

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

FILED

JAN 28 2011

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 10-10-4093)

WINTER BATHE, P.A.,)
LICENSE NO. PA1420,)

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, Winter Bathe, P.A., Oklahoma physician assistant license no. PA1420, 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 physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and §887.1 *et seq.*

2. Defendant, Winter Bathe, P.A., holds Oklahoma physician assistant license no. PA1420, and practices in Norman, Oklahoma. At the time of the events in question, Defendant worked at Oklahoma Weight Loss Options in Norman, Oklahoma and at the McBride Clinic in Oklahoma City, Oklahoma. Defendant worked under the supervision of Ronnie Keith, D.O. at Oklahoma Weight Loss Options.

PATIENT CBL-DEFENDANT'S SISTER

3. A review of the PMP reveals that on or about August 25, 2010, Defendant wrote a prescription for Phentermine 37.5 mg. #30, a Schedule IV controlled dangerous substance, to her sister, Patient CBL. A review of Defendant's records reveals that she failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medications, that she did not establish a valid

physician patient relationship prior to prescribing the medications, and that she failed to keep any record of the prescription written August 25, 2010.

4. When questioned by Board investigators why she prescribed a controlled dangerous substance to her sister, Defendant claimed that although she worked at a weight loss clinic, she was unaware that Phentermine was a controlled dangerous substance.

5. Defendant admitted to Board investigators that she prescribed the Phentermine to her sister without the knowledge of her supervising physician.

PATIENT LKL-DEFENDANT'S CO-WORKER

6. On or about November 16, 2009, Defendant called in a prescription for Phentermine 37.5 mg. #30, a Schedule IV controlled dangerous substance, to Patient LKL, another physician assistant who worked with Defendant at the McBride Clinic. A review of Defendant's records reveals that she failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medications, that she did not establish a valid physician patient relationship prior to prescribing the medications, and that she failed to keep any record of the prescription written November 16, 2009.

7. Defendant admitted to Board investigators that she prescribed the Phentermine to this physician assistant who was her co-worker without the knowledge of her supervising physician.

PATIENT SML-DEFENDANT'S MOTHER-IN-LAW

8. On or about March 29, 2010, Defendant wrote a prescription for Phentermine 37.5 mg. #30, a Schedule IV controlled dangerous substance, to Patient SML, Defendant's mother-in-law. A review of Defendant's records reveals that she failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medications, and that she failed to keep any record of the prescription written March 29, 2010.

9. Defendant admitted to Board investigators that she prescribed the Phentermine to her mother-in-law without the knowledge of her supervising physician.

PATIENT JWJ-DEFENDANT'S COUSIN

10. On or about October 14, 2009, November 25, 2009 and January 12, 2010, Defendant wrote prescriptions for Phentermine 37.5 mg. #30, a Schedule IV controlled dangerous substance, to Patient JWJ, Defendant's cousin. A review of Defendant's records reveals that she failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medications, that she did not establish a valid physician patient relationship prior to prescribing

the medications, and that she failed to keep any record of the prescriptions written October 14, 2009, November 25, 2009 and January 12, 2010.

11. Defendant admitted to Board investigators that she prescribed the Phentermine to her cousin without the knowledge of her supervising physician.

OTHER PRESCRIBING VIOLATIONS

12. When questioned by Board investigators, Defendant admitted that she has written numerous prescriptions for other dangerous drugs to her friends and family and that she did not keep any record of these prescriptions. She additionally admitted that she prescribed these medications to her family and friends without the knowledge of her supervising physician, and that they were prescribed away from the clinic setting.

13. Title 435 of the Oklahoma Administrative Code Section 15-5-1 provides as follows:

(b) A physician assistant must function only under the supervision of a licensed physician. Nothing in the Physician Assistant Act shall be construed to permit physician assistants to provide health care services independent of physician supervision.

14. Defendant is guilty of unprofessional conduct in that she:

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. § 509 (12).
- C. 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 59 O.S. § 509 (18).
- D. Prescribed, sold, administered, distributed, ordered, or gave 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 OAC 435:10-7-4(26).

- E. 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 59 O.S. §509 (13), OAC 435:10-7-4(39) and OAC 435:15-5-11(a)(7).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. Confessed to a crime involving violation of the antinarcotic or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. § 509 (7).
- H. Failed to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. §509 (20) and OAC 435:10-7-4(41).
- I. Prescribed, dispensed or administered a controlled substance or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. 509(16) and OAC 435:10-7-4(2) and (6).
- J. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- K. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).
- L. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of OAC 435:10-7-4(49).

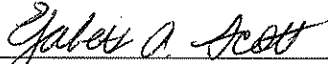
Conclusion

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 the revocation or suspension of the Defendant's license to practice as a physician

assistant in the State of Oklahoma, 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 physician assistant in the State of Oklahoma.

Dated this 20~~th~~ day of January, 2011 at 8:01 a.m.

Respectfully submitted,


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Attorney for the State of Oklahoma ex rel.
Oklahoma State Board of Medical
Licensure and Supervision