

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.)
)
JEFFERSON DAVIS ERWIN, M.D.) CASE NO. 88-10-696
Medical License No. 15856,)
)
Defendant.)

INTERIM ORDER
ON COMPLAINT OF CONTEMPT
AND EXTENSION OF LICENSE SUSPENSION

This cause came on for hearing the Complaint of Contempt of Board Order and for reviewing the suspension of the Defendant before the Oklahoma Board of Medical Licensure and Supervision en banc on the 11th day of May, 1989, at the office of the Oklahoma Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Jefferson Davis Erwin, M.D., Defendant, appeared in person and by counsel, Kenneth Brown, Oklahoma City, Oklahoma.

The Board of Medical Licensure and Supervision en banc heard testimony and reviewed exhibits and being fully advised in the premises, the Board of Medical Licensure and Supervision therefore finds as follows:

FINDINGS OF FACT

1. That Defendant, Jefferson Davis Erwin, M.D., holds Oklahoma Medical License No. 15856.

2. That the Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That following notice and hearing before the Board on February 3, 1989, the Board ordered the Defendant's Oklahoma Medical License No. 15856 suspended beginning at noon on February 13, 1989, and to remain suspended until the next meeting of the Board scheduled for May, 1989. The Board Order also provided that during the time of suspension, Defendant shall seek independent psychiatric evaluation from a psychiatrist acceptable to the Board Secretary and Dr. Gary K. Borrell, and the Defendant shall authorize said psychiatrist to forward a copy of his findings, diagnosis, and prognosis to the Board Secretary. The Order provided that the Board would consider the independent psychiatric evaluation and any further evidence from Dr. Borrell or as presented by the Defendant, and the Board would impose any additional sanctions as governed by the evidence.

4. At the time of the hearing, Defendant tendered a copy of letter from Gary K. Borrell, M.D., dated February 27, 1989, giving the psychiatric status of the Defendant. The Defendant also tendered a psychiatric report and evaluation prepared by Nolen L. Armstrong, M.D., dated February 28, 1989, relating to

the Defendant's psychiatric condition. However, neither the Board Secretary nor the Board staff had been advised of any examination by Dr. Armstrong or had approved Dr. Armstrong to perform psychiatric evaluations in this case.

5. That beginning at noon on February 13, 1989, Investigators of the Oklahoma State Board of Medical Licensure and Supervision made numerous attempts to contact Dr. Erwin and several trips to his clinic in Edmond, Oklahoma, in order to seize his Oklahoma Medical License as a physician and surgeon and permits from the Oklahoma Bureau of Narcotics and Dangerous Drugs and the United States Drug Enforcement Authority. Finally, on February 16, 1989, Mr. Fairless and Mr. Landreth proceeded to Defendant's clinic and confiscated his license and permits from the clinic staff. On February 17, 1989, the two Investigators proceeded to Dr. Erwin's residence and confiscated his wallet card. Since the time of the hearing, Dr. Erwin has not returned telephone calls from the Investigators inquiring as to his current status.

6. That the Defendant has not sought independent psychiatric evaluation from a psychiatrist acceptable to the Board Secretary, or even contacted the Board Secretary or the Board staff to see what psychiatrists would be acceptable.

7. That the evidence revealed at least lack of communication or miscommunication between Dr. Erwin and the doctor who received referrals of his patients, Dr. Carpenter. There was also evidence of miscommunication or lack of communication between Dr. Erwin and his patients regarding the nature and extent of his absence from practice.

CONCLUSIONS OF LAW

1. That under the terms and conditions of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1988, Sec. 481 et seq., and the Final Order of the Board issued herein following hearing on February 3, 1989, the Board has continuing jurisdiction over the Defendant and his Oklahoma Medical License.

ORDER

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

1. That the license of the Defendant, Jefferson Davis Erwin, M.D., Oklahoma Medical License No. 15856, should be and the same is to hereby remain SUSPENDED from May 11, 1989, until the next meeting of the Board scheduled for 11:15 a.m. on June 9, 1989, to be held at the Doubletree Inn at Warren Place, 6100 South Yale, Tulsa, Oklahoma.

2. That the Board is holding in abeyance any sanctions resulting from the allegations of the Complaint of Contempt of Board Order.

3. That before the time of the next Board meeting on June 9, 1989, the Defendant shall obtain independent psychiatric evaluation from a psychiatrist acceptable to the Board Secretary and the Defendant has the affirmative duty to obtain the consent of the Board Secretary to any examining psychiatrist. Further, the Defendant shall authorize said psychiatrist to forward a copy of his findings, diagnosis, and prognosis to the Board Secretary for his review.

4. That a copy of this Order should be forwarded to the Defendant by and through his counsel.

DATED this 18th day of May, 1989.

Gerald (Zumwalt m)
GERALD C. ZUMWALT, M.D., Secretary
State Board of Medical Licensure
and Supervision

APPROVED AS TO FORM:

Daniel J. Gamino
DANIEL J. GAMINO OBA #3227
Daniel J. Gamino & Associates, P.C.
3315 NW 63
Oklahoma City, OK 73116
(405) 840-3741
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 18th day of May, 1989, to:

KENNETH BROWN
Attorney at Law
8100 S. Penn
Oklahoma City, OK 73159

Garnet L Owens