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

FILED

STATE OF OKLAHOMA, ex rel., OKLAHOMA STATE BOARD OF	) AUG 2 9 2013
MEDICAL LICENSURE AND SUPERVISION,	) OKLAHOMA STATE BOARD OF MEDICAL LICENSURE & SUPERVISIO
Plaintiff,	)
Vs.	) CASE NO. 13-04-4715
JAMES HALE, PA, LICENSE NO. PA 673,	) ) ) \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Defendant.	) )

## **COMPLAINT**

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Scott Randall Sullivan, Special Prosecutor, and for its Complaint against the Defendant, James Hale, PA, 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 respiratory care practitioners in the State of Oklahoma pursuant to Title 59 Okla. Stat. §480 et seq. and §2026 et seq. and §519.1 et seq.

2. Defendant, James Hale, PA, holds Oklahoma physician assistant license no. PA 673.

#### **HISTORY WITH THE BOARD**

3. In September of 2001 Defendant entered into a Voluntary Submittal to Jurisdiction with the Board as a result of habitually using intoxicating liquors and being convicted of a felony, his third DUI-related offense. Defendant was placed on a five-year probation and that probation ended in September of 2006.

## CURRENT ALLEGATIONS

4. On or about March 30, 2013, in an online renewal of his physician assistant license no. PA 673, Defendant answered "YES" to the following questions:

"D. Have you ever been arrested for, charged with or convicted of a felony or misdemeanor other than a traffic violation?

E. Have you been arrested for, charged with or convicted of a traffic violation involving the use of drugs or chemical substances and/or alcohol?

F. Have you been addicted to or abused any drug or chemical substance including alcohol?" and

G. Have you obtained an assessment or been treated for use of any drug or chemical substance including alcohol?"

5. Defendant also included the following explanation in his licensure renewal:

"On 8/13/12, I was charge [sic] with DUI, I received 1 year deferred sentence. I was assessed by alcohol assessor in Norman OK. I am going to AA meetings, finish my 6 weeks of Intense Outpatient Program and now I am doing weekly Aftercare x 6 weeks, I attended Victums [sic] Panel session, I had a lawyer present me at the Pottawatomi [sic] County Court. I was frustrated and reacted poorly. My stress came from not being paid and had 6 paychecks wowed [sic] me which has not been resolved. Dept of Lbor is involved now. Other than that I was 12+years sober. No [sic] am sober voer [sic] 220 days. I am probated by the Pottatomi [sic] DA."

6. Upon investigation, it was found that on or about August 23, 2012, Defendant was arrested and charged with DRIVING A M/V WHILE UNDER THE INFLUENCE (OF) ALCOHOL – AGGRAVATED in the District Court of Pottawatomie County, State of Oklahoma, Case No. CM-2012-00735. Defendant ENTERED A PLEA OF GUILTY on or about October 4, 2012 and was sentenced to a ONE-YEAR SUSPENDED SENTENCE FOR A MISDEMEANOR DUI.

7. On or about May 23, 2013 Board Investigator SW interviewed Defendant regarding the allegations contained here. Board Investigator SW told Defendant he would need to go for an assessment. Defendant stated he would discuss that with his family and make a decision as to whether he would go for an assessment or retire.

8. On or about June 13, 2013, after meeting with representatives of Oklahoma Health Professionals Program ("OHPP"), it was decided that Defendant, in fact, needed to go for an assessment.

9. On or about June 28, 2013 Board Investigator SW contacted Defendant and Defendant indicated he would make Board Investigator SW aware of his decision no later than July 8, 2013.

10. On or about July 8, 2013 Board Investigator SW received a telephone call from Defendant wherein Defendant stated he retired from his practice as physician assistant on July 7, 2013 and would be pursuing a different career opportunity.

- 11. Defendant is guilty of unprofessional conduct in that he engaged in:
  - a) Engaged in dishonorable conduct which is likely to deceive, defraud or **harm** the public in violation of Title 59 O.S. §509(8) and Oklahoma Administrative Code Rule 435:10-7-4(11);
  - b) 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 Title 59 O.S. §509(13) and Oklahoma Administrative Code 435:10-7-4(39);
  - c) Is habitually intemperate or habitually uses habit-forming drugs in violation of Title 59 O.S. §509(4) and Oklahoma Administrative Code Rule 435:10-7-4(3);
  - d) Habitually uses intoxicating liquors or habit-forming drugs in violation of Oklahoma Administrative Code Rule 435:15-5-11 (a)(1); and
  - e) Violated any provision of the Medical Practice Act or the rules promulgated by the Board in violation of Oklahoma Administrative Code Rule 435:15-5-11(a)(7).

12. These allegations raise serious concerns about Defendant's ability to practice as a physician assistant in the State of Oklahoma with reasonable skill and safety.

# **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 suspension or revocation, 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 physical therapist in the State of Oklahoma.

Dated this 2014 day of August, 2013.

Respectfully submitted,

Scott Randall Sullivan, OBA #11179

Scott Randall Sullivan, OBA #11179 OKLAHOMA STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION 101 N.E. 51<sup>st</sup> Street Oklahoma City, OK 73105

Attorney for Plaintiff