

IN AND BEFORE THE
STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

Plaintiff,)

vs.)

Case No. 96-08-1838

JEFFREY KENT POWELL, P.T.,)
Medical License No. PT2120,)

Defendant.)

VOLUNTARY SUBMITTAL TO JURISDICTION AND AGREED ORDER

This matter comes before the Board on this 10th day of January, 1997, upon the agreement and consent of the defendant, Jeffrey Kent Powell, Physical Therapy License No. PT2120, to voluntarily submit to the jurisdiction of the Oklahoma State Board of Medical Licensure and Supervision regarding the Complaint on file in the above-styled action. The plaintiff appears by and through its attorneys, Danny K. Shadid and Robert Trent Pipes. The defendant appears in person and by and through his attorney, Larry Blankenship.

The defendant states that he is of sound mind and not under the influence of any medication or drug or impaired therefrom, and that he has reviewed this document with counsel. The defendant is aware of his right to appear before the Oklahoma State Board of Medical Licensure and Supervision en banc for evidentiary hearing concerning the pending Complaint. The defendant, of his own volition and decision, and with the advice of counsel, hereby waives and foregoes his right to appear before the Board for full

evidentiary hearing, and does hereby voluntarily and of his own volition consent to the jurisdiction of the Oklahoma State Board of Medical Licensure and Supervision regarding the Complaint on file in the above-styled action. The defendant agrees that he will not, in the future, challenge the findings of fact set forth hereinbelow.

STIPULATION

Regarding Count I of the aforesaid Complaint, the defendant stipulates and admits as follows:

That on or about March 29, 1996, the defendant embezzled a traction harness from Memorial Hospital of Texas County, in Guymon, Oklahoma; that on or about April 1, 1996, the defendant embezzled from the said hospital a computer software program and diskettes; that the defendant has heretofore pled nolo contendere (no contest) to two (2) separate felony counts of embezzlement regarding in the aforesaid hospital property in the District Court of Texas County, State of Oklahoma, Case No. CF-96-122; that the crime of embezzlement of such hospital property constitutes unprofessional conduct in violation of 59 O.S. Supp. 1996, §§887.13(9) and (10), together with O.A.C. §435:20-3-2(5) which provide as follows:

"Been guilty of conduct unbecoming a person licensed as a physical therapist or physical therapist assistant or guilty of conduct detrimental to the best interests of the public or his profession." 59 O.S. Supp. 1996, §887.13(9).

"Been guilty of any act in conflict with the ethics of the profession of physical therapy." 59 O.S. Supp. 1996, §887.13(10).

"Conducted himself/herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct."
O.A.C. §435:20-3-2(5).

PLEA OF NOLO CONTENDERE (NO CONTEST)

Regarding Count II of the aforesaid Complaint, the defendant hereby pleads nolo contendere (no contest) to the allegations set forth therein pertaining to alleged falsification of an evaluation and physical treatment reports of patient A.R. in violation of 59 O.S. Supp. 1996, §887.13(9) and (10) and O.A.C. §435:20-3-2(5). The defendant understands that he makes no admissions of guilt as to Count II of the Complaint and further understands that were the case to be tried, the plaintiff Board would present evidence as follows:

Physical therapy staff member, A.R., at Memorial Hospital of Texas County, was also one of the defendant's patients who was under orders from a physician for physical therapy treatments on himself/herself. Further, that the defendant dictated a full evaluation report for patient A.R. as though the defendant performed all tests and determined muscle involvement when in fact the defendant he did not perform such an evaluation; that the defendant dictated a Discharge Summary reflecting that patient A.R. no longer had any problems which required continued care and that patient A.R. was released back to work, when in fact patient A.R. had been given restrictions on work from his/her doctor. Although the defendant makes no admission of guilt as to the allegations set forth in Count II of the Complaint, the defendant enters this plea of nolo contendere with the complete

understanding that the Board will enter findings of fact based upon the unrebutted allegations set forth in the Complaint.

