

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

**STATE OF OKLAHOMA
EX REL. THE OKLAHOMA BOARD
OF MEDICAL LICENSURE
AND SUPERVISION,**

Plaintiff,

v.

**BERNARD FIORAVANTI, M.D.
LICENSE NO. MD 11797**

Defendant.

FILED

AUG 16 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 13-04-4718

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, Scott Randall Sullivan, Special Prosecutor for the Board, and for its Complaint against the Defendant, Bernard Fioravanti, M.D., 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 physicians and surgeons in the State of Oklahoma pursuant to 59 O.S. §480 *et seq.*
2. Defendant, Bernard Fioravanti, M.D., holds Oklahoma medical license no. 11797. This matter herein was initiated when a DEA report was forwarded to Board Investigator SW.
3. The report showed that Defendant ordered and had delivered to his residence the following:

**2,800 Hydrocodone 10/500 tabs;
3,300 Diazepam 10 mg tabs;**

**1,600 Alprazolam 1.0 mg tab; and
9,000 Phentermine, 37.5 mg tabs**

4. On January 4, 2013, in an interview with DEA Agent Haney, Defendant admitted ordering the CDS for his personal use and stated he had been storing the CDS in his floor safe at his residence. Agent Haney took custody of 766 tabs of Phentermine and 910 tabs of Diazepam. There were no Hydrocodone or Alprazolam on the premises. That same day Defendant surrendered his DEA drug permit.
5. On May 7, 2013 Board Investigator SW met with Defendant and his counsel, Mr. Craig Buchan. Defendant admitted ordering and personally using the CDS stating that it was for his "legitimate medical conditions." Defendant went on to state he has peripheral neuropathy and was prescribing the meds as he thought was best to treat his condition.
6. During the meeting on May 7th, Defendant reviewed his prescribing record and indicated he had charts on all of the patients to whom he has prescribed with the exception of the R Family which consists of three people. He stated they are family acquaintances.
7. On May 9, 2013 Defendant emailed Board Investigator SW advising he would be going to Talbott Recovery Center (Talbott) in June of 2013 for the purposes of an assessment. However, after assessment Defendant told Board Investigator SW he was not in agreement with Talbott's opinions and/or recommendations.
8. On July 3, 2013 Board Investigator SW received the assessment report from Talbott dated June 21, 2013 which states, in part:

"It is the opinion of this facility's assessment team that Dr. Fioravanti *cannot practice medicine with safety* in regard to chemical dependence."

And further reports:

"It is the opinion of this facility's assessment team that Dr. Fioravanti is a candidate for and *should attend treatment for chemical dependency...*"

9. Defendant is guilty of unprofessional conduct in that he engaged in:

- a) Habitual intemperance or the habitual use of habit-forming drugs in violation of Title 59 O.S. §509.4;
- b) Confession of a crime involving violation of the laws of this state in violation of Title 59 O.S. §509.7(b);
- c) 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 Title 59 O.S. §509.9;
- d) Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of Title 59 O.S. §509.10;
- e) The inability 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 as a result of any mental or physical condition in violation of Title 59 O.S. §509.15;
- f) Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs in violation of Oklahoma Administrative Code Rule 435:10-7-4(1);
- g) Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform CDS Act, for the physician's personal use in violation of Oklahoma Administrative Code Rule 435:10-7-4(5);
- h) Prescribing, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself in violation of Oklahoma Administrative Code Rule 435:10-7-4(26);

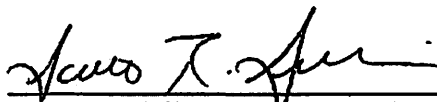
- i) Violating any state or federal law or regulation relating to controlled substances in violation of Oklahoma Administrative Code Rule 435:10-7-4(27);

- j) The inability 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 Oklahoma Administrative Code Rule 435:10-7-4(40).

CONCLUSION

WHEREFORE, the Plaintiff respectfully 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 and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



Scott Randall Sullivan, OBA #11179
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
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Attorney for Plaintiff