

**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,)
)
 vs.)
)
 WALTER JAY EXON, M.D.,)
 LICENSE NO. MD 10770,)
)
 Defendant.)

FILED
 AUG 23 2017
 OKLAHOMA STATE BOARD OF
 MEDICAL LICENSURE & SUPERVISION

Case No. 14-11-5068

AMENDED VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), alleges and states as follows for its Complaint against Walter Jay Exon, M.D. (“Defendant”):

1. 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. 2011, § 480 *et seq.* and Okla. Admin. Code § 435:5-1-1 *et seq.*
2. Defendant holds Oklahoma medical license number 10770, issued on March 15, 1976.
3. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to the medical license conferred upon him by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

I. ALLEGATIONS OF PROFESSIONAL MISCONDUCT

4. The mother of patient A.D.W. filed a complaint with the Board, stating her daughter was taking too much medication. The drugs in question were Xanax and Adderall, which were prescribed for Attention Deficit Hyperactivity Disorder (ADHD) and anxiety. The complainant stated that A.D.W. used methamphetamines and had been arrested for public intoxication.
5. The medical record for patient A.D.W. was subpoenaed on April 15, 2015 and reviewed by Board Investigator Stephen Washbourne.
6. Investigator Washbourne subpoenaed 13 additional patient charts, including adults and adolescents, which were delivered to John Raizen, MD for expert review.

7. On July 21, 2015, expert review was tendered to Investigator Washbourne from Dr. Raizen, who had determined that the records were substantially below the minimum standard of care. It was determined that there were deficits in patients' histories, diagnoses, treatments, monitoring for side effects, plans of care and medical necessity.
8. Evidence determined through expert review, that these patient records included the following:
 - a. Patient K.C.W. received 60 mg of Adderall and 100 mg of Vyvanse per day. The maximum daily amount per the FDA guideline is 40 mg of Adderall and 70 mg of Vyvanse. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, (3) lack of sufficient justification for Controlled Dangerous Substance ("CDS") dosages and increases, and (4) lack of informed consent regarding the medications prescribed. There was no rationale for treating with the two stimulants given to this patient contained in the records. K.C.W. records note, "Very good at math", "Great grades" and "doing well," yet Defendant gave increased stimulant dosages.
 - b. Patient A.D.W. was increased for Xanax XR from 0.5 mg to the highest amount recommended by the FDA guideline of 2.0 mg in only 4 months. There was no informed consent for medications including the risks, benefits and alternatives available. Further, there was no inquiry into possible past or current substance abuse to accompany the prescribing of CDS. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, and (3) lack of sufficient justification for CDS dosages and increases. Defendant gave increased stimulant dosages in spite of patient reporting "doing well."
 - c. Patient S.E.W., who is 16 years old, was receiving 150 mg of Adderall. FDA guidelines suggest an adolescent should not have more than 40 mg per day. There was no informed consent for medications including the risks, benefits and alternatives. There was no documented history to support the diagnoses given of ADHD, Oppositional Defiance Disorder (ODD), Conduct Disorder, Bipolar Disorder and NOS. There was insufficient monitoring of this patient especially given evidence indicative of possible concurrent substance abuse, non-compliance and diversion as well as the risk of side effects of such high doses of CDS. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, and (3) lack of sufficient justification for CDS dosages and increases. Defendant gave increased stimulant dosages which did not correlate to the patient reporting "doing well" noted in the record.
 - d. Patient B.H.W. received 220 mg of Ritalin per day for over 3 years, which is 4 times the FDA maximum recommendation of 60 mg per day. Key findings were Lack of informed consent for medications including the risks, benefits and alternatives available, no detailed history elicited to support the diagnoses of ADHD and Autistic Spectrum Disorder (ASD), lack of sufficient follow up monitoring and lack of sufficient justification for CDS dosages and increases.

There was insufficient follow up monitoring and lack of sufficient justification for the sustained high doses of CDS prescribed.

- e. Patient H.H.W. received 320 mg of Zenedi per day, which is 6 times the FDA maximum recommendation. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, (3) lack of sufficient justification for CDS dosages and increases, and (4) lack of informed consent regarding the medications prescribed. There was no documented history to support the diagnoses given of ADHD, OCD and Anxiety. There was insufficient monitoring of this patient especially given evidence indicative of possible abuse of his prescribed CDS.
- f. Patient D.I.W.'s prescription was increased for Adderall without documentation to support.
- g. Patient P.K.W. received 360 mg of Adderall, which is 6 times the FDA maximum recommendation of 60 mg per day. Patient record lacked adequate documentation to support diagnosis of ADHD, Mood Disorder, NOS, OCD, Depression and Anxiety disorder. No documentation to support a massive dosage of Adderall. There is no evidence of informed consent regarding the medications prescribed and their known potential side effects. There was no inquiry of discussion of past or present substance abuse issues.
- h. Patient J.L.W. averaged between 12 mg to 18 mg of Xanax XR. The FDA guideline maximum recommendation is 10 mg for anxiety. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, (3) lack of sufficient justification for CDS dosages and increases, and (4) lack of informed consent regarding the medications prescribed. Defendant did not document any history supporting the diagnoses of Generalized Anxiety Disorder and Cyclothymia and no information regarding history of or current substance abuse. Continued prescriptions of long term benzodiazepine while opiates, were being prescribed to patient from 12 different doctors in 12 months. See also, this patient's criminal history below at ¶11.
- i. Patient K.M.W., who was 15 years old, received 108 mg per day of Ritalin. The FDA guideline recommended maximum dosage for that drug is 72 mg per day. There was no informed consent for medications including the risks, benefits and alternatives. There was insufficient patient history and monitoring of this patient, whose parent stated she "almost acts intoxicated". There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, and (3) lack of sufficient justification for CDS dosages and increases especially considering evidence of noncompliance.
- j. Patient A.N.W. had an increase in the dosage of Focalin, with insufficient justification and the records on this patient were substandard. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, (3) lack of sufficient justification for CDS dosages and

