 for **NINETY (90) DAYS**.


2. During the period of suspension, Defendant shall complete a Prescribing Class at a facility approved in advance in writing by the Board Secretary on prescribing and required record keeping. Defendant shall provide to the Board Secretary proof of completion of said class.

3. Upon completion of the period of suspension, Defendant shall continue under all terms and conditions of **PROBATION** as set forth in the Voluntary Submittal to Jurisdiction filed July 23, 2009.

4. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

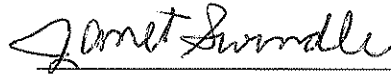
5. Defendant's suspension will be lifted, and his license will be reinstated under probation only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to November 21, 2009.

Dated this 20 day of November, 2009.


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

CERTIFICATE OF SERVICE

I certify that on the 20 day of November, 2009, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Joel Allan Ormsby, 2611 S. Oxford, Stillwater, OK 74074.



Janet Swindle