

**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, )

NOV 19 2009

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff )

v. )

Case No. 09-06-3791

KIMBERLY ANNE NELSON, PTA, )  
LICENSE NO. TA831, )

Defendant. )

**VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Kimberly Anne Nelson, PTA, Oklahoma license no. TA831, who appears in person and through counsel, Dustin Phillips, offer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

***AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT***

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on October 19, 2009, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and the Physical Therapy Practice Act.

Defendant, Kimberly Anne Nelson, PTA, states that she is of sound mind and is not under the influence of, or impaired by, any medication or drug and that she fully recognizes her right to appear before the Board for evidentiary hearing on the allegations made against her. Defendant hereby voluntarily waives her right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that she has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with her and her legal counsel.

## ***PARTIES' AGREEMENT AND STIPULATIONS***

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

### ***Findings of Fact***

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of Physical Therapy Assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 887.1 *et seq.*

2. Defendant, Kimberly Anne Nelson, PTA holds physical therapy assistant license no. TA831 in the State of Oklahoma.

3. In or around May and June 2009, Defendant worked as a physical therapy assistant at Right Rehab in Oklahoma City, Oklahoma under the supervision of Paul Clark, PT.

4. Between May 11, 2009 and June 4, 2009, Defendant submitted false and fraudulent Physical Therapy Visit Records relating to Patient HWD to her employer, as well as false and fraudulent billing records to her employer for submission to the federal Medicare program. Specifically, Defendant represented that she provided physical therapy services to Patient HWD on May 11, 2009, May 14, 2009, May 18, 2009, May 25, 2009, May 28, 2009, June 2, 2009 and June 4, 2009. When questioned by Board Investigator Robert DuVall, Defendant admitted that she in fact did not provide the physical therapy services on these dates. Defendant further admitted that she forged Patient HWD's signature on the Physical Therapy Visit Records on these dates.

5. Between May 21, 2009 and June 5, 2009, Defendant submitted false and fraudulent Physical Therapy Visit Records relating to Patient TPD to her employer, as well as false and fraudulent billing records to her employer for submission to the federal Medicare program. Specifically, Defendant represented that she provided physical therapy services to Patient TPD on May 21, 2009, May 23, 2009, May 25, 2009, May 26, 2009, May 28, 2009, June 2, 2009, June 4, 2009 and June 5, 2009. When questioned by Board Investigator DuVall, Defendant admitted that she in fact did not provide physical therapy services on some of these dates. Defendant further admitted that she forged Patient TPD's signature on the Physical Therapy Visit Records on the dates she did not provide the physical therapy services.

6. On or about June 9, 2009, Defendant's supervising physical therapist, Paul Clark, advised Defendant that he had set up a meeting with Patient TPD to discuss the alleged fraudulent billing. However, prior to Mr. Clark's meeting with Patient TPD, Defendant visited Patient TPD. During this visit, Defendant falsified the Patient Data Flow Sheet by writing on the Flow Sheet that she had performed physical therapy services with the patient on at least three (3) different occasions when in fact she had not.

7. When later questioned by Board Investigator DuVall, Defendant admitted that she falsified the Patient Data Flow Sheet to try to keep her supervisor from finding out that she had not performed some of the physical therapy treatments.

8. Defendant is guilty of unprofessional conduct in that she:

- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:20-5-8(b)(5).
- D. Participated in fraud, abuse and/or violation of state or federal laws in violation of OAC 435:20-5-8(b)(8).
- E. Engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of OAC 435:20-5-8(b)(9).
- F. Engaged in negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board in violation of OAC 435:20-5-8(b)(12).
- G. Engaged in fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices in violation of OAC 435:20-5-8(b)(15).
- H. Engaged in the improper management of medical records,, inaccurate recording, falsifying or altering or failing to complete documentation of patient records in violation of OAC 435:20-5-8(b)(16).
- I. Falsely manipulated patient records ... in violation of OAC 435:20-5-8(b)(17).
- J. Violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board ... in violation of OAC 435:20-5-8(b)(31).

### *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 Oklahoma Physical Therapy Practice Act, and their applicable regulations. The Board is authorized to enforce the acts as necessary to protect the public health, safety and welfare.

2. Based on the foregoing facts, Defendant, Kimberly Anne Nelson, Oklahoma license PT831, is guilty of the unprofessional conduct set forth below:

- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:20-5-8(b)(5).
- D. Participated in fraud, abuse and/or violation of state or federal laws in violation of OAC 435:20-5-8(b)(8).
- E. Engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of OAC 435:20-5-8(b)(9).
- F. Engaged in negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board in violation of OAC 435:20-5-8(b)(12).
- G. Engaged in fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices in violation of OAC 435:20-5-8(b)(15).
- H. Engaged in the improper management of medical records,, inaccurate recording, falsifying or altering or failing to complete documentation of patient records in violation of OAC 435:20-5-8(b)(16).
- I. Falsely manipulated patient records ... in violation of OAC 435:20-5-8(b)(17).

- J. Violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board ... in violation of OAC 435:20-5-8(b)(31).

*Order*

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

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.

2. The license of Defendant, Kimberly Anne Nelson, PTA, Oklahoma license no. PT831, is hereby **SUSPENDED** beginning November 19, 2009, and continuing for a period of ninety (90) days.

3. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of one (1) year following her suspension under the following terms and conditions:

A. Defendant will conduct Defendant's practice in compliance with the Oklahoma Physical Therapy Practice Act as interpreted by the Board. Any question of interpretation regarding the Act or this Order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board.

B. Defendant will practice under direct clinical on-site supervision as defined in OAC 435:20-7-1 during the entire term of probation.

C. Defendant will keep the Board informed of her current address.

D. Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.

E. Defendant shall submit any required reports and forms on a timely, prompt and accurate basis to the Compliance Coordinator or designee.

F. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify your license after due notice and hearing.

G. Upon request of the Board Secretary, Defendant will request all hospitals or facilities in which she practices or anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of her practice while performing services in or to that facility.

H. Defendant will furnish to each and every state in which she holds licensure or applies for licensure and hospitals, clinics or other institutions in which she holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

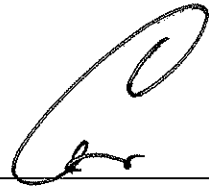
I. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of her case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of probation.

J. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

K. Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

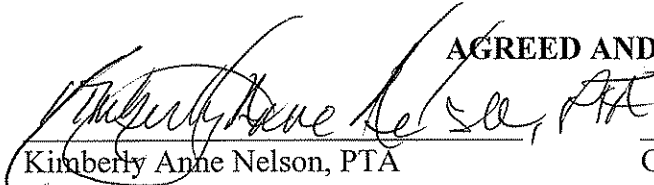
4. This Voluntary Submittal to Jurisdiction and Order will go into effect, Defendant's suspension will be lifted, and her license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to November 20, 2009.

Dated this 19 day of November, 2009.

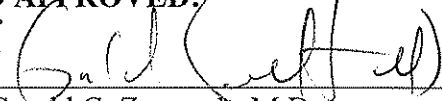


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Curtis Harris, M.D., President  
Oklahoma State Board of  
Medical Licensure and Supervision

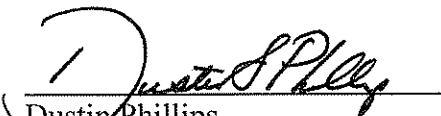
**AGREED AND APPROVED:**




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Kimberly Anne Nelson, PTA  
License No. TA831



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



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Kimberly Anne Nelson, PTA

Attorney for the Oklahoma State Board  
of Medical Licensure and Supervision