

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

FILED

FEB 22 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff,)

v.)

Case No: 12-02-4503)

PHILLIP JOSEPH KNIGHT, M.D.)
LICENSE NO. 12150)

Defendant.)
)

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, and for its Complaint against the Defendant, Phillip Joseph Knight, 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 Title 59 O.S. §480 et seq.

2. Defendant Phillip Joseph Knight, M.D., holds Oklahoma medical license no. 12150.

3. On February 21, 2012, Robert Duvall ("Investigator") received a phone complaint from Melody Rachal, MD (24090) who advised that she is a hospitalist at Saint Johns in Tulsa. Dr. Rachal advised that they had a Patient BR transferred to Saint Johns from the Ponca City Hospital. The patient was intoxicated and had passed out and fallen at a Ponca City area casino. The fall had caused facial injuries that required a specialist so the patient was transferred to Saint Johns. Dr. Rachal advised that when the patient arrived he was still intoxicated.

4. Dr. Rachal advised that Patient BR was currently receiving large amounts of Hydrocodone, Soma and Diazepam from Dr. Phillip Knight, a Ponca City area family practice physician. Dr. Rachal advised that she spoke with Patient BR about his drinking and the medications he was taking. She stated that Patient BR advised that Defendant is a friend and "takes care" of him. Dr. Rachal also advised that from talking with Patient BR she believes he is

most likely an alcoholic.

HISTORY WITH THE BOARD

5. Defendant has two prior complaints with the Board. The first was a 1990 complaint (90-04-1039) that resulted in Defendant being cited for substance abuse (Hydrocodone) and prescribing violations. Defendant was writing controlled drug prescriptions to family members then picking up most of the prescriptions for his own use. Defendant's license was suspended for several months (until he successfully completed treatment) and he was later placed on five years' probation. His probation ended on 09/06/1996.

6. The second was a 10/10/2006 complaint (06-10-3183) that Defendant was verbally abusive to a patient and smelled as if he had been drinking. The case was opened and investigated. It was later closed with no violation found.

INVESTIGATION

7. After receiving this complaint and conducting an initial review of prescribing records, Investigator determined Patient BR was receiving large quantities of multiple medications from Defendant. These drugs include Hydrocodone, Oxycodone, Soma, Diazepam, Alprazolam and Phentermine.

8. A review of the investigative reports from the 1990 formal complaint (90-04-1039) found the names of the family members to whom the doctor had illegally prescribed medication. Upon Investigator conducting an initial review of the doctor's current prescribing records, it was found that Defendant is currently prescribing large amounts of Hydrocodone to a subject, Patient RW. Patient RW is Defendant's sister and her information is listed in the 1990 Board investigative report as one of the relatives to which the doctor had prescribed controlled medication

9. On 02/29/2012 Investigator again traveled back to Ponca City and made an unannounced visit to Defendant's clinic. Upon arrival Investigator met with Defendant and advised him of the complaint made in reference to Patient BR. It was explained to the Defendant that Investigator was concerned about the large amounts of Hydrocodone and other medications he was prescribing Patient BR. The Defendant was advised that Investigator believed that the Defendant may have relapsed and began taking controlled medication that he was prescribing to his patients. Defendant initially denied that he was abusing any medication. He stated that all medications written to his patients were for their legitimate medical issues. Investigator explained the investigation process to Defendant and advised him this was his opportunity to be truthful. At that point Defendant interrupted Investigator and suddenly stated, "I relapsed."

10. Upon questioning, Defendant advised that he had been suffering pain from chronic hip problems and heart disease. The doctor advised that approximately two years ago he started taking Hydrocodone for the pain. Defendant advised that he had talked with Patient BR about the pain he (Defendant) was having. Patient BR then offered to give back some of the Hydrocodone that Defendant was prescribing him. Defendant advised that his problem grew from that point. **Defendant admitted that he prescribed Patient BR more Hydrocodone than he needed so Patient BR could give some of the medication back for the Defendant's personal use.** Defendant advised that he only took Hydrocodone from Patient BR and had never received any of the other medications he had prescribed.

11. Investigator then questioned Defendant about Patient SS. **Defendant admitted that he had made the same arrangement with Patient SS and had prescribed more Hydrocodone than was needed so some could be returned for Defendant's use.**

12. Investigator questioned Defendant about Patient RW. Defendant advised that Patient RW was his sister. He admitted that she was one of the family members he had prescribed to and obtained CDS from when he was cited in the 1990 case (90-04-1039). **Defendant admitted that he had again made the arrangement with Patient RW to prescribe her Hydrocodone and have her return the medication to him.**

13. Upon receiving this information Investigator advised Defendant that he needed to stop seeing patients and close his clinic. Investigator requested that Defendant sign an Agreement Not to Practice. Defendant discussed the agreement then signed a faxed copy. Investigator also requested Defendant give a urine sample for a drug screen. Defendant complied with this request. The drug screen was later returned with a positive test for Hydrocodone.

