

**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, )

MAR 10 2011

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

v. )

Case No. 10-12-4123

TERRY JACKSON HEWITT, PTA )  
LICENSE NO. TA424, )

Defendant. )

**VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, 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, Terry Jackson Hewitt, PTA, Oklahoma license no. TA424, who appears in person and pro se, proffer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

**AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT**

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on January 21, 2011 and acknowledges that hearing before the Board would result in some sanction under the Physical Therapy Practice Act.

Defendant, Terry Jackson Hewitt, PTA, 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 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.

## ***PARTIES' AGREEMENT AND STIPULATIONS***

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

### ***Findings of Fact***

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physical therapy assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 887.1 *et seq.*

2. Defendant, Terry Jackson Hewitt, PTA holds physical therapy assistant license no. TA424 in the State of Oklahoma.

### **PRIOR DISCIPLINARY ACTION**

3. On or about October 3, 2005, Defendant was pulled over by the Hugo Police Department at which time an open 12-pack of beer was found in his car. Defendant admitted to police officers that he had a beer which he had hidden under the driver's seat. He was cited for Transporting an Open Container and was then released.

4. On or about October 4, 2005, Defendant was pulled over by the Hugo Police Department for suspected drunk driving. His speech was slurred, he smelled of alcohol, and he was unsteady on his feet. He admitted to police officers that he had consumed three (3) beers. He was arrested and agreed to submit to a blood test, at which time he was transported to the hospital. At the hospital, blood was drawn for testing. The vials of blood were left in the room with Defendant for a short time. When police officers returned, they found that two (2) of the vials' seals were broken and one (1) vial was missing.

5. Defendant later admitted to Board investigators that at the time of his October 4, 2005 arrest, he had consumed at least a 12-pack of beer, and had taken some Xanax and Cocaine.

6. On or about October 5, 2005, Defendant was released from jail and went to the Hugo Police Department to retrieve his vehicle which had been impounded when he was arrested on October 4, 2005. Outside the Hugo Police Department, he became involved in an altercation with his wife when he attempted to choke her, resulting in minor injuries to her. Police officers intervened, but she did not wish to press charges at that time.

7. On or about October 9, 2005, Defendant was arrested by the Hugo Police Department for Criminal Trespass and Public Intoxication. At the time of his arrest, he admitted to police officers that he had used crystal methamphetamine earlier that evening.

8. From October 11, 2005 through October 13, 2005, Defendant sought detoxification and early treatment for methamphetamine, cocaine and alcohol withdrawal at New Vision in Durant, Oklahoma. At the time of his discharge, he refused to obtain in-patient treatment.

9. The State subsequently filed a Complaint against Defendant and on January 26, 2006, accepted a Voluntary Submittal to Jurisdiction whereby Defendant was **SUSPENDED for FOUR (4) MONTHS** from October 11, 2005 through February 11, 2006, to be followed by a **FIVE (5) YEAR PROBATION** to end February 11, 2011.

10. On or about January 14, 2010, Defendant and the State requested that his probation be terminated early due to the fact that he had complied with all terms of his probation. The Board granted the parties' request.

### **CURRENT ALLEGATIONS OF MISCONDUCT**

11. On or about July 25, 2010, Defendant was pulled over by the Coweta Police Department for suspicion of drunk driving. At the time he was pulled over, he appeared to be impaired and had his three (3) minor children in the car with him. When the police officer patted him down, she found a pill bottle in his front pocket. Defendant attempted to keep her from seeing what was in the bottle, but when the officer did examine the bottle, she found marijuana in it. Defendant then advised the officer that the marijuana belonged to his wife and he was "taking it to a friend at the lake". Defendant was immediately arrested for possession of marijuana.

12. On or about August 2, 2010, Defendant was charged with Possession of a Controlled Substance-Marijuana. On or about October 21, 2010, the charge was reduced to Possession of Drug Paraphernalia. Defendant plead no contest and received a one (1) year deferred sentence with District Attorney supervised probation for six (6) months, along with a fine and court costs.

13. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:20-5-8(5).
- D. Engaged in the unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of OAC 435:20-5-8(14).

- E. Violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:20-5-8(31).
- F. Procured, aided or abetted a criminal operation in violation of OAC 435:20-5-8(1).
- G. Has been convicted of, or confessed to or plead no contest to a felony or misdemeanor in violation of OAC 435:20-5-8(26).

