

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,)

JUL 26 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 97-08-1918

STEFAN ANDRE KOSTIUK, M.D.,)
LICENSE NO. 13231)

Defendant.)

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on July 19, 2001, 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, *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 physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *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, Stefan Andre Kostiuk, M.D., holds Oklahoma license no. 13231, and is authorized to practice as a physician and surgeon under the terms of an Order Modifying Probation dated February 11, 1999.

4. The Order Modifying Probation sets forth Defendant's indefinite term of probation beginning December 12, 1997, and provides as follows:

- L. During the period of probation, Dr. Kostiuk will not prescribe, administer or dispense any medications for personal use.
- M. During the period of probation, Dr. Kostiuk will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Dr. Kostiuk has the affirmative duty to inform any and every doctor treating him of the Board order immediately upon initiation of treatment.
- N. During the period of probation, Dr. Kostiuk will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
- P. During the period of probation, Dr. Kostiuk will abide by the post care contract from Rush Behavioral Center, Downers Grove, Illinois.
- U. 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 Dr. Kostiuk.

5. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's probation.

6. During or around March 2001, Defendant accepted and ingested a pill from a woman at a nursing home where he was working. Defendant subsequently tested positive for Propoxyphene.

7. On April 26, 2001, a Complaint and Citation alleging five (5) counts of unprofessional conduct were filed against Defendant.

8. On April 27, 2001, Defendant provided an observed urine specimen at the request of Tom Sosbee, Compliance and Education Coordinator for the Oklahoma State Board of Medical Licensure and Supervision. During this meeting with Mr. Sosbee, Defendant told him that the only medications he was taking were Zoloft and Prilosec. The urine specimen subsequently tested positive for Dihydrocodeine/Hydrocodone.

9. On May 11, 2001, the Board Secretary entered an Order of Emergency Suspension of Defendant's license.

10. Defendant is guilty of unprofessional conduct in that he:
 - A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).
 - B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
 - 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(14) 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(16) and OAC 435:10-7-4(40).
 - E. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself in violation of OAC 435:10-7-4(26).

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 he:
 - A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).
 - B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

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(14) 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(16) and OAC 435:10-7-4(40).

E. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself in violation of OAC 435:10-7-4(26).

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 59 O.S. §509(5), (9) (14) and (16) and OAC 435:10-7-4(3), (11), (26), (39) and (40), and that if Defendant ever obtains reinstatement of his license, that it shall be under terms of indefinite probation.

Order

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


1. The license of Defendant, Stefan Andre Kostiuk, M.D., Oklahoma license no. 13231, is hereby **REVOKED** as of the date of this hearing, July 19, 2001.

2. Should Defendant ever obtain reinstatement of his license, it shall be under terms of indefinite probation.

3. 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.

4. Defendant's revoked license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

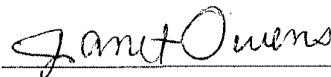
Dated this 26 day of July, 2001.



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

CERTIFICATE OF SERVICE

I certify that on the 27 day of July, 2001, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Stefan Andre Kostiuk, 3229 Raintree Road, Oklahoma City, OK.



Janet Owens