

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,)
)
Plaintiff,)
)
v.)
)
MARK DAVID WINCHESTER, M.D.,)
LICENSE NO. 17303,)
)
Defendant.)

SEP 15 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-06-3786

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, Mark David Winchester, M.D., 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 physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*

2. Defendant, Mark David Winchester, M.D., holds Oklahoma license no. 17303 and practices family medicine in Norman, Oklahoma.

3. Beginning November 19, 1991 and continuing through February 14, 1992, Defendant completed approximately three (3) months of inpatient treatment for substance abuse at COPAC.

4. In or around September 1993, Defendant relapsed on hydrocodone, benzodiazepines and Fastin. Defendant obtained the medications by forging prescriptions. He obtained inpatient treatment at Rush Behavioral Health Center beginning December 13, 1993 and continuing through January 3, 1994. Upon returning from Rush, Defendant executed a monitoring contract with the Oklahoma Health Professionals Recovery Program.

5. In or around June mid 2006, Defendant relapsed on Marijuana. He subsequently began abusing Lortab and Oxycodone, which he obtained by taking medications prescribed to his wife from various doctors. He additionally obtained Lortab from a friend who gave him the

medications with the understanding that Defendant would give the medications to patients in need. Defendant did not give the medications to patients, but instead used the medications for himself. He also abused Oxycontin that he obtained from an elderly patient who had a bad reaction to the medication and who had returned it to Defendant.

6. Beginning June 23, 2008 and continuing through August 7, 2008, Defendant obtained treatment for substance abuse at Resurrection Health Care (formerly Rush Behavioral Health Center).

7. On or about May 10, 2007, Defendant submitted his Application for Renewal of his full medical license in the State of Oklahoma for the period July 2, 2007 through July 1, 2008. On his Application for Renewal, Defendant was asked the following question: "Have you been addicted to or abused any drug or chemical substance including alcohol?" In response to this question, the Defendant answered "NO". Defendant admits that he was using drugs at the time he filled out the renewal application.

8. On or about May 9, 2008, Defendant submitted his Application for Renewal of his full medical license in the State of Oklahoma for the period July 2, 2008 through July 1, 2009. On his Application for Renewal, Defendant was asked the following question: "Have you been addicted to or abused any drug or chemical substance including alcohol?" In response to this question, the Defendant answered "NO". Defendant admits that he was using drugs at the time he filled out the renewal application.

9. Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).

B. 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).

C. 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) and OAC 435:10-7-4(39).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(9).

F. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

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. 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).

I. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

Conclusion

WHEREFORE, the Plaintiff respectfully 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 and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118
Attorney for the Plaintiff