

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.) CASE NO. 95-09-1758
)
ROBERT MICHAEL WESTCOTT, M.D.)
Medical License No. 18951,)
)
) Defendant.)

**EMERGENCY ORDER
OF SUSPENSION**

This cause came on for hearing before the Secretary of the Oklahoma Board of Medical Licensure and Supervision on December 15, 1995, 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 Robert Michael Westcott, M.D., Defendant, did not appear in person or by representative.

The Secretary of the Oklahoma Board of Medical Licensure and Supervision heard statements of legal counsel, reviewed the file and being fully advised in the premises, the Secretary of the Board of Medical Licensure and Supervision finds and orders as follows:

FINDINGS OF FACT

1. That Defendant, Robert Michael Westcott, M.D., holds Oklahoma Medical License No. 18951.
2. That the Secretary of 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 notice of this emergency hearing and the regular hearing set for January 19, 1996, were sent by express mail overnight delivery to the Defendant's residential address and the Defendant's practice address in Oklahoma City. The Post Office attempted service at both places and was unable to find the Defendant and returned the mailing to the Board office. The Board Investigator visited the Defendant's residence and left a business card which resulted in telephone contact from the Defendant to the Board Investigator and the Board Executive Director on December 13, 1995. At the Defendant's request, copies of the Complaint and Application for Emergency Suspension and the Citation were FAXED to the Defendant's FAX number in Oregon and were sent express mail overnight delivery to the Defendant's address in Oregon, and the Defendant did receive those and did talk with Board Investigator J.G. Landreth the morning of December 15, 1995.
4. That on or around May 1, 1995, Defendant suffered from advance chemical dependency and depression and requested and

received a leave of absence from the University of Oklahoma, Health Science Center, Family Practice Residency.

5. That from approximately May to September, 1995, Defendant was an in-patient at Rush Behavioral Health Center, Downers Grove, Illinois. Then Defendant transferred to in-patient treatment at Springbrook Northwest, Newberg, Oregon.

6. That Defendant's 1995 chemical dependency and depression constitute a pattern of personal substance abuse that began in approximately 1982.

7. That on May 9, 1995, the Defendant attempted to disguise his 1995 chemical dependency relapse by answering the following question on his Oklahoma License Renewal form as follows, to-wit:

"Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery?" Answer: No.

That answer by the Defendant was false, in that on the following day, May 10, 1995, Defendant was admitted as an in-patient at Rush Behavioral Health Center.

8. That the Defendant's history of personal chemical dependency constitutes a direct threat to public health, safety and welfare to the citizens of Oklahoma.

9. That an emergency exists for which the immediate suspension of a license is imperative to protect public health, safety and welfare as set forth at 59 O.S. Supp. 1995, Sec. 503.1, in that absent licensure action by the Oklahoma Board of Medical Licensure and Supervision, nothing prevents the Defendant from leaving any chemical dependency treatment center or program against medical advice and without notice and immediately returning to Oklahoma and undertaking the practice of medicine and surgery under the legal authority of his existing Oklahoma medical license. Therefore, an emergency does exist and the Secretary of the Board should conduct an immediate hearing thereon.

CONCLUSIONS OF LAW

1. That Robert Michael Westcott, M.D., holding Oklahoma Medical License No. 18951, is in violation of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1995, Sec. 509, Paragraphs 5 and 16, to-wit:

"5. Habitual intemperance or the habitual use of habit-forming drugs."

"16. The inability 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 physical condition."

2. That Defendant Westcott is in violation of the rules and regulations promulgated by this Board, specifically Rule 435:10-7-4, Paragraphs 3, 11, 17, 18, 40, and 42, to-wit:

"(3) The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient."

- "(11) Conduct likely to deceive, defraud, or harm the public."
- "(17) Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety."
- "(18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery."
- "(40) The inability to practice medicine and surgery 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 physical condition."
- "(42) Failure to inform the Board of a state of physical or mental health of the licensee or of any other health professional which constitutes or which the licensee suspects constitutes a threat to the public."


3. That the Secretary of the Board has legal authority to impose emergency suspension pursuant to the legal authority of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1995, Sec. 503.1, and by the rules and regulations of the Board.

ORDER

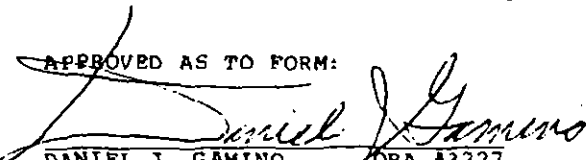
IT IS THEREFORE ORDERED by the Secretary of the Oklahoma Board of Medical Licensure and Supervision as follows:

- 1. That the Defendant, Robert Michael Westcott, M.D., Oklahoma Medical License No. 18951, should be and is hereby SUSPENDED on an emergency basis and shall remain suspended until further order of the Board and shall be set for hearing at the next meeting of the Board presently scheduled for January 19, 1996.
- 2. That a copy of this Order should be forwarded to Defendant at his present address in Oregon.

DATED this 21 day of December, 1995.



 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 22 day of December, 1995, to:

ROBERT MICHAEL WESTCOTT, M.D.

10362 SW McDonald

Tigard, Oregon 97222

Janet L Owens