

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

FILED

MAY 22 2009

IN THE MATTER OF)
THE APPLICATION OF)

MERLIN J. KILBURY, M.D.)

FOR TERMINATION OF)
PROBATION FOR)
LICENSE NO. 9907)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 88-7-618

ORDER TERMINATING PROBATION

This matter came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on May 21, 2009, 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 and pro se.

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 on January 7, 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. The Board granted the requested modification.

6. On November 3, 2005, Dr. Kilbury requested that the terms of his probation be modified to allow him to prescribe Schedule II controlled dangerous substances in the emergency room setting only. The Board granted the requested modification.

7. On November 2, 2006, Dr. Kilbury requested that his probation be terminated so that his position in the recovery group would be strengthened. The Board denied Dr. Kilbury's request for termination of his probation.

8. On May 21, 2009, Dr. Kilbury again requested that the terms of his probation be terminated.

9. Tom Sosbee, Compliance and Education Coordinator for the Board, testified that Dr. Kilbury had complied to date with the terms of probation.

10. Dr. Kilbury has complied to date in all respects with the terms of probation, and the purposes of the probationary period have been accomplished. Dr. Kilbury has presented sufficient evidence to support the requested termination.

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 termination of his probationary period. The purposes of the probationary period have been accomplished by Dr. Kilbury's compliance with the probationary terms. No useful purpose would be gained by having Dr. Kilbury remain on probation.

ORDER

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

1. Dr. Kilbury's application to terminate probation is **GRANTED** and his

probationary period is terminated immediately.

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

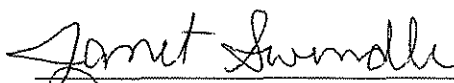
Dated this 22 day of May, 2009.



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

Certificate of Service

On the 22 day of May, 2009, a true and correct copy of this order was mailed, postage prepaid, to Merlin J. Kilbury, Drumright Regional Hospital, 610 W. Truck Bypass, Drumright, OK 74030.



Janet Swindle