

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

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
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Plaintiff,)
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v.)
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)
MICHAEL ALAN SUMMERS, R.C.,)
LICENSE NO. RC 3675)
)
)
)
Defendant.)

MAR - 6 2014

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 13-12-4870

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Matthew Ryan Stangl, Assistant Attorney General, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Michael Alan Summers, R.C., Oklahoma license no. RC 3675 who appears in person, offer this Agreement effective January 16, 2014, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* Rule 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on December 13, 2013, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Michael Alan Summers, R.C., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for an evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him and his legal counsel, if any.

Agreements and Stipulations

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of Respiratory Therapy Practitioners in the State of Oklahoma pursuant to 59 Okla. Stat. §2026 *et seq*
2. Defendant Michael Alan Summers, R.C., holds Oklahoma license no. RC3675.
3. An Agreement for Licensure was entered into on May 17, 2012 based on Defendant's history of four (4) arrests: two (2) DWI arrests in 1989 and 2002, one (1) DUI arrest in 1998, and one (1) Bogus Check arrest in 1996. Under the terms of agreement, Defendant would submit to random monthly urine specimen tests through the Affinity drug testing program.
4. On or about July 29, 2013 Defendant testified positive for Ethyl. An ETG was also performed on the test. **The cutoff level for a positive result is 500; Defendant tested at a level of 7500.** Subsequently, during an interview with the Board's Compliance Coordinator, Defendant admitted consuming alcohol.
5. Defendant failed to meet the following terms of the Agreement of Licensure dated May 17, 2012:

“Paragraph 5: Applicant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances, including but not limited to alcohol”;

Paragraph 9: Applicant will notify the Board or its designee of any relapse, including entry, or re-entry, into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation”; and

“Paragraph 11: Failure to meet any of the terms of this Agreement shall constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Applicant's license after due notice and hearing.”

Conclusions of Law

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

Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of any action, stipulation or agreement of the Board as stated in *Oklahoma Administrative Code Rule 435:10-7-4 (39)*.

Order

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

1. The Board en banc hereby adopts the agreement of the parties in his Voluntary Submittal to Jurisdiction; and

2. It is **ORDERED** that the Defendant will be placed on **PROBATION** for a period of five (5) years and said probation shall have the following provisions:

Standard Terms:

- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Respiratory Care Practice Act as interpreted by the Board. Any question of interpretation regarding the Act or this order 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 Board or its designee.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a licensed respiratory care practitioner.
- d) Defendant will keep the Board informed of his current address.
- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.


- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- j) 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 license after due notice and hearing. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.


Specific Terms:


- j) Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.
- k) 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 this Board Order immediately upon initiation, or continuation, of treatment.
- l) Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
- m) Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse including alcohol.
- n) Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse including alcohol.
- o) Defendant shall sign a contract with Oklahoma Health Professionals Program ("OHPP") including Sober Link testing.
- p) Defendant shall attend two (2) 12-step meeting per week in addition to one (1) weekly OHPP meeting. Defendant shall provide documentation of his attendance at these meetings. Defendant may, after two years from the date of this Order, ask Board Secretary to reduce Defendant's meetings requirement to one (1) 12-step meeting per week and one (1) OHPP meeting per week.


- q) Defendant shall follow all discharge instructions as set forth in the SSM Health Care Patient After Visit Summary.

Dated this 6 day of March, 2014.


Michael A. Summers, RC
License No. 3675


G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision


Matthew Ryan Stangl, OBA #20343
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 6th day of March, 2014, a true and correct copy of this order was mailed, postage prepaid, to Michael Alan Summers, R.C., 1229 Windsor Way, Norman, Ok., 73069.


Kathy Plant, Executive Secretary