### *Conclusions of Law*

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Physical Therapy Practice 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, Terry Jackson Hewitt, PTA, Oklahoma physical therapy assistant license no. TA424, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:20-5-8(5).
- D. Engaged in the unauthorized possession or use of illegal or controlled substances or pharmacological agents without lawful authority or prescription by an authorized and licensed independent practitioner of the State of Oklahoma in violation of OAC 435:20-5-8(14).
- E. Violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:20-5-8(31).
- F. Procured, aided or abetted a criminal operation in violation of OAC 435:20-5-8(1).

- G. Has been convicted of, or confessed to or plead no contest to a felony or misdemeanor in violation of OAC 435:20-5-8(26).

***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 this Voluntary Submittal to Jurisdiction.

2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **INDEFINITE PROBATION** under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Physical Therapy 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 interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.

B. 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.

C. Upon request of the Board Secretary, Defendant will request all hospitals in which he practices to furnish to the Board Secretary a written statement regarding monitoring of his practice while performing services in or to that hospital.

D. 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.

E. 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.

F. Defendant 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.

G. Defendant will attend at least four (4) meetings per week of a 12-Step program, to include the weekly Health Professionals Recovery Program meetings.

H. Defendant shall designate one (1) physician who shall prescribe all controlled dangerous substances and pain medications to Defendant. Defendant may not obtain any controlled dangerous substances or other pain medications from any health care provider other than his designated physician. This physician shall be approved in advance in writing by the Board Secretary.

I. Defendant shall obtain individual counseling with a counselor approved in advance in writing by the Board Secretary to address his co-dependency and boundary issues. Defendant shall continue with said counseling until both the counselor and the Board Secretary approve discontinuance of counseling. Defendant shall submit quarterly reports of his progress from his counselor to the Board Secretary for his review.

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

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

L. Defendant will authorize in writing the release of any and all records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision and will authorize the Compliance Consultant to the Board to discuss his case and treatment with the individuals providing Defendant's treatment.

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

N. Defendant will keep current payment of all assessment 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-fifty dollar (\$150.00) per month fee during the term of probation.

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

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

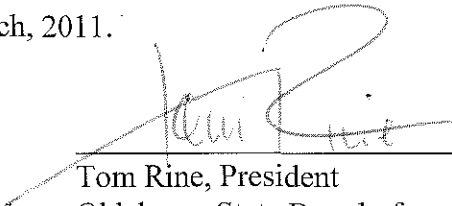
Q. Defendant will notify the Board or its designee of any slip, relapse, entry or re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

R. 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.

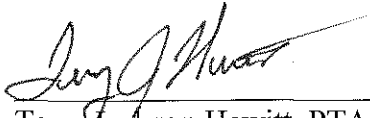
S. Defendant shall provide a hair sample for testing every six (6) months for the first two (2) years of his probation. Defendant's hair sample shall be tested on a standard nine (9) panel test, shall screen for all substances of abuse, and shall include GC/MS confirmation. Defendant shall submit to the test at a facility approved in advance in writing by the Board Secretary. Defendant shall pay all costs for drug testing and shall provide a report from the testing facility to the Compliance Consultant or his designee.

3. Defendant shall promptly pay all costs and expenses incurred by the State of Oklahoma prior to March 11, 2011.

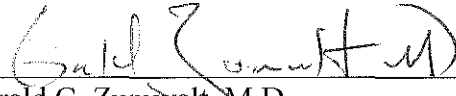
Dated this 10 day of March, 2011.

  
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Tom Rine, President  
Oklahoma State Board of  
Medical Licensure and Supervision


**AGREED AND APPROVED:**



Terry Jackson Hewitt, PTA  
License No. TA424



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



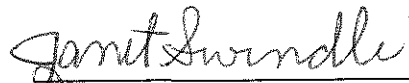
Elizabeth A. Scott OBA #12470

Assistant Attorney General  
State of Oklahoma  
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Oklahoma City, OK 73105  
405/962-1400

Attorney for the Oklahoma State Board  
of Medical Licensure and Supervision

**CERTIFICATE OF MAILING**

I Certify that on the 11 day of March, 2011, a mailed and true copy of  
Voluntary Submittal to Jurisdiction to Terry Hewitt, PTA, 2410 East Sidney  
Ave, Broken Arrow, OK 74014.



Janet Swindle, Secretary