

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

FILED

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)
)
Plaintiff,)
)
vs.)
)
JOHN R. WHITE, R.C.)
R.C. LICENSE NO. 1446,)
)
)
Defendant.)

OCT 02 1998

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

CASE NO. 98-01-1960

ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 24, 1998, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Susan Moebius Henderson, Assistant Attorney General, appeared for the Plaintiff. Defendant appeared neither in person or by attorney.

The Board *en banc* heard arguments of counsel, reviewed the exhibits admitted, and after being fully advised in the premises, finds 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. Notice by publication has been given in all respects as required by law and the rules of the Board. The evidence shows that service cannot be made with due diligence upon the defendant by any method and that Board staff made a distinct and meaningful search of all reasonable available sources to ascertain the whereabouts of Defendant. Service by publication is approved by the Board in that the evidence shows publication of notice was made one day a week

for three consecutive weeks in a newspaper authorized by law to publish legal notices published in the county where the complaint is filed.

3. Defendant, John R. White, R.C., holds respiratory care license no. RC1446 in the State of Oklahoma.

4. On or about November 23, 1997 Defendant reported for his shift at the hospital where he worked in an intoxicated state. After working for approximately four (4) hours, his intoxication was discovered, and Defendant consented to a drug and alcohol test. A blood test was taken before Defendant left the hospital. The test revealed a blood alcohol level of 122.6, or 0.1226 using 0.1000 as a baseline for being legally drunk.

5. Based on the foregoing facts, Defendant is guilty of unprofessional conduct as follows:

- A. He is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 Okla. Stat. §2040(2).
- B. He is habitually intemperate in the use of alcoholic beverages in violation of 59 Okla. Stat. §2020(3).
- C. He is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 Okla. Stat. §2040(4).
- D. He has violated the following provisions of the rules promulgated by the Board under 59 Okla. Stat. §2040(9):
 - (1) Habitual or 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).
 - (2) Conduct likely to deceive, defraud, or harm the public in violation of 435:10-7-4(11).
 - (3) Inability to practice his profession with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition in violation of OAC 435:10-7-4(40).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Respiratory Care Practice Act, 59 Okla. Stat. §2026 *et seq.* (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. Based on the Findings of Fact stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 Okla. Stat. §2040(2).
- B. He is habitually intemperate in the use of alcoholic beverages in violation of 59 Okla. Stat. §2020(3).
- C. He is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 Okla. Stat. §2040(4).
- D. He has violated the following provisions of the rules promulgated by the Board under 59 Okla. Stat. §2040(9):
 - (1) Habitual or 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).
 - (2) Conduct likely to deceive, defraud, or harm the public in violation of 435:10-7-4(11).
 - (3) Inability to practice his profession with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition in violation of OAC 435:10-7-4(40).

ORDER

1. The license of Defendant, John R. White, R.C., respiratory care license no. RC1446, is hereby **REVOKED** for the unprofessional conduct described above.

2. Defendant shall pay, within 30 days of receipt of an invoice, all costs of investigation and prosecution of this case.

Dated this 2nd day of October, 1998.

George M. Brown, Jr., M.D.
George M. Brown, Jr., M.D., Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 1998, a true and correct copy of the foregoing was mailed, postage prepaid, to Defendant, John White, 119 Cherry DR PO Box 16
Union City OK 73090

Janet L Owens
Janet Owens

C:\Word\White.John.RC\order.doc