

IN THE MATTER OF
THE LICENSE OF
KATHRYN JUDD, D.O.

BEFORE THE
TEXAS MEDICAL BOARD

ORDER DENYING TERMINATION OF SUSPENSION

On the 10 day of June, 2016, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Kathryn Judd, D.O. (Probationer).

On May 13, 2016, Probationer appeared in person, with counsel, Louis Leichter, before Representatives of the Board to petition the Board for termination of an Automatic Suspension Order (2015 Automatic Suspension Order) entered on July 10, 2015, pertaining to Probationer's Texas Medical License No. M-8065, a copy of which is attached hereto and incorporated herein, and to address issues related to Probationer's compliance with the terms and conditions of the Order. The Board's representatives were Margaret C. McNeese, M.D., and Timothy Webb, J.D., members of the Board. Heather R. E. Pierce represented Board staff.

Upon the recommendation of the Board's representatives, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order.

FINDINGS OF FACT

The Board finds that:

A. Prior Disciplinary History:

1. On September 5, 2007, the Board entered a Confidential Agreed Licensure Rehabilitation Order (2007 Order) granting Probationer a Texas medical license and imposing the following terms and conditions for a period of five years: requiring that she receive psychiatric treatment and monitoring with quarterly reports to the Board and that she cooperate with the psychiatrist; and requiring that her medical practice be limited to a pre-approved group or institutional setting. The action was based upon Probationer's psychiatric history.

2. On November 30, 2012, the Board entered an Agreed Order Modifying Confidential Agreed Licensure Rehabilitation Order (2012 Order), which modified the 2007

Order by extending the term to 10 years from date of the entry date of the 2012 Order and imposing the additional terms and conditions: requiring psychiatric treatment from a board-certified, pre-approved psychiatrist, other than Dr. Little, with quarterly reports to the Board; requiring abstinence from prohibited substances including alcohol, dangerous drugs, and controlled substances; participate in the Board's drug testing program; and requiring that she participate in Alcoholics Anonymous (AA) not fewer than five times per week. The action was based upon her substance abuse history, criminal history, and violation of the treatment and cooperation provisions of the 2007 Order.

3. On May 2, 2014, the Board entered an Agreed Order, which made the 2007 Order and the 2012 Order public, imposed an administrative penalty of \$1,000, and required Probationer to give a copy of the order to all healthcare entities where privileged or practicing and provide proof of delivery within 30 days. The action was based upon her violation of the abstinence provision of the 2012 Order.

4. On July 10, 2015, the Executive Director of the Board entered an Automatic Suspension Order at the direction of an ISC panel. The ISC panel gave this direction after determining that the evidence supported Staff's allegations that Probationer had tested positive for alcohol in violation of the abstinence provision of the 2007 Order.

B. Status of Compliance with the 2015 Automatic Suspension Order as of May 13, 2016:

Probationer has served only 10 months under this Order and is in compliance with its terms and conditions.

C. Probationer's Request

Probationer requests termination of the 2015 Automatic Suspension Order based upon her belief that she could demonstrate that she was competent and safe to practice medicine.

D. Recommendation:

Based on the above Findings of Facts and information available at the hearing on May 13, 2016, the Board's Representatives recommended that Probationer's petition for termination of suspension be denied.

E. Basis for Panel's Recommendation

Probationer failed to provide evidence that demonstrates that she is safe to practice and failed to provide sufficient evidence that she has had adequate treatment for her alcohol addiction.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over this matter and Probationer pursuant to the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act).

2. 22 TEX. ADMIN. CODE §187.43 authorizes the Board to consider petitions for Termination of Suspension of Agreed Orders and Disciplinary Orders. Pursuant to 22 Tex. Admin. Code §187.43(j), further petitions for modification or termination of a disciplinary order may be made only once a year after the effective date of this Order.

ORDER

Based on the available information, the above Findings of Fact and Conclusions of Law, and the recommendation of the Board's Representatives, the Board ORDERS that Probationer's petition for termination of suspension is hereby DENIED.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this

10 day of June, 2016.



