

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,)
Plaintiff,)
V.)
KEVIN JAY MAXWELL, P.A.,)
LICENSE NO. 638)
Defendant.)

DEC 19 2012

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 12-04-4530

COMPLAINT

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Kathryn R. Savage, Assistant Attorney General, and for its Complaint against the Defendant, Kevin Jay Maxwell, P.A., Oklahoma license no. PA638, alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physician assistants in the State of Oklahoma pursuant to *Okla. Stat. tit. 59, §480 et seq.* and *§519 et seq.*
2. Defendant, Kevin Jay Maxwell, P.A., holds Oklahoma license no. PA638 and practices in Konawa, Oklahoma.

FIRST ALCOHOL RELATED ARREST AND CONVICTION

3. On or about December 7, 1999, in the case styled *State of Oklahoma v. Kevin J. Maxwell*, CM-1999-435, in the District Court of Pontotoc County, State of Oklahoma, the Defendant PLED GUILTY and was sentenced on Count I: **ACTUAL PHYSICAL CONTROL OF MOTOR VEHICLE WHILE INTOXICATED, ONE YEAR (1) SUSPENDED** with the first **NINETY (90) DAYS TO DO.**

4. On or about March 27, 2000, Defendant submitted his Application for Renewal of Oklahoma License. In response to the question "Are you now or have you, within the past two years, been addicted to, or used in excess, any drug or chemical substance including alcohol, or been treated through a rehabilitation program?" Defendant answered "No". Defendant was additionally asked the following question: "Have you ever been charged with or convicted or *sic*

a felony, DUI/DWI or any crime directly or indirectly related to the practice [of] your profession?" Defendant answered "No".

5. Based upon the answers and information contained on his application for renewal the Defendant's Oklahoma License was renewed.

SECOND ALCOHOL RELATED ARREST AND CONVICTION

6. On or about January 3, 2008, in the case styled *State of Oklahoma v. Kevin Jay Maxwell*, CM-2008-10, in the District Court of Love County, State of Oklahoma, the Defendant was charged with one count of **DRIVING UNDER THE INFLUENCE OF ALCOHOL**.

7. On or about February 18, 2008, Defendant submitted his Application for Renewal of Oklahoma License. In response to the question "Have you been arrested for, charged with, or convicted of a traffic violation involving the use of any drug or chemical substance including alcohol?" Defendant answered "No".

8. Based upon the answers and information contained on his application for renewal the Defendant's Oklahoma License was renewed.

9. On or about April 18, 2008, in the case styled *State of Oklahoma v. Kevin Jay Maxwell*, CM-2008-10, in the District Court of Love County, State of Oklahoma, the Defendant **PLED GUILTY** and was sentenced on Count I: **DRIVING UNDER THE INFLUENCE OF ALCOHOL, ONE YEAR (1) SUSPENDED** with fines and court costs.

THIRD ALCOHOL RELATED ARREST

10. On or about April 25, 2012, in the case styled *State of Oklahoma v. Kevin Jay Maxwell*, CF-2012-217, in the District Court of Pontotoc County, State of Oklahoma, the Defendant was charged with one count of **AGGRAVATED DRIVING A MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL**. This case is currently pending.

SEXUAL MISCONDUCT ALLEGATIONS-PATIENT JLT

11. On or about March 15, 2012, patient JLT reported to Central Oklahoma Family Medical Center a Patient Complaint Form regarding the Defendant which states that during her visit with the Defendant "he came on real strong" stating they should "hook up"; gave her a long uncomfortable hug; rubbed her leg and said she was beautiful. He also gave the patient his cell phone number stating he was really interested in her and would love to wine and dine her.

BOUNDARY MISCONDUCT ALLEGATIONS-PATIENT LSW

12. A review of the Prescription Monitoring Program revealed that Defendant wrote or authorized a Hydrocodone prescription, quantity 90, on March 27, 2012, and then a refill of the same prescription approximately one week later on April 5, 2012 to patient LSW. In addition to one prescription for Lorazepam and Diazepam during that same time period.

13. On or about April 27, 2012, the Defendant's employer Central Oklahoma Family Medical Center released him from employment due to an allegation of boundary issues with a patient.

14. On or about May 4, 2012, Board Investigator Steve Washbourne confronted Defendant who admits to having a physician assistant/patient relationship with LSW and that on or about April 6, 2012, he and patient LSW had dinner and spent the night together in a motel.

15. Defendant also admits when confronted that he authorized the two prescriptions to patient LSW for Hydrocodone because she said the first prescription was stolen by a family member and he believed her so he refilled the prescription because he wanted to be nice to her.

16. On June 1, 2012, the Defendant entered into an Agreement with Board not to practice.

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

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of *Okla. Stat. tit. 59, §509(8)* and *Oklahoma Administrative Code* section 435:10-7-4(11).

B. Habitual intemperance or the habitual use of habit-forming drugs in violation of *Okla. Stat. tit. 59, §509(4)*.

C. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of *Okla. Stat. tit. 59, §509(17)*.

D. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of *Oklahoma Administrative Code* section 435:10-7-4(23).

E. Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of *Oklahoma Administrative Code* section 435:10-7-4(8).

F. Engaged in conduct likely to deceive, defraud or harm the public in violation of *Oklahoma Administrative Code* section 435:10-7-4(11).

G. Failure to report to the Board any adverse action taken against him or her by another licensing jurisdiction, by any

governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of *Oklahoma Administrative Code* section 435:10-7-4(32).

G. Engaging in predatory sexual behavior in violation of *Oklahoma Administrative Code* section 435:10-7-4(45).

H. Habitually uses intoxicating liquors or habit-forming drugs in violation of *Oklahoma Administrative Code* section 435:15-5-11(1).

I. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to *Oklahoma Administrative Code* section 435:15-5-11(7).

Conclusion

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including the revocation or suspension of the Defendant's license to practice as a physician assistant in the State of Oklahoma, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician assistant in the State of Oklahoma.

Dated this 19th day of December, 2012.

Respectfully submitted,



Kathryn R. Savage, OBA #18990
Assistant Attorney General

Attorney for the Plaintiff
Oklahoma State Board of Medical
Licensure and Supervision