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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,)

FILED

APR 8 1993

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

v.

DAVID DOW MILLER, M.D.)
Medical License No. 12785,)
Defendant.)

CASE NO. 92-10-1442

ORDER TO ALLOW BOARD SECRETARY
TO TERMINATE SUSPENSION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on February 26, 1993, at the office of the Oklahoma Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and David Dow Miller, M.D., Defendant, appeared in person and by legal counsel, David B. King, Attorney at Law, P.O. Box 1066, Bartlesville, OK 74005.

The Oklahoma Board of Medical Licensure and Supervision en banc heard statements, reviewed exhibits and being fully advised in the premises, the Oklahoma Board finds and orders as follows:

FINDINGS OF FACT

1. That Defendant, David Dow Miller, M.D., prior to his suspension, held Oklahoma Medical License No. 12785.
2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.
3. That following notice and hearing on or around November 21, 1992, the Oklahoma Board of Medical Licensure and Supervision, with the agreement and cooperation of Defendant, voted on an emergency basis to temporarily suspend Defendant's license until the next meeting of the Board scheduled for January 8, 1993. Following notice and consideration on January 8, 1993, the Board entered an additional Order to Extend Suspension of License until the following meeting of the Board to be held on February 26-27, 1993.
4. That Defendant testified that since October, 1992, he has continued to participate in in-patient evaluation and treatment at Talbott-Marsh Hospital in Atlanta, Georgia. It is Defendant's intent to complete in-patient treatment at that facility and that he presently expects to be discharged in good standing and with advocacy from that institution on or around March 30, 1993.
5. That Dr. J. Darrel Smith, Physician Recovery Committee, Oklahoma State Medical Association, testified that Defendant was

working with that Committee in good standing and was prepared to continue working closely with that Committee after his discharge from the Talbott-Marsh Hospital, Atlanta, Georgia.

6. That Defendant was charged in the District Court of Washington County on or around October 8, 1992, with unlawful distribution of a controlled and dangerous substance--marijuana. The laboratory report issued by the Oklahoma State Bureau of Investigation indicated that approximately 3 grams of marijuana were at issue. On October 14, 1992, Dr. Miller pleaded no contest to the charge and received a five-year deferred sentence as per rules of probation, with a fine, court costs, lab fees and other costs. He was also ordered to complete treatment as required by the Board.

7. Prior to leaving for Atlanta, Georgia, Defendant took all appropriate steps to insure that his patients were adequately cared for, that his office partner, Dr. Michael Collins, was fully apprised of the situation regarding their care and treatment, that his fellow physicians employed with him by the Bartlesville Clinic were kept advised of the situation by and through their Administrator, Tim Palm, that the Jane Phillips Hospital by and through contact with its then Chief of Staff, Dr. John Smithson, and its Vice Chief of Staff, Dr. Paul McQuillen, were all advised of the matters at issue and how Dr. Miller intended to resolve the same. That after all appropriate steps were taken to handle Dr. Miller's professional obligations and his family obligations, Dr. Miller voluntarily checked into the ~~Talbott-Marsh Hospital in Atlanta, Georgia, on or around~~ October 15, 1992, and has been and remained in said facility until the present time.

8. That the Board specifically finds extraordinary circumstances in this case in that (1) Defendant voluntarily ceased the practice of medicine and obtained coverage for his patients; (2) Defendant cooperated with the office of the Washington County District Attorney and with the Board staff; (3) Defendant submitted himself voluntarily to Talbott-Marsh Hospital, Atlanta, Georgia, for in-patient evaluation and treatment and is continuing to cooperate therein after a period of several months; (4) there was no evidence that Defendant at any time posed any threat or harm to any patient in his medical practice; (5) no patient of Defendant made any complaint regarding medical services which he rendered; and (6) Defendant has agreed to participate in the Physician Recovery Committee of the Oklahoma State Medical Association, and Dr. J. Darrel Smith personally appeared and advocated for Defendant.

CONCLUSIONS OF LAW

1. That the Board has jurisdiction of this matter pursuant to the Oklahoma Medical Practice Act, 59 O.S. 1991, Sec. 481 et seq., and previous Orders issued herein by the Board.

ORDER


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

1. That Oklahoma Medical License No. 12785 held by Defendant, David Dow Miller, M.D., should be and is hereby kept under suspension until further order.

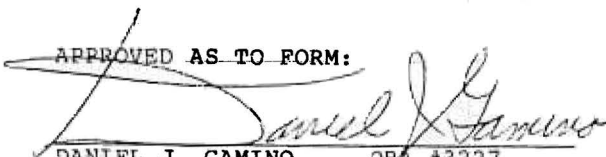
2. That the Board specifically delegates to the Board Secretary authority to terminate the aforesaid suspension and to impose five-year probation under terms and conditions acceptable to the Board Secretary at such time as the Board Secretary receives evidence of successful completion of in-patient treatment by the Defendant and the discharge summary with advocacy from Talbott-Marsh Hospital and evidence that Defendant is participating in the Physician Recovery Committee of the Oklahoma State Medical Association. That terms and conditions of

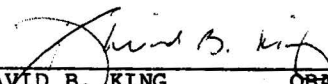
any probation imposed by the Board Secretary shall come before the Board en banc for consideration at its next meeting after issuance by the Board Secretary.

DATED this 8 day of April, 1993.


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

APPROVED AS TO FORM:


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ATTORNEY FOR DEFENDANT

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 15th day of April, 1993, to:

DAVID DOW MILLER, M.D.
c/o David B. King
Attorney at Law
P.O. Box 1066
Bartlesville, OK 74005


Sherry Chapman