

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, SM.D.) CASE NO. 88-10-696
Medical License No. (15856),)
)
Defendant.)

ORDER GRANTING SMD CERTIFICATE
UNDER TERMS OF PROBATION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on February 12, 1994, at the office of the Oklahoma State 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, Defendant, appeared in person, pro se, waived his right to legal counsel and agreed to proceed without counsel.

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

FINDINGS OF FACT

1. That prior to the suspension of license imposed by the Oklahoma Board of Medical Licensure and Supervision, Defendant, Jefferson Davis Erwin, M.D., held Oklahoma Medical License No. 15856.

2. That the Oklahoma 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 at its prior meeting on June 9, 1989, following notice and hearing, the Board voted that Defendant's Oklahoma medical license should remain suspended from that date until the meeting of the Board scheduled in October, 1989, in order to allow the Defendant to fulfill requirements of the Oklahoma State Medical Association Physician Recovery Committee, and to review a recommendation of the Committee.

4. That accordingly the Defendant entered the Georgia Impaired Health Professionals program of the Talbott/Marsh Recovery Center, Atlanta, Georgia, on June 20, 1989, for treatment of his disease of chemical dependency. The initial phase of rehabilitation involved an admission to Anchor Hospitals Adult Chemical Dependence Unit, where Defendant remained until July 20, 1989. Thereafter, Dr. Erwin was transferred to the Talbott/Marsh Recovery Residences, Halfway House System, and began attending the out-patient day program at Talbott/Marsh Recovery Center on a daily basis. He participated in this

element until August 28, 1989, and then immediately became involved in the Mirror-Image Therapy phase. He was placed at Bawner Psychiatric Institute, participating as a counselor-trainee.

5. On September 18, 1989, Defendant elected to leave treatment against medical advice. After repeated attempts by the staff encouraging the Defendant to remain in treatment, he signed himself out against medical advice. On September 29, 1989, Dr. Erwin was re-admitted to the Talbott/Marsh Recovery Residences and Talbott Recovery Residences. Defendant once again left against medical advice on October 4, 1989. Due to incomplete treatment, the Talbott/Marsh Recovery Center advised that Defendant's prognosis is poor.

6. That following notice and hearing on November 20, 1993, the Board found and ordered that Defendant's Oklahoma Medical License should remain suspended from the date of November 20, 1993, until such time as the Defendant presents evidence of successful completion of treatment of his disease of chemical dependence at an institution directed by the Secretary of the Oklahoma Board of Medical Licensure and Supervision, and that the Board specifically directed and delegated to the Board Secretary the duty to designate the institution where the Defendant shall successfully complete treatment for his disease of chemical dependency.

7. That the Defendant presented evidence of successful completion of evaluation and in-patient treatment at the La Hacienda Treatment Center, Hunt, Texas. And Defendant did produce a certified copy of an Order Discharging Guardian filed February 2, 1994, In the Matter of the Guardianship of Jefferson Davis Erwin, Jr., Oklahoma County Case No. P-90-1474, wherein the Court found that Defendant was no longer an incapacitated person and that there was no need for continuation of guardianship and the Guardian was discharged and the bond exonerated.

8. The Board found that the Defendant had a part-time practice opportunity under the auspices of the Oklahoma Health Department and that a Supervised Medical Doctor Certificate could be issued to the Defendant without danger to public health, safety and welfare.

CONCLUSIONS OF LAW

1. That pursuant to the legal authority of the Oklahoma Medical Practice Act, 59 O.S. 1991, Sec. 481 et seq., and the Final Orders of the Board issued herein following previous hearings, the Board has continuing jurisdiction over the Defendant and his Oklahoma medical license and the issuance of a Supervised Medical Doctor Certificate.

ORDER

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

1. That the application of Jefferson Davis Erwin for a Supervised Medical Doctor Certificate should be and the same is hereby GRANTED.

2. That Defendant is simultaneously placed on indefinite probation to the Oklahoma State Board of Medical Licensure and Supervision beginning on February 12, 1994, and must fulfill all terms and conditions thereof.

