

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.

OCT 02 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-02-3685

COMPLAINT

COMES NOW the 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, and for its Complaint against the Defendant, Kyle Lemoine Sanders, OT, alleges and states as follows:

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. §888.9 *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.

AGREEMENT FOR LICENSURE

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.

PRIOR DISCIPLINARY ACTION-MARIJUANA ABUSE

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. The State subsequently filed a Complaint against Defendant and on May 21, 2009, the Board accepted a Voluntary Submittal to Jurisdiction whereby Defendant was placed on a five (5) year term of probation. The Order provides that Defendant shall be on **PROBATION** as follows:

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

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.

9. 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 Voluntary Submittal to Jurisdiction.

CURRENT UNPROFESSIONAL CONDUCT ALLEGATIONS

10. On or about August 12, 2009, Board Compliance Officer Gary Ricks obtained a urine specimen from Defendant, which subsequently tested positive for numerous substances prescribed to Defendant, along with Amphetamine, which was not prescribed to him. When later questioned as to why he tested positive for Amphetamine, Defendant first lied to the Compliance Officer by denying that he had ingested this substance. After further questioning, Defendant admitted that he had ingested his girlfriend's diet pills on both August 8, 2009 and August 9,

2009. Defendant admitted that he did not have a prescription for this medication and that he had not been diagnosed by a physician as needing this medication. Defendant admitted that he knew ingesting this medication not prescribed to him was wrong.


11. 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 or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board in violation of 59 O.S. §888.9(A)(5) and 435:30-1-10(29).
- C. 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).
- D. Failed to furnish to the Board, its investigators or representatives, information lawfully requested by the Board in violation of 435:30-1-10(a)(27).
- E. 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).

Conclusion

WHEREFORE, the Plaintiff respectfully requests that the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's occupational therapist license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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