

**PARTIES' AGREEMENT AND
STIPULATIONS**

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

FINDINGS OF FACT

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to Okla. Stat. tit. 59 §480 et seq.
2. Defendant, Kevin Jay Maxwell, PA, holds Oklahoma license no. PA638.

**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-20087 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, FIVE (5) YEAR DEFERRED with fines and court costs.

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 §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 §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)*.

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).

P.A. MAXWELL'S TREATMENT

1. As a result of this investigation, P.A. Maxwell agreed to undergo an assessment at Pine Grove Treatment Center. He entered Pine Grove on May 3, 2012 to have that assessment. The report of assessment recommended that P.A. Maxwell enter a residential treatment facility for alcohol and other substances. It was also recommended that P.A. Maxwell complete an intensive treatment program focusing on his sexual boundary problems.

2. P.A. Maxwell entered Pine Grove Treatment Center on July 4, 2012 for inpatient treatment. He successfully completed his treatment and was discharged on October 3, 2012.

CONCLUSIONS OF LAW

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Act and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Based on the foregoing facts, Defendant, Kevin Jay Maxwell, PA, Oklahoma license no. PA638, is guilty of the unprofessional conduct set forth below:

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 §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* §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).

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).

ORDER

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

1. The Board en banc hereby adopts the agreement of the parties in his Voluntary Submittal to Jurisdiction; and
2. It is **ORDERED** that the Defendant will be placed on **PROBATION** for a period of five (5) years and said probation shall have the following provisions:
 - A.. Defendant will conduct his/her practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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 furnish a copy of this order to each and every state in which he/she 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.

C. Defendant will not supervise allied health professionals that requires surveillance of a licensed physician.

D. Defendant will keep the Board informed of his/her current address.

E. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his/her case unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

F. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

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

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

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

J. 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 license after due notice and hearing.

K. 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.

L. Defendant will not prescribe, administer or dispense any medications for personal use.

M. Defendant will take no medication except that which is authorized by a physician treating him/her for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him/her of this Board Order immediately upon initiation, or continuation, of treatment.

N. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

O. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

P. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

Q. 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.

R. Defendant will attend an Alcoholics Anonymous meeting at least four (4) times weekly; and Defendant will attend a meeting with Dr. Rojas at least once weekly with Dr. Rojas to submit monthly reports to the Board; and further, Defendant will attend a Caduceus meeting at least once weekly.

S. Defendant will limit his work hours to no more than forty (40) hours per week.

T. Defendant will have a chaperone at all times during exams and/or encounters with female patients.

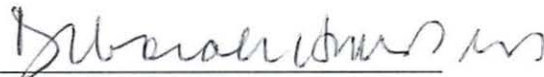
U. Defendant's work place shall have full-time physician supervision and must be approved by Board Secretary.

V. Defendant will undergo Polygraph examinations every six (6) months to ensure compliance with all requirements regarding boundary violations.

W. Defendant is hereby **SUSPENDED** for a nine-month term retroactive to April 15, 2012 and ending January 15, 2013

X. Defendant is hereby placed on **PROBATION** for a term of five years beginning from the date of this Order.

Dated this 7th day of March, 2013.



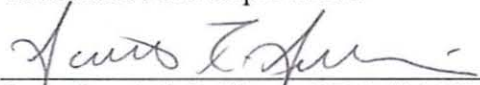
Deborah Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



Kevin Jay Maxwell, PA
License No. PA638



Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision



Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 8th day of March, 2013, a true and correct copy of this order was mailed, postage prepaid, to Kevin Jay Maxwell, PA, 1000 East 15th Street, Ada, OK 74820.



Barbara J. Smith, Legal Assistant