

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

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,  
OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE AND  
SUPERVISION, )

Plaintiff, )

NOEL ELWOOD HERNDON, M.D. )  
Medical License No. 6808, )

Defendant. )

CASE NO. 88-10-703

ORDER ON PROBATION REVIEW

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on November 1, 1991, at the office of the Oklahoma State Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Noel Elwood Herndon, M.D, Defendant, appeared in person, pro se, waived his right to legal counsel, and agreed to proceed.

The Board of Medical Licensure and Supervision en banc heard testimony, reviewed exhibits and being fully advised in the premises, the Oklahoma Board of Medical Licensure and Supervision finds as follows:

FINDINGS OF FACT

1. That Defendant, Noel Elwood Herndon, M.D., holds Oklahoma Medical License No. 6808.

2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That following hearing on or around October 26, 1990, Oklahoma Board of Medical Licensure and Supervision did place Defendant on probation for a period of three years under certain enumerated terms and conditions.

4. That since the imposition of that probation, Defendant has been in substantial compliance with all terms and conditions imposed by the Board. However, Board members raised questions as to numerous prescriptions written by the Defendant for controlled dangerous substances wherein Defendant prescribed 60-100 dosage units at a time, and the Board members suggested closer monitoring on the Defendant's prescribing practices within the terms of the probation already in place.

CONCLUSIONS OF LAW

1. That the Board has jurisdiction in its discretion and judgment over this matter pursuant to the Oklahoma Medical Practice Act, 59 O.S. Supp. 1990, Sec. 481 et seq., and by the Final Orders issued herein.

ORDER

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

1. That the Defendant, Noel Elwood Herndon, M.D., holding Oklahoma Medical License No. 6808, should be and is hereby RETAINED ON PROBATION to the Oklahoma State Board of Medical Licensure and Supervision for a period three (3) years beginning October 26, 1990, under the following terms and conditions:

During the period of probation Defendant must utilize serially-numbered, duplicate prescription blanks for all controlled dangerous substances listed in Schedules II through IV; submitting one copy of each prescription to the Board on a monthly basis.

Defendant will not allow his staff to independently prescribe or authorize refills of controlled substances and must maintain valid patient records showing control of prescribing controlled substances.

- (c) Defendant must provide proof within six (6) months of obtaining twenty (20) hours of continuing education on prescribing controlled substances.

During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.

- (e) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (f) Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (g) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigation Division of the Board the costs of investigation, prosecution and probation of this case.
- (h) During the period of probation Defendant shall notify any hospital where he holds staff privileges, or clinic, or group where he practices, of the terms and conditions of this Board Order and supply a copy thereof.
- (i) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

2. That the jurisdiction of the Board in this individual proceeding will continue until the terms and conditions of probation are modified or lifted by the Oklahoma Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

3. That failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License, after additional due notice and hearing.

DATED this 8 day of November, 1991.

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

APPROVED AS TO FORM:

Daniel J. Gamino  
DANIEL J. GAMINO OBA #3227  
Daniel J. Gamino & Associates, P.C.  
3315 NW 63  
Oklahoma City, OK 73116  
(405) 840-3741  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 12 day of November, 1991, to:

NOEL ELWOOD HERNDON, M.D.  
2907 Lakeside Cir.  
Oklahoma City, OK 73120

Janet L. Owens