

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

FILED

NOV 26 2003

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff,)

v.)

BRUCE STEWART GILMORE, M.D.,)
LICENSE NO. 15474)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 00-06-2201

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 20, 2003, 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.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

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 physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.
3. Defendant, Bruce Stewart Gilmore, M.D., holds Oklahoma license no. 15474.

4. On or about June 29, 2000, a Complaint was filed against Defendant based upon excessive prescribing and narcotics laws violations. On or about January 25, 2001, a Final Order of Suspension was entered by this Board whereby Defendant was suspended indefinitely pending completion of a treatment program approved by the Board, to include psychiatric evaluation, substance abuse evaluation and fitness to practice evaluation. Defendant subsequently completed the requirements of the Board and on May 3, 2001, the Board entered an Order Granting Reinstatement of License Under Terms of Probation.

5. The Order Granting Reinstatement of License Under Terms of Probation sets forth Defendant's five (5) year term of probation beginning May 3, 2001, and provided as follows:

- C. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.
- E. Defendant shall abide by his post care contract with the Oklahoma Physicians Recovery Program and all recommendations of Rush Behavioral Health, and shall attend a minimum of one (1) Caduceus meeting and three (3) 12-Step meetings per week.
- G. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him 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.
- I. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.
- 2. 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.

6. On January 15, 2002, Defendant provided an observed urine specimen at the request of Tom Sosbee, Compliance and Education Coordinator for the Board. The urine specimen subsequently tested positive for Hydrocodone.

7. On January 29, 2002, Defendant provided an observed urine specimen at the request of Tom Sosbee, Compliance and Education Coordinator for the Board. The urine specimen subsequently tested positive for Hydrocodone.

8. On or about February 13, 2002, a Complaint was filed against Defendant based upon violation of his probation. Defendant subsequently obtained treatment at Rush Behavioral Health and entered into a Voluntary Submittal to Jurisdiction on March 14, 2002 whereby he was

suspended for a period of ninety (90) days beginning February 19, 2002 and placed on indefinite probation. Defendant's Voluntary Submittal to Jurisdiction provided as follows:

- H. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation or continuation of treatment.
- I. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
- L. Defendant will abide by the terms and recommendations of his postcare contracts with Rush and the Physicians' Recovery Program.
- N. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.
- U. 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.

9. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's probation.

10. On September 23, 2003, Defendant provided an observed urine specimen at the request of Tom Sosbee, Compliance and Education Coordinator for the Board. The urine specimen subsequently tested positive for Ethanol and Orphenadrine.

11. Defendant is guilty of unprofessional conduct in that he:

- A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).
- B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- C. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).
- D. Is unable to practice medicine 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 physician condition in violation of 59 O.S. §509(16) and 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 Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).

B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

C. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).

D. Is unable to practice medicine 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 physician condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (5), (9), (14) and (16) and OAC Title 435:10-7-4 (3), (11), (39) and (40).

Order

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

1. The license of Defendant, Bruce Stewart Gilmore, M.D., Oklahoma license no. 15474, is hereby **SUSPENDED** as of the date of this hearing, November 20, 2003 for a minimum of nine (9) months, during which time Defendant shall obtain treatment for substance

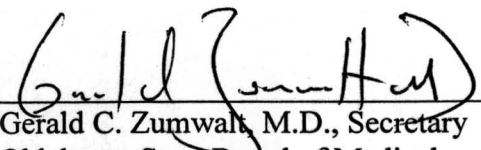
abuse for a minimum of six (6) months at an inpatient facility such as Burning Tree or another treatment center approved in advance by the Board Secretary.

2. Upon the conclusion of Defendant's suspension or treatment for substance abuse as set forth above in paragraph one, whichever occurs last, Defendant may apply for reinstatement of his license, at which time any terms of probation may be determined.

3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.


4. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this 26 day of November, 2003.


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 November, 2003, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Bruce Stewart Gilmore, M.D., 830 Franklin Drive, Ardmore, OK 73401.


Janet Swindle