

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.)
)
LOWELL JAMES ROBERTSON, M.D.,)
LICENSE NO. MD 17290,)
)
Defendant.)

FILED

AUG 02 2019

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 96-11-1866

ORDER GRANTING REINSTATEMENT OF LICENSE UNDER PROBATION

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on August 1, 2019, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and the rules of the Board.

This Order Granting Reinstatement of License Under Probation is entered into by and between Billy H. Stout, Secretary of the Board and Lowell J. Robertson, M.D. 59 O.S. §§ 506(A).

Billy Stout, M.D., Board Secretary and Gary Ricks, Board Compliance Coordinator, appeared on behalf of Plaintiff. Lowell James Robertson, M.D. (“Defendant”) appeared in person, *pro se*. Plaintiff and Defendant are collectively referred to herein as the “Parties.”

The following exhibit was admitted into evidence without objection:

Board Exhibit 1: Chronology
Lowell James Robertson, M.D.
License No. 17290,
Case No. 96-11-1866

The following witnesses were sworn and testified: Dr. Merlin Kilbury, with Oklahoma Health Professional Program, Inc. (“OHPP”), Samuel Martin, M.D., Psychiatrist and Fellowship Program Director for Addiction Medicine at Oklahoma State University Health Sciences Center, and Defendant.

The Board heard representations of Billy Stout, M.D., Board Secretary and Mr. Gary Ricks, and testimony of sworn witnesses and Defendant. The Board reviewed the exhibits

presented and being fully advised of the premises, makes the following findings of fact, conclusions of law and orders.

Findings of Fact

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

1. In Oklahoma, Defendant previously held medical license no. MD 17290, originally issued July 1, 1990.
2. On December 10, 1996, a Complaint (“1996 Complaint”) and Citation were each issued, for allegations related to alcohol abuse. Hearing was set for January 9, 1997.
3. At the January 9, 1997 Board meeting, Defendant appeared in person and with counsel David King of Brewer, Worten, Robinett, and offered a Voluntary Submittal to Jurisdiction that was accepted by the Board.
4. An Order of the Board Accepting Voluntary Submittal to Jurisdiction was filed January 16, 1997 (“1997 VSJ”), for violations related to alcohol abuse, placing Defendant on terms and conditions of PROBATION for a period of five (5) years, commencing on January 9, 1997.
5. On June 17, 1998, a Second Complaint (“1998 Complaint”) was issued by the Board alleging Defendant violated the 1997 VSJ by testing positive for substance. An Amended Citation was issued July 31, 1998. Hearing was set for September 24, 1998.
6. On July 31, 1998, Defendant submitted written notice to the Board of his intent to surrender his medical license in lieu of prosecution of the 1998 Complaint.
7. At the September 24, 1998 Board meeting, Susan Henderson, Assistant Attorney General, appeared for Plaintiff. Defendant appeared not personally, nor through counsel. The Board accepted Defendant’s offer of surrender in lieu of prosecution.
8. An Order Accepting Defendant’s Surrender of License, was filed on October 5, 1998 (“1998 SILOP”). The 1998 SILOP orders as follows:
 2. Defendant will not re-apply for licensure in Oklahoma until at least one (1) year from the date of this order. If Defendant’s license is reinstated in Oklahoma, he will be placed on probation with appropriate terms and will be monitored for a period of at least five (5) years from the date of such reinstatement.
9. On February 25, 2019, Defendant applied for reinstatement of his Oklahoma medical license. Hearing was set for August 1, 2019.
10. At the August 1, 2019 Board meeting, Dr. Stout, advised the Board regarding Defendant’s history and application for reinstatement, including clinical skills and education. Dr. Stout further advised of Defendant’s opportunity, if licensed, for

acceptance into the OSU Fellowship addition medicine program at OSUMC, Tulsa. Mr. Ricks addressed questions regarding proposed terms and conditions of licensure.

11. Dr. Merlin Kilbury, Associate Director with the Oklahoma Health Professionals Program, testified that Defendant is compliant with all requirements of OHPP in Oklahoma City, and at OHPP in Tulsa he would continue to be under close observation.
12. Samuel Martin, M.D., Psychiatrist and Fellowship Program Director for Addiction Medicine at OSUMC, testified regarding Dr. Robertson's offered position at the one year OSU Fellowship.
13. Defendant testified on his own behalf, and agreed that licensure shall be under the terms and conditions of probation for five (5) years, as set forth by the Board.
14. The Board concluded that Defendant's license will be reinstated, pursuant to the proposed terms of reinstatement presented, and that two (2) additional terms shall added to the terms. The added terms are specifically added herein as Orders paragraphs '3. aa.' and '3. bb.'
15. Any conclusion of law below which is more properly characterized as a finding of fact is hereby incorporated as a finding of fact.

Conclusions of Law

16. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma. 59 O.S. § 480 *et seq.*, 59 O.S. 492 *et seq.*; Okla. Admin. Code §§ 435:5-1-1 *et seq.*, 435:10-4-2.
17. Notice was provided as required by law and the rules of the Board. 75 O.S. § 309; 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.
18. Defendant has met all requirements for reinstatement of his license. 59 O.S. § 492.1 *et seq.*, Okla. Admin. Code §§ 435:5-1-6, *et seq.*, 435:5-1-6.1.

