

4. A review of pharmacy records and the PMP reveals that from January 23, 2009 through June 12, 2010, Defendant nevertheless called in nine (9) prescriptions for controlled dangerous substances for his wife, Patient NCL. These prescriptions were for Phentermine 37.5 mg., Darvocet and Valium, Schedule IV controlled dangerous substances, for a total of 570 dosage units as follows:

01-23-09	Phentermine #90
04-02-09	Phentermine #90
04-18-09	Darvocet #60
07-27-09	Phentermine #60
09-01-09	Phentermine #60
09-26-09	Darvocet #60
12-18-09	Phentermine #60
12-18-09	Darvocet #60
06-12-10	Valium #30

A review of Defendant's records reveals that he failed to perform a sufficient physical examination on his wife prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient NCL's chart contains no mention of any of these prescriptions for Phentermine, Darvocet or Valium.

5. When questioned by Board investigators as to why he called in these prescriptions for his wife, Defendant told Board investigators that his supervising physician had authorized these prescriptions. However, Defendant's supervising physician, Charles Dickerson, M.D. advised Board investigators that he **never** authorized any of these prescriptions to Defendant's wife. Additionally, with respect to one (1) of the prescriptions for Darvocet, Defendant admitted that he had called it in when he was allegedly unable to get in touch with his wife's other doctor, although he was unable to give the name of the alleged other doctor. Defendant admitted that he probably had not discussed this with Dr. Dickerson, his supervising physician.

PATIENT KTL-DEFENDANT'S CO-WORKER

6. A review of pharmacy records and the PMP reveals that from March 11, 2009 through August 10, 2009, Defendant called in four (4) prescriptions for his co-worker, Patient KTL, who was also the office nurse, as follows:

03-11-09	Phentermine #30
04-06-09	Phentermine #30
05-18-09	Phentermine #30 (with one refill)
08-10-09	Phentermine #30

7. Oklahoma Administrative Code Section 435:15-11-1 provides as follows:

(d) Prescriptions for Schedules III, IV and V controlled medications may be written for up to a 30-day supply. **No refills of the original prescription are allowed...**

8. A review of Defendant's records reveals that he failed to perform any physical examination Patient KTL prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient KTL's chart contains no mention of any of these prescriptions for Phentermine.

9. When questioned by Board investigators, Defendant's supervising physician, Charles Dickerson, M.D. stated that he **never** authorized any of these prescriptions to Patient KTL, his office nurse, and that he was not even aware that she was being prescribed Phentermine.

PATIENT JTL-HUSBAND OF PATIENT KTL

10. A review of pharmacy records and the PMP reveals that from January 26, 2009 through May 10, 2010, Defendant called in seven (7) prescriptions for Patient JTL, the husband of the office nurse KTL, as follows:

01-26-09	Phentermine #30
03-27-09	Phentermine #30
04-06-09	Phentermine #30
05-18-09	Phentermine #30
12-23-09	Phentermine #30
02-22-10	Phentermine #30
05-12-10	Phentermine #30

11. A review of Defendant's records reveals that he failed to perform any physical examination Patient JTL prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient JTL's chart contains no mention of any of these prescriptions for Phentermine.

12. When questioned by Board investigators, Defendant's supervising physician, Charles Dickerson, M.D. stated that he **never** authorized any of these prescriptions to Patient JTL, the husband of his office nurse, and that he was not even aware that he was being prescribed Phentermine.

PATIENT DGL

13. A review of pharmacy records and the PMP reveals that from January 10, 2009 through June 16, 2010, Defendant called in nine (9) prescriptions for Patient DGL, a friend of Defendant who was also an Emergency Medical Services worker as follows:

01-10-09	Phentermine #60
02-12-09	Phentermine #30
04-24-09	Phentermine #60
07-02-09	Phentermine #60
09-02-09	Phentermine #60
11-11-09	Phentermine #30
12-30-09	Phentermine #30
03-24-10	Phentermine #60
06-16-10	Phentermine #60

14. A review of Defendant's records reveals that he failed to perform any physical examination Patient DGL prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient DGL's chart contains no mention of any of these prescriptions for Phentermine. Defendant claimed that the patient would check his own blood pressure and weight and reported this information to Defendant. Defendant, however, did not document any of this in the patient chart.

15. With respect to the June 16, 2010 prescription for Phentermine, Patient DGL originally called Defendant's office and asked for a refill. The receptionist advised Defendant that she did not see Phentermine on the approved medication list, so Defendant advised her not to fill it. However, three (3) minutes later, Defendant called in the prescription for Phentermine for the patient, but did not document it in the patient's medical record.

16. When questioned by Board investigators, Defendant's supervising physician, Charles Dickerson, M.D. stated that he **never** authorized any of these prescriptions to Patient DGL, and that he was not even aware that he was being prescribed Phentermine.

PATIENT SSL

17. A review of pharmacy records and the PMP reveals that from March 11, 2009 through June 24, 2010, Defendant wrote or authorized seven (7) prescriptions for Patient SSL, a friend of Defendant as follows:

03-11-09	Phentermine #90
05-05-09	Phentermine #90, 3 refills
09-03-09	Tylenol 3 #40
09-21-09	Phentermine #90
09-24-09	Phentermine #90, 3 refills
05-04-10	Phentermine #90, 1 refill
06-24-10	Phentermine #90

18. A review of Defendant's records reveals that he failed to perform any physical examination Patient SSL prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient SSL's chart contains no mention of any of these prescriptions for Phentermine or Tylenol 3.

19. When questioned by Board investigators, Defendant's supervising physician, Charles Dickerson, M.D. stated that he **never** authorized any of these prescriptions to Patient DGL, and that he was not aware of the prescriptions that were not documented.

PATEINT RBL

20. A review of pharmacy records and the PMP reveals that from September 3, 2009 through September 25, 2009, Defendant wrote or authorized three (3) prescriptions for Patient RBL, a friend of Defendant as follows:

09-03-09	Phentermine #30
09-25-09	Phentermine #30, 3 refills
09-25-09	Hydrocodone 7.5mg #40, 1 refill

21. A review of Defendant's records reveals that he failed to perform any physical examination Patient RBL prior to prescribing the controlled dangerous drugs, that he did not establish a legitimate medical need for the medications, and that he failed to keep any record of any of these prescriptions. Patient RBL's chart contains no mention of any of these prescriptions for Phentermine or Hydrocodone.

22. When questioned by Board investigators, Defendant's supervising physician, Charles Dickerson, M.D. stated that he was not aware of the prescriptions that were not documented.

23. 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.

24. 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 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. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- 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).

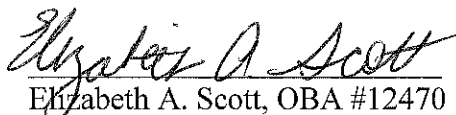
- J. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- K. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).
- L. Failed to establish a physician/patient relationship 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 17th day of August, 2011 at 8:00 a.m.

Respectfully submitted,



Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
101 N.E. 51st Street
Oklahoma City, OK 73105

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