

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

STATE OF OKLAHOMA

**FILED**

SEP 29 1988

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

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )  
v. )  
 )  
ROGER L. KINNEY, M.D. ) CASE NO. 8-10-167  
Medical License No. 8626, )  
 )  
Defendant. )

SECOND ORDER  
MODIFYING TERMS OF PROBATION

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision en banc on the 15th day of September, 1988, at the office of the Oklahoma State Medical Association, 601 NW 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 Roger L. Kinney, M.D., Defendant, appeared in person, pro se, and waived his right to counsel and announced ready to proceed.

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

FINDINGS OF FACT

1. That Defendant, Roger L. Kinney, M.D., holds Oklahoma Medical License No. 8626.
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 following hearing before the Oklahoma Board of Medical Examiners en banc on May 2, 1987, the Board did terminate the suspension of the Defendant's Oklahoma medical license effective upon the Defendant entering the Half-Way House facility in Tulsa, Oklahoma, and the Defendant informing representatives of the Oklahoma Board of Medical Examiners of his address. The Board Order further provided that effective on the reinstatement of Defendant's medical license that the Defendant was placed on probation to the State Board of Medical Examiners for a period of five (5) years under certain enumerated terms and conditions.
4. That the Defendant desired modification of terms of probation to allow the Defendant to prescribe, administer or dispense controlled dangerous substances for emergency room in-patients upon the conditions that the order for controlled dangerous substances must be countersigned by a fully licensed physician within 36 hours and the further condition that no controlled dangerous substance could be taken off the premises of the emergency room by any patient.
5. That on or around July 28, 1988, Defendant made written request to the Board to reduce probation supervision from Level I to Level II.

6. That the Defendant had been in general compliance with the terms and conditions of the probation except had missed some meetings of the support activity with the Physician Recovery Group in Tulsa because he was working in the emergency room in Sapulpa on the same evening of those meetings.

7. That public health, safety and welfare would be served in the event the Defendant's probation supervision was reduced from Level I to Level II under the conditions that the Defendant maintain attendance at the Physician Recovery Group in Tulsa and with the provision that Board Investigators may obtain biological fluids at least quarterly at unannounced intervals.

#### CONCLUSIONS OF LAW

1. That the Defendant, Roger L. Kinney, M.D., is lawfully under the jurisdiction of the Oklahoma Board of Medical Licensure and Supervision originally for a term of five (5) years, beginning on May 2, 1987, and it is within the power and discretion of the Board to modify terms and conditions of probation and to terminate probation upon receipt of sufficient evidence.

#### ORDER

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

1. That the Defendant's request for modification of terms of probation should be and the same is hereby granted, and the Defendant's probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years, beginning on or around May 2, 1987, continues under the following modified terms and conditions at Level II supervision from the Order Modifying Terms of Probation in his file that was filed October 26, 1987:

(a) That the Defendant shall not prescribe, administer and dispense any Schedule II, III, IV, or V drugs or controlled substances, except that the Defendant may prescribe, administer or dispense controlled dangerous substances for emergency room in-patients under the conditions that a fully licensed physician countersign the order within 36 hours and under the further conditions that no controlled dangerous substances may be taken off the premises of the emergency room by any patient.

(b) During the period of probation Defendant will submit on at least a quarterly basis, biological fluid specimens to include, but not limited to, blood and urine, for analysis upon the request of any Investigator or other agent representing the Oklahoma Board of Medical Licensure and Supervision and analysis of said specimens shall be at the expense of the Defendant.

(c) During the period of probation the Defendant will furnish to the office of the State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.

(d) That the Defendant shall abstain from personally using alcohol in any form or any controlled dangerous substances unless prescribed by the Defendant's treating physicians and the Defendant has the

affirmative duty to fully inform treating physicians of his prior use of substances.

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

(f) That the Defendant shall accept and follow any Board recommendations on abstinence programs and shall participate therein as recommended by the Board and provide proof thereon when requested by any representative of the Board, to specifically include the Physician Recovery Group in Tulsa, Oklahoma.

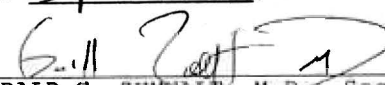
(g) That the Defendant agrees and does hereby specifically grant permission, authorize and allow the free exchange of information between representatives of the Investigative Division of the State Board of Medical Licensure and Supervision and any federal probation authorities which retain jurisdiction over him.

(h) Defendant recognizes that violation of any of the terms and conditions may result in termination of probation and re-imposition of suspension.

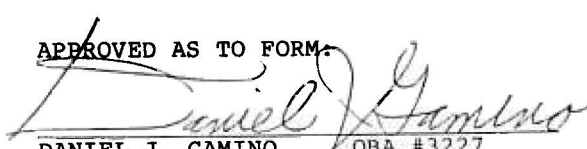
(i) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigative Division of the Board the costs of investigation, prosecution and probation of this case.

2. 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.

DATED this 29<sup>th</sup> day of September, 1988.

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

APPROVED AS TO FORM:

  
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 5 day of October, 1988, to:

ROGER L. KINNEY, M.D.  
P.O. Box 950  
Mannford, OK 74044

Janet L Owens