

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,

Plaintiff,

v.

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

Defendant.

MAY 31 2007

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 06-08-3151

**FINAL ORDER OF PROBATION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on May 17, 2007 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.

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.*
2. 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.
3. Defendant, Kimberlee Renee Mixon, P.A., holds Oklahoma physician assistant license no. PA1288.

4. 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, including an arrest for Driving While Intoxicated on September 23, 2003. 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.

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. Based upon these admissions, on or about August 24, 2006, the State filed a Complaint and Citation against Defendant based upon violation of her Agreement for Licensure.

8. On September 21, 2006, Defendant appeared before the Board at which time the Board entered an Order Accepting Voluntary Submittal to Jurisdiction. The Order provides as follows:

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.

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

9. 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 the terms of the Order Accepting Voluntary Submittal to Jurisdiction.

10. On or about January 11, 2007, Tom Sosbee, Compliance & Education Coordinator for the Board, met with Defendant for a routine probation meeting, at which time she admitted that she had not attended any Health Professionals Recovery Program meetings.

11. At the January 11, 2007, Mr. Sosbee also obtained a urine specimen from Defendant. The specimen subsequently tested positive for Ethanol.

12. 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. 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 Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physician Assistant 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 as follows:
  - A. Habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1).
  - B. Is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).
3. The Board further found that the Defendant's license should be placed on probation based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(4), OAC Title 435:10-7-4(3) and OAC Title 435:15-5-11 (a)(1).

### *Order*

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

1. The license of Defendant, Kimberlee Renee Mixon, P.A., Oklahoma license no. PA1288, is hereby 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 week 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.

2. If during the period of her probation Defendant tests positive for any prohibited substance or violates the terms of her probation in any way, she shall be immediately suspended by the Board Secretary, after which time she may appear before the Board to seek reinstatement of her license.

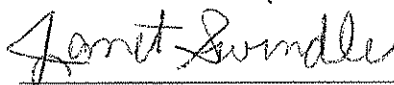
3. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 31 day of May, 2007.

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

**CERTIFICATE OF SERVICE**

I certify that on the 1 day of <sup>June</sup> May, 2007, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Kimberlee Renee Mixon, 519 E. Jefferson, #302, McAlester, OK 74501.

  
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Janet Swindle