

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,)
)
v.)
)
GARY R. KINDELL, M.D.,)
LICENSE NO. MD 15655,)
)
Defendant.)

FILED
SEP 02 2016
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 14-08-5027

ORDER GRANTING RESTRICTED LICENSE

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Oklahoma Medical Board”) on March 10, 2016, 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.

Gary R. Kindell, M.D. (herein, “Defendant” or “Respondent”), holding Oklahoma medical license no. 15655, appeared in person and with counsels Larry Derryberry and Douglas A. Rice of Derryberry & Naifeh, LLP.

Joseph L. Ashbaker, Assistant Attorney General, appeared on behalf of the State (“State”).

The Board *en banc* heard testimony, reviewed the exhibits presented, and being fully apprised of the premises, found that there is clear and convincing evidence to support the following:

Findings of Fact

The Plaintiff, the Defendant and the Oklahoma Medical Board staff stipulate and agree as follows:

1. Defendant, Gary R. Kindell, M.D., holds and has maintained Oklahoma medical license number 15655 since 1986.
2. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to his medical licenses conferred upon him by the State of Oklahoma and the State of Alaska. Such acts and omissions occurred within the physical territory of the State of Alaska and it is those acts alone which led to filing the Oklahoma Complaint and Citation.

3. Defendant is licensed as a physician in the State of Alaska, Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, State Medical Board (“Alaska Medical Board”), and holds medical license number MED S 6365; this license was issued on July 28, 2008 and is currently inactive. Defendant is also licensed as a physician in the State of Texas, license number G6735 and is currently inactive
4. On July 26, 2012, the Alaska Medical Board entered a Board Order adopting a voluntarily entered Consent Agreement (“Alaska Consent Agreement”), in which Defendant was placed on Probation for certain prescribing violations as outlined in the Alaska Consent Agreement and again in the Oklahoma Complaint. Defendant admitted to said misconduct in the Alaska Consent Agreement which **ORDERS** that the Alaska medical license issued to Respondent be subject to certain terms and conditions.
5. On July 1, 2015, an Oklahoma Verified Complaint (“Oklahoma Complaint”) and Citation with a scheduled Oklahoma Medical Board hearing date of March 10, 2016, Case No. 14-08-5027, were filed by the Oklahoma Medical Board for allegations of unprofessional conduct including disciplinary action of another state of jurisdiction.
6. On March 10, 2016, after hearing testimonies and recommendations of counsels, the Oklahoma Medical Board concluded that the State has met its burden of proof by clear and convincing evidence that Defendant has violated the provisions of the Oklahoma Allopathphic Medical and Surgical Licensure Act as stated in the allegations of the Oklahoma Complaint, paragraph 6 d.
7. The Board *en banc* **GRANTED** a restricted medical license for Defendant to substantially mirror the remaining terms set forth in the Alaska Consent Agreement, to remain in effect for the duration of the remaining five (5) year term set forth therein and continuing until its expiration date of July 12, 2017. Defendant will be allowed to supervise allied professionals.

Conclusions of Law

1. The Board *en banc* has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians, surgeons and other allied health professionals in the State of Oklahoma pursuant to 59 Okla. Stat. § 480 *et seq.* Notice was given as required by law and the rules of the Board.
2. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physician, surgeon and other allied health professional holding a license to practice medicine in the state of Oklahoma for unprofessional conduct. 59 O.S. Supp. 2014, § 503; Okla. Admin Code § 435:10-7-4(31). This authority is quasi-judicial 59 O.S. 2011, § 513(A)(1).

Orders

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

1. The Board *en banc* hereby finds that the State has met its burden of proof by clear and convincing evidence.
2. The Oklahoma professional healthcare license of **GARY R. KINDELL, M.D.** is **RESTRICTED** in a manner that will substantially mirror the remaining terms imposed by the Alaska Medical Board as delineated in the Alaska Consent Agreement for the remainder of the five (5) year term which will end on July 12, 2017. The only remaining terms of the Alaska Consent Agreement is the completion of 80 additional hours of continuing education. Accordingly, the Oklahoma license will have the following terms:

Standard Terms:

- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order 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 Board or its designee.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will keep the Board informed of his current address.
- d) Until such time as any indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- e) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- f) 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 license after due notice and hearing. Immediately upon learning that the licensee is in violation of a Board order, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

Specific Terms:

- g) Defendant will inform the Board Secretary of any move from Oklahoma to another licensing jurisdiction.

- h) In addition to yearly CME requirements, Defendant shall attend and satisfactorily complete no less than forty (40) hours of pain management education each year for the remainder of the probationary term anticipated by the Alaska Consent Agreement beginning in 2016 (for a total of 80 hours). The CME must be approved by the Board Secretary and proof of completion must be provided to the Board Secretary. The additional CME shall be completed no later than December 31, 2017, and if it is completed prior to this date, Defendant's unrestricted license shall be reinstated at that time, upon verification and approval by the Secretary of the Board.
 - i) Within (10) calendar days of the effective date of this Order, Defendant shall notify his employer and any hospital in which he has privileges, of the terms of this Order.
 - j) If Defendant desires to change his employment, the proposed working environment must first be approved by Board Secretary.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
4. A copy of this Order shall be provided to Defendant as soon as it is processed.

Dated this 2nd day of September, 2016.



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 6th day of September, 2016, a true and correct copy of this Order was transmitted by U.S. first-class mail or as specifically indicated, postage prepaid, to the following:

Certified Mail, Return Receipt Requested

Gary R. Kindell, M.D.
1115 Cedar Canyon Drive
Chandler, Oklahoma 74834-9005

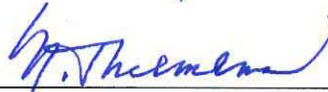
Defendant

-and-

U.S. first-class mail

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***Counsel for Defendant,
Gary R. Kindell, M.D.***



Nancy Thiemann, Legal Secretary