

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

FILED

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

Plaintiff,)

v.)

ANN DRAKE THOMAS, M.D.,)
LICENSE NO. 15708)

Defendant.)

FEB - 8 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 00-11-2275

FINAL ORDER OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on January 25, 2001, 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 through the advice of counsel, Robert Goldstucker.

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, Ann Drake Thomas, M.D., holds Oklahoma medical license no. 15708.

4. During or between the months of August 1999 and December 1999, Defendant repeatedly self-prescribed Ambien, a controlled dangerous substance, by fraudulently using the DEA number of another physician, a felony offense.

5. On or about January 10, 2000, Defendant was terminated from her employment with Wellstar Physician Group due to the fraudulent self-prescribing.

6. On or about January 14, 2000, Defendant reported her substance abuse to the Composite State Board of Medical Examiners for the State of Georgia. Defendant then began treatment with a psychiatrist who diagnosed Defendant with depression, anxiety and sleep disturbance. Defendant was then placed on medications by her psychiatrist for her medical conditions and continues treatment with her psychiatrist.

7. On or about April 22, 2000, Defendant submitted her Application for Renewal of Oklahoma Medical License. In response to the question "Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice your profession" since the last renewal, Defendant answered "NO". In response to the question "Have you been denied privileges, lost privileges or received discipline by any hospital or other professional medical organization" since the last renewal, Defendant answered "NO". Finally, in response to the question "Have you had a major illness or been hospitalized within the past year", Defendant answered "NO".

8. On or about August 4, 2000, Defendant entered into a Consent Order with the Composite State Board of Medical Examiners for the State of Georgia wherein she was placed on a five (5) year Probation based upon her substance abuse and fraudulent prescribing. Defendant also received a Reprimand and was fined based upon her misconduct.

9. Defendant is guilty of unprofessional conduct in that she:

- A. Was subject to disciplinary action of another state or jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section pursuant to OAC 435:10-7-4(31).
- 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. Was convicted of or confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government in violation of 59 O.S. §509(8).

- D. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- E. Wrote false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- F. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5) and (26).
- G. Used a false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- H. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- I. Failed to report to the Board surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(33).

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 she:

- A. Was subject to disciplinary action of another state or jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section pursuant to OAC 435:10-7-4(31).

- 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. Was convicted of or confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government in violation of 59 O.S. §509(8).
- D. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- E. Wrote false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- F. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5) and (26).
- G. Used a false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- H. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- I. Failed to report to the Board surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(33).

3. The Board further found that the Defendant should be put on probation based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(8), (9), (10) and (12) and OAC Title 435:10-7-4(5), (11), (19), (26), (27), (31) and (33).

Order

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


1. The Defendant, Ann Drake Thomas, M.D., Oklahoma license no. 15708, is hereby placed on **PROBATION** as of the date of this hearing, January 25, 2001, to run concurrent with the five (5) year probation she is currently under in the State of Georgia which began August 4, 2000 and will end August 4, 2005.

2. The terms of Defendant's probation shall be the same as those set forth in the August 4, 2000 Public Consent Order entered by the Composite State Board of Medical Examiners of the State of Georgia, a copy of which is attached hereto.

3. Any changes to Defendant's probation in the State of Georgia shall be immediately reported to this Board for further consideration.


4. 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, as well as probation fees, which shall include but not be limited to a \$100.00 per month monitoring fee.

Dated this 8 day of February, 2001.


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 8 day of February, 2001, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Probation to Ann Drake Thomas, M.D., 1872 Wilkenson Crossing, Marietta, GA 30066 and Robert L. Goldstucker, Nall & Miller, 235 Peachtree Street, NE, Suite 1500, Atlanta, GA 30303-1401.


Janet Owens

RECEIVED

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS
Composite State Board
of Medical Examiners

OCT 23 PM 1:40

STATE OF GEORGIA

AUG 04 2000

IN THE MATTER OF:

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DOCKET NUMBER

ANN DRAKE THOMAS, M.D.

DOCKET NO. 00-MB-01-006

License # 044852
Respondent.

AG NO. 64CB-CA-01SLB-1005615

PUBLIC CONSENT ORDER

By agreement of the Composite State Board of Medical Examiners and ANN DRAKE THOMAS, M.D., Respondent, the following disposition of this matter is entered pursuant to O.C.G.A. § 50-13-13 (a) (4).

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

During or between the months of August 1999 through December 1999, Respondent repeatedly self-prescribed Ambien, a controlled substance, by fraudulently using the DEA number of another physician, a felony offense.

3.

On or about January 10, 2000, Respondent was terminated from her employment with WellStar Physician Group due to said fraudulent self-prescribing.

4.

On or about January 14, 2000, Respondent voluntarily reported her substance abuse to the Board. Respondent began treatment with a psychiatrist who diagnosed Respondent with

depression, anxiety and sleep disturbance. Respondent was placed on appropriate medications for her medical condition and continues treatment with her psychiatrist.

5.

Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

Respondent's condition and/or prior conduct constitute sufficient grounds for the imposition of sanctions upon Respondent's license to practice medicine in the State of Georgia under O.C.G.A. Chs. 1 and 34 T. 43, as amended. Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Composite State Board of Medical Examiners, having considered the particular facts and circumstances of this case, hereby orders, and Respondent hereby agrees, to the following terms and conditions:

1.

Beginning on the effective date of this Consent Order, Respondent's license shall be placed on probation for a period of five (5) years, subject to the following terms and conditions:

(a) DEA RESTRICTION. Respondent shall not possess a DEA permit or any triplicate forms or other federal order forms. Until further order of the Board, Respondent hereby relinquishes her right to prescribe, administer, dispense, order or possess (except as prescribed, administered, or dispensed to Respondent by another person authorized by law to do so) controlled substances as defined by the Federal or Georgia Controlled Substances Act. Three (3) months from the effective date of this Consent Order, Respondent may request a lifting or modification of this restriction. If the Board approves Respondent's request and lifts this

restriction, all prescriptions issued by Respondent after the Board's approval shall be governed by the following terms:

(1) TRIPLICATE PRESCRIPTIONS. Respondent shall utilize a triplicate prescriptions system for all controlled substances prescribed by Respondent. Each prescription for such a controlled substance written by Respondent shall be sequentially numbered and the copies distributed as follows: original to patient, one copy to the Board, and one copy to the patient's chart. Respondent shall not begin renumbering when she reaches 1000, but shall continue to number sequentially. The copies for the Board shall be mailed or delivered to the Board by Respondent once per quarter. A copy of Respondent's dispensing records shall be provided to the Board upon request for all controlled substances dispensed by her or on her order. Two (2) years from the date of the Board's lifting of the DEA restriction, Respondent may petition for removal or modification of this triplicate prescription requirement.

(2) PRESCRIPTION LOG. Respondent shall personally maintain for inspection a contemporaneous log (separate from her clinical records or the clinical records of other health care providers) of all controlled substances and dangerous drugs prescribed, administered, dispensed, or ordered by Respondent. The prescription log shall include the date, patient name, drug, strength, quantity, and refill status, on a form approved by the Board. The prescription log shall also include the diagnosis and the reasons for prescribing, administering, dispensing, or ordering each drug. The Board shall be authorized to inspect Respondent's prescription log. If Respondent's prescription log fails to comply with the requirements of this consent order, the Board is authorized to summarily suspend Respondent's license, pending a hearing. Two (2) years from the date of the Board's lifting of the DEA restriction, Respondent may petition for removal or modification of this prescription-logging requirement for all controlled substances.

(3) RECORD KEEPING. Prior to prescribing, administering, ordering or dispensing any controlled substance, Respondent shall detail fully the examination performed and diagnosis reached in the particular patient's file. Respondent shall specifically record all

physical data of the patient, and detail the exact nature of Respondent's evaluation of the patient. In addition to this requirement, Respondent agrees to comply with all record keeping requirements of the Board.

(b) MINI-RESIDENCY. Respondent shall attend and successfully complete the Mini-Residency entitled "Appropriate Prescribing of Controlled Substances" sponsored by The Mercer University Southern School of Pharmacy in Atlanta. The Respondent shall successfully complete the program and submit documentation thereof to the Board within six (6) months of the effective date of this Order. This coursework shall not apply to the continuing education requirements set forth in O.C.G.A. § 43-34-3.

(c) SUPERVISION & MONITORING. Respondent shall designate an acceptable monitoring ("treating") physician with whom she will continue therapeutic care and who will monitor any medications she is prescribed. Respondent shall provide a copy of this Consent Order to the treating physician. Said physician shall sign a statement in substantially the form attached hereto as Attachment A to be submitted in conjunction with this Consent Order, as evidence of having read and understood same and having agreed to serve as Respondent's monitoring physician.

(d) QUARTERLY REPORTS. Respondent shall submit or cause to be submitted to the Board, quarterly reports from her monitoring physician regarding her performance and mental/physical condition by March 31, June 30, September 30 and December 31 of each calendar year, including a report on any medication being prescribed to Respondent. Failure to submit or have such reports submitted in a timely manner shall be considered a violation of this Consent Order. It is expected that said monitoring physician will immediately report any change in Respondent's condition, which would render Respondent unable to practice with reasonable skill and safety to patients. By executing this Consent Order, Respondent specifically consents to such monitoring physician or any other facility where Respondent obtains medical treatment reporting upon Respondent's condition, notwithstanding any privilege provided by state or

federal law. Respondent shall obtain prior Board approval through the Medical Coordinator or Executive Director for any change in monitoring physician.

(e) DISCLOSURE. In addition to other disclosures required by this Consent Order, Respondent shall supply a copy of this Consent Order, once approved and docketed, and within ten (10) days from receipt of the docketed copy by Respondent, to each hospital or other institution in Georgia where Respondent maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice, including other physicians or physician's assistants or to any person or entity for whom Respondent is employed as a physician in the State of Georgia. Respondent shall also be required to disclose the existence of and provide a copy of this Consent Order to such individuals or entities in connection with any future application for institutional appointment, associated practice, utilization of a physician's assistant, or employment as a physician in the State of Georgia while this Consent Order is in effect. By executing this Consent Order, Respondent specifically consents to any such individuals or entities reporting to the Board information which would affect Respondent's ability to practice medicine with reasonable skill and safety to patients, notwithstanding any privilege provided by state or federal law. Respondent shall document compliance with this condition of probation utilizing the form attached hereto as Attachment B. or a substantially similar form.

