

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. )

DAVID JOHNSON MCWILLIAMS, M.D., )  
LICENSE NO. 18088 )

Defendant. )

MAY 08 2003

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 02-07-2525

**FINAL ORDER OF REVOCATION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on May 8, 2003, 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 counsel, Bob Carpenter.

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, David Johnson McWilliams, M.D., holds Oklahoma license no. 18088.

4. Prior to and including 1999, Defendant abused alcohol, marijuana and cocaine on a regular basis.

5. On or about February 26, 1999, Defendant entered Talbott Recovery Campus for substance abuse treatment.

6. During his treatment at Talbott, Defendant relapsed in March 1999 by ingesting wine, and again in June 1999 when he drank 12-15 beers.

7. On or about May 28, 1999, Defendant submitted his Application for Renewal of his full medical license in the State of Oklahoma for the period July 2, 1999 through July 1, 2000. On his Application for Renewal, Defendant was asked the following question: "Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery" during the past year? In response to this question, the Defendant answered "NO".

8. On or about July 19, 1999, Defendant transferred from Talbott to the Carpenter's House Atlanta Union Mission in Atlanta where in continued in treatment until November 23, 1999, at which time he transferred to St. Jude's Recovery Center in Atlanta.

9. From December 17, 1999 through June 23, 2000, Defendant affiliated with the 12 x 12 Recovery Program in Tulsa, Oklahoma.

10. On Defendant's Application for Renewal of Oklahoma Medical License dated April 30, 2000 and each year thereafter through April 30, 2002, 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 medicine and surgery" within the past year, Defendant answered "NO" on each occasion.

11. In or around June 2000, Defendant relapsed on alcohol by drinking approximately six (6) beers.

12. On or about August 3, 2000, Defendant tested positive for alcohol on a drug test obtained by the Physicians' Recovery Program.

13. On or about August 16, 2000, Defendant tested positive for alcohol on a drug test obtained by the Physicians' Recovery Program.

14. On or about March 13, 2001, Defendant tested positive for alcohol on a drug test obtained by the Physicians' Recovery Program.

15. On or about August 21, 2001, Defendant tested positive for alcohol on a drug test obtained by the Physicians' Recovery Program.

16. On or about September 11, 2001, Defendant relapsed by consuming approximately twelve (12) beers.

17. On or about September 12, 2001, Defendant was arrested by the Oklahoma City Police Department for Driving While Under the Influence of alcohol. On or about September 18, 2001, criminal misdemeanor charges were filed against the Defendant based upon the September 12, 2001 arrest.

18. On or about February 4, 2002, Defendant was evaluated at Rush Behavioral Health Center. He was not treated for substance abuse at that time.

19. On or about June 14, 2002, Defendant tested positive for marijuana on a drug test obtained by the Physicians' Recovery Program.

20. On August 9, 2002, Defendant's license was suspended by the Board Secretary on an emergency basis pending a full hearing before the Board.

21. In November 2002, Defendant entered treatment at Rush Behavioral Health Center. Defendant was discharged from treatment at Rush on or about December 20, 2002.

22. On or about March 25, 2003, Defendant submitted to a drug test through the Physicians' Recovery Program and tested positive for alcohol. Defendant subsequently admitted that he relapsed on alcohol.

23. On or about April 24, 2003, Defendant tested positive for alcohol on a drug test obtained by the Physicians' Recovery Program.

24. Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).

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. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or

as a result of any mental or physician condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

E. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).

F. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

G. Engaged in fraud or misrepresentation in applying for or Procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).

I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-402.

J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) and 63 O.S. §2-402 .

### *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 he:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(5) and OAC 435:10-7-4(3).

- 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. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).
- D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).
- E. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- F. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
- G. Engaged in fraud or misrepresentation in applying for or Procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).
- H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-402.
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) and 63 O.S. §2-402 .

3. The Board further found that the Defendant's license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (5), (8), (9), (14) and (16), OAC Title 435:10-7-4 (3), (5), (8), (11), (24), (26), (27), (39) and (40) and 63 O.S. §2-402.


**Order**

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

1. The license of Defendant, David Johnson McWilliams, M.D., Oklahoma license no. 18088, is hereby **REVOKED** as of the date of this hearing, May 8, 2003.

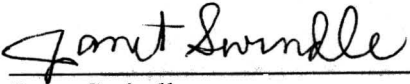
2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 8 day of May, 2003.

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

**CERTIFICATE OF SERVICE**

I certify that on the 12 day of May, 2003, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Bob Carpenter, 233 Park Avenue, Oklahoma City, OK 73102.

  
Janet Swindle