

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,)
)
) Plaintiff,)
)
v.)
)
STEFAN A. KOSTIUK, M.D.) CASE NO. 89-08-949
Medical License No. 13231,)
)
) Defendant.)

SECOND
ORDER MODIFYING
TERMS OF PROBATION AND LEVEL OF PROBATION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on February 26, 1993, at the office of the Oklahoma State 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 Stefan A. Kostiuk, M.D., Defendant, appeared in person, pro se, waived his right to counsel, and agreed to proceed without counsel.

The Board of Medical Licensure and Supervision en banc heard the oral argument of counsel, reviewed exhibits, and being fully advised in the premises, the Board of Medical Licensure and Supervision finds as follows:

FINDINGS OF FACT

1. That Defendant, Stefan A. Kostiuk, M.D., holds Oklahoma Medical License No. 13231.
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 October 26, 1990, the Oklahoma Board of Medical Licensure and Supervision reinstated Defendant's medical license under a term of probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years beginning on October 26, 1990, under certain enumerated terms and conditions.
4. That since that date the Defendant has been in general compliance with the terms and conditions of probation.
5. That on November 1, 1991, Defendant appeared before the Board en banc and the Board made modification in the terms of probation and level of probation.
6. That the Defendant presented evidence of change in circumstance and that he should be able to prescribe controlled dangerous substances to patients he sees in the clinic, and that in all other respects the terms and conditions of probation should remain the same.

CONCLUSIONS OF LAW

1. That the Board 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 Oklahoma Board of Medical Licensure and Supervision as follows:

1. That the Defendant, Stefan A. Kostiuk, M.D., holding Oklahoma Medical License No. 13231, should be and is hereby retained on a term of probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years beginning on October 26, 1990, under the following modified terms and conditions:

- (a) During the period of probation Defendant will not be allowed to prescribe, dispense or administer controlled dangerous substances as listed in the Oklahoma Uniform Controlled Dangerous Substances Act, except that the Defendant may prescribe, administer or dispense controlled dangerous substances in a hospital emergency room or to clinic out-patients as long as those controlled dangerous substances are listed on serially-numbered, duplicate prescription pads and Defendant shall make copies available to Investigators of the Oklahoma State Board of Medical Licensure and Supervision at their request, to include all dispensing records on CDS and sample medication.
- (b) During the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, to specifically include controlled dangerous substances.
- (c) 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 chemical dependency.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (h) 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.
- (i) Pursuant to Title 59 O.S. Sec. 506, Defendant shall promptly pay within 30 days of receipt of invoice from the Board the costs of investigation, prosecution and probation of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- (j) 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.
- (k) Defendant agrees to participate in such recovery programs as may be recommended by Dr. J. Darrel Smith, Director of the Oklahoma State Medical Association Physician's Recovery Program.
- (l) 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.
- (m) That the Defendant's conduct is sufficient grounds to reduce his level of supervision from Level I to Level II.

2. That the jurisdiction of the Board in this individual proceeding will continue until the terms and conditions of probation are modified or lifted by the Oklahoma Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

3. 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 11 day of March, 1993.


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

APPROVED AS TO FORM:

Daniel J. Gamino

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 11 day of March, 1993, to:

STEFAN A. KOSTIUK, M.D.
8315 South Walker
OKC 73139

Janet L Owens