Michael Arambula, M.D., Pharm.D., President
Texas Medical Board

LICENSE NO. M-8065

IN THE MATTER OF
THE LICENSE OF
KATHRYN JUDD, D.O.

BEFORE THE
TEXAS MEDICAL BOARD

AUTOMATIC SUSPENSION ORDER

On July 9, 2015, Kathryn Judd, D.O. (Probationer), appeared in person, with counsel Mathew S. Muller, at an Informal Show Compliance Proceeding and Settlement Conference (ISC), in response to a letter of invitation from the staff of the Texas Medical Board (Board), to address issues related to Probationer's violation of the terms and conditions of an Agreed Order Modifying Confidential Agreed Licensure Rehabilitation Order entered on November 30, 2012 (2012 Order) which modified a Confidential Nonpublic Agreed Rehabilitation Order entered on September 5, 2007 (2007 Order). The 2007 and 2012 Orders made public and incorporated into an Agreed Order on May 2, 2014 (2014 Order). The Board's representatives were Frank Denton, a member of the Board, and Kathy Flanagan, M.D., a member of the District Review Committee, and (Panel). Amy Swanholm represented Board staff.

After hearing the evidence presented by both Probationer and Board Staff, the ISC Panel hereby directs the Executive Director of the Board to make the following Findings and Conclusions of Law pursuant to authority granted to her by the Board.

FINDINGS

The Board finds the following:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied.
2. Respondent currently holds Texas Medical License No. M-8065, issued on November 30, 2007. Respondent is not licensed to practice in any other state.
3. Respondent is primary engaged in the practice of psychiatry. Respondent is not board certified.
4. Respondent is 49 years of age.

5. Ordering Paragraph No. 16 of the 2007 Order, as modified by the 2012 Order and incorporated into the 2014 Order, requires that Probationer abstain from prohibited substances, including alcohol, dangerous drugs, and controlled substances.

6. Probationer had violated Ordering Paragraph No. 16 of the 2007 Order, as modified by the 2012 Order because she tested positive for alcohol on April 24, 2015 and admitted to consuming alcohol.

2. Ordering Paragraph No. 14 of the 2007 Order, as modified by the 2012 Order and incorporated into the 2014 Order as Ordering Paragraph No. 10, states that any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

7. Ordering Paragraph No. 16.g(2) of the 2007 Order, as modified by the 2012 Order states that if Board representatives at an Informal Show Compliance Proceeding determine that Probationer is in violation of the Order, the Board representatives may direct the Executive Director to immediately suspend Probationer's license.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Probationer pursuant to the Act.

2. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action if a physician commits a direct violation of a Board Rule, specifically Board Rule 189.3, which requires compliance with all terms of a Board order.

4. Section 164.052(a)(5) of the Act authorizes the Board to take action if a physician commits a dishonorable or unprofessional conduct. Board Rule 190.8(2)(A) provides that violation of a Board order is considered dishonorable or unprofessional conduct.

5. Board Rule 189.8(b) provides that non-compliance with an Agreed Order shall be considered unprofessional conduct.

6. Board Rule 189.8(c)(1) defines non-compliance to include failure to comply with a term or condition of a Board order.

7. Probationer's violation of the terms and conditions of the 2007 Order, as modified by the 2012 Order and incorporated into the 2014 Order is a prohibited act or practice and constitutes unprofessional or dishonorable conduct that is likely to deceive, defraud, or injure the public.

8. Board Rule 189.9 authorizes the Executive Director to enter an Order of Suspension for violation of a Board Order.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that:

Probationer's Texas Medical License No. M-8065 is hereby SUSPENDED.

Probationer shall immediately cease practicing as a physician in the State of Texas on the date that the Executive Director signs this Order, and shall not again practice in the State of Texas until authorized to do so by the Board. This Order shall remain in effect until superseded by subsequent order of the Board.

THIS ORDER IS A PUBLIC RECORD.

SIGNED AND ENTERED by the Executive Director of the Texas Medical Board on
this 10th day of July, 2015.

Scott M Freshour for

Mari Robinson, J.D.
Executive Director
Texas Medical Board

by permission