3. That Defendant accepts and agrees to and does hereby begin a term of probation to the Oklahoma State Board of Medical Licensure and Supervision to continue for an indefinite period of time until modified by the Board, on its own motion or on the motion of the Defendant, under the following terms and conditions:

- (a) During the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, to specifically include controlled dangerous substances.
- (b) During the period of probation Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need and Defendant shall have an affirmative duty to inform any physician treating him of Defendant's previous history of substance abuse.
- (c) During the period of probation Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to controlled dangerous substances, which would adversely affect his ability to practice medicine or surgery as interpreted by the Oklahoma State Board of Medical Licensure and Supervision.
- (d) During the period of probation Defendant has the affirmative duty to not engage in any activity or to ingest any medication or substance of any nature that will test positive for alcohol or any controlled dangerous substance.
- (e) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of any investigator or other agent representing the Oklahoma State Board of Medical Licensure and Supervision, and Defendant will pay for testing and analysis of those specimens.
- (f) During the period of probation Defendant has the affirmative duty to authorize and obtain from his treating physicians quarterly reports as to his physical and mental condition and to provide those to the Board staff.
- (g) During the period of probation Defendant will not prescribe, administer or dispense any scheduled drugs or controlled dangerous substances to any patients or other persons.
- (h) During the period of probation Defendant will not authorize any personnel under his supervision to initiate an order for a prescription to be issued.
- (i) During the period of probation Defendant will practice in a controlled environment approved by the Oklahoma State Board of Medical Licensure and Supervision or its Secretary.
- (j) Defendant shall not allow the independent practice of medicine by any personnel under his supervision, employment or control.
- (k) During the period of probation Defendant will conduct his practice in compliance with the Oklahoma Medical Practice Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act 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 or interpretation is received from the Board.

- (l) During the period of probation Defendant will not allow the initiation of any therapeutic regimen by any personnel under his supervision unless Defendant is in the immediate, geographic vicinity of said personnel.
- (m) During the period of probation Defendant will request all hospitals in which he anticipates practice, or clinics or groups, to furnish to the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing service in or to that hospital, clinic or group.
- (n) During the period of probation Defendant will furnish to each state in which he holds licensure or applies for licensure, and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privileges, a copy of the Board Order stipulating sanctions imposed by this Board.
- (o) During the period of probation Defendant will not perform any open or invasive surgical procedures until specifically authorized by the Board. Further, Defendant will submit to the Board documentation prepared by his supervising physician stating his intention to accept this supervised responsibility over the Defendant.
- (p) During the period of probation Defendant will place himself in a rehabilitation program approved by the Board Secretary for after-care treatment. Defendant will authorize in writing the release of any and all information regarding said treatment and after-care to the Board.
- (q) During the period of probation Defendant will enter and continue psychiatric treatment under a doctor approved by the Board. Defendant will authorize in writing the release of any and all records of that treatment to this Board.
- (r) During the period of probation Defendant is excluded from supervision of any Physician's Assistant.
- (s) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (t) That Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (u) During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and


Supervision any required reports and forms on a timely and prompt basis.

- (v) Pursuant to Title 59 O.S. Sec. 506, Defendant shall promptly pay within 30 days of receipt of invoice from the Board the costs of investigation, prosecution and probation of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- (w) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

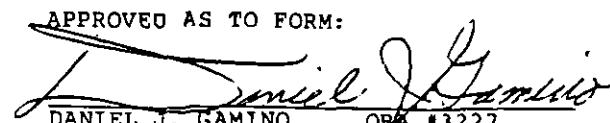
4. That the jurisdiction of the Board in this individual proceeding will continue until the terms and conditions of probation are modified or lifted by the Oklahoma Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

5. That failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License, after additional due notice and hearing.

DATED this 1 day of April, 1994.


GERALD C. ZUMWALT, M.D., Secretary
State Board of Medical Licensure
and Supervision

APPROVED AS TO FORM:


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 1 day of April, 1994, to:

JEFFERSON DAVIS ERWIN
OKla State Dept Health
1000 NE 10
OKC 73117