(f) PERIODS OF RESIDENCY OUTSIDE GEORGIA. In the event Respondent should leave Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia as well as periods when Respondent is not actively engaged in practicing as a physician will not apply to the reduction of Respondent's probationary period, except as authorized by the Board. **Respondent shall advise the Board of any change in address of record or employment status.**

(g) ABIDE BY LAWS, RULES AND TERMS. Respondent shall abide by all State and Federal laws regulating her practice as a physician or relating to drugs, the Rules and Regulations of the Composite State Board of Medical Examiners and the terms of this Consent

Order and probation. If Respondent shall fail to abide by such laws, rules or terms, or if it should appear from monitoring reports submitted to the Board that Respondent is otherwise unable to practice with reasonable skill and safety to patients, or should Respondent violate the criminal laws of this state, including any term of probation, if any, Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Respondent further agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

(h) TERMINATION OF PROBATION. Respondent shall not be eligible to petition for termination of probation until five (5) years from the effective date of this Consent Order. At such time, Respondent may petition for termination by certifying under oath before a notary public that she has complied with all conditions of probation and by providing documentation supporting discharge from probation, including, but not limited to, a written statement from Respondent's monitoring physician that said monitoring physician agrees with the probation termination. The Board shall review and evaluate the practice of Respondent prior to lifting the probation. At such time, the Board shall be authorized, but is not required, to terminate the probationary period. If the Board denies the Respondent's petition for termination of probation, Respondent may petition for termination of probation on an annual basis thereafter. In any event, this Consent Order shall remain in effect pending a final determination by the Board and written notification that the probationary period has terminated.

2.

In addition to and in conjunction with any other sanction contained herein, this Consent Order shall serve as a public reprimand to the Respondent for her conduct.

3.

In addition to and in conjunction with any other condition imposed by this Consent Order, Respondent shall pay a fine to the Board in the amount of one thousand dollars (\$1,000.00), payable by certified check or money order payable to the Composite State Board of Medical Examiners at the time this Order is presented to the Board.

4.

Nothing in this Consent Order shall be construed as approval by the Board of Respondent's conduct, and shall not be construed as a waiver of any of the lawful rights possessed by the Board. This Consent Order shall not become effective until approved by the Board and docketed by the Joint Secretary.

5.

Respondent acknowledges that she has read this Consent Order and that she understands the contents of the Consent Order. Respondent understands that she has the right to a hearing in this matter, and Respondent freely, knowingly and voluntarily waives such right by entering into this Consent Order. Respondent understands that this Consent Order will not become effective until approved and docketed by the Composite State Board of Medical Examiners. Respondent further understands and agrees that a representative of the Department of Law may be present during the presentation of this Consent Order and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public reprimand, which may be disseminated as a disciplinary action of the Board. However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Respondent consents to the terms of discipline contained herein.

(Signatures follow on next page)

(Signatures continued from previous page)

Approved this 4 day of August, 2000.

COMPOSITE STATE BOARD OF
MEDICAL EXAMINERS

(BOARD SEAL)

BY: William A. Woolery, D.O., Ph.D.
WILLIAM A. WOOLERY, D.O., PH.D.
President

ATTEST: Karen Mason
KAREN MASON
Executive Director

CONSENTED TO: Ann Drake Thomas
ANN DRAKE THOMAS, M.D.

Sworn to and Subscribed

Respondent

Before me this 1 day
of August, 2000.

William Filomeno
NOTARY PUBLIC
My Commission Expires:
July 27, 2003

MONITORING PHYSICIAN STATEMENT

The undersigned monitoring physician acknowledges that he/she has read the attached Consent Order and agrees to serve as Ann Drake Thomas' monitoring physician.

Sworn to and subscribed before me this 1st day of MAY, 2000.

Margaret D. O'Neil

NOTARY PUBLIC

My commission expires:

6/2/2002

(Signed) *C. F. Riddell MD*

Name (please print): CHRIS F. RIDDELL MD

Monitoring Physician/Therapist

Program: CHRIS F. RIDDELL MD

Address: 2540 Windy Hill Rd
MARIETTA GA

Telephone: 770-6441570

License No. 021296 GA

DISCLOSURE STATEMENT

I _____, have been provided with a copy of the Consent Order between Ann Drake Thomas, M.D., and the Georgia Composite State Board of Medical Examiners. My relationship to Dr. Thomas is that of a _____. I fully understand the provisions of the Consent Order and I agree to be bound by the terms of the Consent Order.

Sworn to and subscribed
before me this _____ day
of _____, 2000.

NAME (please print) _____
ADDRESS: _____

TELEPHONE: _____
LICENSE NO.: _____

NOTARY PUBLIC
My commission