

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

FILED

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

FEB 27 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 08-12-3638

JOEL ALLAN ORMSBY, P.A.)
LICENSE NO. PA1148,)

Defendant.)

COMPLAINT

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Joel Allan Ormsby, P.A., alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 887.1 *et seq.*

2. Defendant, Joel Allan Ormsby, P.A., holds Oklahoma license no. PA1148 and practices as a physician assistant in Alva, Oklahoma.

3. Defendant has a long history of drug abuse. Defendant admits use or abuse of Alcohol, Marijuana, Mepergan Fortis, Cocaine, Hydrocodone, Valium, Ambien and Dexamathorphan for the past twenty-seven (27) years.

4. From 2002 through 2008, Defendant periodically ingested controlled dangerous substances not prescribed to him. He obtained Lortab and Mepergan Fortis from a neighbor, he stole Lortab, Darvocet and Restoril from his wife, and he stole Lortab and Xanax from elderly patients who came into the clinic where he worked.

5. In or around January 2003, Defendant took Ambien while on call. Three (3) hours

later he was called into the hospital. He had a car wreck on the way to the hospital while under the influence of Ambien and broke his neck. No charges were filed against Defendant as a result of that car wreck.

6. In early 2007, Defendant was involved in two (2) additional motor vehicle accidents while under the influence of Ambien. In both of these cases, the police were not involved and no charges were filed against Defendant.

7. In or around 2007, Defendant was involved in a motorcycle accident while he was under the influence of alcohol. No charges were filed as a result of that accident.

8. On or about May 31, 2007, Defendant was arrested by the Stillwater Police Department and charged with DUI-Drugs. At the time of the arrest, Defendant had hit a tree with his car and was trying to leave the scene of the accident. He admitted to the police officer that he had taken Darvocet, a muscle relaxant and Ambien approximately thirty (30) minutes before the arrest. The police officer noted that defendant was talking to himself, was confused and was unsteady on his feet. This DUI charge is still pending in Payne County, Oklahoma.

9. On or about March 12, 2008, Defendant submitted his Application for Renewal of Oklahoma License. On his application, Defendant was asked the following questions:

"Since the last renewal or initial licensure (whichever is most recent),

Have you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?

Have you been arrested for, charged with, or convicted of a traffic violation involving the use of any drug or chemical substance including alcohol?

Have you been addicted to or abused any drug or chemical substance including alcohol?"

In response to each of these questions, Defendant answered "No."

10. On or about September 3, 2008, Defendant was arrested by the Stillwater Police Department and charged with DUI-Alcohol. At the time of the arrest, Defendant was too intoxicated to stand up. He admitted to the police officer that he had been drinking alcohol and had taken Darvocet a few hours earlier. This DUI charge is still pending in Payne County, Oklahoma.

11. Defendant has admitted that in or around 2007 and 2008, Defendant abused over-the-counter Dexamethorphan whereby he ingested 20-30 tablets a day, causing frequent blackouts.

12. Subsequent to this arrest, Defendant met with Dr. Lanny Anderson, who

recommended that he get an evaluation for substance abuse. Defendant continued to consume alcohol even after meeting with Dr. Anderson.

13. On or about September 20, 2008, Defendant obtained an assessment at Bradford Health Services. Bradford recommended twelve (12) weeks of residential treatment. During his assessment, Defendant submitted a hair sample for analysis, which subsequently tested positive for Codeine, Hydrocodone, Propoxyphene and Alcohol.

14. In October 2008, Defendant met with Lyle R. Kelsey, Executive Director and Gerald C. Zumwalt, Secretary and Medical Advisor to the Board. During this meeting, Defendant did not advise Board staff of his 2007 DUI, nor did he advise staff of his previous car wrecks due to Ambien abuse and his 27 year history of substance abuse. Defendant only advised staff of his September 3, 2008 DUI arrest. Defendant did not present a copy of his Bradford assessment to Board staff at that time. Based upon Defendant's representation that the September 3, 2008 DUI was his only incident involving substance abuse, staff agreed to Defendant's request to allow him to obtain treatment at Valley Hope in Cushing for thirty (30) days. Staff advised Defendant that as a condition to allowing him to obtain treatment at Valley Hope, he had to immediately affiliate with the Oklahoma Health Professionals Recovery Program and provide copies of his assessment and discharge summaries to Board staff.

15. On or about December 2, 2008, Board staff was notified by the Oklahoma Health Professionals Recovery Program that Defendant had still not affiliated with the program.

16. On or about December 15, 2008, after being informed of the Board's investigation, Defendant contacted the Oklahoma Health Professionals Recovery Program and was given information necessary to set up the required drug testing.

17. On or about December 19, 2008, Board Investigator Robert DuVall interviewed Defendant. During this interview, Defendant admitted that he had not disclosed his March 2007 arrest for DUI to Mr. Kelsey or Dr. Zumwalt during his meeting with them in October 2008. Defendant additionally admitted that he had lied on his March 2008 Application for Renewal by not disclosing his March 31, 2007 DUI arrest and his history of substance abuse.

18. On or about January 16, 2009, Investigator DuVall was advised by the Oklahoma Health Professionals Recovery Program that Defendant had still not set up the required drug testing.

19. On or about January 19, 2009, Investigator DuVall contacted Valley Hope to determine if Defendant had signed a release for the Board to receive his treatment records. Defendant learned that he had not.

20. On or about January 21, 2009, Investigator DuVall obtained a urine specimen from Defendant. Defendant advised Investigator DuVall that he had drunk alcoholic beverages the night before. Defendant admitted to the Board Investigator that drinking alcohol was not allowed in his recovery program.

21. On or about February 9, 2009, Investigator DuVall was advised by the Oklahoma Health Professionals Recovery Program that a urine specimen collected by the program on January 22, 2009 had tested positive for Darvocet, for which he had a prescription, and for alcohol. Mr. DuVall was advised the Defendant's use of Darvocet was prohibited by the program.

22. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. §509(8) and OAC 435:10-7-4(11).
- C. He has violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(4) and OAC 435:10-7-4(3).
- E. He is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).
- F. He has engaged in the commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(9).
- G. He has violated or attempted to violate, directly or indirectly, any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice in violation of 59 O.S. §509(13).

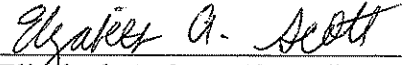
- H. He engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).
- I. He is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).
- J. He has engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- K. He has engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- L. He has failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

23. These allegations raise serious concerns about Defendant's ability to practice as a physician assistant in the State of Oklahoma with reasonable skill and safety.

WHEREFORE, plaintiff requests that 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, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician assistant in the State of Oklahoma.

Dated this 27th day of February, 2009.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

Assistant Attorney General

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Attorney for State ex rel.

Oklahoma Board of Medical Licensure and
Supervision