

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

JUN 01 2008

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 06-08-3151

COMPLAINT

COMES NOW the 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, and for its Complaint against the Defendant, Kimberlee Renee Mixon, P.A., alleges and states as follows:

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. §480 *et seq.* and §519.1 *et seq.*

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

2004 DWI-AGREEMENT FOR LICENSURE

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, 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.

2006 DWI-1ST COMPLAINT

4. 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.

5. 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.

6. 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.

7. On September 21, 2006, Defendant appeared before the Board at which time the Board entered an Order Accepting Voluntary Submittal to Jurisdiction whereby Defendant was placed on a **FIVE (5) YEAR PROBATION**. 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.

8. The provisions cited above were not been modified or deleted but remained in full force and effect as terms and conditions of Defendant's licensure under the terms of the Order Accepting Voluntary Submittal to Jurisdiction.

2007 POSITIVE DRUG TEST-2ND COMPLAINT

9. 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.

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

11. Based upon these admissions, on or about February 9, 2007, the State filed a Complaint and Citation against Defendant based upon her violation of her Probation.

12. On May 17, 2007, Defendant appeared before the Board at which time the Board entered a Final Order of Probation whereby Defendant was again placed on a **FIVE (5) YEAR PROBATION**. 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.

13. 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 Final Order of Probation.

2008 DWI-3RD COMPLAINT

14. On or about May 27, 2008, Defendant notified Tom Sosbee, Compliance and Education Coordinator for the Board, that she had been arrested on May 24, 2008 for a DUI. Mr. Sosbee subsequently obtained the arrest records and learned that Defendant had been arrested and charged with **DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL-AGGRAVATED, A FELONY**. At the time of her arrest, the Breathalyzer registered at a level of **.22 percent**. A citizen had called the Oklahoma Highway Patrol to report a drunk driver on I-40 drinking champagne from a bottle. The arresting officer found an open bottle of champagne plus two (2) empty bottles of champagne in the truck Defendant was driving. Additionally, Defendant had no clothes on from the waist up and refused to put on clothes after repeatedly being asked to do so by the arresting officer.

15. Mr. Sosbee subsequently learned that Defendant has failed to attend the Health Professionals Recovery Program meetings as required under the terms of her Probation.

16. 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. 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).

D. 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).

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

F. 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).

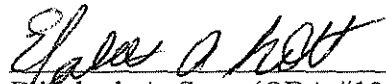
G. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safely in violation of OAC 435:10-7-4(17).

H. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

Conclusion

WHEREFORE, the Plaintiff respectfully requests that the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's physician assistant license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

Assistant Attorney General

State of Oklahoma

5104 N. Francis, Suite C

Oklahoma City, OK 73118

Attorney for the Plaintiff