

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

FILED

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

Plaintiff,)

v.)

MARIA JEAN LUCAS, R.C.,)
LICENSE NO. RC1200)

Defendant.)

MAR 11 2010

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-12-3883

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 11, 2010, at the office of the Board, 101 N.E 51st Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared not.

The Board *en banc* after hearing arguments of counsel and reviewing the exhibits admitted, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of respiratory care therapists 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** on one (1) count of Medicaid Fraud 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).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. 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).

3. The Board further found that the Defendant's respiratory care therapist license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §2040 (5), (8) and (9) and OAC 435:45-5-3(5), (9), (12), (21) and (24).

Order

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

1. The license of Defendant, Maria Jean Lucas, R.C., Oklahoma license no. RC1200, is hereby **REVOKED** as of the date of this hearing, March 11, 2010.

2. If the Board reinstates Defendant's Respiratory Care Therapist License, it shall be under terms of probation to be determined at that time by the Board, with consideration of any recommendations of the Respiratory Care Advisory Committee.

3. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

4. Defendant's revoked license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

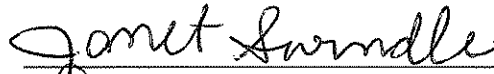
Dated this 11th day of March, 2010.



Curtis Harris, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 15 day of March, 2010, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Maria Jean Lucas, 40435 N. High Noon Way, Anthem, Arizona 85085.



Janet Swindle