

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 23 2007

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 06-12-3214

KEVIN MARK EKISS, O.T.,)
LICENSE NO. OT604)

Defendant.)

FINAL ORDER OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 22, 2007, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of occupational therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and 888.1 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Kevin Mark Ekiss, OT, holds Oklahoma license no. OT604, and is authorized to practice as an occupational therapist in the State of Oklahoma.

3. On or about November 24, 2006, Defendant was arrested by the Guthrie Police Department and charged with **POSSESSION OF MARIJUANA, POSSESSION OF DRUG PARAPHERNALIA, TRANSPORTING AN OPEN CONTAINER OF ALCOHOL**, and an equipment violation on his car.

4. On or about January 11, 2007, Defendant plead guilty to the charges and received a one (1) year deferred sentence. Defendant was also ordered to pay court costs and assessments, and was ordered to complete twenty-five (25) hours of community service within six (6) months.

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

- A. Engaged in unprofessional conduct as defined by the rules established by the Board, or violated the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2).
- B. Was convicted of, confessed to, or plead no contest to a felony or misdemeanor in violation of 435:30-1-10(a)(2).
- C. 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 435:30-1-10(a)(12).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Occupational Therapy Practice Act and their applicable regulations. The Board is authorized to enforce the acts as necessary to protect the public health, safety and welfare.

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

- A. Engaged in unprofessional conduct as defined by the rules established by the Board, or violated the Code of Ethics adopted and published by the Board in violation of 59 O.S. §888.9(A)(2).
- B. Was convicted of, confessed to, or plead no contest to a felony or misdemeanor in violation of 435:30-1-10(a)(2).
- C. 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 435:30-1-10(a)(12).

3. The Board further found that the Defendant's license should be placed on probation based upon the violation of any or all of the unprofessional conduct provisions set forth above.

Order

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

1. The license of Defendant, Kevin Mark Ekiss, O.T., Oklahoma occupational therapy license no. OT604, is hereby placed on **PROBATION** for a period of one (1) year from the effective date of this Order under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Occupational Therapy 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 notify the Board or its designee of any entry or re-entry into any 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.

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

D. Defendant will complete a substance abuse education program to be approved in advance in writing by the Board Secretary. Defendant shall provide proof of completion of this program to the Board Secretary.

E. 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.

F. Upon request of the Board, Defendant will request all hospitals, clinics and other facilities in which he practices to furnish the Board a written statement monitoring his practice.

G. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules I through V.

H. 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.

I. 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.

J. 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.

K. Defendant will keep the Board informed of his current address.

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

M. Defendant shall promptly notify the Board of any citation or arrest for any criminal offense.

N. Defendant will keep current payment of all assessments 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 dollars (\$100.00) 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.

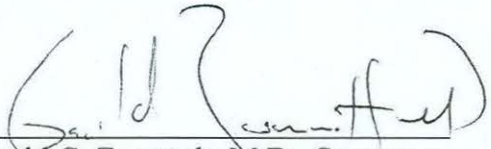
P. Defendant shall submit any required reports and forms on a timely, accurate and prompt basis to the Compliance Coordinator or designee.

Q. 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.

2. 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.

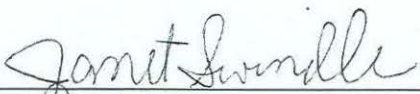
3. This Order of Probation shall be effective March 22, 2007.

Dated this 23 day of March, 2007.


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

CERTIFICATE OF SERVICE

I certify that on the 23 day of March, 2007, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Probation to Kevin Ekiss, 2617 Ridge Drive, Guthrie, OK 73044.


Janet Swindle