

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

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

Plaintiff,

v.

**KIMBERLEE RENEE MIXON, P.A.
LICENSE NO. PA1288,**

Defendant.

FILED

SEP 21 2006

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 06-08-3151

**ORDER ACCEPTING
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, Kimberlee Renee Mixon, P.A., Oklahoma license no. PA1288, 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 August 24, 2006, and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and the Physician Assistant Act.

Defendant, Kimberlee Renee Mixon, P.A., states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her 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 further acknowledges that she is entitled to have her interests represented by legal counsel and that she has elected to proceed without legal representation, thereby waiving her right to an attorney.

Defendant acknowledges that she has read and understands the terms and conditions stated herein.

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 physicians assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §519 *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, Kimberlee Renee Mixon, holds Oklahoma physician assistant license no. PA1288.
3. On or about September 23, 2004, Defendant was granted a physician assistant license under terms of an Agreement for Licensure based upon a history of substance abuse. The agreement provides as follows:
 5. Applicant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances, including but not limited to alcohol.
4. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's licensure under agreement.
5. On or around June 19, 2006, Defendant was arrested by the Kiowa Police Department and charged with Driving a Motor Vehicle While Under the Influence of Alcohol/Drugs, Transporting a Loaded Firearm in a Motor Vehicle, and Driving with a Suspended License.
6. On or about June 27, 2006, Defendant admitted to Tom Sosbee, Compliance and Education Coordinator for the Board, that she had been arrested and charged with a DUI. Defendant also admitted that the day before she was arrested, she had consumed a bottle of wine and part of another.
7. Defendant is guilty of unprofessional conduct in that she:
 - A. Habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1).

B. Violated any provision of the Medical Practice Act or the rules promulgated by the Board in violation of OAC 435:15-5-11(a)(7).

C. 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).

D. 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 59 O.S. §509(13) and OAC 435:10-7-4(39).

E. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

F. Is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Physician Assistant Act, the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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, Kimberlee Renee Mixon, Oklahoma physician assistant license no. PA1288, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1).

B. Violated any provision of the Medical Practice Act or the rules promulgated by the Board in violation of OAC 435:15-5-11(a)(7).

C. 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).

D. 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 59 O.S. §509(13) and OAC 435:10-7-4(39).

E. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

F. Is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

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 her 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.

B. Upon request of the Board Secretary, Defendant will request all hospitals in which she anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of her practice while performing services in or to that hospital.

C. Defendant will furnish to each and every state in which she holds licensure or applies for licensure and hospitals, clinics or other institutions in which she 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.

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

E. Defendant will submit for analysis biological fluid specimens to include, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

F. Defendant will not prescribe, administer, or dispense any medications for personal use or for that of any family member.

G. Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her of the Board Order immediately upon initiation, or continuation of treatment.

H. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances, including but not limited to alcohol.

I. Defendant will attend three (3) meetings per week of a local 12-step program.

J. Defendant will execute a contract with and will attend one (1) meeting per month of the Health Professionals Recovery Program.

K. Defendant shall enter and continue counseling at least one (1) time per week with Joel Duncan, LPC or another counselor approved in advance by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from her counselor to the Board Secretary for his review. Defendant will remain in treatment until both the counselor and the Board Secretary authorize her release from counseling.

L. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

M. Defendant shall promptly notify the Board of any entry into a treatment program for substance abuse.

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

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

P. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of her case, including but not limited to a \$100.00 per month probation monitoring fee.

Q. 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.

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

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

T. 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.

Dated this 21 day of September, 2006.

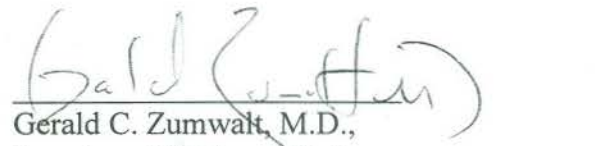


Billy H. Stout, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED


Kimberlee Renee Mixon, P.A.
Elizabeth A. Scott, OBA #12470

Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118


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

CERTIFICATE OF MAILING

I certify that on the 22 day of September, 2006, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Kimberlee Renee Mixon, 519 E. Jefferson, #302, McAlester, OK 74501.


Janet Swindle