

**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. )  
 )  
KIRSTEN A. MARION, R.C.P., )  
LICENSE NO. RC 4850, )  
 )  
Defendant. )

**FILED**

DEC 05 2019

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 19-01-5696

**ORDER GRANTING DEFAULT JUDGMENT AND  
REVOCAION OF RESPIRATORY CARE PRACTITIONER LICENSE**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on November 7, 2019, at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Joseph L. Ashbaker, Assistant Attorney General appeared on behalf of Plaintiff. Kirsten A. Marion, R.C. (“Defendant”), appeared not.

The following exhibit was admitted into evidence:

Plaintiff’s Exhibit 1: Kirsten Marion, R.C. recommendations by AAG Ashbaker

The following witness was sworn and testified: Larry Carter, Board Investigator (“IV Carter”).

The Board, having considered representations of counsel, witness testimony and exhibit admitted into evidence, and being fully apprised of the premises, makes the following findings of fact, conclusions of law and orders:

**Findings of Fact**

1. In Oklahoma, Defendant holds respiratory care practitioner license RC 4850, originally issued November 30, 2018.
2. On February 5, 2019, Defendant agreed not to practice.

3. On April 18, 2019 a Verified Complaint and Citation were each filed. Hearing was set for November 7, 2019.
4. Defendant was served with the 2019 Complaint and Citation on May 10, 2019. An Affidavit of service was prepared by Texas process server ID No. PSC9106, and filed by the Board on May 15, 2019.
5. No written answer under oath has been filed.
6. Defendant failed to appear in person or through an attorney at the Board hearing on November 7, 2019. Defendant has not contacted the Board or Board's counsel since service of the Citation upon her.
7. Mr. Robert Margo, trial advisor queried the audience to determine if anyone is present on behalf of Kirsten Marion, R.C. No response was received.
8. IV Carter testified a hair follicle test is not common, however, gives a better historical record. IV Carter attempted to steer Defendant into the APPA program.
9. At the November 7, 2019 Board meeting, AAG Ashbaker reviewed the case history and presented argument to support an oral motion for default judgment.
10. AAG Ashbaker offered the recommendations to the Board, as Plaintiff's Exhibit 1. (1) revocation of license, (2) prior to any reinstatement Defendant must obtain a drug and alcohol assessment, from a Board approved assessment facility, approved of in advance by the Board Secretary, and follow all recommendations, (3) Defendant must pay all costs of this matter as assessed by Board staff. (4) if Defendant is ever reinstated it shall be under terms and conditions of probation, such terms and conditions to be determined by the Board at the time of reinstatement.

#### **Conclusions of Law**

11. 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 respiratory care practitioners in the State of Oklahoma. 59 O.S. § 2026 *et seq.* Okla. Admin. Code § 435:45-1-1 *et seq.*
12. 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, 3-3-6.
13. The Board is authorized to revoke suspend or refuse to renew any license or place on probation, or otherwise reprimand a licensee or deny a license to an applicant. 59 O.S. § 509.1(A)(1), (F); Okla. Admin. Code §§ 435:5-1-3, 435:45-5-3(a)(22), (23).
14. Answer authority: 59 O.S. § 503; 12 O.S. § 2012; Okla. Admin. Code § 435:3-3-8. Default authority: 75 O.S. § 309(E); 12 O.S. § 2004(B)(2); Okla. Admin. Code §§ 435:3-3-8, 3-3-14.

15. The Board concluded that the oral motion for default should be granted and Defendant's license revoked, and all other recommendations of AAG Ashbaker.

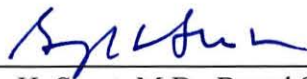
### Orders

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

1. Plaintiff's oral motion for **DEFAULT JUDGMENT** requested at the November 7, 2019 Board meeting, against **KIRSTEN A. MARION, R.C.**, is **GRANTED**.
2. The Oklahoma respiratory care practitioner license no. RC 4850 of **KIRSTEN A. MARION, R.C.** is **REVOKED**, effective from date of an approved Attorney General Opinion.
3. Prior to any reinstatement, **KIRSTEN A. MARION, R.C.** shall obtain a drug and alcohol assessment from a Board approved assessment facility, approved of in advance by the Board Secretary, and follow all recommendations.
4. In the event **KIRSTEN A. MARION, R.C.** is ever reinstated it shall be under terms and conditions of probation, and such terms and conditions shall be determined by the Board at the time of reinstatement.
5. 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.
6. A copy of this order shall be provided to Defendant as soon as it is processed.

**This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.**

Dated this 5<sup>th</sup> day of DECEMBER, 2019.

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

**Certificate of Service**

This is to certify that on the 5<sup>th</sup> day of December, 2019, the foregoing instrument was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

Kirsten A. Marion  
109 N. Avenue A  
Freeport, Texas 77541

***Defendant, pro se***

E-Mail

Joseph L. Ashbaker, AAG  
State of OK, Office of Attorney General  
313 N.E. 21<sup>st</sup> Street  
Oklahoma City, Oklahoma 73105  
(405) 521-3921  
(405) 521-6246 facsimile  
joe.ashbaker@oag.ok.gov  
jashbaker@okmedicalboard.org

***Attorney for Plaintiff,  
Oklahoma State Board of Medical  
Licensure and Supervision***



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Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2019-268A

Billy H. Stout, M.D., Board Secretary  
State Board of Medical Licensure and Supervision  
101 NE 51st Street  
Oklahoma City, OK 73105

November 26, 2019

Dear Dr. Billy H. Stout, M.D., Board Secretary:

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Medical Licensure and Supervision intends to take with respect to license RC 4850 in case 19-01-5696. In February 2019, the licensee signed an Agreement Not to Practice. In April 2019, a Complaint was made by the Board alleging the licensee is a regular drug user. The licensee failed to contact a doctor regarding the issue and all attempts to contact the licensee have been unsuccessful. The Board proposes to draft an order granting default judgement and to revoke the Respiratory Care Practitioner License.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act authorizes the Board to suspend or revoke a license and order other appropriate sanctions against a licensee for unprofessional conduct, which includes “[d]ishonorable or immoral conduct which is likely to deceive, defraud, or harm the public,” and “[h]abitual intemperance or the habitual use of habit-forming drugs.” 59 O.S.Supp.2019, §§ 503, 509(4), (8). The Board may reasonably believe that the proposed action is necessary to protect public health and safety.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State’s policy of protecting the health, safety, and well-being of the citizens of Oklahoma.

A handwritten signature in black ink, appearing to read "Mike Hunter".

MIKE HUNTER  
ATTORNEY GENERAL OF OKLAHOMA

A handwritten signature in blue ink, appearing to read "Ethan Shaner".

ETHAN SHANER  
DEPUTY GENERAL COUNSEL