

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

FILED

NOV 15 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
Plaintiff,)
v.)
KELLY MARGARET HUMPHERYS,)
M.D., LICENSE NO. 26599)
Defendant.)

Case No: 12-03-4507

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 7, 2013, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Scott Randall Sullivan, Special Prosecutor for the Board, appeared for the plaintiff and Defendant appeared *pro se*.

The Board *en banc* after hearing arguments of counsel, the sworn testimony of witnesses, reviewing the exhibits admitted, 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 Title 59 OK Stat. §480 et seq. 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.
2. Defendant Kelly Margaret Humpherys, M.D. holds Oklahoma License No. 26599.

Obstetrics and Gynecology Residency
Probation and Termination

3. Defendant applied for an Oklahoma license on June 20, 2008. According to Defendant's Post-Graduate Medical Training response on her Oklahoma Application for Licensure, she documented that she changed her residency from Obstetrics and Gynecology ("OB-GYN") to Family Practice. She provided the following type-written explanation regarding the time-gap:

"Kelly Humpherys, M.D. took a leave of absence from the KU (Kansas University) OB/GYN Residency program 12/3/2002 to care for her ailing mother. While caring for her mother from 12/31/2002 to her death in April, 2003, she decided that OB/GYN didn't feel like a right fit for her. She subsequently applied for a Family Medicine Residency and was accepted. The FP Residency started 7/1/2003".

4. Defendant was granted a full and unrestricted Oklahoma license on August 14, 2008.
5. Board staff later gained information through the course of their Investigation and Interview with the Defendant that she was placed on *probation* during her OB-GYN Residency (Post Graduate Year 3) at Kansas University Medical Center. Kansas University Medical Center staff reported to a Board Investigator that the cause was poor medical judgment related to obstetrical management and she was *terminated* from the program because she failed to complete the terms of her probation.
6. Defendant admitted to Board staff that she *failed to answer truthfully* on her Oklahoma Licensure Application regarding the probation and termination of her OB-GYN Residency.

First Hospital Suspension

7. In Defendant's Application for Oklahoma Licensure, Defendant answered "Yes" to Question J: "Have you ever been denied or had removed or suspended hospital staff privileges". Defendant provided a type-written supplement to her answer that stated:

"My hospital privileges were temporarily suspended in April 2008 secondary to a missed LLL (left lower lobe) pneumothorax on a patient with severe lung disease who was discharged from the hospital and then readmitted 14 hours later and then received a chest tube and the pneumothorax resolved. It was missed by the emergency physician as well. The suspension was lifted three weeks later (in May 2008) following an investigation".

Jane Phillips Medical Center

8. In the course of Defendant's career, on or about March 1, 2011, Defendant applied for privileges at Jane Phillip's Medical Center ("JPMC") in Bartlesville, OK. Defendant answered all questions regarding disciplinary action, including suspension, "No". During the Credentialing process at JPMC, a letter was provided by a previous facility in which the Defendant had had hospital privileges, St. John's Health System in Berryville, Arkansas. The letter stated:

"Defendant was suspended on April 29, 2008 and suspension was subsequently removed on May 28, 2008. The physician was allowed to take a medical leave of absence on May 28, 2008 to work on her *treatment plan* and resigned during the process" (June 15, 2008).

9. Defendant admitted to Board staff that she *failed to answer truthfully* on her application to JPMC regarding her suspension in Arkansas.

First Assessment

10. Defendant further admitted to Board staff that she spent several days for an *assessment* at the Professional Renewal Center ("PRC") in Lawrence, Kansas, May 19-23, 2008. She went on to explain that Administration from St. John's Health System in Arkansas requested that she "conduct an assessment of PRC". PRC staff documented otherwise:

"Dr. David Barbe of St. John's Health System referred Defendant to PRC for a comprehensive multidisciplinary assessment as a result of concerns regarding disruptive behavior in the work setting".

11. PRC recommended an intensive treatment experience of six to eight weeks. The Defendant did not obtain treatment, resigned from the Arkansas hospital and sought an Oklahoma license.