FINDINGS OF FACT

1. On or about March 29, 1996, the defendant embezzled a traction harness from Memorial Hospital of Texas County, in Guymon, Oklahoma.

2. On or about April 1, 1996, the defendant embezzled from Memorial Hospital of Texas County, in Guymon, Oklahoma, a computer software program and accompanying diskettes.

3. The defendant has heretofore pled nolo contendere (no contest) to two (2) separate felony counts of embezzlement regarding the aforesaid hospital property in the District Court of Texas County, State of Oklahoma, Case No. CF-96-122.

4. Patient A.R. was a physical therapy staff member at Memorial Hospital of Texas County, Guymon, Oklahoma, and was also one of the defendant's patients.

5. Patient A.R. was under orders from a physician for physical therapy treatments on himself/herself.

6. The defendant signed patient A.R.'s chart indicating that the defendant had performed all tests and determined muscle involvement when in fact the defendant did not perform such evaluations.

7. The defendant dictated a Discharge Summary reflecting that patient A.R. no longer had any problems requiring continued care and was released back to work, when in fact patient A.R. had been given restrictions on work from his/her doctor.

CONCLUSIONS OF LAW

1. The embezzlement of the aforesaid hospital property constitutes unprofessional conduct in violation of 59 O.S. Supp. 1996, §§887.13(9) and (10), together with O.A.C. §435:20-3-2(5), as those provisions are quoted above.

2. The falsification of patient A.R.'s evaluation and physical therapy treatment records constitutes unprofessional conduct in violation of 59 O.S. Supp. 1996, §887.13(9) and (10), and O.A.C. §435:20-3-2(5), as those provisions are quoted above.

TERMS OF PROBATION

1. The defendant is hereby placed on probation under the supervision of this Board for a period of four (4) years commencing on the date of this Agreed Order and terminating on the 15th day of November, 2000.

2. The terms and conditions of the defendant's probation are as follows:

a) During the period of probation, the defendant will submit to and make himself available for all types of monitoring deemed appropriate by the plaintiff Board or its staff.

b) The defendant will submit all of his current patient records to the physical therapy committee and/or its authorized representatives for review on a quarterly basis.


c) The defendant will pay administrative fees for the cost of monitoring/probation in the amount of \$100.00 per month commencing in December, 1996, with like payments to be made throughout the term of the defendant's probation, pursuant to 59 O.S. Supp. 1996, §509.1(A).

d) The defendant will pay for all costs of investigation and hearing, including the plaintiff's legal fees, all pursuant to 59 O.S. Supp. 1996, §509.1(A).

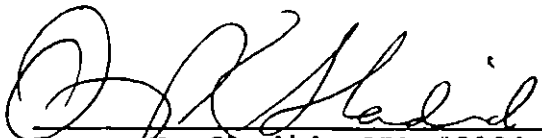
e) During the period of probation, the defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision the defendant's current business and residential addresses; the defendant will advise the Board in writing of all changes of business and/or residential addresses.

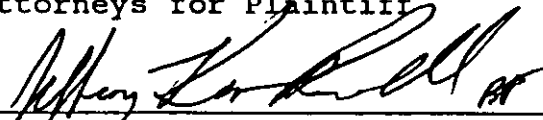
f) The defendant shall appear before the Board or a designated member thereof whenever requested to do so.


IT IS SO ORDERED.


SECRETARY OF THE BOARD

APPROVED:


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Robert Trent Pipes, OBA #11475
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20 North Broadway
Oklahoma City, OK 73102-8273
(405) 235-7700

CERTIFICATE OF MAILING

This is to certify that on this 21 day of January, 1997, a true and correct copy of this order was mailed, postage prepaid to:

Jeffrey Kent Powell, P.T.
2804 Abramson Lane
Clinton, OK 73601

Kevin Gordon
C/O Crowe Dunlevy
20 N. Broadway Suite 1800
Oklahoma City, OK 73102