

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.)
)
JAMES HALE, P.A.)
LICENSE NO. PA673,)
)
Defendant.)

SEP 27 2001
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 01-05-2335

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General for the State of Oklahoma, and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, James Hale, P.A., Oklahoma license no. PA673, who appears in person and through counsel, Randolph S. Meacham, proffer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on July 25, 2001, and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and the Physician Assistant Act.

Defendant, James Hale, P.A., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him by his legal counsel.

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 assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §519 *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, James Hale, holds Oklahoma physician assistant license no. PA673,

3. On or about September 22, 1992, Defendant was convicted of a misdemeanor in the District Court of Custer County, State of Oklahoma, for the crime of Actual Physical Control of a Motor Vehicle While Under the Influence of Alcohol. He was sentenced to a one (1) year suspended sentence and was fined.

4. On or about November 5, 2000, Defendant was arrested in Gaines County, State of Texas, and was charged with Driving While Intoxicated. He was placed in jail for three (3) days, subsequently plead guilty, and was sentenced to probation on December 12, 2000. His probation was then transferred to the Oklahoma Department of Corrections office in Elk City, OK.

5. On or about December 8, 2000, Defendant was stopped by the Oklahoma Highway Patrol for weaving across the center line on Interstate 40. Defendant smelled of alcohol, had slurred speech and slow responses, and was asked to take a Breath Alcohol test, which he refused. He was arrested and taken to jail, where he stayed for three (3) days. Defendant was subsequently charged with a Felony, Driving While Under the Influence of Alcohol, due to his prior conviction in 1992. On or about September 10, 2001, Defendant plead *nolo contendere* to the crime of DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL-SECOND AND SUBSEQUENT OFFENSE, A FELONY, and was given a five (5) year deferred sentence.

6. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).

- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- C. He has violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
- E. He has been convicted of a felony or of a crime involving moral turpitude in violation of OAC 435:15-5-11(a)(2), 59 O.S. §509(6) and 435:10-7-4(10).
- F. He is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Physician Assistant Act, the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (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. Defendant, James Hale, Oklahoma physician assistant license no. PA673, is guilty of unprofessional conduct set forth below based on the foregoing facts:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the

public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

- C. He has violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
- E. He has been convicted of a felony or of a crime involving moral turpitude in violation of OAC 435:15-5-11(a)(2), 59 O.S. §509(6) and 435:10-7-4(10).
- F. He is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

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 this Voluntary Submittal to Jurisdiction.

2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of five (5) years under the following terms and conditions:

- A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act and the Physician Assistant 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.

B. Upon request of the Board Secretary, Defendant will request all hospitals in which he anticipates practicing to furnish to the Board Secretary of 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.

C. 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.

D. Defendant will fulfill all requirements of his deferred sentence in Case No. CF-2000-288 in the District Court of Custer County, State of Oklahoma.

E. Defendant will submit for analysis biological fluid specimens to include, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

F. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

G. 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.

H. 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. Defendant will affiliate with the Physicians' Recovery Program, will execute a postcare contract, and will abide by the

terms and recommendations thereof.

J. Defendant will abide by the terms and recommendations of his postcare contract with New Hope of Mangum, a copy of which is attached hereto.

K. Defendant will continue outpatient counseling at the New Hope Chemical Dependency Unit or any other counselor approved in writing by the Board Secretary. Defendant shall continue said counseling until both his counselor and the Board approve discontinuance of counseling. Defendant shall request his counselor to provide quarterly reports of his progress to the Board Secretary, and shall be responsible for submitting said reports on a timely basis.

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 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.

M. Defendant will abstain from consuming alcohol or any substance including but not limited to controlled dangerous substances which would adversely affect his ability to practice as a physician assistant as interpreted by the Oklahoma State Board of Medical Licensure and Supervision.

N. Defendant will attend ninety (90) meetings in ninety (90) days of a 12-step program, and thereafter shall attend three (3) meetings per week of a local 12-step program, to include one (1) meeting per week of the Physician's Recovery Program.

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 keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

R. 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 unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

S. 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.

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

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

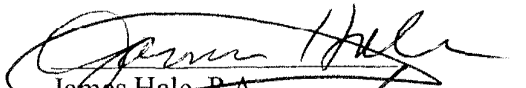
V. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

Dated this 27 day of September, 2001.

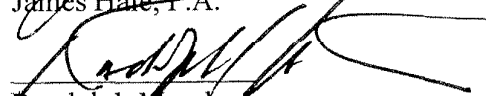


John Alexander, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

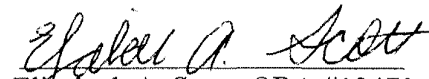
AGREED AND APPROVED



James Hale, P.A.



Randolph Meacham
Attorney for Defendant



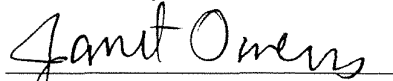
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Gerald C. Zumwalt, M.D.,
Secretary, Oklahoma State
Board of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 28 day of Sept, 2001, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Randolph Meacham, 525 South 30th, P.O. Box 1236, Clinton, OK 73601 and to James Hale, 1415 N. Watts, Sayre, OK 73662.



Janet Owens