Second Hospital Suspension / Fair Hearing and Appeal

12. On or about December 30, 2011, Jane Phillips Medical Center ("JPMC") in Bartlesville, OK, summarily suspended the Defendant's obstetrical privileges.
13. On or about February 13, 2012, JPMC submitted a report to the National Practitioner Data Bank revealing that as of December 29, 2011, Defendant was an immediate threat to health and safety and had a summary or emergency limitation, restriction, or reduction of her clinical privileges:

"The reasons for the summary suspension include the following, related to the quality of care and patient safety during the labor and delivery of an obstetrical patient and the immediate post-delivery care of her newborn: 1) misdiagnosis and mismanagement of suspected but unconfirmed fetal distress, nuchal cord and/or

prolapsed cord; 2) improper vaginal examination; 3) plan to perform emergency cesarean section under local anesthesia without clinical indications; 4) inappropriate patient management; 5) unnecessary delay in transferring unresponsive and cyanotic newborn to pediatrician; 6) creating an unnecessary chaotic environment for the patient and staff. The MEC recommended summary suspension of Defendant's OB (Obstetrical) privileges to reduce the likelihood of immediate injury or damage to the health and safety of obstetrical patients and their newborns".

14. Defendant then underwent a Fair Hearing at JPMC on or about March 13-14, 2012, followed by an Appeal. The Appeal Committee of JPMC rendered its Final Decision on June 6, 2012. The Appeal Committee unanimously AFFIRMED the summary suspension of Defendant's obstetrical privileges at JPMC.
15. Defendant denied to Board staff that she practiced wrongfully during the incident for which she was summarily suspended at JPMC.

Second Assessment

16. At the request of Board staff, Defendant underwent an assessment conducted by Terese A. Hall, J.D., Ph.D., ABPP on July 9, 2012. Dr. Hall's conclusions were as follows:

"[Defendant's] symptoms and behaviors appear to have the potential to cause **significant impairment in her ability to practice medicine**. She is currently unable to function as a part of a treatment team due to her interpersonal style. She is more invested in being right than in ensuring that her professional decisions are correct. She is unlikely to ask for assistance or input or to accept it if offered. When questioned she becomes irate. Within the boundaries of routine practice this may not be a problem, but in a novel or emergency situation, it could pose significant problems for the quality of the care she is able to provide. In addition, **[Defendant] is exhibiting circumstantial and disorganized thought processes, which could certainly impair her judgment and decision-making ability.**

Dr. Hall also remarked that even with intensive long-term psychotherapy and possible medications, that prognosis is often poor often there is little motivation for treatment.

17. Defendant is guilty of unprofessional conduct in that she:
 - (A) Has been found to be physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OCA 435:10-7-4.(17);
 - (B) Has 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); and

(C) Has made false, fraudulent, or deceptive statements in documents connected with the practice of medicine and surgery in violation of OAC 435:10-7-4. (19).

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 she:
 - (A) Has been found to be physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OCA 435:10-7-4.(17);
 - (B) Has 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); and
 - (C) Has made false, fraudulent, or deceptive statements in documents connected with the practice of medicine and surgery in violation of OAC 435:10-7-4. (19).
3. The Board further found that the Defendant's license should be **REVOKED**.

Order

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

1. The license of Defendant, Kelly Margaret Humpherys, M.D., Oklahoma medical license no. 26599, is hereby **REVOKED** as of the date of this hearing, November 7, 2013.
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.

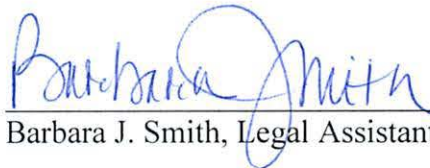
Dated this 15 day of November, 2013.



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

Certificate of Mailing

I certify that on the 15th day of November, 2013, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Kelly Margaret Humpherys, M.D., 17251 K4 Highway, Eskridge, KS 66423.



Barbara J. Smith, Legal Assistant