

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.

JOHN E. MCALISTER, M.D.,
LICENSE NO. 7769

Defendant.

OCT 12 2000

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 99-12-2149

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 28, 2000, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

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 and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. 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.
3. Defendant, John E. McAlister, M.D., holds Oklahoma license no. 7769.

4. On or about March 9, 2000, Defendant was disciplined by the Oklahoma State Board of Medical Licensure and Supervision (the "Board") based upon his admission that he requested and received nude photographs from psychiatric patients. After due notice and hearing, the Board suspended Defendant's license to practice medicine and surgery for six (6) months and ordered him to complete an evaluation at the Colorado Personalized Education for Physicians Program.

5. During May and June 2000, the Board received reports that Defendant was still seeing patients at his office.

6. On or about June 14, 2000, Board investigators observed Defendant arrive at his office at 2400 Tee Circle in Norman, Oklahoma at approximately 2:55 p.m. At 3:25 p.m., a woman, subsequently identified as Patient EFW, entered Defendant's clinic, along with Board investigators. Patient EFW advised Board investigators that she was there to see Defendant for "lessons" on adult communications skills.

7. Board investigators then spoke with Defendant, who admitted that Patient EFW was a patient of his prior to his suspension. Defendant also admitted that he had been seeing Patient EFW for "lessons" at his office every Wednesday since his suspension, and that he gave group "lessons" every Wednesday evening at his office to 4-5 people, some of whom were former patients. These group "lessons" were conducted at his office, which was where he had previously seen these patients prior to his suspension. Defendant additionally admitted that he required that payment for sessions with these former patients be on a cash only basis.

8. Defendant is guilty of unprofessional conduct in that he is in violation of the Oklahoma Allopathic and Surgical Licensure and Supervision Act, 59 O.S. §509, paragraph 9 as follows:

- (9) Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public.

9. Defendant is guilty of unprofessional conduct in that he is in violation of the provisions of the Rules and Regulations of the Oklahoma State Board of Medical Licensure and Supervision, as codified in Title 435, Chapter 10, Subchapter 7, Paragraph 4, Subparagraphs 11, and 39 of the Oklahoma Administrative Code as follows:

- (11) Conduct likely to deceive, defraud, or harm the public.
- (39) Violation of a provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to 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 is guilty of unprofessional conduct in that he is in violation of the Oklahoma Allopathic and Surgical Licensure and Supervision Act, 59 O.S. §509, paragraph 9 as follows:

- (9) Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public.

3. Defendant is guilty of unprofessional conduct in that he is in violation of the provisions of the Rules and Regulations of the Oklahoma State Board of Medical Licensure and Supervision, as codified in Title 435, Chapter 10, Subchapter 7, Paragraph 4, Subparagraphs 11, and 39 of the Oklahoma Administrative Code as follows:

- (11) Conduct likely to deceive, defraud, or harm the public.
- (39) Violation of a provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board.

4. The Board further found that the Defendant's license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(9) and OAC Title 435:10-7-4(11) and (39).


Order

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

1. The license of Defendant, John E. McAlister, M.D., Oklahoma license no. 7769, is hereby **REVOKED** as of the date of this hearing, September 28, 2000.


2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 12 day of October, 2000.


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

CERTIFICATE OF SERVICE

I certify that on the 12 day of October, 2000, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to John E. McAlister, 726 E. Boyd, Norman, OK 73071.


Janet Owens