

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,

Plaintiff

v.

KYLE LEMOINE SANDERS, OT,
LICENSE NO. OT1367,

Defendant.

MAY 21 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-02-3685

VOLUNTARY SUBMITTAL TO JURISDICTION

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 for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Kyle Lemoine Sanders, OT, Oklahoma license no. OT1367, who appears in person and pro se, offer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on April 10, 2009 and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Occupational Therapy Practice Act.

Defendant, Kyle Lemoine Sanders, OT, states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant further acknowledges that he is entitled to have his interests represented by legal counsel and that he has elected to proceed without legal representation, thereby waiving his right to an attorney. Defendant acknowledges that he has read and understands the terms and conditions stated herein.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of occupational therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 888.1 *et seq.*
2. Defendant, Kyle Lemoine Sanders, OT, holds Oklahoma license no. OT1367, and is authorized to practice as an occupational therapist in the State of Oklahoma.
3. On or about April 16, 2004, Defendant and the Board Secretary entered into an Agreement for Licensure based upon Defendant's plea of guilty to driving while intoxicated on February 12, 2003. The Board subsequently ratified the Agreement for Licensure and issued Defendant a license to practice as an occupational therapist on or about May 20, 2004.
4. On or about July 19, 2007, the Board terminated Defendant's Agreement for Licensure, thereby issuing Defendant an unrestricted occupational therapist license.
5. In or around 2006, Defendant began to use Marijuana on a monthly basis. His use escalated and in or around September 2008, he was using Marijuana several times a week.
6. On or about February 6, 2009, Defendant was working at Jane Phillips Medical Center in Bartlesville, Oklahoma. Upon receiving complaints from co-workers that Defendant frequently spoke of illegal drug use, as well as complaints that drugs were visible in his car, Defendant's supervisor asked him to provide a urine specimen, which subsequently tested positive for Marijuana.
7. Based upon Defendant's positive drug test for Marijuana, Defendant's employer terminated him.
8. Defendant is guilty of unprofessional conduct in that he:
 - A. Engaged in unprofessional conduct as defined by the rules established by the Board, or violated the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2).
 - B. Violated any provision of this act in violation of 59 O.S. §888.9(A)(5) and 435:30-1-10(29).
 - C. Was convicted of, confessed to, or plead no contest to a felony or misdemeanor in violation of 435:30-1-10(a)(2).

- D. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of 435:30-1-10(a)(3).
- E. Engaged in the habitual intemperance or the habitual use of habit-forming drugs in violation of 435:30-1-10(a)(10).
- F. Engaged in the habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of occupational therapy and the responsibilities of the licensee in violation of 435:30-1-10(a)(11).
- G. Engaged in the unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of 435:30-1-10(a)(12).
- H. Engaged in any conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of 435:30-1-10(a)(19).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Occupational Therapy Practice Act and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Based on the foregoing facts, Defendant, Kyle Lemoine Sanders, OT, Oklahoma license OT1367, is guilty of the unprofessional conduct set forth below:

- A. Engaged in unprofessional conduct as defined by the rules established by the Board, or violated the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2).
- B. Violated any provision of this act in violation of 59 O.S. §888.9(A)(5) and 435:30-1-10(29).
- C. Was convicted of, confessed to, or plead no contest to a felony or misdemeanor in violation of 435:30-1-10(a)(2).
- D. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of 435:30-1-10(a)(3).

- E. Engaged in the habitual intemperance or the habitual use of habit-forming drugs in violation of 435:30-1-10(a)(10).
- F. Engaged in the habitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of occupational therapy and the responsibilities of the licensee in violation of 435:30-1-10(a)(11).
- G. Engaged in the unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of 435:30-1-10(a)(12).
- H. Engaged in any conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of 435:30-1-10(a)(19).

Order

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

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.
2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Kyle Lemoine Sanders, OT, holding Oklahoma license No. OT1367, is hereby placed on **PROBATION** for a period of five (5) years under the following terms and conditions:

- A. Defendant will conduct his practice in compliance with the Oklahoma Occupational Therapy Practice Act as interpreted by the Board. Any question of interpretation regarding the Act or this order 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 Board or its designee.
- B. Defendant will notify the Board or its designee of any relapse, including entry or re-entry into any rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

C. Defendant will not administer, dispense or possess any drugs in Schedules I through V.

D. Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto. During the first year of probation, Defendant shall submit to urine tests a minimum of one (1) time per month.

E. 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, or continuation of treatment.

F. 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.

G. Defendant will authorize in writing the release of any and all medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

H. Defendant will abide by the terms and recommendations of his assessment with The Referral Center.

I. Defendant will attend ninety (90) 12-Step meetings in ninety (90) days and thereafter, will attend three (3) meetings per week of a local 12-step program.

J. Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.

K. Defendant will keep the Board informed of his current address.

L. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

M. Defendant shall promptly notify the Board of any citation or arrest for any criminal offense.

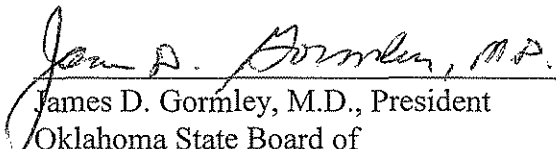
N. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

O. 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.

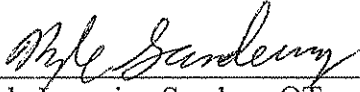
P. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

Q. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

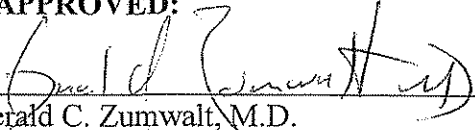
Dated this 21 day of May, 2009.


James D. Gormley, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

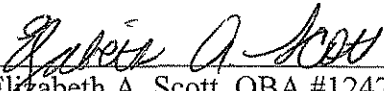
AGREED AND APPROVED:



Kyle Lemoine Sanders, OT
License No. OT1367



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

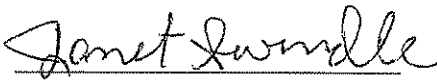


Elizabeth A. Scott, OBA #12470
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405/848-6841

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 22 day of May, 2009, I mailed by first class mail a true and correct copy of the Voluntary Submittal to Jurisdiction to Kyle Lemoine Sanders, 306 ½ S. Dewey Avenue, Bartlesville, OK 74006.



Janet Swindle