

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

SEP 01 2009

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 09-06-3783

KIMBERLY DAWN BARNETT, R.C.,)
R.C. LICENSE NO. 1398,)

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, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Kimberly Dawn Barnett, R.C., 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 respiratory care therapists in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 2026 *et seq.*

2. Defendant, Kimberly Dawn Barnett, R.C., holds respiratory care license no. RC1398 and practices in Guymon, Oklahoma.

3. On or about October 6, 2008, Defendant was involved in a car accident near Hooker, Oklahoma. When questioned by the Oklahoma Highway Patrol, Defendant admitted consuming a wine cooler and some Valium several hours prior to the accident. Defendant was subsequently arrested on December 19, 2008 and was charged in the case styled State of Oklahoma v. Kimberly D. Barnett, Case No. CM-08-00564 in the District Court of Texas County, State of Oklahoma with **Driving a Motor Vehicle While Under the Influence of Drugs**. This case is still pending.

4. On or about May 16, 2009, Defendant attempted suicide by overdosing on Oxycontin and Amytriptoline. Defendant's daughter found her and called for help. Defendant

was taken to Southwest Medical Center in Kansas where she remained for several days after which time she was discharged to her mother.

5. On or about May 29, 2009, while staying with her mother in Ardmore, Oklahoma, Defendant attempted to overdose on medications by ingesting three (3) Xanax 0.5 mg. pills along with three (3) Valium 10 mg. pills. Defendant's family took care of her at their home upon learning that she ingested these medications. Defendant has no recollection of this incident.

6. On or around June 4, 2009, Defendant returned to her home in Plains, Kansas. She claims that she again attempted to overdose on prescription medication.

7. On or about June 7, 2009, Defendant was working at Memorial Hospital of Texas County in Guymon, Oklahoma. A co-worker reported that Defendant talked to her about wanting to die and wanting to kill her husband, whom she was divorcing at that time. She also told the co-worker that she had taken a handful of Valium and other medications the night before (June 6, 2009) with the intention of overdosing. She then questioned the co-worker about what certain medications in the ICU refrigerator were used for. The co-worker then left the ICU to attend to a patient.

8. Later that day, after Defendant had completed her shift and left the hospital, supervisors examined the emergency room crash cart and ICU crash cart and noted that several medications were missing. A review of hospital security video showed Defendant removing items from the emergency room crash cart. The value of the items stolen was approximately \$1,373.00.

9. After completing her shift at Memorial Hospital, Defendant contacted her mother and advised her that she had stolen Valium and Xanax from her mother, and that she had just taken a number of these medications. When questioned later, Defendant claimed that she did not remember this conversation with her mother.

10. Later that day on June 7, 2009, law enforcement officers called Defendant at her home and advised her that they knew she had stolen the medications from the crash cart. Defendant then agreed to turn over the stolen medications to law enforcement officers at her home. However, before law enforcement officers arrived at her home, Defendant was involved in an auto accident in Seward County, Kansas. Officers then searched her vehicle and found medications, medicine vials and syringes stolen from the Memorial Hospital of Texas County on the floor of her car.

11. Defendant claims that she does not remember stealing the medications from Memorial Hospital of Texas County, nor does she remember the car wreck.

12. When the law enforcement officer questioned her at the accident scene, Defendant stated that she had taken too much of her medications and felt sick. The law enforcement officer administered a field sobriety test to Defendant, which Defendant was not able to complete. Defendant was then arrested and transported to Southwest Medical Center in Seward County,

Kansas for treatment. At the hospital, she admitted to taking approximately thirty (30) Xanax and another thirty (30) pills of an unknown type. Defendant was then admitted to the intensive care unit for treatment for an overdose of prescription medications.

13. On or about June 9, 2009, Defendant was charged in the case styled State of Oklahoma v. Kimberly D. Barnett, Case No. CF-09-00122 in the District Court of Texas County, State of Oklahoma with **Burglary in the Second Degree, Grand Larceny and Knowingly Concealing Stolen Property**. This case is still pending.

14. Defendant was subsequently transferred to the psychiatric unit at Southwest Medical Center until she was released on June 10, 2009 and transferred to the Seward County jail.

15. While at the Seward County jail, Defendant attempted to slit her wrists with a spork. Defendant did not receive any medical attention for this attempt to harm herself.

16. On or about June 11, 2009, Defendant bonded out of jail and was released to her mother. Defendant's mother contacted Mental Health Services of Oklahoma and arranged for Defendant to be admitted to Red Rock Adult Crisis Unit in Norman, Oklahoma for treatment on June 15, 2009. While at Red Rock, Defendant repeatedly told staff that she had attempted suicide on eight (8) occasions in the past she would say she was still suicidal to stay in the hospital and avoid going to jail.

17. Defendant remained at Red Rock for treatment for eight (8) days until June 23, 2009, at which time she requested that she be allowed to transfer to Griffin Memorial Hospital for further treatment.

18. On or about June 23, 2009, Judge Jequita Napoli entered an Order of Admission to Medical Facility directed to Defendant wherein she found Defendant incompetent to make decisions concerning her own treatment. Judge Napoli ordered that Defendant should be admitted to a medical facility for treatment as a mentally ill person.

19. Defendant entered Griffin Memorial Hospital for treatment on June 23, 2009, but was discharged that same day due to Griffin's finding that she was not in need of additional treatment.

20. Defendant claims that she does not remember the majority of the incidents that have occurred since June 7, 2009.

21. On or about June 25, 2009, Defendant executed an Agreement with Eric Frische, M.D., Medical Advisor to the Board, that she would not practice respiratory care until the Complaint to be filed against her had been heard by the Board.

22. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. She is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. She is addicted to, or has improperly obtained, possessed, used or distributed habit-forming drugs or narcotics in violation of 59 O.S. §2040(4).
- C. She is guilty of dishonest or unethical conduct in violation of 59 O.S. §2040(5).
- D. She has engaged in the unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Oklahoma in violation of OAC 435:45-5-3(2).
- E. She is guilty of unprofessional conduct as defined by the rules established by the Board, or of violating the code of ethics adopted and published by the Board in violation of 59 O.S. §2040(9).
- F. She violated any provision of the Respiratory Care Practice Act or the rules promulgated by the Board in violation of OAC 435:45-5-3(21) and 59 O.S. §2040(8).
- G. She violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:45-5-3(24).
- H. She has been adjudged mentally incompetent by a court of competent jurisdiction in violation of OAC 435:45-5-3(13).

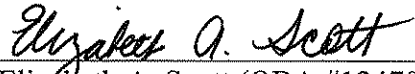
23. These allegations raise serious concerns about Defendant's ability to practice as a respiratory care practitioner in the State of Oklahoma with reasonable skill and safety.

WHEREFORE, plaintiff 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, the assessment of costs and fees incurred in this action, and

any other appropriate action with respect to Defendant's license to practice as a respiratory care practitioner in the State of Oklahoma.

Dated this 28th day of August, 2009.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

Assistant Attorney General

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Attorney for State ex rel.

Oklahoma Board of Medical Licensure and
Supervision