

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

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,)	
OKLAHOMA BOARD OF)	
MEDICAL LICENSURE AND)	
SUPERVISION,)	
)	
Plaintiff,)	
vs.)	CASE NO. 97-08-1917
)	
NICHOLAS HOLDEN, PTA)	
PTA Certificate No. 524)	
)	
Defendant.)	

VOLUNTARY SUBMITTAL
TO JURISDICTION AND ORDER

NOW on this 23 day of January, 1998, there comes on before the Oklahoma State Board of Medical Licensure and Supervision, the above styled and numbered cause of action. The Defendant, Nicholas Holden, PTA, the undersigned, states that he is of sound mind and not under the influence of any medication or drug or impaired thereby and that the Defendant fully recognizes his right to appear before the Oklahoma State Board of Medical Licensure and Supervision, for evidentiary hearing on the allegations against the Defendant herein.

Of his own volition and decision, the Defendant waives his right to appear before the Oklahoma State Board of Medical Licensure and Supervision for a full hearing and pleads no contest to the allegations as set forth in the Amended Complaint. Further, the Defendant, Nicholas Holden, PTA, believes that a hearing before the Oklahoma State Board of Medical Licensure and Supervision would result in some sanction invoked by the Board under the Physical Therapy Act. Therefore, Defendant, Nicholas Holden, PTA, hereby voluntarily and of his own volition submits to the jurisdiction of the Board, acknowledges the allegations herein and agrees to abide by the conditions and terms of the Order.

FINDINGS OF FACT

1. That on or around June 23 to 27, 1997, Defendant rendered PTA services to patient B.T. and during that time did remove from B.T.'s home B.T.'s prescription medicine alleged to be CDS Lortab 5 #. 40.

2. That on or around June 30, 1997, Defendant did get B.T.'s prescription refilled at Eckerd's Drug but did not provide the Lortab directly to her in person.

3. That, in addition, Defendant does have a history of alcohol use and is presently under care of voluntary counseling under the auspices of St. Anthony Hospital, Oklahoma City, Oklahoma.

CONCLUSIONS OF LAW

1. The Oklahoma State Board of Medical Licensure and Supervision has jurisdiction in this matter.

2. That Nicholas Holden, PTA, holding Oklahoma Physical Therapy Assistant Certificate No. 524, is in violation of the Oklahoma Physical Therapy Act, 59, O.S. 1991, Sec. 887.5 (5) and (8), and Sec. 887.13 (9), and (10), to-wit:

"Section 887.5. The State Board of Medical Examiners shall have power and duty to:

(5) Conduct hearings as required by the provisions of the Administrative Procedures Act...

(8) Suspend, revoke or deny the license of any Physical Therapist and Physical Therapist Assistant for violation of any provisions of the Physical Therapy Practice Act or rules and regulations promulgated by the Board pursuant to this Act."

"Section 887.13. The Board may refuse to issue or renew, or may suspend or revoke a license to any person, after notice and hearing... who has:

(9) Been guilty of conduct unbecoming a person licensed as a Physical Therapist or Physical Therapist Assistant or guilty of conduct detrimental to the best interest of the public or his profession;

(10) Been guilty of any act in conflict with the ethics of the profession of physical therapy."

3. That Defendant Holden is also in violation of the rules and regulations promulgated by this Board, specifically, the Physical Therapy Practice Act, Rule 435:20-3-3, paragraph (5), to-wit:

"No license will be issued to a Physical Therapy Assistant who has:

"(5) Conducted himself/herself in a manner considered improper by recognized acceptable standards of moral and ethical conduct."and (27), to-wit:

and Rule 435:20-7-1, paragraph (d) (5), to-wit:

"The Physical therapist assistant may not:

"(d) (5) Perform duties or tasks for which he/she is not trained.

ORDER

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

1. The Defendant, Nicholas Holden, PTA, holding Oklahoma Physical Therapy Assistant Certificate No. 524, shall be placed on probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of three (3) years to begin on January 24, 1998, under the following terms and conditions:

(a) During the period of probation, Defendant will continue one-on-one counseling by Terry Simpson until Mr. Simpson determines it is no longer necessary to the Defendant's condition.

(b) During the period of probation, Defendant shall affiliate with the Physician Recovery Program (Caduceus Group) and any other 12-step programs deemed necessary by Dr. Harold Thiessen, M.D., or his successor.

(c) 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. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon the initiation of treatment.

(d) Defendant will conduct his Practice in compliance with the Oklahoma Physical Therapy 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.

(e) During the period of probation, Defendant will request all hospitals\employers in which he anticipates practice to furnish to the Oklahoma State Board of Medical Licensure and Supervision, a written statement regarding monitoring of his practice while performing services in or to that hospital/employer.

(f) During the period of probation, 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.

(g) 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 the Board or its designee, and Defendant will pay for the analysis thereof.

(h) During the period of probation, Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

(i) During the period of probation, 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.

(j) During the period of probation, Defendant will keep the Board informed of his current address.

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

(l) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant to obtain copies of medical records and authorize the Compliance Consultant to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

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. 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 Physical Therapy Assistant Certificate, after additional due notice and hearing.

Nicholas J. Holden
NICHOLAS J. HOLDEN, PTA

Gerald C. Zumwalt
GERALD C. ZUMWALT, M.D.
Secretary/Medical Advisor

1/23/98
Date


1-23-98
Date

CERTIFICATE OF MAILING

This is to certify that on this 26th day of January 1998, a true and correct copy of this order was mailed, postage prepaid to:

Nicholas Holden, PTA
P.O. Box 1413
Purcell, OK 73080

Vera Aktansel, Attorney
2419 Wilcox Drive
Norman, OK 73069


Janet L. Owens, Secretary