

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

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
GARY PETER DICKINSON, M.D.,)
LICENSE NO. 13228,)
)
Defendant.)

FILED

OCT 12 2012

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 12-03-4515

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, Kathryn R. Savage, Assistant Attorney General, and for its Complaint against the Defendant, Gary Peter Dickinson, 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 *Okla. Stat. tit. 59, §480 et seq.*
2. Defendant, Gary Peter Dickinson, M.D., holds Oklahoma license no. 13228 and practices family medicine in Edmond, Oklahoma.
3. On or around 2009, Defendant became acquainted with Tara Linville, a pharmaceutical representative. At some point thereafter, Ms. Linville and Defendant's son, Jeff Dickinson, began working for Xanodyne Pharmaceuticals, a company that sells Zipsor, an anti-inflammatory medication.
4. According to Xanodyne, Ms. Linville received a bonus in the amount of \$30.00 for each prescription for Zipsor filled within her sales territory.
5. On or about February 19, 2010, Defendant wrote two (2) prescriptions for Zipsor 25mg #1 with 10 refills each in the names of Tara Linville and her husband, Timothy Linville. At that time, Ms. Linville was not a patient of Defendant's, but was merely a pharmaceutical representative with whom he did business. Mr. Linville was not a patient of Defendant's either. Defendant gave these prescriptions to his son, Jeff Dickinson, to give to Ms. Linville.

6. On or about March 10, 2010, Defendant's son, Jeff Dickinson, approached Defendant and asked him to help his co-worker, Tara Linville, by writing extra prescriptions for Zipsor so that she could receive sales bonuses. Defendant agreed to this and wrote seventeen (17) prescriptions for Zipsor 25mg #1, with twelve (12) refills each to various family members of Tara Linville. Defendant then gave these prescriptions to his son to give to Ms. Linville.

7. On or about May 3, 2010, Ms. Linville saw Defendant as a patient for the first time. Defendant made a medical record for this patient visit. He did not prescribe Zipsor to the patient at that time.

8. Ms. Linville's patient record contains only one (1) additional notation dated May 14, 2010 reflecting that Defendant prescribed Zipsor 25mg #1, with five (5) refills to the patient. This prescription was given by Defendant at the request of Tara Linville to inflate her bonus from Xanodyne.

9. Defendant's medical records additionally reflect that on or about May 17, 2010, he prescribed Zipsor 25mg #1, with five (5) refills to Timothy Linville, the husband of Tara Linville. Defendant admits that he never saw Timothy Linville as a patient and never conducted an examination of any kind, but only wrote the prescription for Zipsor to him as requested by Tara Linville to inflate her bonus from Xanodyne.

10. When questioned by Board investigators, Defendant admitted that he knew that Tara Linville would get a bonus for every prescription filled for Zipsor, regardless of the quantity of the order (a prescription for one (1) gel cap would be as beneficial for a bonus as a prescription for sixty (60) gel caps). Defendant admitted that these prescriptions were written for Ms. Linville for the purpose of inflating her bonus from Xanodyne.

11. Several weeks later, on or about June 15, 2010, Defendant's son, Jeff Dickinson, provided his father with a list from Tara Linville containing the names of 8-10 persons who were allegedly relatives or friends of Tara Linville with the request to write prescriptions to these persons so as to inflate Ms. Linville's bonus from Xanodyne. Defendant then wrote fifteen (15) separate prescriptions to these 8-10 persons for one (1) gel cap, with twelve (12) refills each. Defendant then gave these prescriptions to his son to give to Ms. Linville.

12. Several months later, on or about August 20, 2010, Jeff Linville provided Defendant with another list from Tara Linville that contained the names of eleven (11) persons who were allegedly relatives or friends of Tara Linville with the request to again write prescriptions to these persons so as to inflate Ms. Linville's bonus from Xanodyne. Defendant then wrote sixteen (16) prescriptions to these 8-10 persons for one (1) gel cap, with unlimited refills each. Defendant then gave these prescriptions to his son to give to Ms. Linville.

13. Defendant admits that the only person to whom he wrote these prescriptions for Zipsor that he saw as a patient was Tara Linville.

14. A review of pharmacy records from Wal-Mart pharmacy alone showing all Zipsor prescriptions written by Defendant to Tara Linville and her family and friends reflects that **at least 52 prescriptions with 6,275 possible refills** were written by Defendant at the request of his son and Ms. Linville. With a cost at Wal-Mart of \$4.01 per prescription and a bonus to Ms. Linville of \$30.00 per prescription, this would have allowed Ms. Linville a profit from her bonuses from Xanodyne in the amount of **\$163,477.10**.

15. When later questioned by Board investigators, Defendant admitted that all fifty-two (52) prescriptions for Zipsor obtained by the investigators at Wal-Mart pharmacy were signed or authorized by him and were given to his son, Jeff Dickinson, to give to Tara Linville.

16. Defendant also admitted that he is a paid spokesman for Xanodyne Pharmaceuticals and is paid by them to speak about Zipsor to other practitioners. According to Xanodyne records, from March 2010 through July 2011, Defendant was paid **\$33,525.16** as a paid spokesman for Zipsor. During this same period of time that Defendant was paid by Xanodyne, he was aiding and abetting his son and Ms. Linville in their plan to defraud Xanodyne.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of *Okla. Stat. tit. 59, §509 (8)* and *Oklahoma Administrative Code* section 435:10-7-4 (11).
- B. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of *Okla. Stat. tit. 59, §509 (20)*.
- 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 *Okla. Stat. tit. 59, §509 (13)* and *Oklahoma Administrative Code* section 435:10-7-4(39).
- D. Failed 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 *Okla. Stat. tit. 59, §509 (18)* and *Oklahoma Administrative Code* section 435:10-7-4(41).
- E. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of *Oklahoma Administrative Code* section 435:10-7-4(19).

- F. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of *Okla. Stat. tit. 59, §509 (12)*.
- G. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of *Oklahoma Administrative Code* section 435:10-7-4(49).
- H. Engaged in the improper management of medical records in violation of *Oklahoma Administrative Code* section 435:10-7-4(36).
- I. Procured, aided or abetted a criminal operation in violation of *Okla. Stat. tit. 59, §509 (1)*.
- J. Confessed to a crime involving violation of the laws of this state in violation of *Okla. Stat. tit. 59, §509 (7)*.
- 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 *Okla. Stat. tit. 59, §509 (9)*.

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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