

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

STATE OF OKLAHOMA

FILED

DEC 18 1997

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 97-08-1918

STEFAN KOSTIUK, M.D)
Medical License No. 13231,)

Defendant.)

FINAL ORDER

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision en banc on November 21, 1997, 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 Kostiuk, M.D., Defendant, appeared in person, pro se, and along with representative Dr. Harold Thiessen, M.D.

The Board of Medical Licensure and Supervision en banc reviewed exhibits, heard statements and being fully advised in the premises, the Board FINDS and ORDERS as follows:

FINDINGS OF FACT

1. That Defendant, Stefan Kostiuk, M.D., holds Oklahoma Medical License No. 13231.

2. That the 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 the law and the rules of the Board.

3. That since approximately October, 1996, until approximately August, 1997, Defendant did re-start the personal use and abuse of controlled dangerous substances with no documented medical need, and Defendant used a series of prescriptions written to different friends and acquaintances to assist him in obtaining said drugs for his personal use.

4. That the CDS Defendant obtained for his personal use included, but was not limited to, the following, to-wit:

Vicodin 7.5mg. tabs
Lortab
Hydrocodone
Carisopordol 350mg.

5. That Defendant did obtain the aforesaid and other controlled dangerous substances for his personal use by utilizing the following pharmacies, to-wit:

Albertson's Pharmacy No. 221
9500 N. May Ave.
Oklahoma City, OK

ProMed Discount Pharmacy
7415 N. May Ave.
Oklahoma City, OK

Eckerd Drug No. 3517
12203 Warwick Drive
Oklahoma City, OK

Eckerd Drug No. 2618
10800 N. Rockwell
Oklahoma City, OK

Eckerd Drug No. 973
8337 N. Rockwell
Oklahoma City, OK

Oklahoma City Clinic, Edmond
200 N. Bryant
Edmond, OK

Eckerd Drug No. 3515
11931 N. Penn
Oklahoma City, OK

Homeland Pharmacy No. 181
12508 N. May
Oklahoma City, OK

Albertson's Pharmacy No. 2244
7001 NW 122
Oklahoma City, OK

Wal-Mart Pharmacy No. 10-1626
2208 W. Hefner
Oklahoma City, OK

Oklahoma City Clinic Pharmacy South
8315 S. Walker
Oklahoma City, OK

Eckerd Drug No. 858
4026 N. MacArthur
Oklahoma City, OK

Nichols Hills Drug
6411 N. Avondale
Oklahoma City, OK

Eckerd Drug No. 2161
12322 N. May
Oklahoma City, OK

Eckerd Drug No. 896

Buy For Less Pharmacy
2121 W. Hefner Road
Oklahoma City, OK

Walgreen Pharmacy No. 3642
4500 S. Shields Blvd.
Oklahoma City, OK

Walgreen Pharmacy No. 3643
9011 S. Penn
Oklahoma City, OK

Walgreen Pharmacy No. 3645
101 N. Midwest Blvd.
Midwest City, OK

Walgreen Pharmacy No. 3648
301 S. Santa Fe Ave.
Edmond, OK

Walgreen Pharmacy No. 3668
7101 W. Hefner Road
Oklahoma City, OK

Walgreen Pharmacy No. 3718
6350 N. MacArthur
Oklahoma City, OK

Walgreen Pharmacy No. 3786
1201 NW 12th Street
Moore, OK

6. That Defendant is perpetuating significant harm to public health, safety and welfare by continuing the acts and omissions set forth in the above allegations.

7. That Defendant has had previous personal substance abuse problems and been the subject of prior Board action in Case No. 89-08-949.

CONCLUSION OF LAW

1. That Stefan Kostiuk, M.D., holding Oklahoma Medical License No. 13231, is in violation of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1996, Sec. 509, Paragraphs (5), (8), (9), (10) and (12), to-wit:

“(5) Habitual intemperance or the habitual use of habit-forming drugs.”

“(8) Conviction or confession of a crime involving violation of (a) the anti-narcotic or prohibition laws and regulations of the federal government, (b) the laws of this State, or (c) State Board of Health rules.”

