

**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 9 2002

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 01-1202448

JIMMIE EDWARD HOWELL, R.C.,)
R.C. LICENSE NO. 117,)

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, Jimmie Edward Howell, R.C., Oklahoma R.C. license no. 117, who appears in person and pro se, proffer 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 February 6, 2002, and acknowledges that hearing before the Board would result in some sanction under the Respiratory Care Practice Act.

Defendant, Jimmie Edward Howell, R.C., 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.

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 respiratory therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*

2. Defendant, Jimmie Edward Howell, R.C., holds respiratory care license no. RC117 in the State of Oklahoma.

3. Beginning in 1999 and continuing through March 2001, Defendant was addicted to Hydrocodone. Defendant was obtaining the Hydrocodone from his personal physician and on at least one (1) instance in March 2001, Defendant admits that he fraudulently called in a prescription for Hydrocodone for himself in the name of his personal physician.

4. Defendant admits that in or around July 2001, while working at St. Johns Hospital in Tulsa, OK, he entered a room where a patient was receiving Fentanyl from a Fentanyl drip. Defendant withdrew approximately 3cc of Fentanyl intended for this patient and injected himself in the hip with the Fentanyl while he was on duty.

5. On or about December 9, 2001, while on duty at St. Johns Hospital, Defendant was observed to be impaired by his co-workers. He was asked to give a urine sample for testing and refused. He later admitted to a Board investigator that on that date he had taken Valium, Sudafed and Benadryl. He was subsequently terminated by St. Johns Hospital.

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

- A. He is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. He is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4).
- C. He is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. He has engaged in the habitually intemperate or addicted use of any drug, chemical or substance which could result in behavior that interferes with the practice of respiratory

care and the responsibilities of the licensee in violation of OAC 435:45-5-3(1).

- E. He has engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of OAC 435:45-5-3(2).
- F. He has engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of OAC 435:45-5-3(3).
- G. He falsely manipulated drug supplies, narcotics or patient records, or forged a prescription for medication/drugs, or presented a forged prescription in violation of OAC 435:45-5-3(4).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Respiratory Care Practice 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, Jimmie Edward Howell, R.C., Oklahoma respiratory care license no. 117, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- A. He is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. He is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4).
- C. He is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. He has engaged in the habitually intemperate or addicted use of any drug, chemical or substance which could result in behavior that interferes with the practice of respiratory care and the responsibilities of the licensee in violation of OAC 435:45-5-3(1).

- E. He has engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of OAC 435:45-5-3(2).
- F. He has engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of OAC 435:45-5-3(3).
- G. He falsely manipulated drug supplies, narcotics or patient records, or forged a prescription for medication/drugs, or presented a forged prescription in violation of OAC 435:45-5-3(4).

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, Defendant shall be placed on PROBATION for a period of five (5) years under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Respiratory Care 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 furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

C. Upon request of the Board Secretary, Defendant will

request all hospitals in which he practices to furnish to the Board Secretary a written statement regarding monitoring of his practice while performing services in or to that hospital.

D. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

E. Defendant will not administer, dispense or possess any drugs in Schedules II through V.

F. 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 the Board Order immediately upon initiation, or continuation of treatment.

G. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

H. Defendant will attend ninety (90) meetings in ninety (90) days of a 12-Step program, and thereafter, will attend three (3) meetings per week, one (1) of which must be the Caduceus meeting.

I. Defendant will abide by all post-care recommendations of 12 & 12, a copy of which is attached hereto.

J. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

K. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or his designee.

L. Defendant will authorize in writing the release of any and all records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision and will authorize the Compliance Consultant to the Board to discuss his case and treatment with the individuals providing Defendant's treatment.

M. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

N. Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for the prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of his probation.

O. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

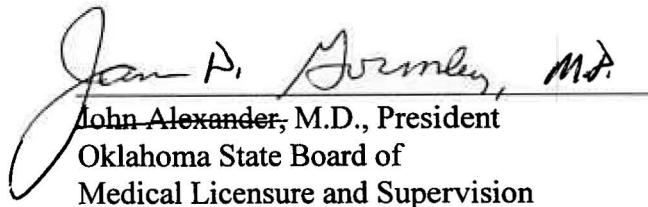
P. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

Q. Defendant will notify the Board or its designee of any slip, relapse, 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. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

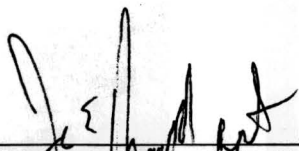
R. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

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, and shall keep current all payments for monitoring his compliance with this agreement.

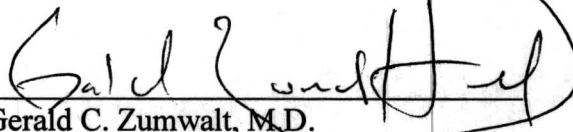
Dated this 9 day of May, 2002.


John Alexander, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

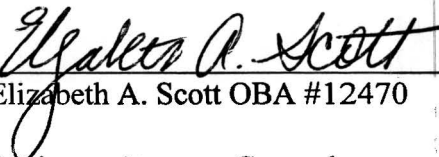
AGREED AND APPROVED:



Jimmie Edward Howell, R.C.
License No. RC117



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



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