

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,

v.

CARL ROY SMITH, M.D. ) CASE NO. 87-12-546  
Medical License No. 7402 )

Defendant

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision en banc on February 2, 1990, at the office of the Oklahoma State Medical Association, 601 N.W. Expressway, 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 Carl Roy Smith, M.D., appeared in person and by counsel, M. Joe Crosthwait, Jr.

The Board of Medical Licensure and Supervision en banc heard comments of counsel, reviewed the file, and being fully advised in the premises the Oklahoma Board of Medical Licensure and Supervision therefore finds as follows:

FINDINGS OF FACT

1. That Defendant, Carl Roy Smith, M.D., holds Oklahoma Medical License No. 7402.

2. That the 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 the Complaint and Citation herein were lawfully served on the Defendant by authorized representatives of the Oklahoma Board of Medical Licensure and Supervision.

4. That the Defendant, by and through the undersigned counsel, filed his Answer thereto which is on record herein.

5. That hearings of this matter scheduled for June 9, 1989, and October 21, 1989, were postponed based on the agreement of the Defendant to adhere to the following terms and conditions:

"(a) Defendant shall continue to see George H. Guthrey, M.D., in a professional capacity and shall comply with all treatment recommendations and prescriptions made by Dr. Guthrey. Defendant shall authorize Dr. Guthrey to forward to the Secretary of the Board periodic reports on the Defendant's condition, progress, and prognosis. The Board takes judicial notice of the undated, hand-written letter from George H. Guthrey, M.D., relating to the Defendant that is attached hereto."

Defendant shall keep his appointment with Sherman Lawton, M.D., and shall continue to see Dr. Lawton as required and shall follow all treatment and prescriptions made by Dr. Lawton. Defendant shall authorize Dr. Lawton to forward to the Secretary of the Board periodic reports on the Defendant's condition, progress, and prognosis."

"(c) Defendant shall not prescribe, administer, or dispense any controlled or non-controlled drugs during the time of this continuance. Further, the Defendant shall voluntarily surrender evidence of his registration with the Oklahoma Bureau of Narcotics and Dangerous Drugs and the United States Drug Enforcement Authority, and allow the Investigation Division of the Oklahoma Board of Medical Licensure and Supervision to retain custody of those instruments until final disposition by the Board."

"(d) Defendant shall not practice medicine or surgery in the State of Oklahoma during the time of this continuance, except as specifically authorized by the Board Secretary."

6. That the Defendant did comply with the terms and conditions of the aforesaid continuances.

7. That Defendant has for some months practiced medicine and surgery in a position where he does not actively see patients and may continue in that or a similar capacity without endangering public health, safety or welfare.

8. That the Defendant does not admit or deny any allegations in the Complaint and Citation other than set forth in his Answer on file, but the Defendant does waive his right to a formal evidentiary hearing on all allegations, and Defendant does voluntarily agree to submit to the jurisdiction of the Board as set forth herein.

#### CONCLUSIONS OF LAW

1. That the Oklahoma Board of Medical Licensure and Supervision has jurisdiction over the Professional activities of a physician pursuant to 59 O.S. Supp. 1989, Sec. 581 et seq., and may enter orders as they find appropriate as dictated by the evidence.

#### ORDER

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

1. That the Defendant, Carl Roy Smith, M.D., Oklahoma Medical License No. 7402, is hereby placed on PROBATION to the Oklahoma State Board of Medical Licensure and Supervision for a period of two (2) years beginning on February 2, 1990, under the following terms and conditions:

Defendant shall continue to see George H. Guthrey, M.D., in a professional capacity and shall comply with all treatment recommendations and prescriptions made by Dr. Guthrey. Defendant shall authorize Dr. Guthrey to forward to the Secretary of the Board periodic reports on the Defendant's condition, progress, and prognosis.

- (b) Defendant shall keep his appointment with Sherman Lawton, M.D., and shall continue to see Dr. Lawton as required and shall follow all treatment and prescriptions made by Dr. Lawton. Defendant shall authorize Dr. Lawton to forward to the Secretary of the Board periodic reports on the Defendant's condition, progress, and prognosis.
- (c) Defendant shall not prescribe, administer, or dispense any controlled or non-controlled drugs during the time of this probation. Further, the Defendant shall voluntarily surrender evidence of his registration with the Oklahoma Bureau of Narcotics and Dangerous Drugs and the United States Drug Enforcement Authority, and allow the Investigation Division of the Oklahoma Board of Medical Licensure and Supervision to retain custody of those instruments until final disposition by the Board.
- (d) Defendant shall not practice medicine or surgery in the State of Oklahoma during the time of this probation, except as specifically authorized by the Board Secretary.
- (e) During the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, to specifically include controlled dangerous substances.
- (f) During the period of probation Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need, and Defendant shall have an affirmative duty to inform any physician treating him of Defendant's previous psychiatric history and treatment.
- (g) 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 his ability to practice medicine or surgery as interpreted by the Oklahoma State Board of Medical Licensure and Supervision.
- (h) During the period of probation Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, 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.
- (i) 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.
- (j) That Defendant shall appear before the Board or a designated member thereof whenever requested to do so.

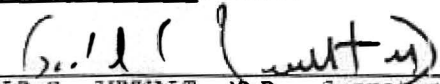
- (k) During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (l) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigation Division of the Board the costs of investigation, prosecution and probation of this case.
- (m) 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.
- (n) 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.

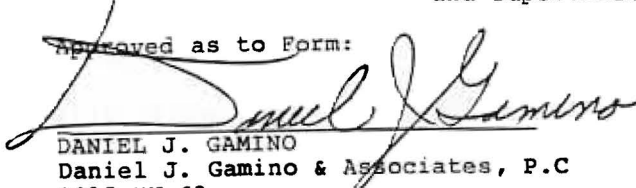
3. The Defendant further agrees that failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License, after additional due notice and hearing.

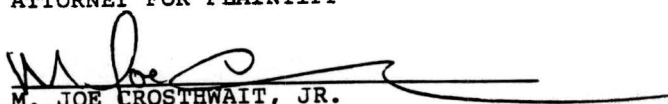
4. At the end of the aforesaid two-year probation period, Defendant must personally appear before the Board before resuming active practice of medicine and surgery in Oklahoma so that the Board can assess the circumstances at that time.

DATED this 1 day of March, 1990.

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

Approved as to Form:

  
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