

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

FILED

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OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff,

v.

Case No. 06-08-3151

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

Defendant.

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 6, 2008, 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 and pro se.

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 §519.1 *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, 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. 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).
 - D. 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 (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 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. 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).
 - D. 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 revoked based upon any or all of the violations of the unprofessional conduct provisions of the Physician

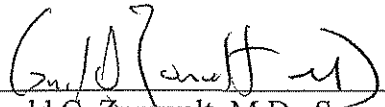
Order

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 physician assistant license no. PA1288, is hereby **REVOKED** as of the date of this hearing, November 6, 2008.

2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

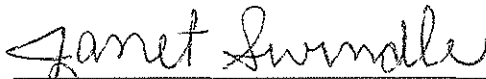
Dated this 7 day of November, 2008.



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

CERTIFICATE OF SERVICE

I certify that on the 12 day of November, 2008, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Kimberlee Mixon, 315 W. 4th Street, Hobart, OK 73651.



Janet Swindle