

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

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
JAMES ERNEST MAYS, M.D.,)
LICENSE NO. MD 15310,)
)
Defendant.)

FILED

NOV 19 2020

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 19-06-5767

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), for its Verified Complaint against James Ernest Mays, M.D. (“Defendant”), alleges and states as follows:

I. JURISDICTION

1. The Board has jurisdiction over the subject matter and 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. 59 O.S. § 480, *et seq.* and Okla. Admin. Code 435:5-1-1 *et seq.*
2. In Oklahoma, Defendant holds medical license no. 15310.
3. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to the license conferred upon her by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

II. ALLEGATIONS OF UNPROFESSIONAL CONDUCT

4. On his renewal, dated June 20, 2019, Defendant self-reported that his hospital privileges at Integris Southwest Medical Center (ISMC) had been suspended pending the outcome of peer review.
5. On Friday, May 10, 2019, Jordan Cash, President of ISMC, submitted written notification to Defendant of the formation of an Ad Hoc Investigation Committee. In addition, Mr. Cash imposed a temporary suspension of Defendant’s privileges in accordance with Section 6.01.01(g) of the Medical Staff Bylaws. Mr. Cash believed the issues and concerns presented posed a threat to the safety of ISMC patients and that the failure to take prompt action may result in further imminent danger.

6. The Committee focused on four (4) issues related to the quality of care provided by Defendant:

- a. A wrong-site surgery performed by Defendant on May 9, 2019;
- b. Defendant's attempt to reschedule the surgery on the same patient for May 20, 2019;
- c. The failure to adhere to the standard of care for an elective procedure performed on May 24, 2018;
- d. Four (4) instances in which patient records lacked the appropriate or required clinical documentation based on quality letters dated September 26, 2018, September 29, 2018 (two letters), and November 20, 2018.

7. Findings of the Ad Hoc Investigation Committee:

- a. Defendant's testimony contradicted the medical record, and his testimony was not credible.
- b. Defendant failed to appreciate the seriousness of his actions, the investigation, and the gravity of the proceedings.
- c. Defendant should have known that his eighteen (18) hours of college Spanish did not qualify him to dispense with hospital policies related to use of interpretative services.
- d. For the wrong-site surgery (a kidney stone removal for J.P.) Defendant clearly documented in the medical record that the stone was on the left side up to and until he was made aware of the wrong-site surgery.
- e. That the clinical note for the kidney stone removal for J.P. made on May 10th and 10:46 a.m. appeared to be an attempt by Defendant to clean up the medical record after he was made aware of the wrong-site surgery.
- f. Defendant did not follow the appropriate clinical guidelines for patient G.K. and should have stopped anti-coagulation medications prior to an elective surgery.
- g. Defendant's claim that, for patient G.K., the patient's cardiologist refused to allow the cessation of the anti-coagulation medications appeared to be an attempt to shift blame to another physician. At the very least, Defendant showed a careless attitude toward the importance of accurate and complete medical record documentation.
- h. Ceasing anti-coagulation medications before an elective surgery is such a basic standard, Defendant's failure to adhere to this basic standard indicates a deficiency in his clinical judgment and his ability to safely practice medicine.
- i. Defendant did not properly document in the medical record for several cases, and despite being notified in writing, Defendant demonstrated an unwillingness to make

improvements.

8. The Ad Hoc Investigation Committee concluded that Defendant failed to exercise professional medical judgment with reasonable skill and safety and that his actions posed an imminent danger to the health and safety of ISMC patients.

III. VIOLATIONS

9. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
 - a. Conduct likely to harm the public, in violation of 59 O.S. §509(8) and Okla. Admin. Code § 435:10-7-4(11);
 - b. Gross or repeated negligence in the practice of medicine and surgery in violation of Okla. Admin. Code § 435:10-7-4(15);
 - c. Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety, in violation of Okla. Admin. Code § 435:10-7-4(17);
 - d. Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery, in violation of Okla. Admin. Code § 435:10-7-4(18);
 - e. The inability to practice medicine and surgery with reasonable skill and safety to patients as a result of any mental or physical condition. 59 O.S. §509(15) and Okla. Admin. Code § 435:10-7-4(40);
 - f. 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 59 O.S. §509(18);
 - g. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, in violation of 59 O.S. §509(20);
 - h. Improper management of medical records, in violation of Okla. Admin. Code § 435:10-7-4(36).

V. CONCLUSION

Given the foregoing, the undersigned respectfully requests 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 and any other appropriate action with respect to Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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VERIFICATION

I, Robbin Roberts, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding James Ernest Mays, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



Robbin Roberts, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: 11-16-20



County, State of Execution