

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

STATE OF OKLAHOMA )  
EX REL. THE OKLAHOMA BOARD )  
OF MEDICAL LICENSURE )  
AND SUPERVISION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
 )  
KIMBERLY DAWN BARNETT, R.C., )  
R.C. LICENSE NO. 1398 )  
 )  
Defendant. )

FILED

MAR 26 2010

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 09-06-3783

FINAL ORDER OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 11, 2010 at the office of the Board, 101 N.E. 51<sup>st</sup> Street, 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.

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 respiratory care therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*
2. Defendant, Kimberly Dawn Barnett, R.C., holds respiratory care license no. RC1398 and practices in Guymon, Oklahoma.
3. On or about October 6, 2008, Defendant was involved in a car accident near Hooker, Oklahoma. When questioned by the Oklahoma Highway Patrol, Defendant admitted

consuming a wine cooler and some Valium several hours prior to the accident. Defendant was subsequently arrested on December 19, 2008 and was charged in the case styled State of Oklahoma v. Kimberly D. Barnett, Case No. CM-08-00564 in the District Court of Texas County, State of Oklahoma with **Driving a Motor Vehicle While Under the Influence of Drugs**. This case is still pending.

4. On or about May 16, 2009, Defendant attempted suicide by overdosing on Oxycontin and Amytriptoline. Defendant's daughter found her and called for help. Defendant was taken to Southwest Medical Center in Kansas where she remained for several days after which time she was discharged to her mother.

5. On or about May 29, 2009, while staying with her mother in Ardmore, Oklahoma, Defendant attempted to overdose on medications by ingesting three (3) Xanax 0.5 mg. pills along with three (3) Valium 10 mg. pills. Defendant's family took care of her at their home upon learning that she ingested these medications. Defendant has no recollection of this incident.

6. On or around June 4, 2009, Defendant returned to her home in Plains, Kansas. She claims that she again attempted to overdose on prescription medication.

7. On or about June 7, 2009, Defendant was working at Memorial Hospital of Texas County in Guymon, Oklahoma. A co-worker reported that Defendant talked to her about wanting to die and wanting to kill her husband, whom she was divorcing at that time. She also told the co-worker that she had taken a handful of Valium and other medications the night before (June 6, 2009) with the intention of overdosing. She then questioned the co-worker about what certain medications in the ICU refrigerator were used for. The co-worker then left the ICU to attend to a patient.

8. Later that day, after Defendant had completed her shift and left the hospital, supervisors examined the emergency room crash cart and ICU crash cart and noted that several medications were missing. A review of hospital security video showed Defendant removing items from the emergency room crash cart. The value of the items stolen was approximately \$1,373.00.

9. After completing her shift at Memorial Hospital, Defendant contacted her mother and advised her that she had stolen Valium and Xanax from her mother, and that she had just taken a number of these medications. When questioned later, Defendant claimed that she did not remember this conversation with her mother.

10. Later that day on June 7, 2009, law enforcement officers called Defendant at her home and advised her that they knew she had stolen the medications from the crash cart. Defendant then agreed to turn over the stolen medications to law enforcement officers at her home. However, before law enforcement officers arrived at her home, Defendant was involved in an auto accident in Seward County, Kansas. Officers then searched her vehicle and found medications, medicine vials and syringes stolen from the Memorial Hospital of Texas County on the floor of her car.

11. Defendant claims that she does not remember stealing the medications from Memorial Hospital of Texas County, nor does she remember the car wreck.

12. When the law enforcement officer questioned her at the accident scene, Defendant stated that she had taken too much of her medications and felt sick. The law enforcement officer administered a field sobriety test to Defendant, which Defendant was not able to complete. Defendant was then arrested and transported to Southwest Medical Center in Seward County, Kansas for treatment. At the hospital, she admitted to taking approximately thirty (30) Xanax and another thirty (30) pills of an unknown type. Defendant was then admitted to the intensive care unit for treatment for an overdose of prescription medications.

13. On or about June 9, 2009, Defendant was charged in the case styled State of Oklahoma v. Kimberly D. Barnett, Case No. CF-09-00122 in the District Court of Texas County, State of Oklahoma with **Burglary in the Second Degree, Grand Larceny and Knowingly Concealing Stolen Property**. This case is still pending.

14. Defendant was subsequently transferred to the psychiatric unit at Southwest Medical Center until she was released on June 10, 2009 and transferred to the Seward County jail.

15. While at the Seward County jail, Defendant attempted to slit her wrists with a spork. Defendant did not receive any medical attention for this attempt to harm herself.