Orders

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

1. The Oklahoma medical license no. 17290 of **LOWELL JAMES ROBERTSON, M.D.**, is hereby **REINSTATED**, effective on the date of the filing of this order.
2. **LOWELL JAMES ROBERTSON, M.D.** is hereby placed on **PROBATION** for a period of **FIVE (5) YEARS**.

3. **LOWELL JAMES ROBERTSON, M.D.**, shall comply with all of the following terms and conditions:

Standard Terms:

- a. Defendant shall conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (“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 or its authorized designee.
- b. Defendant shall furnish a file-stamped copy of this Order stipulating sanctions imposed by the Board, to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c. Defendant will keep the Board informed of his current address.
- d. Defendant will keep current payment of all assessments by the Board for prosecution, investigation and monitoring of his case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation, unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- e. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- f. Defendant will not supervise allied health professionals, physician assistants, or advanced nurse practitioners, that require surveillance of a licensed medical practitioner.
- g. For good cause shown, upon request of the Board or its designee, Defendant will submit biological specimens for analysis, including but not limited to, blood, urine, hair follicle and nail samples, and Defendant will pay the costs attendant thereto.
- h. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need, and only during that time in which he is being treated by the physician for that specific medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Order immediately upon initiation, or continuation of treatment. In the event that Defendant is prescribed any controlled dangerous substance during the term of this Order, Defendant shall contact the Board Secretary or the Board designee to discuss the prescription.

- i. Defendant shall not prescribe, administer or dispense any medications for personal use or for that of any family members, friends, employees or associates.
- j. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances
- k. Defendant shall promptly notify the Board Secretary or Compliance Coordinator of any citation or arrest for traffic or for criminal offenses. This notification will include any complaint of intoxication or severe hangover at place of employment of while rendering health services.
- l. Upon request, Defendant shall make himself available for one or more personal appearances before the Board or its authorized designee.
- m. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or authorized designee.
- n. Defendant will execute such releases of medical and psychiatric records during the entire term of this Order as necessary for use by the Compliance Coordinator to obtain copies of medical records and assessments, and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- o. Failure to meet any of the terms of this Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing. Immediately upon learning that a licensee is in violation of this Order, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.
- p. The Parties, the Board or its designee, or the Defendant may file a motion for a Board hearing and possible new Board order.

Specific Terms:

- q. Defendant shall practice only at the Oklahoma State University Medical Center ("OSUMC"), within the Oklahoma State University Addiction Medicine Fellowship ("OSU Fellowship"), in Tulsa, Oklahoma, under the terms and conditions as set forth herein.
- r. If Defendant fails to complete the OSU Fellowship for any cause or reason, his Oklahoma medical license shall be summarily suspended by the Oklahoma Board Executive Director and a hearing will be scheduled before the Board.
- s. Defendant shall ensure quarterly reports are provided from the OSU Fellowship to the Board Secretary and the Compliance Coordinator for the Board from any and all of his program director(s) or supervisor(s). Defendant shall sign the necessary

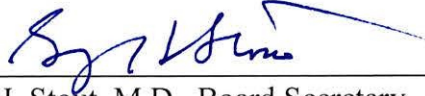
releases for his program director(s) and supervisor(s) to provide such quarterly reports. Quarterly reports shall be provided by supervisors in both addiction medicine and internal medicine.

- t. Defendant shall not be involved in any practice outside of the OSU Fellowship program.
- u. If Defendant successfully completes the OSU Fellowship, all prospective employment and work place setting involving the practice of medicine shall be preapproved by the Board Secretary. If Defendant desires to make any change to his current employment or work environment, the proposed changes must be approved of in advance by the Board Secretary.
- v. Defendant shall be required to attend Internal medicine didactics at OSUMC every morning from 7:00-8:00 a.m. Attendance is mandatory and will be monitored.
- w. Dr. Justin Chronister, Internal Medicine Residency Director at OSUMC, will serve as mentor to Defendant, with regularly scheduled meetings to discuss cases and explore learning opportunities. If Dr. Chronister were to become unable to continue as mentor for Defendant for any reason, a comparable mentor will continue the scheduled meetings. The Defendant shall notify the Board Secretary of the replacement immediately.
- x. As a participant in the OSU Fellowship training program, Defendant shall follow the formal supervision policy and shall be placed on 'Direct' level supervision. Defendant will be required to check out every patient and will not be allowed to see patients without an attending on site. Advancement by Defendant will only occur after demonstrating sufficient ability as documented through formal assessment.
- y. Defendant shall sign a lifetime contract with the Oklahoma Health Professionals Program ("OHPP") and abide by all recommendations. This will include participation in the Interlock program and random drug screenings as requested by OHPP staff or Board Compliance Coordinator. When and if the Interlock program is terminated, Defendant shall become a participant in the Sober Link program.
- z. Defendant shall promptly notify the Compliance Coordinator of any relapse, including any entry, or re-entry, into a treatment program of substance abuse, including alcohol.
- aa. Defendant shall personally appear before the Board at the completion of the one year OSU Fellowship for review by the Board.
- bb. Should Defendant choose to apply for either Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) or U.S. Drug Enforcement Administration (DEA)

permits, Defendant shall appear before the Board for review, prior to submitting his OBNDD or DEA applications.

4. A copy of this Order shall be provided to Defendant as soon as it is processed.

Dated this 2nd day of AUGUST, 2019.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 5th day of August, 2019, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail
Lowell James Robertson
4933 October Drive
Edmond, Oklahoma 73034
Defendant, pro se



Nancy Thiemann, Legal Assistant