increases, (4) and lack of informed consent regarding the medications prescribed. Defendant did not document sufficient evidence supporting the diagnoses of Bipolar Disorder, Cylothymia, ADHD and Depressive Disorder.

- k. Patient J.T.W. patient records were very poorly maintained. There were no records for the period of January 2012 to January 2014, though patient was filling prescriptions for Adderall prescribed by Defendant. The records that are available do not provide detail or support for the prescribed CDS.
 - l. Patient R.W.W. averaged 16 mg of Xanax XR while the FDA guideline maximum recommendation is 10 mg for Panic Disorder. She was also prescribed Adderall. Defendant increased R.W.W.'s prescription for Adderall over 400 percent in a 48 day period with insufficient justification. There was a lack of, (1) documentation to support the treatment rendered, (2) lack of sufficient follow up monitoring, (3) lack of sufficient justification for CDS dosages and increases, and (4) lack of informed consent regarding the medications prescribed. Defendant did not document any history supporting the diagnoses of ADHD and Generalized Anxiety Disorder. Defendant continued to prescribe Xanax in spite of evidence that the patient was exhibiting clear substance abuse behavior and side effects. See also, this patient's criminal history below at ¶12.
 - m. Patient D.L.W. was taking 10mg of Xanax and 80mg of Adderall. There was a lack of documentation to support the treatment rendered, lack of sufficient follow up monitoring, lack of sufficient justification for CDS dosages and increases and lack of informed consent regarding the medications prescribed. Defendant did not document any history supporting the diagnoses of GAD. There was no documentation regarding inquiries into past or present substance abuse in spite of evidence that the patient was exhibiting clear substance abuse behavior and side effects. See also, this patient's criminal history below at ¶13.
 - n. Patient B.D.W. was taking 12mg/day dosage of Xanax in spite of continued signs of substance abuse as well as familial reports of substance abuse. See also, this patient's criminal history below at ¶14.
- 9. Defendant submitted written correspondence wherein Defendant admitted that the documentation in the patient charts for Patient J.T.W. was woefully inadequate due to the fact that J.T.W. was a former colleague, and that Defendant had been prescribing medication on an "informal basis" to J.T.W. prior to an actual office visit. Defendant further admitted that he was prescribing those medications without having established a proper physician-patient relationship.
 - 10. Investigator Washbourne reviewed court records of subpoenaed patient records, and obtained police and court records on patient's J.L.W., R.W.W., D.L.W. and B.D.W.
 - 11. J.L.W. court records revealed the following:
 - a. J.L.W. became a patient of Defendant in 2012.

- b. J.L.W. averages between 12 and 18 mg of Xanax per day from Defendant, and receives Hydrocodone and Oxycodone from other physicians.
 - c. November 2014, J.L.W. was arrested for DUI-Drugs, Child Endangerment and Driving Left of Center in Creek County, Oklahoma, J.L.W. pled guilty on June 4, 2015.
 - d. May 13, 2015, J.L.W. was arrested by Mannford Police Department, Oklahoma, for Possession of Marijuana, Possession of Drug Paraphernalia, and Possession of CDS (Morphine and Xanax). J.L.W. pled guilty to Possession of CDS in Creek County, Oklahoma.
 - e. March 25, 2016, J.L.W. was arrested by Sand Springs Police Department, Oklahoma, for Possession of CDS (Xanax), Possession of Firearm AFCF, and Possession of Drug Paraphernalia.
12. R.W.W. court records revealed the following:
- a. R.W.W. became a patient of Defendant on March 10, 2015.
 - b. Arrested on February 9, 2014 in Owasso, Oklahoma, for Possession of Marijuana, Possession of drug paraphernalia, possession of CDS (Xanax and Oxycodone). R.W.W. pled guilty to possession of CDS, a misdemeanor in Tulsa County, Oklahoma, on February 25, 2016.
 - c. Arrested on October 1, 2015 for driving under the influence of a drug (Xanax), Possession of Marijuana, Possession of drug paraphernalia and possession of CDS. R.W.W. pled guilty to Actual Physical Control of a vehicle and possession of CDS, a felony in Creek County, Oklahoma, on February 29, 2016.
 - d. Arrested in a hotel parking lot after hitting a parked car and passing out with drool coming out of her mouth. R.W.W. was found with two uncapped syringes in her left hand and 5, 2 mg Xanax tablets in a cigarette box. R.W.W. pled guilty to misdemeanor possession of CDS and unlawful possession of drug paraphernalia in Tulsa County, Oklahoma, on January 7, 2016.
 - e. R.W.W. made a police report in Tulsa, Oklahoma, reporting her Xanax prescription was stolen from her car and received an early refill of #240 on January 21, 2016, from Defendant. R.W.W.'s previous refill was filled on January 12, 2016, from Defendant.
 - f. Three days later, January 23, 2016, R.W.W. was arrested by Owasso Police Department, Oklahoma, for domestic assault and battery with a deadly weapon. R.W.W. stated that her Xanax pills were stolen.
 - g. Arrested on March 18, 2016 for possession of CDS (Xanax) with intent to distribute, AFCF and possession of Marijuana, AFCF. R.W.W. pled guilty on