14. Investigator, in a follow-up interview on June 29, 2012, advised Defendant he had some questions about the documentation in the medical records of Patients BR, SS and RW. Defendant stated that he was not sure what he had put in the record to cover the prescriptions he had given to the three subjects. Defendant advised the period of his substance abuse was a very "hazy time" in his memory. Investigator told Defendant that many of the progress notes for about the last year of treatment of these patients looked very similar. Investigator advised Defendant that he suspected he added many of these entries after he was advised that Investigator was obtaining pharmacy records for these subjects on the day before he met him at his office. Defendant admitted that he had received notice Investigator was in Ponca City obtaining pharmacy records. Defendant also **admitted that after receiving this info he added information to the medical records to make them look more complete.**

15. Investigator also spoke with Defendant about his prescribing and substance abuse.

Defendant advised that he did not know how many prescriptions he authorized the involved patients. Defendant stated he thought he authorized new prescriptions for the subjects about every two weeks. Defendant advised that initially he only got medications back from Patient BR, but his abuse got to the point that this was no longer enough medication. That is when he began to obtain medication back from the other subjects.

PRESCRIPTION SUMMARY

16. A review of pharmacy records for the time period between 01/01/2010 – 03/01/2012 show that each listed patient received the following scheduled medications from Defendant.

A. **Patient BR:** Pharmacy records show that between 01/14/2010 and 02/27/2012 Defendant authorized the following:

- Hydrocodone 10/500: 89 prescriptions with a total dosage number of 11,260...Average approx. 14.54 per day over a 774-day period.
- Soma 350 mg: 64 prescriptions with a total dosage number of 5,760...Average of approx. 7.5 per day over a 774-day period.
- Diazepam 10 mg: 57 prescriptions with a total dosage number of 2,420.....Average of approx. 3.10 per day over a 774-day period.
- Phentermine 37.5 mg: 62 prescriptions with a total dosage number of 1,860.....Average of approx. 2.40 per day over a 774-day period.
- Alprazolam 1 mg: (01/31/2011 – 02/20/2012) 14 prescriptions with a total dosage number of 560....Average of approx. 1.45 over a 385 day period.
- Oxycodone 10 mg: 1 (02/14/2012) prescription with a total dosage number of 50.

Total numbers for these controlled medications: **287** prescriptions with a total

dosage number of **21,920**....Average of approx. **28.30** dosage units per day over a **774-day period**. All the above listed prescriptions were filled at 6 Ponca City area pharmacies on staggered dates so that refill dates at each pharmacy were within acceptable time periods.

B. Patient SS: Pharmacy records show that between 01/11/2010 and 02/23/2012 Defendant authorized the following:

- Hydrocodone 10/500: 79 prescriptions with a total dosage number of 9,460....Average of approx. 12.20 per day over a 773-day period.
- Soma 350 mg: 44 prescriptions with a total dosage number of 3,960.....Average of approx. 5.10 per day over a 773-day period.
- Alprazolam 1 mg: 48 prescriptions with a total dosage number of 2,880.....Average of approx. 3.70 per day over a 773-day period.
- Diazepam 10 mg: 21 prescriptions with a total dosage number of 1,010....Average of approx. 1.40 per day over a 723-day period.

Total numbers for these controlled medications: **191** prescriptions with a total dosage number of **17,430**....Average of approx. **22.55** dosage units per day over a **773-day period**. All the above listed prescriptions were filled at 4 Ponca City area pharmacies on staggered dates so that refill dates at each pharmacy were within acceptable time periods.

C. Patient RW: Pharmacy records show that between 01//2010 and 02//2012 Defendant authorized the following:

- Hydrocodone 10/500: 51 prescriptions for a total dosage number of 5740 doses...Average of approx. 8.38 doses per day over 685 day period.
- Carisoprodol 350 mg: 6 prescriptions for a total number of 360 doses (03/07/2011 – 02/23/2012). Average of approx.

1 dose per day over a 353 day period.

17. Defendant is guilty of unprofessional conduct in that he violated:
- A. Title 59 O.S. §509.(1): Procuring aiding or abetting a criminal operation;
 - B. Title 59 O.S. §509.(4): Habitual intemperance or the habitual use of habit-forming drugs;
 - C. Title 59 O.S. §509.(7): Conviction or confession of a crime involving violation of:
 - a. the antinarcotic or prohibition laws and regulations of the federal government,
 - b. the laws of this state;
 - D. Title 59 O.S. §509.(8): Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;
 - E. Title 59 O.S. §509.(9): 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. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;
 - F. Title 59 O.S. §509.(13): The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice;
 - G. Title 59 O.S. §509.(15): 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....
 - H. Title 59 O.S. §509.(16): 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; and

I. Title 59 O.S. §509.(18): Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient.

18. And further Defendant is guilty of unprofessional conduct in that he violated:

A. OAC Rule 435:10-7-4.(1): Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs;

B. OAC Rule 435:10-7-4.(2): 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 standard;

C. OAC Rule 435:10-7-4.(3): The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient;

D. OAC Rule 435:10-7-4.(5): Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use;

E. OAC Rule 435:10-7-4.(6): Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need;

F. OAC Rule 435:10-7-4.(11): Conduct likely to deceive, defraud, or harm the public;

G. OAC Rule 435:10-7-4.(24): Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes;

H. OAC Rule 435:10-7-4.(26): Prescribing, selling, 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 or herself...;

I. OAC Rule 435:10-7-4.(27): Violating any state or federal law or regulation relating to controlled substances;

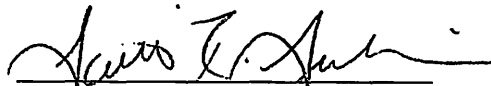
J. OAC Rule 435:10-7-4.(39): Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board; and

K. OAC Rule 435:10-7-4.(40): The inability to practice medicine and surgery 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....

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,



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