

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

FILED

SEP 14 2023

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
JAKE J. STRAIN, PT,)
LICENSE NO. PT 4689,)
)
Defendant.)

Case No. 23-01-6190


**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through the undersigned counsel for the Plaintiff, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with Jake J. Strain, PT ("Defendant"), Oklahoma physical therapist license no. 4689, who appears in person and through counsel, Jason Rush (collectively, the "Parties, and offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, "Order" or "Agreement") for acceptance by the Board. Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant admits to the allegations herein contained and further acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Physical Therapy Act ("Act"). 59 O.S. § 887.1 *et seq.*

Defendant, Jake J. Strain, PT, 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 may be reviewed and discussed with him by legal counsel prior to execution.

If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by Defendant herein, if any, shall not be regarded as evidence against him in a subsequent disciplinary hearing. Defendant will be free to defend himself and no inferences will be made from his willingness to have this Order accepted by the Board. The Parties stipulate that neither the presentation of this Order nor the Board's consideration of this Order shall be


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deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

Findings of Fact

1. The Board initially received a complaint on December 16, 2022, from a home health care agency who contracted the Defendant's physical therapy company for the purpose of providing physical therapy services to the agency's patients. The complainant alleged that Defendant had been stealing one of the agency's patient's Oxycontin medication and replacing the stolen medication with over-the-counter Tylenol medication.
2. Board investigators subsequently learned that at least six (6) additional patients to whom Defendant had been providing physical therapy services had experienced similar incidents with Defendant, wherein the patients discovered either their pain medications had been replaced with other medications or were missing altogether, following Defendant's visit(s) to their homes.
3. On February 14, 2023, Defendant was interviewed by Detective Matt Lamatsch of the City of Hugoton, Stevens County, KS, in which he admitted to stealing ten (10) Oxycodone tablets of a patient's prescription in Kansas on December 1, 2022, after offering to retrieve the patient's medication from the pharmacy on the patient's behalf. He admitted to Detective Lamatsch that he later consumed the stolen pain narcotics.
4. On March 13, 2023, Board investigators interviewed Defendant, during which he admitted to stealing pain narcotics from the complainant patient, but insisted he only did so once, on the December 2, 2022, occasion which was recorded by video.
5. Any conclusion of law below which is more properly characterized as a finding of fact is hereby incorporated as a finding of fact.

Conclusions of Law

6. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physical therapists in the State of Oklahoma. 59 O.S. § 887.1, *et seq.* and Okla. Admin. Code 435:5-1-1, *et seq.*
7. Defendant holds physical therapist license No. 4689, issued 05/24/2013 by the Oklahoma Board of Medical Licensure and Supervision. The acts and/or omissions complained of herein were made while Defendant was licensed to practice physical therapy by the State of Oklahoma.
8. Notice was provided as required by law and the rules of the Board. 75 O.S. § 309; 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.

9. The Board is authorized to accept voluntary submittals to jurisdiction mutually agreed to by parties to a disciplinary action to resolve the action without need for a hearing. 75 O.S. § 309(E); Okla. Admin. Code § 435:5-1-5.1.
10. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
 - a. Dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public, in violation of Okla. Admin. Code § 435:20-5-8(b)(4).
 - b. Negligence while in the practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board, in violation of Okla. Admin. Code § 435:20-5-8(b)(11).
 - c. 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 Okla. Admin. Code § 435:20-5-8(b)(13).
 - d. Violation of any provision(s) 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 Okla. Admin. Code § 435:20-5-8(b)(29).
 - e. Habitual intemperance or the habitual use of habit-forming drugs, in violation of Okla. Admin. Code § 435:20-5-8(b)(2).
11. Any finding of fact conclusion of law above which is more properly characterized as a conclusion of law is hereby incorporated as a finding of fact.

Orders

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

1. The Board hereby adopts the Agreement of the Parties in this Order Accepting Voluntary Submittal to Jurisdiction, including the findings of fact and conclusions of law stated herein.
2. **JAKE J. STRAIN, PT** shall be placed on **PROBATION** for a period of **FIVE (5) YEARS**.
3. **JAKE J. STRAIN, PT**, Oklahoma medical license no. 4689, is formally **REPRIMANDED**.