“(9) Dishonorable or immoral conduct which is likely to deceive or defraud the public.”

“(10) The commission of any act which is a violation of the criminal laws of this state when such act is connected with the physician’s practice of medicine.”

“(12) The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs.”

2. That Defendant Kostiuk is also in violation of the rules and regulations promulgated by this Board, specifically Rule 435:10-7-4, paragraphs (3), (5), (6), (24), (26) and (27), to-wit:

“(3) The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient.”

“(5) Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician’s personal use.”

“(6) Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need.”

“(24) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes.”

“(26) Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to a family member or to himself or herself.”

“(27) Violating any state or federal law or regulation relating to controlled substances.”

ORDER

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

1. That the Defendant, Stefan Kostiuk, M.D., holding Oklahoma Medical License No. 13231, should be and is hereby **SUSPENDED** from the practice of medicine and surgery for one (1) month from the date of November 21, 1997.

2. That the Defendant, Stefan Kostiuk, M.D., holding Oklahoma Medical License No. 13231, should be and is hereby placed on a term of **PROBATION** to the Oklahoma State Board of Medical Licensure and Supervision for an indefinite period beginning on December 21, 1997, under the following terms and conditions:

(a) During the period of probation, Defendant will not prescribe, administer, dispense or possess any drugs in Schedules II, III, and V.

(b) Defendant will surrender his registration for state and federal controlled dangerous substances to the proper authorities and will not apply for state and federal registration for controlled dangerous substances until the term of his probation has expired unless authorized to do so by the Oklahoma State Board of Medical Licensure and Supervision.

(c) During the period of probation, Defendant will not authorize any personnel under his supervision to initiate an order for a prescription to be issued.

(d) During the period of probation, Defendant will practice in a controlled environment approved by the Oklahoma State Board of Medical Licensure and Supervision or its designee.

(e) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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.

(f) During the period of probation, Defendant will request all hospitals in which he anticipates practice to furnish to the Oklahoma State Board of Medical Licensure and Supervision, a written statement regarding monitoring of his practice while performing services in or to that hospital.

(g) During the period of probation, Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he 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.

(h) During the period of probation, Defendant will not supervise allied health professionals.

(i) 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 the Board or its designee, and Defendant will pay for the analysis thereof.

(j) During the period of probation, Defendant will not prescribe, administer or dispense any medications for personal use.

(k) 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. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation of treatment.

(l) During the period of probation, Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

(m) During the period of probation, Defendant will place himself in a rehabilitation program approved by the Secretary for in-patient evaluation and subsequent treatment. Defendant will authorize in writing the release of any and all information regarding said treatment to the Oklahoma State Board of Medical Licensure and Supervision.

(n) During the period of probation, Defendant will abide by the post care contract from Rush Behavioral Center, Downers Grove, Illinois.

(o) During the period of probation, Defendant will keep the Board informed of his current address.

(p) During the period of probation, Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case.

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

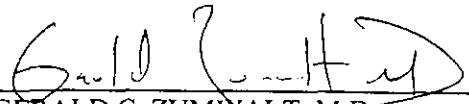
(s) During the period of probation, Defendant is mandated to participate fully in the OSMA Physician Recovery Program and to authorize in writing the release of any and all information regarding same to the Oklahoma State Board of Medical Licensure and Supervision.

(t) 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.

3. 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.

4. 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 12 day of December, 1997.


GERALD C. ZUMWALT, M.D.,
Secretary/Treasurer
Oklahoma Board of Medical Licensure
and Supervision

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 6 day of December, 1997, to:

STEFAN KOSTIUK, M.D.
329 Raintree Road
Oklahoma City 73120

HAROLD THIESSEN, M.D.
Director, Physician Recovery Program
Oklahoma State Medical Association
601 W. I-44 Service Road
Oklahoma City, OK 73118

DANIEL J. GAMINO
Daniel J. Gamino & Associates, P.C.
3315 NW 63
Oklahoma City, OK 73116

