

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

STATE OF OKLAHOMA

**FILED**

SEP 29 1988

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

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff,

v.

WILLIAM HENRY YARBOROUGH, M.D. )  
Medical License No. 11837, ) CASE NO. 88-8-649

Defendant.

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision en banc on the 15th day of September, 1988, at the office of the Oklahoma State Medical Association, 601 NW Expressway, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and William Henry Yarborough, M.D., Defendant, appeared in person, pro se, and waived his right to counsel and announced ready to proceed.

The Board of Medical Licensure and Supervision en banc heard testimony and reviewed exhibits and being fully advised in the premises, the Board of Medical Licensure and Supervision therefore finds as follows:

FINDINGS OF FACT

1. That Defendant, William Henry Yarborough, M.D., holds Oklahoma Medical License No. 11837.

2. That the Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. Defendant was lawfully served with a Complaint and Citation that alleged certain violations of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 509.

4. That from approximately January 9, 1987, to July 21, 1988, Defendant purchased and then prescribed, administered or dispensed approximately 46,000 dosage units of Diphenoxylate with Atrophine (Lomotil, Lonox), a controlled dangerous substance, to various patients, and Defendant failed to keep complete and accurate records of the purchase and subsequent disposal of the aforesaid controlled dangerous substances or narcotic drugs.

5. That from approximately January 9, 1987, to July 21, 1988, Defendant did dispense quantities of Diphenoxylate with Atrophine (Lomotil, Lonox), a controlled dangerous substance, to numerous persons without the establishment of a valid physician-patient relationship, specifically including, but not limited to, the patients R.Mc., S.H., R.S., J.L., and J.Y.

6. That from approximately January 9, 1987, to July 21, 1988, Defendant did prescribe, administer or dispense approximately 46,000 dosage units of Diphenoxylate with Atrophine (Lomotil, Lonox), a controlled dangerous substance, in excess of the amount considered good medical practice or without medical

need, specifically including, but not limited to, the five patients identified above.

7. That from approximately November 1, 1987, to July 21, 1988, Defendant did dispense to numerous patients Diphenoxylate with Atrophine (Lomotil, Lonox), a controlled dangerous substance, and Defendant failed to keep any book, file or record in which must be kept for a period of not less than five years a record of every dangerous drug compounded or dispensed by the licensed physician.

8. That the substance Diphenoxylate with Atrophine (Lomotil, Lonox), a controlled dangerous substance, can be broken down, filtered, and the components separated and the residue, a powder or crystal form, is a Meperidine-like drug.

#### CONCLUSIONS OF LAW

1. That William Henry Yarborough, M.D., holding Oklahoma Medical License No. 11837, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 509, Paragraphs 11, 13, and 17, to-wit:

"11. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs."

"13. Prescribe or administer a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship."

"17. 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."

2. That in addition, Dr. Yarborough is in violation of 59 O.S. Supp. 1987, Sec. 355.1, which provides in pertinent part as follows, to-wit:

"The licensed practitioner shall keep a suitable book, file or record in which shall be preserved for a period of not less than five years a record of every dangerous drug compounded or dispensed by the licensed practitioner."

#### ORDER

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

1. That the Defendant, William Henry Yarborough, M.D., holding Oklahoma Medical License No. 11837, will be and is hereby placed on probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of two (2) years, beginning on September 15, 1988, under the following terms and conditions:

(a) That the Defendant immediately register as a dispensing physician as required by Oklahoma law in the event he continues to dispense any narcotic drugs and/or controlled dangerous substances.

- (b) The Defendant is formally admonished of record to keep legally required records on purchase and dispensing of narcotic drugs and/or controlled dangerous substances.
- (c) The Defendant shall institute a security system and tracking system covering all prescribing, administration, dispensing and storage of narcotic drugs and/or controlled dangerous substances.
- (d) During the period of probation Defendant may prescribe controlled dangerous substances only on serially-numbered, duplicate prescription pads and shall make the copies available to Investigators of the Oklahoma State Board of Medical Licensure and Supervision at their request, to include all dispensing records on controlled dangerous substances other than sample medication.
- (e) Defendant shall read and study State and Federal statutes relating to medical practice and the prescribing, administering, dispensing and storage of narcotic drugs and/or controlled dangerous substances.
- (f) That the Defendant shall be maintained on a probation by the staff of the Oklahoma State Board of Medical Licensure and Supervision at Level II.
- (g) During the period of probation, Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (h) Defendant shall appear before the Board en banc or a designated member thereof whenever requested to do so.
- (i) During the period of probation Defendant will submit to the Investigative Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (j) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigative Division of the Board the costs of investigation, prosecution and probation of this case.
- (k) That violation of any the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

2. That the jurisdiction of the Board in this individual proceeding will continue in this matter until the terms and conditions of probation are modified or lifted by the Oklahoma State Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

3. The Defendant further agrees that failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License, after additional due notice and hearing.

DATED this 29<sup>th</sup> day of September, 1988.

Gerald C. Zumwalt  
GERALD C. ZUMWALT, M.D., Secretary  
State Board of Medical Licensure  
and Supervision

~~APPROVED AS TO FORM:~~

Daniel J. Gamino  
DANIEL J. GAMINO OBA #3227  
Daniel J. Gamino & Associates, P.C.  
3315 NW 63  
Oklahoma City, OK 73116  
(405) 840-3741  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 5 day of October, 1988, to:

WILLIAM HENRY YARBOROUGH, M.D.  
c/o Urgent Care Center  
3534 E. 51st  
Tulsa, OK

Janet L. Owens