

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.

JOHN B. FREIDENBERGER, M.D.
Medical License No. 9270,

CASE NO. 88-5-596

Defendant.

FINAL ORDER
ON COMPLAINT OF CONTEMPT

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision en banc on the 9th day of June, 1989, at the Doubletree Inn at Warren Place, 6100 South Yale, Tulsa, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and John B. Freidenberger, M.D., Defendant, did not appear either in person or by representative.

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, John B. Freidenberger, M.D., holds Oklahoma Medical License No. 9270.

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 on or around September 15, 1988, following notice and hearing, the Board issued a Final Order on the aforesaid Defendant, John B. Freidenberger, M.D., holding Oklahoma Medical License No. 9270. The Order placed Defendant on a term of five (5) years probation under terms and conditions that included the following, to-wit:

"(c) 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 and surgery as interpreted by the Oklahoma State Board of Medical Licensure and Supervision."

4. Said Final Order is still in force and effect and has not been amended, modified or vacated by the Board.

5. That on or around February 4, 1989, Defendant was intoxicated or using alcohol while engaged in the practice of medicine at the W.W. Hastings Indian Hospital, Tahlequah, Oklahoma.

6. That the Defendant's use of alcohol on the aforesaid date was not an isolated incident, but is part of a habit, pattern, and practice developed by this Defendant over the past 14 years as indicated by prior orders of the Oklahoma Board of Medical Licensure and Supervision, formerly the Oklahoma Board of Medical Examiners, as follows, to-wit:

- a. Order of March 17, 1975, finding the Defendant guilty of unprofessional conduct relating to controlled substances and placing the Defendant on five years of probation under the terms and conditions to, in part,

"not keep any controlled drugs in his office or home, shall not give shots of controlled drugs in his office or home, and he shall not prescribe any narcotics for his own family."

- b. Order of April 26, 1980, finding the Defendant guilty of unprofessional conduct in that he violated the Oklahoma Medical Practice Act, 59 O.S. 1979 Supp., §509, paragraphs 5, 12, 13 and 16 and Rule 29 (d) of the Rules and Regulations of the State Board of Medical Examiners as follows:

"5. Habitual intemperance or the habitual use of habit-forming drugs."

"12. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of Oklahoma to be controlled or narcotic drugs."

"13. Prescribe or administer a drug or treatment without sufficient examination in the establishment of a valid physician-patient relationship."

"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..."

"Rule 29 (d): Prescriptions written for controlled or narcotic drugs without a medical need therefor shall be considered a false or fictitious prescription."

In that Order the Board placed the Defendant on probation for a period of five years under terms and conditions, in part, that the Defendant may not prescribe, administer or dispense Schedule II drugs except to emergency room patients and the Defendant must keep duplicate, serially-numbered prescriptions for all Schedule III, IV and V drugs issued and the Defendant was prohibited from prescribing, administering or dispensing any medication for his personal use and is to refrain from the use of any medication or drug (legend drug or controlled drug) unless the same is ordered by another physician.

- c. Order of January 7, 1983, finding the Defendant in violation of the Medical practice Act and in violation of the previous terms of probation as set forth in the Board's Order of April 16, 1980, wherein the Board suspended Defendant's medical license for a period of three years under the conditions that the Defendant may apply for re-instatement of the license in May, 1983,

and that the Defendant was to continue his participation in Alcoholics Anonymous and substantiate his attendance.

- d. Order of May 14, 1982, finding the Defendant in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, §509, paragraphs 5 and 16, to-wit:

"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..."

and the Board deferred any decision on suspension of license but did put the Defendant under probation wherein Defendant was ordered to continue rehabilitative programs including Alcoholics Anonymous and to appear monthly before a designated member of the Board and produce copies of any psychiatric report concerning his treatment or care and Defendant was to continue psychiatric care and to refrain from the use of alcohol and to refrain from taking any medication unless prescribed by his personal physician.

- e. Order of September 18, 1982, which imposed six months suspension of the Defendant's medical license to be followed by probation for a period of five years ordering the Defendant to in part continue rehabilitation for alcohol addiction including participation in programs offered by Alcoholics Anonymous and all the other terms and conditions set forth above in the Order of May 14, 1982.
- f. Order of May 21, 1983, wherein the Defendant's license is reinstated under five years probation under the terms and conditions that the Defendant is to in part refrain from any use of alcohol and to continue his participation in Alcoholics Anonymous and to take no drugs or medication unless prescribed by another physician.

CONCLUSIONS OF LAW

1. That John B. Freidenberger, M.D., holding Oklahoma Medical License No. 9270, is in violation of the Oklahoma Medical Practice Act and in contempt of the Board Order of September 15, 1988.

ORDER

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

1. That the Medical License No. 9270 of the Defendant, John B. Freidenberger, M.D., should be and is hereby REVOKED.
2. That a copy of this Final Order should be placed in the Defendant's public licensure file at the Oklahoma Board of Medical Licensure and Supervision and a copy forwarded to the

last known address of Defendant, John B. Freidenberger, M.D., by the Board staff as soon as possible.

DATED this day of June, 1989

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

APPROVED AS TO FORM:

Daniel J. Gamino

DANIEL J. GAMINO DBA #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 30 day of June, 1989, to:

JOHN B. FREIDENBERGER, M.D.
2620 Ridge Oak Rd
Sapulpa OK 74066

Janet L. Owens