

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

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE AND
SUPERVISION,

Plaintiff,

RICHARD A. KIMMELL, M.D.
Medical License No. 14380

CASE NO. 89-5-897

Defendant

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on October 20, 1989, at the office of the Oklahoma State Medical Association, 601 N.W. Expressway, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Richard A. Kimmell, M.D., Defendant, appeared pro se and waived his right to counsel.

The Board of Medical Licensure and Supervision en banc heard testimony, reviewed exhibits, and being fully advised in the premises, the Board of Medical Licensure and Supervision therefore finds as follows:

FINDINGS OF FACT

1. That Defendant, Richard A. Kimmell, M.D., holds Oklahoma Medical License No. 14380.

2. That the Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That from approximately September, 1986, to September, 1988, Defendant was dependent on and addicted to marijuana and that said addiction became noticeable to certain of his professional colleagues in the State of Kansas.

4. That in approximately September, 1988, Defendant did enter St. Joseph's Medical Center Treatment Center in Wichita, Kansas, and was an in-patient approximately 35 days.

5. That on or around January 3, 1989, Defendant entered into a stipulation and Enforcement Order with the Kansas State Board of Healing Arts which placed the Defendant on a probation of two years under terms and conditions to include Defendant receiving ongoing dependency/co-dependency counseling from Betty Bartholomew at Crawford County Medical Health Center, Pittsburg, Kansas, and that Defendant provide random bodily fluid testings, and the Defendant shall provide proof of attendance at Alcoholics Anonymous, Narcotics Anonymous and Al-Anon. A true and correct copy of the Enforcement Order issued to the Defendant is attached to the Complaint herein.

CONCLUSIONS OF LAW

1. That Richard A. Kimmell, M.D., holding Oklahoma Medical License No. 14380, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 509, Paragraphs 5 and 8, to-wit:

Habitual intemperance or the habitual use of habit-forming drugs."

"8. Conviction or confession of a crime involving the violation of the anti-narcotic or prohibition laws and regulations of the Federal government or the Board of Health laws and regulations of the State of Oklahoma."

2. That Richard A. Kimmell, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section X, Rule 1C, to-wit:

"Rule 1C: The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient."

ORDER

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

1. That the Defendant, Richard A. Kimmell, M.D., holding Oklahoma Medical License No. 14380, should be and is hereby placed on probation to the Oklahoma Board of Medical Licensure and Supervision for a period of five (5) years beginning on October 20, 1989, under the following terms and conditions:

- (a) During the period of probation Defendant may prescribe, administer or dispense Schedule II, III, IV, and V controlled dangerous substances only on duplicate, serially-number prescriptions.
- (b) That during the period of probation Defendant will take no medication except that which is authorized by a physician treating him for legitimate medical need. Defendant has affirmative duty to advise any treating physician of his previous use of alcohol and controlled dangerous substances.
- (c) That during the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, or to other members of his family, to specifically include controlled dangerous substances.
- (d) That during the period of probation Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to, controlled dangerous substances, which would adversely affect his ability to practice medicine and surgery as interpreted by the Oklahoma State Board of Medical Licensure and Supervision.
- (e) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of any

- investigator or other agent representing the Oklahoma State Board of Medical Licensure and Supervision, and Defendant will pay for testing and analysis of those specimens.
- (f) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
 - (g) Defendant shall appear before the Board en banc or a designated member thereof whenever requested to do so.
 - (h) During the period of probation Defendant will submit to the Investigative Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
 - (i) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigation Division of the Board the cost of investigation, prosecution and probation of this case, beginning within six months of completion of in-patient treatment.
 - (j) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after due notice to the Defendant.
 - (k) That Defendant gives blanket permission to the Oklahoma State Board of Medical Licensure and Supervision to obtain all otherwise confidential information pertaining to the Defendant's physical, mental, emotional conditions as observed by colleagues, family members, professionals and patients.
 - l) Defendant shall advise the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision of all physicians who have treated him within the last five (5) years, including their address and telephone number and a summary of the treated illness, and Defendant shall sign a release allowing Investigators of the State Board to obtain and review those records kept by those physicians relating to that care and treatment.
 - m) During the period of probation Defendant shall notify any hospital where he holds staff privileges, or clinic, or group where he practices, of the terms and conditions of this Board Order and supply a copy thereof.
 - (n) During the period of probation Defendant will meet regularly with members of the Oklahoma State Medical Association Physician Recovery Committee and will fulfill any requirements or terms thereof,

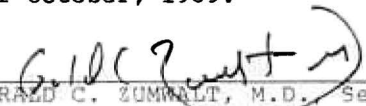
and regularly attend meetings of Alcoholics Anonymous and/or Narcotics Anonymous.

2. That the jurisdiction of the Board in this individual proceeding will continue in this matter until the terms and conditions of probation are modified or withdrawn by the Oklahoma State Board of Medical Licensure and Supervision, either on their own motion or on the motion of the Defendant.

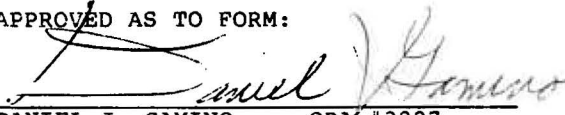
3. The Defendant further agrees that failure to meet any of the above terms of probation will constitute cause for the staff of the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License upon additional due notice.

4. The Defendant further agrees that in the event Investigators of the Oklahoma State Board of Medical Licensure and Supervision discover any other facts relating to his professional activities, whether in the State of Oklahoma or any other jurisdiction, then the Board staff retains the right to present those matters to the Board for their consideration, after additional notice to the Defendant.

DATED this 26 day of October, 1989.


GERALD C. ZUMWALT, M.D. Secretary
State Board of Medical Licensure
and Supervision

APPROVED AS TO FORM:


DANIEL J. GAMINO OBA #3227
Daniel J. Gamino & Associates, P.C.
3315 NW 63
Oklahoma City, OK 73116
(405) 840-3741
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 27 day of October, 1989, to:

RICHARD A. KIMMELL, M.D.

