

**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.)
)
 DONNA GRAHAM, R.C.,)
 R.C. LICENSE NO. RC1403,)
)
 Defendant.)

JAN 21 1999

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 98-08-2025

VOLUNTARY SUBMITTAL TO JURISDICTION

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), appears by and through its attorney, Susan Moebius Henderson, 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. Defendant, Donna Graham, R.C., Oklahoma license no. 1403, appears in person, and with her attorney William D. Lunn. The parties proffer 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 only to the allegations set forth below that were charged in the Complaint and Citation filed herein on October 5, 1998 and acknowledges that hearing before the Board would result in some sanction under the Respiratory Care Practice Act (the "Act").

Defendant, Donna Graham, R.C., states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board and the Respiratory Therapy Advisory Committee for evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her 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 acknowledges that she has read and understands the terms and conditions stated herein and has discussed them with her legal counsel, William D. Lunn.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the State 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 respiratory care therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*

2. Defendant, Donna Graham, R.C., holds respiratory care license no. RC1403 in the State of Oklahoma.

3. On or about July 17, 1998 Defendant reported for her shift at the hospital where she worked with the smell of alcohol on her breath. After being confronted by her supervisor, Defendant consented to a drug and alcohol test. The alcohol test was positive, indicating a blood alcohol level of .088.

4. After the July 17, 1998 incident, Defendant entered and completed an intensive outpatient treatment program for impairment sponsored by her employer. She continues to display a prevention lifestyle and regularly attends Alcoholics Anonymous courses approved through the Tulsa Medical Society.

5. Based on the facts stated above, Defendant is guilty of unprofessional conduct in that she has violated the rules promulgated by the Board under 59 Okla. Stat. §2040(9) by the excessive use of any drug which impairs the ability to practice with reasonable skill and safety to the patient in violation of OAC 435:10-7-4(3).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Respiratory Care Practice 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, Donna Graham, Oklahoma respiratory care license 1403, is guilty of the unprofessional conduct in that she has violated the rules promulgated by the Board under 59 Okla. Stat. §2040(9) by the excessive use of any drug which impairs the ability to practice with reasonable skill and safety to the patient in violation of OAC 435:10-7-4(3).

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, Donna Graham, R.C., Oklahoma License No. 1403, is hereby placed on PROBATION for a period of three (3) years, under the following terms and conditions of probation.

- A. Defendant will conduct her practice in compliance with the Oklahoma Respiratory Care Practice 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.
- B. Defendant will request her medical services provider with which she practices to furnish to the Board at its request a written statement regarding monitoring of her practice.
- C. Defendant will furnish to each and every state in which she holds licensure or applies for licensure and to any medical services employer a copy of this order stipulating sanctions imposed, which is to be provided to all hospitals, clinics or other institutions in which she practices.
- D. Defendant will submit biological fluid specimens including, but not limited to, blood and urine, for analysis at request of the Board or its designee, and Defendant will pay the costs attendant thereto.
- E. 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 this 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.
- G. Defendant will comply with, and abide by, the terms and recommendations of her post care contract with Lawrence Gilbert, L.P.C., Tulsa Regional Medical Center.

- H. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Board or its designee to obtain copies of medical records and will authorize the Board or its designee discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- I. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of her current address, and will furnish her schedule to the Board in the event that she has multiple practice locations.
- J. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of her case.
- K. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- L. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.
- M. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse, including alcohol.
- N. Defendant shall promptly notify the Board of any citation or arrest for traffic or criminal offenses involving substance abuse, including alcohol

3. 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, and shall keep current all payments for monitoring her compliance with this agreement.

Dated this 20 day of January, 1999.

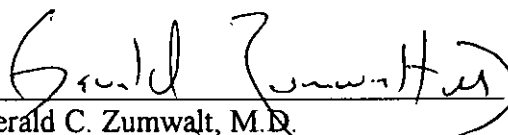


Eric E. Frische, President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:



Donna Graham, R.C.
License No. 1403

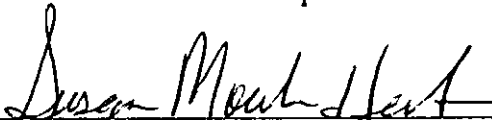


Gerald C. Zumwalt, M.D.
Secretary & Medical Advisor
Lyle Kelsey, Executive Director
Oklahoma State Board of
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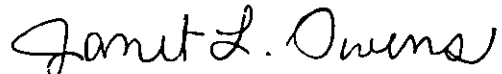
Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 26th of January 1999, a true and correct copy of this order was mailed, postage prepaid to:

Donna Graham, RC
6203 S. 222 E. Place
Broken Arrow, OK 74014

William D. Lunn, Attorney
320 South Boston, Suite 2001
Tulsa, OK 74103



Janet L. Owens, Secretary