

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

FILED

OCT 09 2009

IN THE MATTER OF THE)
APPLICATION OF)

JONATHAN EK, M.D.,)

FOR REINSTATEMENT OF OKLAHOMA)
MEDICAL LICENSE NO. 23862)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 08-04-3543

**ORDER GRANTING REINSTATEMENT OF
LICENSE UNDER TERMS OF PROBATION**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision on September 17, 2009, at the Board office, 5104 North Francis, Suite C, Oklahoma City, Oklahoma 73118, pursuant to notice given as required by law and rules of the Board.

Applicant, Jonathan Ek, M.D., appeared in person and pro se.

Elizabeth A. Scott, Assistant Attorney General, appeared on behalf of the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision.

The Board *en banc* heard testimony, reviewed the exhibits presented, and being fully apprised of the premises, entered the following Findings of Fact, Conclusions of Law, and Orders:

Findings of Fact

1. The Board *en banc* has jurisdiction over the subject matter herein, and notice has been given in all respects as required by law and the rules of the Board.
2. Applicant previously held Oklahoma Medical License No. 23862.
3. On January 29, 2009, the Board suspended Applicant's license for unprofessional conduct in violation 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).
4. On July 23, 2009, Applicant requested reinstatement of his suspended license. Upon a review of the evidence submitted, the Board tabled Applicant's request until he presented

evidence that he had complied with the recommendations of Talbott, including treatment for sexual boundary issues, treatment with Dr. Nesbitt and treatment with Peggy Ferguson, at which time he could present this evidence to the Board for further consideration on his request for reinstatement.

5. Applicant is now seeking reinstatement of his Oklahoma medical license no. 23862.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to reinstate the license of a physician pursuant to 59 O.S. §508.1.
2. The Board may impose practice parameters and other restrictions as necessary to protect the health, safety and welfare of the public under 59 O.S. §480 *et seq.*

ORDER

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

1. Defendant's medical license shall be reinstated under **PROBATION** for a term of **FIVE (5) YEARS** subject to the following terms and conditions:
 - A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.
 - B. Upon request of the Board Secretary, Defendant will request all hospitals in which he anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing services in or to that hospital.
 - C. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of

Medical Licensure and Supervision.

D. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.

E. Defendant will not prescribe, order, administer, dispense or possess any drugs in Schedules I through V.

F. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or physicians holding Defendant's records.

G. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

H. Defendant will not prescribe, order, administer or dispense any medications for personal use or for that of any family member.

I. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation, or continuation of treatment.

J. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances.

K. Defendant will authorize in writing the release of any and all information regarding his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

L. Defendant will abide by the terms and recommendations of Talbott and will comply with his postcare contract with the Oklahoma Health Professionals Recovery Program.

M. Defendant will attend four (4) meetings per week of a local

12-step program, to include the weekly Health Professionals Recovery Program.

N. Defendant will practice no more than sixty (60) hours per week in a controlled environment approved in advance in writing by the Board Secretary.

O. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

P. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

Q. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

R. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of probation.

S. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

T. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

U. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

V. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

W. Defendant shall have a chaperone, who shall be a licensed health care provider, with him at any time that he is examining any female patient.

X. Defendant shall enter and continue counseling with Peggy Ferguson or another counselor approved in advance in writing by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from his counselor to the Board Secretary for his review. Defendant will remain in treatment until both the counselor and the Board Secretary authorize his release from counseling.

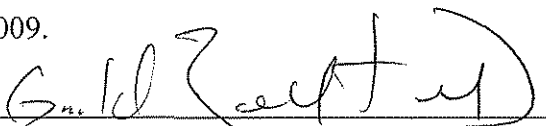
Y. Defendant shall enter and continue psychiatric treatment with Robert B. Nisbet, M.D. or another psychiatrist approved in advance in writing by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant shall additionally submit quarterly reports from his psychiatrist to the Board Secretary for his review. Defendant will remain in treatment until both the psychiatrist and the Board Secretary authorize his release from treatment.

2. During the period of probation, failure to meet any of the terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's license, after due notice and hearing.

3. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

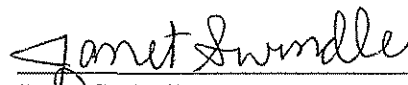
4. A copy of this written order shall be sent to Defendant as soon as it is processed.

Dated this 9 day of ^{Oct}~~September~~, 2009.
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Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

Certificate of Service

On the 9 day of ^{October}~~September~~, 2009, a true and correct copy of this order was mailed, postage prepaid, to 806 Wakefield, Perry, OK 73077.


Janet Swindle