

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. 92-10-1443
)
DELMA PALMER, P.A.,)
Certificate No. 271,)
)
 Defendant.)

FINAL ORDER
IMPOSING INDEFINITE PROBATION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on July 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 Delma Palmer, P.A., Defendant, appeared pro se, without legal counsel, and agreed to proceed without counsel.

The Oklahoma Board of Medical Licensure and Supervision en banc reviewed exhibits, heard testimony, and being fully advised in the premises, the Board of Medical Licensure and Supervision finds and orders as follows:

FINDINGS OF FACT

1. That Defendant, Delma Palmer, P.A., holds Oklahoma P.A. Certificate No. 271.
2. That 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 since approximately 1989 Defendant Palmer has undertaken a pattern and practice of conduct indicative of a lack of good moral character by acts and omissions that include, but are not limited to, the following, to-wit:
 - (a) Repeated failure to notify the Board of important events such as entering Serenity Park Treatment Facility, Little Rock, Arkansas, for substance abuse treatment.
 - (b) That Defendant was the subject of arrest in a domestic dispute and was arrested for Assault and Battery of his spouse, public drunk and illegal possession of controlled dangerous substances, and the arresting officers commented on the police report that Defendant Palmer refused to vacate the premises, was combative with officers, was unstable and was unstable with mood swings.
 - (c) That Defendant Palmer's practicing privileges at Choctaw Indian National Clinic were permanently

suspended in August, 1992, for violation of his after-care contract.

- (d) Defendant Palmer was the subject of a Board hearing in May, 1993 in Case No. 92-10-1443, and his P.A. certificate was suspended indefinitely by the Board on May 14, 1993, and was restored under terms of probation on October 1, 1993.
- (e) Defendant Palmer has a history while on probation of taking Benedryl and Tylenol for a "cold" and that in April, 1995, Defendant Palmer tested positive for Codeine on his urine screen.
- (f) Defendant Palmer has been untruthful and deceitful in dealing with Board representatives during the time of his probation.

4. That Defendant Palmer is perpetuating significant harm to public health, safety and welfare by continuing the acts and omissions set forth in the above allegations.

CONCLUSIONS OF LAW

1. That Delma Palmer, P.A., holding Oklahoma Certificate No. 271, is in violation of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1994, Sec. 509, Paragraphs 5 and 9, to-wit:

- "5. Habitual intemperance or the habitual use of habit-forming drugs."
- "9. Dishonorable or immoral conduct which is likely to deceive or defraud the public."

2. That Delma Palmer, P.A., is also in violation of the Rules and Regulations promulgated by this Board, specifically Rule 435:10-7-4, which provides in pertinent part as follows, to-wit:

"The Board has the authority to revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct. Pursuant to 59 O.S. 1991, Sec. 509, "Unprofessional Conduct" shall be considered to include:

- "(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."

3. That Defendant Palmer is also in violation of additional Rules and Regulations promulgated by this Board, specifically 435:15-3-2 (c), which provides as follows, to-wit:

"All applicants for physician assistant certificates shall meet the following qualifications:

- "(c) Applicants must be of good moral character."

4. That Defendant Palmer is also in violation of additional Rules and Regulations promulgated by this Board, specifically 435:15-5-11, which provides as follows, to-wit:

"The State Board of Medical Licensure may reprimand or place on probation any holder of a certificate or revoke or suspend any certificate issued to a physician's assistant who:

- "(1) Habitually uses intoxicating liquors or habit forming drugs."
- "(3) Has obtained or attempted to obtain a certificate as a physician's assistant by fraud or deception."
- "(4) Has been grossly negligent while in the practice as a physician's assistant."
- "(7) Has violated any provision of the Medical Practice Act or the rules promulgated by this Board."

ORDER

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

1. That the Defendant, Delma Palmer, P.A., holding Oklahoma Physician Assistant Certificate No. 271, should be and is hereby placed on a term of INDEFINITE PROBATION to the Oklahoma State Board of Medical Licensure and Supervision to begin on July 15, 1995, under the following terms and conditions:

- (a) During the period of probation Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need and Defendant shall have an affirmative duty to inform any physician treating him of Defendant's previous use of alcohol.
- (b) During the period of probation Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to controlled dangerous substances, which would adversely affect his ability to practice medicine or surgery as interpreted by the Oklahoma State Board of Medical Licensure and Supervision.
- (c) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of any investigator or other agent representing the Oklahoma State Board of Medical Licensure and Supervision, and Defendant will pay for testing and analysis of those specimens.
- (d) During the period of probation Defendant will continue out-patient counseling to deal with family of origin issues, if deemed necessary by his treating physician. Reports from Defendant's treating physician shall be furnished to the Compliance Coordinator on a quarterly basis. Further, Defendant will participate fully with the Physician Recovery Committee of the Oklahoma State Medical Association with attendance at said meetings to be documented by the Chairperson of the

group and provided to the Compliance Coordinator on a quarterly basis.

- (e) During the period of probation Defendant will continue participation in Alcoholics Anonymous, attending at least three meetings per week, with attendance documented by the Chairperson of the meeting. Defendant will furnish quarterly reports to the Compliance Coordinator from his AA sponsor and authorize said sponsor to communicate verbally with the Medical Board Compliance Coordinators. Defendant will strongly encourage his wife to participate in his treatment as appropriate, and to attend Al-Anon family groups.
- (f) During the period of probation Defendant shall furnish each and every state in which he holds licensure or applies for licensure, and notify all hospitals or clinics or groups in which he anticipates holding any form of staff privileges, a copy of the Board Order stipulating sanctions imposed by the Board.
- (g) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (h) That Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (i) During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (j) That Defendant will conduct his practice in compliance with the Oklahoma Medical Practice 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 the interpretation is received by Defendant from the Board.
- (k) Pursuant to Title 59 O.S. Sec. 506, Defendant shall promptly pay within 30 days of receipt of invoice from the Board the costs of investigation, prosecution and probation of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- (l) During the period of probation Defendant will keep current payment of all assessment by the Board for investigation, prosecution and probation monitoring of his case.
- (m) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

2. That the jurisdiction of the Board in this individual proceeding will continue until the terms and conditions of

probation are modified or lifted by the Oklahoma Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

3. The Defendant further agrees that failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Physician Assistant certificate, after additional due notice and hearing.

DATED this 31st day of July 1995.

George M. Brown, Jr., M.D.
GEORGE M. BROWN, JR., 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 2 day of ~~July~~, 1995, to:

August
DELMA PALMER, P.A.
Rt-1 Box 4436
Fort Gibson OK
74434

Janet Owens