

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

STATE OF OKLAHOMA

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|-----------------------------|---|---------------------|
| STATE OF OKLAHOMA, ex rel., |) | |
| OKLAHOMA BOARD OF |) | |
| MEDICAL LICENSURE AND |) | |
| SUPERVISION, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | CASE NO. 90-08-1095 |
| |) | |
| DIANE F. MEIER, OTA |) | |
| OTA License No. 70, |) | |
| |) | |
| Defendant. |) | |

VOLUNTARY SUBMITTAL
TO JURISDICTION AND ORDER

NOW ON THIS 20th day of November, 1997, there comes on before the Oklahoma State Board of Medical Licensure and Supervision, the above styled and numbered cause of action. The Defendant, Diane F. Meier, OTA. the undersigned, states that she is of sound mind and not under the influence of any medication or drug or impaired thereby and that the Defendant fully recognizes her right to appear before the Oklahoma State Board of Medical Licensure and Supervision, for evidentiary hearing on the allegations against the Defendant herein. Of her own volition and decision, the Defendant waives her right to appear before the Oklahoma State Board of Medical Licensure and Supervision for a full hearing and pleads no contest to the allegations as set forth in the Complaint. Further, the Defendant, Diane F. Meier, OTA, believes that a hearing before the Oklahoma State Board of Medical Licensure and Supervision would result in some sanction invoked by the Board under the Medical and Surgical Licensure and Supervision Act. Therefore, Defendant, Diane F. Meier, OTA, hereby voluntarily and of her

own volition submits to the jurisdiction of the Board, acknowledges the allegations herein and agrees to abide by the conditions and terms of the Order.

FINDINGS OF FACT

1. That on or around June 27, 1992, following notice and hearing, the Oklahoma Board of Medical Licensure and Supervision did issue a Final Order on Complaint of Contempt regarding Defendant Diane F. Meier. The terms and conditions imposed by the Board included the following, to-wit:

“3. It is further ordered that the Defendant, Diane F. Meier, O.T.A., holding Oklahoma Occupational Therapy Assistant Certificate No. 70, should be and is hereby placed on a term of probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years beginning August 28, 1992, under the following terms and conditions:

(a) During the period of probation Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need, and Defendant shall have an affirmative duty to inform any physician treating her of Defendant's previous use of alcohol and a previous conviction for possession of controlled dangerous substances.

(b) During the period of probation Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to controlled dangerous substances, which would adversely affect her ability to practice occupational therapy assistance as interpreted by the Oklahoma State Board of Medical Licensure and Supervision and the Occupational Therapy Advisory Committee.”

2. That said Order of the Board was issued on June 27, 1992, and has not been amended or modified by the Board and all terms thereof still remain in full force and effect.

3. That a urine sample collected from Defendant on or around July 23, 1997, was analyzed by an approved laboratory. That drug screen did test positive for benzodiazepines, specifically Oxazepam and Nordiazepam, two controlled dangerous substance.

4. That Defendant Meier did not report to the Compliance and Education Coordinator any medication she was taking that would test positive, nor did Defendant Meier provide evidence that such medication was authorized by any physician treating her for a legitimate medical need after Defendant Meier informed the treating physician of her previous abuse history.

CONCLUSIONS OF LAW

1. The Oklahoma State Board of Medical Licensure and Supervision has jurisdiction in the matter.

2. The Defendant, by reason of the above facts, is in violation of 59 O.S. 1991, Sec. 888.9, and violation of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1996, Sec. 509 (5) and (16), to wit:

“The Board may deny or refuse to renew a license, or may suspend or revoke a license, or may censure a licensee, publicly or otherwise, or may impose probationary conditions where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes:..

2. Engaging in unprofessional conduct as defined by the rules established by the Board, or violating the Code of Ethics adopted and published by the Board.

3. Violating any lawful order, rule, or regulation rendered or adopted by the Board.”

“(5). Habitual intemperance or the habitual use of habit-forming drugs.”

“(16). The inability 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.”

3. That Defendant Meier is also in violation of the rules and regulations promulgated by this Board, specifically Rule 435:10-7-4, paragraphs (3), (11), and (39), to-wit:

“(3). The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient.”

“(11). Conduct likely to deceive, defraud, or harm the public.”

“(39). Violation of any of the provisions of the Medical Practice Act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.”

ORDER

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

1. The Defendant, Diane F. Meier, OTA, holding Oklahoma Occupational Therapy Assistant Certificate No. 70, shall be placed on probation to the Oklahoma State Board of Medical Licensure and Supervision for an indefinite period of time to begin on November 20, 1997, and to continue indefinitely until modified by the Board under the following terms and conditions:

(a) During the period of probation, Defendant will take no medication except that which is authorized by a physician treating her for a legitimate medical need, and Defendant shall have the affirmative duty to inform any and every physician treating her of Defendant's previous use of alcohol and a previous conviction for possession of controlled dangerous substances.

(b) During the period of probation, Defendant will abstain from consuming alcohol or any substance, specifically including but not limited to controlled dangerous substances, which would adversely affect her ability to practice occupational therapy assistance as interpreted by the Oklahoma State Board of Medical Licensure and Supervision and the Occupational Therapy Advisory Committee.

(c) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of any investigator or other agent representing the Oklahoma State Board of Medical Licensure and Supervision, and Defendant will pay for testing and analysis of those specimens.

(d) During the period of probation, Defendant will secure from her supervising Occupational Therapist a report on work status and professional activities on a quarterly basis and provide those reports to the Committee.

(e) That the Occupational Therapy Advisory Committee shall be immediately notified in the event the Defendant discontinues present employment as an Occupational Therapy Assistant.

(f) 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.

(g) Defendant shall appear before the Board or the Committee or a designated member thereof whenever requested to do so.

(h) 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.

(i) Pursuant to 59 O.S. Sec. 506, Defendant shall promptly pay within 30 days of receipt of invoice from the Investigation Division of the Board the costs of investigation, prosecution and probation of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

(j) During the period of probation Defendant shall notify any hospital where she holds staff privileges, or clinic, or group where she practices, of the terms and conditions of this Board order and supply a copy thereof.

(k) 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. 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 Occupational Therapy Assistant Certificate, after additional due notice and hearing.

Diane F. Meier
DIANE F. MEIER, OTA

11-21-97
Date

Gerald C. Zumwalt
GERALD C. ZUMWALT, M.D.
Secretary/Medical Advisor

11-21-97
Date

Subscribed and sworn to before me on this 21st day of November, 1997.

Jamie L. Owens
Notary Public

My Commission expires:

12-20-2000

Gane Meier
Copy on 11-21-97