

**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.

**TIMOTHY HILL, M.D.
LICENSE NO. MD12712,**

Defendant.

MAY 24 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 12-08-4594

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, Timothy Hill, 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 to 59 Okla. Stat. §480 *et seq.*
2. Defendant Timothy Hill, M.D., holds Oklahoma license no.12712.
3. This case was initiated on 08/06/2012 when Board Staff received an email from DEA Agent MS. DEA investigators had conducted an onsite inspection at Defendant's residence. This inspection was conducted after learning Defendant was ordering controlled dangerous substances from manufacturer Henry Schein that were being delivered to the doctor's residence. The initial e-mail from Agent MS advised Defendant had been dispensing the medication to patients without keeping a medical record.
4. During the DEA interview Defendant stated he dispensed CDS to friends, neighbors and church members, not family or himself. Defendant said he dispensed the CDS instead of writing a prescription for them because, "...some don't have money...for convenience." Defendant admitted to DEA agents he did not maintain any patient charts; just a log of the CDS and to whom they were dispensed. Defendant admitted he did not enter the CDS he dispensed into the Oklahoma Bureau of Narcotics Prescription Monitoring Program as required. The DEA inspection determined the Defendants controlled dangerous substance inventory at that time consisted of: Schedule III Medications- # 1000 Phendimetrazine 35 mg, #100 Hydrocodone 7.5 mg, Schedule IV Medications- #100 Lorazepam 2mg, #100 Diazepam 10mg, #100 Triazolam .25 mg and #15 Zolpidiem 10mg.

Controlled Drug Violations

5. On 08/23/2012 Defendant was interviewed by Board Investigator JL at the Board offices. Defendant was instructed to bring with him any invoices for CDS, his log book, and any medical records he had on the individuals he had dispensed to. Defendant provided the Board Investigator with invoices and his dispensing log book. No medical records were produced.
6. During the 08/23/2012 interview Defendant advised he had been ordering and dispensing CDS since 1988. He said he did this as a favor for his friends, neighbors and church members. He advised he did not charge them, even for the cost of the medicine. Defendant admitted he did not keep patient charts for the individuals he dispensed controlled medication to. He said he did record in his log book each person to whom he dispensed.
7. During the 08/23/2012 interview Defendant admitted he did not report the distribution of the CDS he dispensed to the Oklahoma Bureau of Narcotics Prescription Monitoring Program as required because he was not a registered user.
8. The invoices provided to Board Investigators by the Defendant showed that he had ordered and received the following controlled medications in January 2012:

<i>Butalbital</i>	<i>(#500/bottle)</i>	<i>2 bottles</i>	<i>\$50.22</i>	<i>\$100.44</i>
<i>Diazepam 10mg</i>	<i>(#90/bottle)</i>	<i>1 bottle</i>	<i>\$16.29</i>	<i>\$16.29</i>
<i>Hydrocodone 7.5</i>	<i>(#100/bottle)</i>	<i>1 bottle</i>	<i>\$23.79</i>	<i>\$23.79</i>
<i>Lorazepam 2mg</i>	<i>(#100/bottle)</i>	<i>1 bottle</i>	<i>\$6.49</i>	<i>\$6.49</i>
<i>Phendimetrazine 35mg</i>	<i>(1000/bottle)</i>	<i>1 bottle</i>	<i>\$182.99</i>	<i>\$182.99</i>
<i>Triazolam 0.25mg</i>	<i>(#100/bottle)</i>	<i>1 bottle</i>	<i>\$45.99</i>	<i><u>\$45.99</u></i>

9. Board Investigators review of the dispensing log book provided by the Defendant showed no inventory record of the 1000 tablets of the Schedule III medication Butalbital (Fioricet) ordered and received January 2012. There was also no record of this medication being dispensed to patients. Board Investigators also noted that Butalbital was not located in the 08/02/2012 DEA inspection.
10. Board Investigators review of the dispensing log provided by the defendant also showed that Defendant received shipments of 1,000 pills of the Schedule III medication Phendimetrazine on three separate occasions (01-31-1996, 08-21-2003, and 01-23-2012) and his count was off by 1,855 pills. During questioning by Board Investigators Defendant said he dispensed very little of this drug. Defendant stated the drugs expired before he dispensed them. He denied dispensing them without logging them and he denied taking them himself. He advised he threw them in the trash in the original bottle they came in.
11. Board Investigators review of the dispensing log book provided by the Defendant also shows in the most recent five year period of August 2007 thru August 2012 Defendant dispensed a total of 815 doses of Controlled Dangerous Drugs to a total of 22 patients. The controlled medication

dispensed consisted of the Schedule III medications Hydrocodone and Phedimetrazine and the Schedule IV medications Diazepam, Lorazepam, Propoxyphene, Zolpidiem and Eszopiclone.

Substance Abuse

12. On 11-07-2012 Board Investigator JL along with Board Investigator RD met with Defendant at the Board to discuss concerns over the possibility of Defendant abusing some of the Controlled Drugs he had been ordering.
13. During 11/07/2012 interview Defendant first denied taking for personal use any of the Controlled medications he had ordered. Defendant denied any substance abuse issues.
14. During the 11/07/2012 interview Board Investigators asked Defendant, "If a urine drug screen was obtained today, what would it show?" Defendant advised he took "...one (1) Hydrocodone 7.5mg last night and one (1) Fioricet yesterday morning." Defendant stated he had a prescription for the Hydrocodone and he obtained the Fioricet from medication he ordered to his home. When questioned about his previous statement that he had not personally used any of the Controlled medications he had ordered, defendant stated that he did not know "Fioricet" (Butalbital) was a controlled drug.
15. During the 11/07/2012 interview Board Investigators requested that Defendant obtain a substance abuse assessment. Defendant proclaimed he did not have a substance abuse issue but agreed to obtain an assessment. A list of Board approved facilities was provided. Upon request Defendant also willingly submitted to a urine drug screen which was collected by Board Investigator RD.
16. On 11-15-2012 the urine drug screen results came back positive for the barbiturate butalbital (Fioricet). It was negative for Hydrocodone. It was positive for the EtG/EtS test (alcohol present).
17. Defendant was assessed at Palmetto Addiction Recovery Center in Louisiana from 12-10-2012 through 12-13-2012. Palmetto's assessment found Defendant has an alcohol dependence, Polysubstance Dependence, Sedative Abuse, and Amphetamine Abuse. They recommend Defendant complete a long term treatment program and sign a five (5) year monitoring contract with this Board or the Oklahoma Health Professionals Program ("OHPP"). The assessment states, in part, as follows:

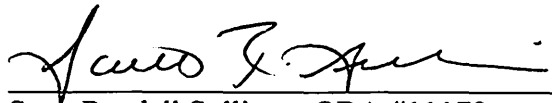
"Timothy is not ready to practice medicine with skill and safety until he has successfully completed treatment, has a monitoring contract in place, has a continuing care plan in place and has met with his addictionist after treatment to assess his fitness to return to duty."
18. Additionally, Defendant told staff at Palmetto that he had been using his personal stock of Phendimetrazine for "energy". He had denied use of this medication in all previous interviews.
19. Defendant is guilty of unprofessional conduct in that he engaged in:
 - a) Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of *Title 59 O.S. §509.8*;

- b) Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship in violation of *Title 59 O.S. §509.12*;
- c) Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of *Title 59 O.S. §509.18*;
- d) Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained in violation of in violation of *Title 59 O.S. §509.20*;
- e) 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 in violation of *Oklahoma Administrative Code Title 435:10-7-4.(5)*;
- f) Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need in violation of *Oklahoma Administrative Code Title 435:10-7-4.(6)*;
- g) Conduct likely to deceive, defraud, or harm the public in violation of *Oklahoma Administrative Code Title 435:10-7-4.(11)*;
- h) 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 in violation of *Oklahoma Administrative Code Title 435:10-7-4.(26)*;
- i) Violating any state or federal law or regulation relating to controlled substances in violation of *Oklahoma Administrative Code Title 435:10-7-4.(27)*;
- j) Improper management of medical records in violation of *Oklahoma Administrative Code Title 435:10-7-4.(36)*;
- k) Failure to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment. Adequate medical records to support treatment or prescribed medications must be produced and maintained in violation of *Oklahoma Administrative Code Title 435:10-7-4.(41)*; and
- l) Failure to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, except in a clearly emergent, life threatening situation in violation of *Oklahoma Administrative Code Title 435:10-7-4.(49)*.

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,



Scott Randall Sullivan, OBA #11179
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Plaintiff