16. On or about June 11, 2009, Defendant bonded out of jail and was released to her mother. Defendant's mother contacted Mental Health Services of Oklahoma and arranged for Defendant to be admitted to Red Rock Adult Crisis Unit in Norman, Oklahoma for treatment on June 15, 2009. While at Red Rock, Defendant repeatedly told staff that she had attempted suicide on eight (8) occasions in the past she would say she was still suicidal to stay in the hospital and avoid going to jail.

17. Defendant remained at Red Rock for treatment for eight (8) days until June 23, 2009, at which time she requested that she be allowed to transfer to Griffin Memorial Hospital for further treatment.

18. On or about June 23, 2009, Judge Jequita Napoli entered an Order of Admission to Medical Facility directed to Defendant wherein she found Defendant incompetent to make decisions concerning her own treatment. Judge Napoli ordered that Defendant should be admitted to a medical facility for treatment as a mentally ill person.

19. Defendant entered Griffin Memorial Hospital for treatment on June 23, 2009, but was discharged that same day due to Griffin's finding that she was not in need of additional treatment.

20. Defendant claims that she does not remember the majority of the incidents that have occurred since June 7, 2009.

21. On or about June 25, 2009, Defendant executed an Agreement with Eric Frische, M.D., Medical Advisor to the Board, that she would not practice respiratory care until the Complaint to be filed against her had been heard by the Board.

22. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. She is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. She is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4).
- C. She is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. She has engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of OAC 435:45-5-3(2).
- E. She is guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board in violation of 59 O.S. §2040(9).
- F. She violated any provision of the Respiratory Care Practice Act or the rules promulgated by the Board in violation of OAC 435:45-5-3(21) and 59 O.S. §2040(8).

### *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 and the Respiratory Care Practice Act and their applicable regulations. The Board is authorized to enforce the Acts as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct as follows:
  - A. She is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
  - B. She is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4).
  - C. She is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
  - D. She has engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of OAC 435:45-5-3(2).
  - E. She is guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board in violation of 59 O.S. §2040(9).
  - F. She violated any provision of the Respiratory Care Practice Act or the rules promulgated by the Board in violation of OAC 435:45-5-3(21) and 59 O.S. §2040(8).

3. The Board further found that the Defendant's license should be placed on probation based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §2040(2), (4), (5), (8) and (9) and OAC 435:45-5-3(2) and (21).

***Order***

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

1. The license of Defendant, Kimberly Dawn Barnett, R.C., Oklahoma license no. RC1298, is hereby placed on **PROBATION** for a period of five (5) years under the following terms and conditions:

- A. Defendant will conduct her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Respiratory Care Practice Act as interpreted by the Oklahoma State Board of Medical Licensure and

Supervision. Any question of interpretation regarding said Acts 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.

B. Upon request of the Board Secretary, Defendant will request all hospitals in which she anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of her practice while performing services in or to that hospital.

C. Defendant will furnish to each and every state in which she holds licensure or applies for licensure and hospitals, clinics or other institutions in which she 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.

D. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules II through V.

E. Defendant will submit for analysis biological fluid specimens to include, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

F. Defendant will not prescribe, administer, or dispense any medications for personal use or for that of any family member.

G. Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating her of the Board Order immediately upon initiation, or continuation of treatment.

H. 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.

I. Defendant will attend three (3) meetings per week of a local 12-step program.

J. Defendant will execute a contract with and will attend one

(1) meeting per week of the Health Professionals Recovery Program.

K. Defendant shall enter and continue counseling for trauma and substance abuse issues with a counselor approved in advance by the Board Secretary in writing, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from her counselor to the Board Secretary for his review. Defendant will remain in treatment until both the counselor and the Board Secretary authorize her release from counseling.

L. Defendant will execute such releases of 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.

M. Defendant shall promptly notify the Board of any entry into a treatment program for substance abuse.

N. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

O. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of her current address.

P. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of her case, including but not limited to a minimum of \$150.00 per month probation monitoring fee.

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.

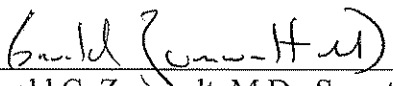
R. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.

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

T. 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.

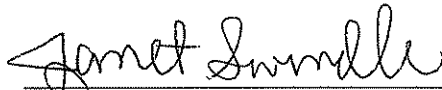
2. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 26 day of March, 2010.

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

**CERTIFICATE OF SERVICE**

I certify that on the 26 day of March, 2010, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Kimberly Dawn Barnett, P.O. Box 161, Lebanon, OK 73440.

  
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Janet Swindle