

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.

ANDREW COOPER JOHN, M.D.,
LICENSE NO. 12045,

Defendant.

APR 15 2004

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 03-06-2673

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, Andrew Cooper John, 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 Okla. Stat. §480 *et seq.*

2. Defendant, Andrew Cooper John, M.D., holds Oklahoma license no. 12045.

3. Beginning on or around February 8, 1999 and continuing through March 21, 2003, Defendant purchased a total of **107,138 dosage units** of Cotuss-V Liquid 5 mg., a Schedule III controlled dangerous substance, for an average of **71.33 dosage units per day**. These drugs were purchased on twenty-seven (27) separate occasions by Defendant from Moore Medical Corp. The total amount of drugs purchased consisted of 1,116 bottles, each consisting of 480 ml. of Cotuss-V Liquid, for a total cost of \$11,383.00.

4. Defendant has no patient charts reflecting the prescribing, dispensing or administering of any of the Cotuss-V Liquid he purchased. Defendant additionally failed to keep any records of the receiving or destruction of these drugs.

5. On or about November 12, 2003, pursuant to an investigation by the Drug Enforcement Administration, Defendant entered into a Settlement Agreement with the United States Department of Justice and the DEA based upon allegations that he ordered the

Hydrocodone and failed to keep any receiving, dispensing or destruction records pertaining to the same. Defendant advised the DEA that he had destroyed the drugs without any witnesses, and had failed to keep adequate records of the destruction of the drugs. Pursuant to his Settlement Agreement, he paid \$75,000 and was prohibited from ordering, purchasing or dispensing any controlled dangerous drugs for two (2) years. In consideration for his agreement, Defendant required that the United States Attorney for the Western District of Oklahoma and the DEA were prohibited from disclosing the terms of the Settlement Agreement to the Oklahoma State Medical Board unless the Medical Board specifically requested it.

6. On or about February 3, 2004, Board investigator Washbourne and an OBN investigator interviewed Defendant regarding the drugs he had purchased and allegedly destroyed. During this interview, Defendant changed his story and advised the investigators that his wife had witnessed him destroy the drugs. He also told investigators that all of the drugs he had ordered had been destroyed and that he had no more drugs on the premises.

7. Defendant claimed that although he purchased the Hydrocodone cough syrup on 27 separate occasions (for a total of 1116 bottles), he never dispensed, prescribed or administered any of it to anyone. He claimed that each time, he decided not to use it and flushed it down the toilet. He would then reorder it, then again decide not to use it and flush it down the toilet.

8. At the conclusion of the interview, Investigator Washbourne requested that Defendant provide a urine sample to test for the presence of opiates, which Defendant refused.

9. From March 15, 2004 until March 18, 2004, Defendant submitted to an assessment at Talbott Recovery Campus. At the conclusion of the assessment, the assessment team requested that Defendant provide a hair sample to rule out a history of sustained Hydrocodone use. Defendant initially agreed, then asked that his hair sample be returned. He claimed that he had a bottle of Hydrocodone (left over from an old prescription) in his shaving kit, and that the pills may have come out of the bottle. He believed that he might have touched the pills and then touched his hair, which may have contaminated his hair.

10. As a result of Defendant's refusal to submit to a hair screen, Talbott's assessment was considered incomplete.

11. After his return from Talbott, Investigator Washbourne and an OBN investigator again interviewed Defendant at his office. During his interview, the investigators found eleven (11) cases, containing twelve (12) bottles each, of Cotuss-V Liquid, and four (4) loose bottles of the drug. Defendant had advised the investigators in February 2004 that all of the drugs had been destroyed and that there were no drugs on the premises.

12. Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(5) and OAC 435:10-7-4(3).

- B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- C. 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 59 O.S. §509(14) and OAC 435:10-7-4(39).
- D. 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 physician condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).
- E. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- F. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
- G. Failed to keep complete and accurate records of the purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. §509(11).
- H. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).
- I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8).
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27),
- K. Committed 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(10).

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,



Elizabeth A. Scott (OBA #12470)
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118
Attorney for the Plaintiff