

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

FILED

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

SEP 24 1999

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 97-06-1907

THUONG VAN NGUYEN, M.D.,)
M.D. LICENSE NO. 14885,)

Defendant.)

ORDER OF REPRIMAND UNDER
TERMS OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 16, 1999, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff. Defendant appeared in person and through counsel, Rex Brooks.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of all witnesses, including the Defendant, 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 as follows:

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 59 Okla. Stat. §§ 480 *et seq.*

2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and rules of the Board.

3. Defendant, Thuong Van Nguyen, M.D., holds Oklahoma license no. 14885 in the State of Oklahoma.

4. On January 26, 1994, the Board Secretary issued a Letter of Concern to Defendant regarding concern about his prescribing habits. The Defendant was cautioned to detail the reason for prescribing medication and to keep detailed and accurate documentation of each patient's findings on examination, diagnosis, treatment plans and the prognosis. At that time, the Defendant stated that he would comply with the Board Secretary's suggestions.

5. On or about December 16, 1994, Defendant surrendered his Drug Enforcement Administration Certificate of Registration in lieu of prosecution by the DEA for illegally distributing controlled substances.

6. From July 1995 through May 22, 1998, Defendant did not register to dispense dangerous drugs on his applications for renewal of license.

7. Despite the fact that Defendant was not registered to dispense dangerous drugs from July 1995 until May 22, 1998, he continued to dispense dangerous drugs during this period as more fully set forth below.

8. During or just prior to the month of February 1997, Defendant prescribed and dispensed medication to three (3) minor patients. The medication was subsequently presented by the patients and/or their parents for administration by the minor children's school nurse at Eugene Field Elementary School in Oklahoma City. The medication was dispensed by Defendant in bottles containing no prescription label, no name of the medication, no name of the patient, and no instructions for taking the medication except a mark on the lid telling the patient how often to take the medication, all in violation of 59 O.S. §§ 355.1 and 355.2 of the Oklahoma Pharmacy Act.

9. In or around September 1997, Defendant prescribed and dispensed medication to another minor patient with similar labeling as set forth above in paragraph 7. The minor child's parents presented the medication to a physician's assistant at Children's Hospital where the minor child was being seen.

10. In early 1998, Defendant prescribed and dispensed two (2) bottles of Amoxil and an unknown medication to a minor patient. The medication was subsequently presented by the patient and/or her parents for administration by the minor child's school nurse at Eugene Field Elementary School. On one bottle of Amoxil dispensed by the Defendant, there was no patient name, no date, no doctor name and no instructions for use other than "6ccX4". The other bottle of Amoxil was labeled "2C X 3" in black ink and the unknown bottle was labeled "½ c X 3". There was no additional labeling on these medications.

11. Just prior to May 1998, Defendant prescribed and dispensed prescription

medication to another minor patient with similar labeling as set forth above in paragraph 7. This medication was additionally presented by the patient and/or their parents for administration by the minor child's school nurse at Eugene Field Elementary School.

12. On May 18, 1998, Board Investigator Jan Stratton and the Board Secretary met with the Defendant at his office regarding his dispensing practices and the fact that he marked "did not wish to dispense dangerous drugs" on his licensure renewal but still dispensed dangerous (legend) drugs. At that time, Ms. Stratton advised Defendant to not dispense any drugs to patients until he sent a letter to the Board stating that he did wish to dispense dangerous drugs.

13. On or about May 21, 1998, Board Investigator Jan Stratton, after a meeting with the Defendant at his office, approached two (2) persons leaving Defendant's office. Both persons had received medication dispensed by Defendant at his office. One patient received Betadine with no identifying information for the doctor and no date. The other patient received Amoxil and Promethazine Syrup. Neither bottle of medication contained any information on the doctor, the patient or the date. At that time, the Board had not received any notification from Defendant that he wished to dispense dangerous drugs.

14. On September 15, 1998, Defendant issued a prescription to a patient for "IDA". When the prescription was presented to the Eckerd's Pharmacy, the pharmacist was unable to determine what "IDA" was. The pharmacist contacted Defendant to determine what "IDA" was and was advised by the Defendant that he did not know what it was and that it was what the patient wanted. He then advised the pharmacist to ask the patient what the drug was.

15. During or just prior to May 1999, several prescription medications were confiscated by the school nurse at Mayfield Middle School in the Putnam City School District. Confiscated from one student were a tube of Betamethasone Cream, completely unlabeled, and a bottle of "Prometh 26" and a bottle of "Motrin 600", both of which contained Defendant's name, address and telephone number. The Motrin 600 bottle also bore the name of presumably another patient. These items were confiscated because they did not completely identify the patient, the medication or specific legible directions for use. Confiscated from another student was a dropper bottle containing an unknown medication. Defendant's name, address and telephone number appeared on the bottle. However, the name of the medication was illegible.

16. Defendant is guilty of unprofessional conduct in that he engaged in:

- (11) Conduct likely to deceive, defraud, or harm the public by virtue of his violation of 59 O.S. §§355.1 and 355.2.
- (15) Gross or repeated negligence in the practice of medicine and surgery by virtue of his violation of 59 O.S. §§355.1 and 355.2.

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. Defendant, Thuong Van Nguyen, Oklahoma medical license 14885, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- (12) Conduct likely to deceive, defraud, or harm the public by virtue of his violation of 59 O.S. §§355.1 and 355.2.
- (16) Gross or repeated negligence in the practice of medicine and surgery by virtue of his violation of 59 O.S. §§355.1 and 355.2.

Order

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

1. The Defendant, Thuong Van Nguyen, M.D., Oklahoma medical license no. 14885, should be and is hereby **PUBLICLY REPRIMANDED** for the conduct set forth above.

2. Defendant shall immediately cease dispensing all medications from his office, including samples.

3. Defendant shall be placed on **PROBATION** for a period of three (3) years under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by

no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.

B. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

C. A retrospective random chart review of Defendant's patients will be conducted periodically by the Compliance Consultant or other designated representative of the Board. Defendant shall allow the Compliance Consultant or other designated representative of the Board access to all patient charts at any time and shall allow for the immediate copying of said charts for review by the Board Secretary. The Board Secretary shall review the patient charts to determine Defendant's dispensing habits and record keeping habits.


D. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

E. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

F. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

4. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs, and shall keep current all payments for monitoring his compliance with this order.

Dated this 24 day of September, 1999.


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

CERTIFICATE OF MAILING

I certify that on the 28 day of September, 1999, I mailed a true and correct copy via first class mail to Rex D. Brooks, 1904 N.W. 23rd Street, Oklahoma City, OK 73106 and to Thuong Nguyen, M.D., 1908 N.W. 23rd Street, Oklahoma City, OK 73106.

Janet Owens
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