

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,

FILED

MAY 20 1993

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,

v

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

)
) CASE NO. 92-10-1442
)

Defendant

FINAL ORDER RATIFYING
TERMINATION OF SUSPENSION AND
ESTABLISHMENT OF PROBATION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on May 14, 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 announcement of 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, and suspension given in recognition of pleading no contest to a criminal indictment.

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 February 26, 1993, the Oklahoma Board of Medical Licensure and Supervision heard evidence and entered the following order, to-wit:

"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."

4. That the Defendant presented evidence of successful completion of in-patient treatment at the Talbott-Marsh Hospital and provided a discharge summary with advocacy from Talbott-Marsh Hospital, and evidence that Defendant was participating in the Physician Recovery Committee of the Oklahoma State Medical Association.

5. That under the terms and conditions of the Board's Order to Allow Board Secretary to Terminate Suspension the Secretary reviews same and issues the following order.

6. That on April 8, 1993, Defendant and legal counsel appeared before the Board Secretary at the Board office. Upon review of evidence, the Board Secretary reinstated Defendant's Oklahoma medical license under a five-year probation beginning on April 8, 1993, under certain enumerated terms and conditions.

7. That the actions of the Secretary were consistent with the evidence presented and should be ratified and confirmed by the Board en banc.

CONCLUSIONS OF LAW

1. That the Oklahoma Board of Medical Licensure and Supervision has jurisdiction over this matter pursuant to the Oklahoma Medical Practice Act, 59 O.S. 1991, Sec. 481 et seq.

ORDER

IT IS THEREFORE ORDERED by the Secretary of 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., that has been suspended since November 21, 1992, should be and is hereby REINSTATED and suspension terminated pursuant to the terms and conditions of probation set forth below.

2. That the Defendant's Oklahoma Medical License No. 12785 should be and is hereby placed on a term of probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years beginning on April 8, 1993, under the following terms and conditions:

- (a) During the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, to specifically include controlled dangerous substances.

During the period of probation Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need, and Defendant shall have an affirmative duty to inform any physician treating him of Defendant's previous use of marijuana.

During the period of probation Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to controlled dangerous substances, which would adversely affect his ability to practice medicine or surgery as interpreted

by the Oklahoma State Board of Medical Licensure and Supervision.

- (d) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of any investigator or other agent representing the Oklahoma State Board of Medical Licensure and Supervision, and Defendant will pay for testing and analysis of those specimens.
- (e) During the period of probation Defendant shall document and provide proof of his regular participation in and compliance with all directives of the Physician Recovery Committee of the Oklahoma State Medical Association.
- (f) During the period of probation Defendant shall document and provide proof of his regular participation in NA and/or AA meetings.
- (g) During the period of probation Defendant shall submit to and cooperate with periodic interviews and/or evaluation by the staff of the Oklahoma Board of Medical Licensure and Supervision.
- (h) That Defendant shall execute Probation Agreement prepared by Board staff and comply with terms and conditions therewith.

During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.

- (j) Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (k) During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (l) That Defendant will conduct his practice in compliance with the Oklahoma Medical 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 the interpretation is received by Defendant from the Board.
- (m) During the period of probation Defendant will not supervise a Physician's Assistant.
- (n) During the period of probation Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of this case.
- (o) During the period of probation Defendant shall notify any hospital where he holds staff privileges, or clinic, or group where

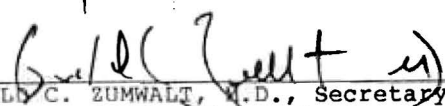
he practices, of the terms and conditions of this Board Order and supply a copy thereof.

- (p) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

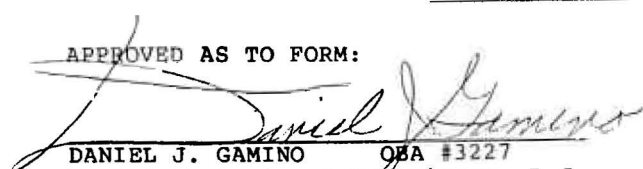
3. That the jurisdiction of the Board in this individual proceeding will continue in this matter until the terms and conditions of probation are modified or withdrawn by the Oklahoma State Board of Medical Licensure and Supervision, either on their own motion or on the motion of the Defendant.

4. That failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma medical license, after additional due notice and hearing.

DATED this 20 day of May, 1993.


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

APPROVED AS TO FORM:


DANIEL J. GAMINO OBA #3227
Daniel J. Gamino & Associates, P.C.
3315 NW 63
Oklahoma City, OK 73116
(405) 840-3741
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 21 day of May, 1993, to:

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

