

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

FILED

FEB 06 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff,)

v.)

JONATHAN EK, M.D.,)
LICENSE NO. 23862)

Defendant.)

Case No. 08-04-3543

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on January 29, 2009, 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 pro se.

The Board *en banc* after hearing arguments of counsel and the witnesses, reviewing the pleadings filed, 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.* Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Jonathan Ek, M.D., holds Oklahoma license no. 23862 and practices as a family practitioner in Perry, Oklahoma.

SUBSTANCE ABUSE ALLEGATIONS

3. Defendant has a long history of drug abuse. Defendant admits use or abuse of Marijuana, Methamphetamine, Cocaine, Heroin, LSD, Psilocybin, Dexedrine, Darvon, Codeine, Hydrocodone, Oxycodone, Oxycontin, Demerol, Morphine sulfphate, Fentanyl, Nubain, Ultram Xanax, Ativan, Valium, whippets, Phentermine, Ephedra and alcohol.

4. Defendant admits that prior to entering medical school, he was hospitalized twice due to LSD and marijuana use. The first hospitalization was for two (2) weeks due to LSD induced psychosis. The second hospitalization was for one (1) year and was residential treatment due to LSD psychosis. When Defendant was discharged after the second hospitalization, he immediately began IV cocaine use.

5. Defendant subsequently began medical school in 1997 and immediately began abusing alcohol and marijuana. During this time, Defendant was additionally diagnosed with bipolar disorder.

6. Defendant began an Internal Medical Residency at the University of Illinois College of Medicine at Urbana-Champaign in August 2001. While in his residency, Defendant was advised that he would be required to repeat his second year of residency. In or around this time, Defendant started using crack cocaine and continued to smoke marijuana. Defendant went to treatment in Illinois for approximately three (3) weeks. He was then "kicked out" of his residency program for smoking cocaine and for personality conflicts in or around August 2003.

7. After being kicked out of his internal medicine residency program, in July 2004, Defendant entered the Family Practice Residency in Enid, Oklahoma. While in his family practice residency program, Defendant continued to use marijuana and cocaine.

8. In 2006, Defendant completed the family practice residency and set up a family practice in Perry, Oklahoma. He again started using crack cocaine, then began abusing Hydrocodone.

9. In 2008, he started using Demerol which he had ordered from a pharmaceutical company. In or around July 2008, Defendant ordered three (3) boxes of Demerol 100 mg. vials, with 25 vials in each box. Defendant injected all of the Demerol during a four (4) day period. At the end of this four (4) day period, Defendant blacked out and had seizures while at work. An employee found the used syringes in his office and reported him to the Perry Memorial Hospital. Defendant admitted his drug use to his supervisors, at which time he was suspended from the hospital.

FRAUDULENT LICENSURE APPLICATION ALLEGATIONS

10. On or about February 25, 2004, Defendant submitted his initial application for an Oklahoma medical license. In response to the question "Are you now or have you, within the past two years, been addicted to or used in excess, any drug or chemical substance including

alcohol?", Defendant answered "NO". Defendant has admitted that he was abusing crack cocaine and marijuana throughout his internal medicine residency from 2001-2003.

11. On his February 25, 2004 initial licensure application, Defendant was additionally asked "Have you ever been the subject of disciplinary action by a hospital, clinic, residency program or professional school?" Defendant answered "NO". Defendant has admitted that he was kicked out of his residency program for smoking cocaine and personality conflicts.

SEXUAL MISCONDUCT ALLEGATIONS

12. A review of Defendant's records reveals that Defendant began treating Patient MBW, a female, on or around November 13, 2007 and continuing through May 19, 2008. Defendant's records reflect that Patient MBW was treated for back and shoulder pain on numerous occasions in Defendant's office during this time period.

13. During this time, Patient MBW's chart and pharmacy records reflect that Defendant wrote or authorized six (6) prescriptions to her for Oxycodone 40 mg. and Morphine Sulphate, 30 mg. Schedule II controlled dangerous substances, for 360 dosage units, two (2) prescriptions for Histinex, a Schedule III controlled dangerous substance, for 240 dosage units, and eight (8) prescriptions for Diazepam, a Schedule IV controlled dangerous substance, for 360 dosage units. Defendant's chart reflects that he additionally wrote, administered or authorized prescriptions for non-controlled dangerous drugs to Patient MBW.

14. During the patient's first and second visits to Defendant's office, Defendant closed the exam room door and touched her in a sexual manner.

15. During the patient's last visit to Defendant's office in April 2008, Patient MBW and Defendant engaged in oral sex.

BOARD INVESTIGATION

16. Board investigator Steve Washbourne interviewed Defendant on or about October 21, 2008. At this time, Defendant admitted that he had ordered injectable Demerol for his personal use and that he had in fact injected himself with IV Demerol. Defendant also admitted to Mr. Washbourne that he had been abusing Hydrocodone. Defendant additionally admitted his sexual relationship with Patient MBW. Defendant denied engaging in sexual activity with any other patients.

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

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) 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(8) 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(13) 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(15) 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. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509(17).

I. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4(23).

J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

K. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(9).

L. Prescribed or administered a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).

M. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).

N. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

O. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

P. 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).

Q. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4(44).

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. 407 §509(4) 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(8) 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(13) 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(15) 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. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509(17).

I. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4(23).

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L. Prescribed or administered a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).

M. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).

N. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

O. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

P. 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).

Q. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4(44).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (4), (7), (8), (9), (13), (15), (16) and (17) and OAC 435: 10-7-4 (2), (3), (5), (6), (8), (11), (17), (18), (19), (23), (24), (26), (27), (39), (40) and (44).

Order

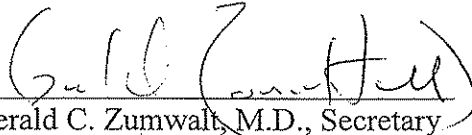
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, Jonathan Ek, M.D., Oklahoma license no. 23862, is hereby **SUSPENDED INDEFINITELY** beginning January 29, 2009 and continuing for a minimum of **SIX (6) MONTHS** after which time Defendant may appear before the Board to seek reinstatement of his license. At that time, Defendant shall advise the Board of any potential employment and his activities during his suspension. If the Board agrees to reinstate Defendant's medical license, probationary terms will be set at that time.

2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

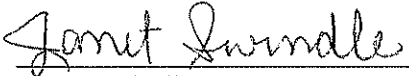
3. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

Dated this 6 day of February, 2009.


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

CERTIFICATE OF SERVICE

I certify that on the 6 day of February, 2009, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Suspension to Jonathan Ek, 806 Wakefield, Perry, OK 73077.


Janet Swindle