

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

FILED
APR 05 2017
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
KENNETH JOHN KIRK, M.D.,)
LICENSE NO. MD 15217,)
)
Defendant.)

Case No. 04-05-2803

**ORDER GRANTING MOTION FOR LICENSURE UNDER
AGREEMENT AFTER INDEFINITE PROBATION**


This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on January 12, 2017, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and the rules of the Board. The Staff Motion to Terminate Probation and Place on agreement was filed on December 15, 2016.

Lyle Kelsey, Executive Director appeared for the Plaintiff and Defendant appeared *pro se*.

The Board having considered testimony and evidence presented hereby **GRANTS** the motion to terminate the indefinite probation pursuant to the Final Order of Suspension filed July 18, 2008. A license is hereby issued pursuant to the Agreement for Licensure After Indefinite Probation executed February 8, 2017.

This Order is subject to review and approval by the Oklahoma Attorney General and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.

Dated this 5th day of April, 2017.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 5th day of April, 2017, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

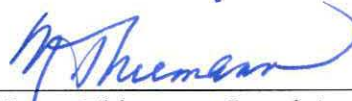
U.S. Certified Mail

Kenneth John Kirk, M.D.

6506 East 89th Place

Tulsa, Oklahoma 74133-5009

Defendant



Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-224A

FILED

APR 05 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and Supervision
101 N.E. 51st Street
Oklahoma City, OK 73105

March 31, 2017

Dear Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with respect to Medical Doctor Licensee 15217. On May 9, 1985, the licensee applied for licensure as Medical Doctor and was issued a license on July 1, 1985. In May 2005, the license was revoked for violations alleged in a 2004 complaint, including substance abuse, prescribing violations, and falsifying an application for licensure. In July 2006, the license was reinstated under terms of probation for five years. In April 2008, a complaint was filed alleging violation of the terms of probation in that, from July 1, 2006 until April 7, 2008, the licensee authorized 363 prescriptions for controlled dangerous substances. As a result, the license was suspended in July 2008 for thirty days followed by indefinite probation.

The proposed action is to terminate indefinite probation and enter an agreement with the applicant whereby restrictions will be imposed on the applicant's professional practice in conjunction with reinstatement of the license. The restrictions include: random hair follicle and body fluid testing; ingestion of medication only upon authorization of a treating physician who has been made aware of the agreement; not prescribing, administering, ordering or dispensing any medications for personal use; an affirmative duty not to ingest prohibited substances including alcohol; inform Board on current address; Board access to applicant's practice and treatment-related records; notification of any criminal charges involving substance abuse, or any relapse, including inpatient rehabilitation; notification to potential employers, or other states, of the agreement; appearance before the Board upon request; entrance into a contract with the Oklahoma Health Professional Program ("OHPP"), a substance abuse assistance program; attend "12-step" meetings; and submit timely reports to the Board.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480-518.1, authorizes the Board to "establish rules authorizing the . . . issuance of licenses under terms of agreement," 59 O.S.2011, § 493.3(D). The Board may enter into such an agreement when circumstances or conditions of an applicant raise questions as to the fitness or ability of the applicant to practice medicine and surgery with reasonable skill and safety or questions as to prior actions of the applicant in this or any other jurisdiction which would constitute

a violation of the Act. OAC 435:10-4-11(b)(2). The Board may reasonably believe that the agreed terms are adequate to protect patient safety.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy upholding minimum standards of professionalism among healthcare professionals.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL