

**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.)
)
JARRETT G. GREGORY, MD)
LICENSE NO. 13611,)
)
Defendant.)

FILED

MAY 23 2014

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No: 12-04-4533

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on May 15, 2014, 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.

Matthew Ryan Stangl, Assistant Attorney General, appeared for the plaintiff and Defendant appeared not.

The Board *en banc* after hearing arguments of counsel, the sworn testimony of witnesses, 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 physicians and surgeons in the State of Oklahoma pursuant to Title 59 Okla. Stat. §480 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Jarrett G. Gregory, M.D. holds Oklahoma License No. 13611.

3. On or about April 26, 2012 Board Staff received a call from the Ardmore Police Department stating their concern about Defendant prescribing excessive CDS
4. On June 5, 2012 OBN Agent TB and Board Investigator RR visited Defendant's medical clinic posing as patients. OBN Agent TB (a/k/a Patient Avery Banks) was seen by Defendant for pain. After a brief exam that consisted of telling her to lift her leg, which she refused, and poking her buttock, Defendant diagnosed a "pinched sciatic nerve." He prescribed Norco 10mg, #40 and Soma 350 mg, #90 and referred her for an x-ray.
5. While sitting in the waiting room, Board Investigator RR witnessed patients exiting Defendant's office and stopping at the front office where Employee BJ pulled an accordion door to separate them from the waiting area. Employee BJ then discussed the use of diet pills with the patient and the patient would emerge with a prescription bottle in hand and exit the building.
6. On August 1, 2012, DEA Agents MS and GL along with Board Investigator RR met with Defendant at his Ardmore clinic. While in the waiting room, conversations among patients were overheard with regards to which drugs they preferred. Each patient was spending an average of no more than five minutes with the doctor.
7. Board Investigator RR served a subpoena for 15 charts. Investigator RR asked Defendant why he was prescribing large amounts of Methadone to relatively young patients with no history of CDS use on their pharmacy records. Defendant stated he had acquired several patients from Southern Oklahoma Treatment Services (SOTS), who say they aren't getting enough Methadone for their pain. Board Investigator RR provided Defendant with a Methadone prescribing pamphlet and informed him of the dangers of the drug. When asked if he ran pharmacy records on all patients, he said he does "on some." Defendant was not aware that he is required to run a pharmacy record on all patients prescribed Methadone and further stated he would "stop prescribing it altogether." The patient chart of TH shows a termination letter dated July 25, 2012, yet Defendant prescribed even more Methadone, #490, on August 22, 2012 and continued with #420 monthly through January 9, 2013.
8. During the investigation, Board Investigator RR asked Defendant if he was aware that there were a lot of his patients traveling long distances and some had criminal records. Defendant admitted they do not check criminal histories but do UA's and he fires patients who "doctor shop." He had no explanation for the long distances and obvious carpooling of patients.
9. Defendant admitted to hiring, and then firing, Employee JM who has a felony record for Illegal Possession of CDS and Uttering Forged Instruments. Board Investigator RR told Defendant he is legally prohibited from hiring felons. Defendant was unaware of this prohibition.
10. Board Investigator RR then discussed the subpoena which contained Agent TB's undercover name, Avery Banks, and former employee's name, JM. Defendant said he

didn't have those charts because Employee JM took them when she was fired. He believed Avery Banks must have been a friend of Employee JM's. Defendant asked Board Investigator RR if he could have an extra day to provide the charts since some of them were "skimpy" and she denied his request. It took over four (4) hours for medical staff to make the copies while Board Investigator RR waited in the office area.

11. DEA agents presented Defendant with a Notice of Inspection and asked about his background in weight loss practice. He stated that he has watched some CD's from the American Bariatric Association and his former practice partner in Valliant attended a conference and shared the information. Defendant's clinic sees about 20-24 weight loss patients a day and those patients receive Phentermine, #30 in most cases. However, family members BL, TarL and TayL, who are from Alvarado, TX, received as many as #180 Phentermine a piece.
12. Agents asked to inspect and copy Defendant's receiving and dispensing records with regard to the Phentermine. He explained that he was unable to provide this information as the person in charge of maintaining his dispensing records, Employee TM, LPN, was out for surgery that day. Another employee of the clinic was finally able to search the files and provide eight invoices from Martek Pharmacal. Six were not documented as to the date/amount of receipt. Defendant stated that he uses the software program ProPharma to maintain his dispensing records. The drugs are kept in a locked safe in a locked closet in the back office. DEA agents did a closing inventory and reported 3,745 tablets of Phentermine 37.5mg on hand.
13. Pharmacy records of several patients do not show any, or very limited, previous CDS use, yet Defendant initially prescribed 80mg of Methadone/day and increased to 140mg over a six-month period, as in the case of Patient TH. This is well over the recommended dosage according to Pain-Topics.org, Oral Methadone Dosing for Chronic Pain, A Practitioner's Guide, by Dr. James D. Toombs, MD.
14. Other examples of patients prescribed high doses of Methadone and had limited pharmacy records Patient MT - 120mg/day; Patient EJ - 140mg/day; and Patient RH - 120mg/day. Household members, JM and MM are both receiving Methadone and JM is also an employee of Defendant.
15. Patient medical charts were sent to Board's Expert for review. None were medically appropriate examples of complete and proper diagnosis with clear treatment objectives and documentation. **Board's Expert returned unfavorable medical opinions regarding each patient file with an overall expert medical opinion of multiple deficits and a recommendation for restriction of prescribing CDS abilities.**
16. On March 19, 2013, Board Investigator RR and DEA Agent GL returned to the medical office of Defendant wherein he agreed to sign an Agreement not to Practice and a voluntary surrender of his CDS prescribing privileges.

17. Pharmacy records revealed that Defendant prescribed testosterone to himself on the following dates: March 21, 2012; April 6, 2012; April 18, 2012; July 25, 2012; August 31, 2012; October 9, 2012; January 10, 2013; February 13, 2013; and February 28, 2013.
18. Pharmacy records revealed that Defendant prescribed Diazepam to his wife on the following date: October 8, 2012.
19. Pharmacy records revealed that Defendant prescribed Diazepam to his stepson on the following dates: July 20, 2012 and October 30, 2012.
20. Pharmacy records revealed that Defendant prescribed Hydrocodone to his stepson on the following date: August 30, 2012.
21. On April 24, 2013, Board Staff met with Defendant and his then-lawyer, Warren Gotcher. That meeting resulted in Defendant voluntarily agreeing to go to Colorado Physicians Education Program (CPEP) for an assessment of his clinical skills. Defendant has failed to honor this agreement and the assessment has not been conducted.
22. Defendant is guilty of unprofessional conduct in that he engaged (or failed to engage) in the following:
 - a) Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of Title 59 O.S. §509 (8) and Oklahoma Administrative Code Rule 435:10-7-4(11);
 - b) Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of Title 59 O.S. §509 (10);
 - c) 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 in violation of Title 59 O.S. §509 (16) and Oklahoma Administrative Code Rule 435:10-7-4(1) and (2);
 - d) 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);
 - e) 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 Rule 435:10-7-4 (26);

- f) Violating any state or federal law or regulation relating to controlled substances in violation of Oklahoma Administrative Code Rule 435:10-7-4 (27);
- g) Failure to properly evaluate the patient in violation of Oklahoma Administrative Code Rule 435:10-7-11 (1);
- h) Failure to prepare a proper Treatment Plan in violation of Oklahoma Administrative Code Rule 435:10-7-11 (2);
- i) Failure to obtain necessary consultation in violation of Oklahoma Administrative Code Rule 435:10-7-11 (5);
- j) Failure to maintain complete and proper medical records in violation of Oklahoma Administrative Code Rule 435:10-7-11 (6) (A), (B), (C), (D), (E), (F), (G), (I); and
- k) Failure to comply with controlled substances laws and regulations in violation of Oklahoma Administrative Code Rule 435:10-7-11 (7).

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. The Board found Defendant is guilty of clear and convincing unprofessional conduct in that he:
 - a) Has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of Title 59 O.S. §509 (8) and Oklahoma Administrative Code Rule 435:10-7-4(11);
 - b) Has failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of Title 59 O.S. §509 (10);
 - c) Has been 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 in violation of Title 59 O.S. §509 (16) and Oklahoma Administrative Code Rule 435:10-7-4(1) and (2);

- d) Has 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 Title 59 O.S. §509 (18);
- e) Has been 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 Rule 435:10-7-4 (26);
- f) Has violated any state or federal law or regulation relating to controlled substances in violation of Oklahoma Administrative Code Rule 435:10-7-4 (27);
- g) Has failed to properly evaluate the patient in violation of Oklahoma Administrative Code Rule 435:10-7-11 (1);
- h) Has failed to prepare a proper Treatment Plan in violation of Oklahoma Administrative Code Rule 435:10-7-11 (2);
- i) Has failed to obtain necessary consultation in violation of Oklahoma Administrative Code Rule 435:10-7-11 (5);
- j) Has failed to maintain complete and proper medical records in violation of Oklahoma Administrative Code Rule 435:10-7-11 (6) (A), (B), (C), (D), (E), (F), (G), (I); and
- k) Has failed to comply with controlled substances laws and regulations in violation of Oklahoma Administrative Code Rule 435:10-7-11 (7).


3. The Board further found that the Defendant's license should be **REVOKED**.

Order

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

1. The license of Defendant, Jarrett G. Gregory, M.D., Oklahoma medical license no. 13611, is hereby **REVOKED** as of the date of this hearing, May 15, 2014.
2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 23 day of May, 2014.


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

Certificate of Mailing

I certify that on the 23rd day of May, 2014, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Mr. Daniel J. Gamino, DANIEL J. GAMINO & ASSOCIATES, Jamestown Office Park, North Building, 3035 NW 63rd Street, Suite 214, Oklahoma City, OK 73116.


Barbara J. Smith, Legal Assistant