December 12, 2016 in Tulsa County, Oklahoma. She had 5 individual bags in which 32.5 pills were divided between them.

- h. June 14, 2016, R.W.W. was found passed out, shortly after an appointment with Defendant, located approximately 5 blocks away from Defendant's medical office. Found in the vehicle were 5, 2 mg Alprazolam pills.
 - i. June 17, 2016, R.W.W. was arrested by the Sand Springs Police Department, Oklahoma, for possession of CDS- 3rd offense AFCE, Actual Physical Control of a Vehicle- 2nd offense, Possession of marijuana and Possession of drug paraphernalia. R.W.W.'s skin was in very poor condition with open wounds covering her entire face as well as needle marks in many areas along her arms. Brown Tar Heroin was recovered from her vehicle. She admitted to police officers that she had taken Xanax prior to driving. She was charged with unlawful possession of CDS, and unlawful possession of marijuana in Tulsa County, Oklahoma.
13. D.L.W. court records revealed the following:
- a. D.L.W. became a patient of Defendant in October 2012.
 - b. He was being prescribed 10 mg of Xanax per day and 80 mg of Adderall per day.
 - c. March 18, 2016, D.L.W. was arrested for Possession of CDS Marijuana, Heroin and Xanax. He pled guilty and received a deferred sentence.
14. B.D.W. court records revealed the following:
- a. B.D.W. became a patient of Defendant in 2011.
 - b. He began with a prescription for 8 mg of Xanax per day and has increased to 12 mg of Xanax per day.
 - c. November 3, 2012, B.D.W. was arrested by the Mannford Police Department, Oklahoma, for DUI, Drugs, Xanax and Marijuana.
 - d. April 15, 2015, B.D.W. was arrested by the Mannford Police Department, Oklahoma, for Public Intoxication and Possession of Drug Paraphernalia. He admitted to police that he had shot up Morphine.
 - e. March 19, 2016, B.D.W. submitted a report to the Tulsa Police Department, Oklahoma, that his prescription of Xanax was stolen out of his unlocked car. He had received that prescription on March 16, 2016. Defendant prescribed a refill for this medication on March 21, 2016.

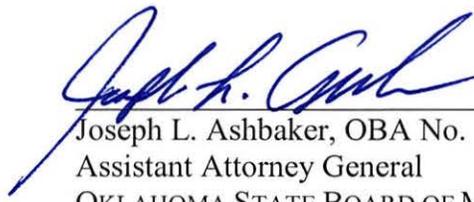
II. VIOLATIONS

15. Based on the foregoing, the Defendant is guilty of professional misconduct as follows:
- a. Dishonorable or immoral conduct likely to deceive, defraud, or harm the public, in violation of 59 O.S. 2011, § 509(8) and Okla. Admin. Code § 435:10-7-4(11);
 - b. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship, in violation of 59 O.S. 2011, § 509(12);
 - c. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards, in violation of 59 O.S. 2011, § 509 (16) and Okla. Admin. Code § 435:10-7-4(2);
 - d. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient, in violation of 59 O.S. 2011, § 509 (18);
 - e. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained, in violation of 59 O.S. 2011, § 509(20) and Okla. Admin. Code § 435:10-7-4(41);
 - f. Indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs, in violation of Okla. Admin. Code § 435:10-7-4(1);
 - g. Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need, in violation of and Okla. Admin. Code § 435:10-7-4(6);
 - h. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering or giving a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug, in violation of and Okla. Admin. Code § 435:10-7-4(25);
 - i. Improper management of medical records, in violation of Okla. Admin. Code § 435:10-7-4(36).

III. CONCLUSION

Given the foregoing, the undersigned requests the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to the

Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.



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VERIFICATION

I, Stephen Washbourne, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding the Defendant, Walter Jay Exon, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



Stephen Washbourne, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: 8-23-17
Oklahoma
County, State of Execution