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4. JAKE J. STRAIN, PT shall comply with all of the following terms and conditions:

Specific Terms:

- a. Defendant shall sign a five (5) year contract with Oklahoma's Allied Professional Peer Assistance ("APPA") to run concurrently with the probation period. Defendant shall abide by all recommendations of the APPA, including but not limited to random urine drug screens, Peth tests, quarterly hair tests, nail tests and breathalyzer (SoberLink) tests.
- b. Defendant shall ensure APPA provides quarterly reports to the Board Secretary regarding progress and participation in APPA, and that the Board's Compliance Coordinator be provided copies of all APPA acquired urine drug screens, test results and meeting attendance records.
- c. Should Defendant continue on a Medication Assistance Treatment program, ("MAT"), the provider must be pre-approved by the Board Secretary. Additionally, if Defendant continues with MAT, he will notify all his medical providers.
- d. 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. Defendant shall maintain complete and total abstinence.
- e. Defendant shall not work in home-based care. All of Defendant's prospective employment related to the medical field and any workplace setting shall be approved of in advance by the Board Secretary during any period that he is working in Oklahoma, which includes locum tenens and telemedicine. If Defendant desires to change his employment, the proposed working environment must be approved of in advance by the Board Secretary.
- f. Defendant shall participate in AA/NA meetings three (3) times a week, and submit proof of attendance to the Compliance Coordinator. Defendant shall obtain a sponsor with at least two (2) years of sobriety.
- g. Defendant shall obtain a therapist. The therapist must be approved of in advance by the Board Secretary.

Standard Terms:

- h. Defendant shall conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("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 authorized designee. 59 O.S. § 480, *et seq.*

- i. Defendant shall furnish a file-stamped copy of this Order stipulating terms imposed by the Board, 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/she holds or anticipates holding any form of staff privileges or employment.
- j. Defendant will keep the Board informed of his current address.
- k. Defendant will keep current payment of all assessments by the Board for prosecution, investigation and monitoring of his case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- l. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any bankruptcy proceeding.
- m. For good cause shown, upon request of the Board or its designee, Defendant will submit biological specimens for analysis, including but not limited to, blood, urine, hair follicle and nail samples, and Defendant will pay the costs attendant thereto.
- n. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need, and only during that time in which he is being treated by the physician for that specific medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Order immediately upon initiation, or continuation of treatment. In the event that Defendant is prescribed any controlled dangerous substance during the term of this Order, Defendant shall contact the Board Secretary and/or the Compliance Coordinator to discuss the prescription.
- o. Defendant shall not prescribe, administer or dispense any prescription medications for personal use or for that of any family members, friends, employees or associates.
- p. Defendant shall promptly notify the Board Secretary or Compliance Coordinator of any citation or arrest for traffic or for criminal offenses.
- q. Upon request, Defendant shall make himself available for one or more personal appearances before the Board or its authorized designee.
- r. Defendant will execute such releases of medical and therapy records during the entire term of this Order as necessary for use by the Board Secretary and/or Compliance Coordinator to obtain copies of medical records and assessments and authorize the Board Secretary and/or Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

- s. If Defendant has ceased or ceases practice (e.g.: in person, locum tenens or telemedicine) within the State of Oklahoma, this Order will be tolled until such time as Defendant begins practicing (e.g.: in person, locum tenens or telemedicine) within the state. Defendant will notify the Board Secretary and/or Compliance Coordinator his cessation of practice in the State of Oklahoma.
 - t. Failure to meet any of the terms of this Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.
 - u. 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. 59 O.S. § 506(B).
5. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
6. A copy of this Order shall be provided to Defendant as soon as it is processed.

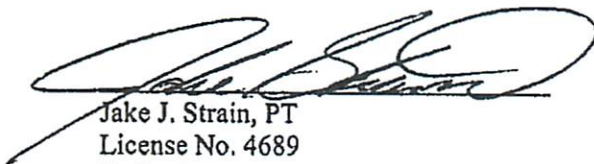
Dated this 14th day of September, 2023.



Steven Katsis, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION




Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION



Jake J. Strain, PT
License No. 4689
Defendant



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