

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

FILED

IN THE MATTER OF THE)
APPLICATION OF)

MERLIN J. KILBURY, M.D.)

FOR MODIFICATION OF)
PROBATION TERMS FOR)
LICENSE NO. 9907)

AUG 07 2003

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

) Case No. 88-7-618

THIRD ORDER MODIFYING PROBATION

This matter came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on July 17, 2003, at the Board office, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and rules of the Board.

Applicant, Merlin J. Kilbury, M.D., holding Oklahoma medical license no. 9907, appeared in person without counsel, thereby waiving his right to legal representation.

The Board sitting *en banc* after hearing testimony, reviewing the request and other materials presented, and being fully apprised of the premises, made the following Findings of Fact, Conclusions of Law and Orders:

FINDINGS OF FACT

1. The Board *en banc* has jurisdiction over the subject matter herein, and notice has been given in all respects as required by law and the rules of the Board.
2. Dr. Kilbury currently holds medical license no. 9907 under an indefinite term of probation that commenced January 10, 1997.
3. On September 24, 1998, Dr. Kilbury requested that the terms of his probation be modified to allow him to practice medicine and surgery at the Veterans Hospital in Muskogee, Oklahoma in addition to facilities within the Oklahoma Department of Corrections. The Board granted his requested modification.
4. On January 21, 1999, Dr. Kilbury requested that the terms of his probation be modified to allow him to seek employment outside the Department of Corrections and to allow the Board Secretary to approve new employment opportunities prior to the time Dr. Kilbury

begins practice. Dr. Kilbury also requested that the terms of his probation be modified to allow him to prescribe controlled substances in an institutional setting for his surgical patients. The Board granted the requested modification.

5. On July 17, 2003, Dr. Kilbury requested that the terms of his probation be modified to allow him to prescribe Schedule III-V controlled dangerous substances at his places of employment, which will be known by the Board Secretary.

6. Dr. Kilbury presented sufficient evidence to support the requested modification.

CONCLUSIONS OF LAW

1 The Board has jurisdiction to hear this matter pursuant to 59 O. S. § 480 *et seq.*

2. Dr. Kilbury has presented satisfactory evidence to justify allowing him to prescribe Schedule III-V controlled dangerous substances at his places of employment, which will be known by the Board Secretary.

ORDER

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

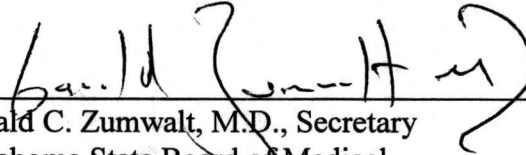
1. Dr. Kilbury's application to modify the terms of his probation is **GRANTED**.

2. Dr. Kilbury's probation shall continue indefinitely from the date of its commencement of January 10, 1997 under the terms and conditions set forth in the January 10, 1997 Order, the September 24, 1998 Order Modifying Probation, and the January 21, 1999 Order Modifying Probation with the exception that Dr. Kilbury be allowed to prescribe Schedule III-V controlled dangerous substances at his places of employment, which will be known by the Board Secretary.

3. Failure to meet any of the terms of this Order will be grounds for the Board to initiate proceedings to suspend or revoke Dr. Kilbury's medical license, after additional notice and hearing as required by law.

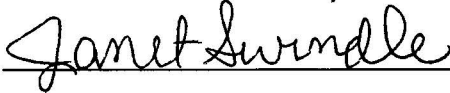
4. A copy of this written order should be sent to Dr. Kilbury as soon as it is processed.

Dated this 7 day of August, 2003.


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

Certificate of Service

On the 7 day of August, 2003, a true and correct copy of this order was mailed, postage prepaid, to Merlin Joe Kilbury, M.D., 4308 S. Peoria, Box 702, Tulsa, OK 74105.



Janet Swindle