

**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. )  
KENNETH W. FOSTER, M.D., )  
  
LICENSE NO. 15885 )  
  
Defendant. )

SEP 07 2007  
OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 06-10-3177

**ORDER OF EMERGENCY SUSPENSION**

On the 7th day of September, 2007, the Plaintiff's application for emergency suspension of Defendant, Kenneth W. Foster, M.D., Oklahoma Medical License No. 15885 came on for hearing before the Secretary of the Oklahoma State Board of Medical Licensure and Supervision (the "Board"). Elizabeth A. Scott, Assistant Attorney General, appeared on behalf of the Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision. Defendant appeared through counsel, Shannon L. Prescott.

The Secretary, after hearing arguments of counsel, reviewing exhibits admitted and 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 and conclusions of law and orders:

1. Defendant, Kenneth W. Foster, M.D., is licensed as a physician and surgeon in the State of Oklahoma and holds Oklahoma Medical License No. 15885.
2. 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 O.S. §480 et seq. The Board has jurisdiction over these proceedings, and notice has been given in accordance with law.
3. The evidence reflects that Defendant cannot practice medicine with a reasonable degree of safety, competency and skill sufficient to protect the public health, safety and welfare based upon the following facts:

a. On or about August 28, 2006, Defendant presented to the Jane Phillips Medical Center Emergency Room in Bartlesville, Oklahoma in an impaired state. Physicians at the emergency room concluded that Defendant was suffering from a steroid induced psychosis. A urine specimen obtained at that time tested positive for **Amphetamines**. At the time of his admission to the emergency room, Defendant admitted to the emergency room physician that he was taking Provigil 200 mg. and Adderall 20 mg.

b. A review of pharmacy records in the state of Oklahoma for the ten (10) month period prior to his hospital admission reveals that Defendant did not receive any prescriptions for Provigil, Adderall, or any other amphetamines during this time period.

c. On or about February 22, 2007, Board Investigator Steve Washbourne obtained a urine specimen from Defendant. This specimen subsequently tested positive for **Marijuana**.

d. On or about July 31, 2007, Board Investigator Steve Washbourne obtained another urine specimen from Defendant. At this time, Defendant advised Investigator Washbourne that he was not taking Adderall, Provigil or Clonazepam. This specimen subsequently tested positive for **Amphetamines**.

e. A review of pharmacy records in the state of Oklahoma reveals that Defendant did not receive any prescriptions for Adderall or any other amphetamines during this time period.

f. On or about August 30, 2007, Board Investigator Scott Singer interviewed Defendant at his offices as part of the Board's ongoing investigation against Defendant. Investigator Singer, who is trained in the detection of intoxicated persons through his thirty-one (31) years of active service as a police officer, concluded that Defendant was under the influence of an intoxicating substance, and that his physical appearance and actions strongly suggested amphetamine type drugs.

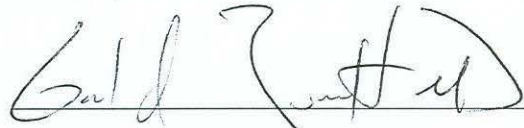
g. Based on his belief that Defendant was impaired, Investigator Singer asked Defendant to provide a urine specimen, to which Defendant refused.

4. Defendant's medical license is hereby suspended pending a full hearing before the Board *en banc* at the next regularly scheduled meeting, currently scheduled for November 1, 2007.

5. All of the charges against Defendant be heard before the Board *en banc* at its next regularly scheduled meeting.

6. The emergency suspension shall be reported to the National Practitioner Data Bank and all other appropriate groups.

7. Defendant will surrender his Oklahoma wallet card and certificate of medical license to the Board on or before 4:30 p.m. on September 12, 2007.



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

**CERTIFICATE OF SERVICE**

I certify that on the 10 day of Sept, 2007, I mailed a true and correct copy of the Order of Emergency Suspension to Shannon L. Prescott, Glendening, McKenna & Prescott, Tallgrass Office Complex, 10108 E. 79<sup>th</sup> Street, Tulsa, OK 74133 and to Kenneth W. Foster, 604 Dewey Avenue, Poteau, OK 74953.



Janet Swindle