

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

FILED

JAN 20 2010

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

Plaintiff)

v.)

MARIA JEAN LUCAS, RC)
LICENSE NO. RC1200,)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-12-3883

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, Maria Jean Lucas, RC, Oklahoma license no. RC1200, 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 respiratory care practitioners in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*

2. Defendant, Maria Jean Lucas, PT, holds Oklahoma respiratory care practitioner license no. RC1200. At the time of the incidents in question, Defendant practiced in Tulsa, Oklahoma and was the owner/operator of Asthma and Respiratory Services of Oklahoma, Inc. ("ARS"), a Durable Medical Equipment provider.

3. On or about July 22, 2008, Defendant was charged in the District Court of Tulsa County, State of Oklahoma, with three (3) counts of **FELONY MEDICAID FRAUD** in violation of 56 O.S. §1005. These charges were based upon the following incidents:

- a. ARS upcoded billing for sterile gauze pads. ARS purchased and shipped inexpensive sterile gauze products but billed a higher code to maximize reimbursement. ARS submitted false claims to Medicaid by upcoding on inexpensive sterile gauze resulting in Medicaid Fraud in excess of \$2,500.00.

- b. ARS used CPT codes to bill for medical office visits and procedures allegedly performed by a physician when in fact no physician performed office visits or procedures for ARS. ARS submitted false claims to Medicaid by billing CPT codes for medical visits and procedures which did not occur resulting in Medicaid Fraud in excess of \$2,500.00.
- c. ARS billed separately for attachments or accessories required to be provided in conjunction with oxygen concentrator rental, resulting in “unbundling” of services. ARS submitted individual claims for each item monthly in addition to submitting a claim for the monthly rental, resulting in a significant overpayment. Additionally, excessive shipments of accessories were shipped without medical need at Defendant’s instruction to maximize ARS’ Medicaid reimbursement. ARS submitted false claims to Medicaid by unbundling oxygen accessories in order to increase reimbursement, resulting in Medicaid Fraud in excess of \$2,500.00.

4. Defendant plead **NOT GUILTY** to the charges. However, on October 9, 2009, a jury in Tulsa County found her **GUILTY** and sentenced her to a fine in the amount of **\$95,222.00**, along with all costs, fees and assessment in the case.

5. Oklahoma Administrative Code Section 435:5-1-5.2 provides as follows:

(b) The Board shall revoke the license of a person licensed by the Board who has a final felony conviction.

6. Defendant is guilty of unprofessional conduct in that she:

- A. Is guilty of dishonest or unethical conduct in violation of 59 O.S. § 2040(5).
- B. Has violated or aided or abetted others in violation of any provision of the Respiratory Care Practice Act in violation of 59 O.S. §2040(8).
- C. Has been guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board in violation of 59 O.S. §2040(9).
- D. Was convicted of, or confessed or plead no contest to, a felony or of a crime involving moral turpitude in violation of OAC 435:45-5-3(a)(5).

- E. Aided, abetted or assisted any other person to violate or circumvent any law or rule or regulation intended to guide the conduct of a respiratory care practitioner in violation of OAC 435:45-5-3(a)(9).
- F. Engaged in fraudulent billing practices and/or violation of federal Medicare and Medicaid laws or state medical assistance laws in violation of OAC 435:45-5-3(a)(12).
- G. Violated any provision of the Respiratory Care Practice Act or the rules promulgated by the Board in violation of OAC 435:45-5-3(a)(21).
- H. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:45-5-3(a)(24).

Conclusion

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 the revocation or suspension of the Defendant's license to practice as a respiratory care practitioner in the State of Oklahoma, 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 respiratory care practitioner in the State of Oklahoma.

Dated this 8th day of January, 2010 at 1:00 p.m.

Respectfully submitted,



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