

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

**FILED**

MAR 22 2013

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

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

**Plaintiff,**

**v.**

**Case No: 10-10-4096**

**DENNIS ROBERTS, MD.  
LICENSE NO. 17909**

**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, Scott Randall Sullivan, Special Prosecutor, and for its Complaint against the Defendant, Dennis Roberts, 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 Title 59 O.S. §480 et seq.
2. Defendant, Dennis Roberts, M.D., holds Oklahoma medical license no. 18909.
3. On or around 10-11-2010, an Oklahoma licensed medical doctor filed a complaint alleging large-scale inappropriate prescribing by Defendant.
4. On or around 11-15-2010 a complaint was filed by CB, mother of adult **patient RB**, alleging Defendant provided her son increasing amounts of CDS which contributed to the death of her son.
5. Board Investigator Lane spoke with Defendant on three (3) different occasions about his prescribing habits and educated Defendant of possible prescribing "red flags" such as prescribing to spouses or parents and children the same medications. Board Investigator reminded Defendant narcotic abuse was an epidemic and of the importance of proper charting. He was provided the "Chronic Pain" guidelines from this Board.

6. On or around 01-24-2012 Defendant advised Investigator Lane he was formerly with Integris Family Care Southwest but **had a disagreement with fellow physicians who were concerned about Defendant overprescribing CDS.** He advised he has been with Midwest Physician's since October 2011. He advised he is a salaried employee but admits he does get production bonuses.

7. On or around 01-24-2012 Board Investigator Lane obtained the medical records of Defendant's patients **CH, EH, DM, MT** and **LW** from Midwest Physicians.

8. Board Investigator Lane obtained pharmacy records that show patients **CH, EH, DM, MT** and **LW** received the following medications from the Defendant:

**Patient CH (From 12-07-2010 to 04-10-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Alprazolam 2mg     | 11 months             | 1,420           | 4.3            |
| Carisoprodol 350mg | 14 months             | 840             | 2.0            |
| Hydrocodone 10mg   | 24 months             | 4,140           | 5.7            |
| Oxycodone 15mg     | 13 months             | 1,790           | 4.6            |
| Oxycodone 30mg     | 14 months             | 2,360           | 5.6            |
| Oxycodone 10/325   | 1 month               | 90              | 3.0            |
| <b>TOTAL:</b>      | <b>24 months</b>      | <b>10,640</b>   | <b>14.8</b>    |

**Patient EH (From 02-28-2008 to 12-24-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Alprazolam 0.5mg   | 26 months             | 3,120           | 4.0            |
| Carisoprodol 350mg | 54 months             | 5,280           | 3.3            |
| Oxycodone 15mg     | 54 months             | 5,970           | 3.7            |
| Oxycodone 30mg     | 53 months             | 7,380           | 4.6            |
| <b>TOTAL:</b>      | <b>55 months</b>      | <b>24,600</b>   | <b>14.9</b>    |

**Patient DM (From 02-10-2009 to 11-11-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Alprazolam 1mg     | 15 months             | 2,110           | 4.7            |
| Alprazolam 2mg     | 25 months             | 2,490           | 3.3            |
| Carisoprodol 350mg | 40 months             | 4,770           | 4.0            |
| Oxycodone 10/325   | 28 months             | 6,480           | 7.7            |
| Hydrocodone 10mg   | 21 months             | 4,880           | 7.8            |
| Hydromorphone 2mg  | 3 months              | 320             | 3.6            |

|                    |                  |               |             |
|--------------------|------------------|---------------|-------------|
| Meperidine 50mg    | 8 months         | 784           | 3.3         |
| Phentermine 37.5mg | 1 month          | 60            | 2.0         |
| Triazolam 0.25mg   | 18 months        | 1,050         | 1.9         |
| <b>TOTAL:</b>      | <b>43 months</b> | <b>23,004</b> | <b>17.8</b> |

**Patient MT (From 12-30-2010 to 11-15-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Carisoprodol 350mg | 10 months             | 570             | 1.9            |
| Diazepam 10mg      | 23 months             | 2,160           | 3.1            |
| Fentanyl 25mcg     | 2 months              | 20              | 0.3            |
| Hydrocodone 10mg   | 4 months              | 240             | 2.0            |
| Methadone 10mg     | 1 month               | 90              | 3.0            |
| Oxycodone 15mg     | 20 months             | 5,180           | 8.6            |
| Phenobarbital 15mg | 7 months              | 540             | 2.6            |
| Phentermine 37.5mg | 3 months              | 90              | 1.0            |
| <b>TOTAL:</b>      | <b>23 months</b>      | <b>8,890</b>    | <b>12.9</b>    |

**Patient LW (From 07-12-2011 to 02-01-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Carisoprodol 350mg | 5 months              | 630             | 4.2            |
| Hydrocodone 10mg   | 6 months              | 1,020           | 5.7            |
| Oxycodone 15mg     | 5 months              | 930             | 6.2            |
| <b>TOTAL:</b>      | <b>7 months</b>       | <b>2,580</b>    | <b>12.3</b>    |

9. On or around 08-21-12 Board Expert completed his review of the five (5) medical records belonging to patients CH, EH, DM, MT and LW. Board Expert's overall summary reads as follows:

“As of August 19, 2012, I have reviewed five charts of Dr. Dennis Roberts. In every case there was definitely an over prescription of controlled medications, most times 450 to 520 tablets every three-to-four weeks. There was never any questions if the request for medications was early, also, there was no real documented reasons given for increasing the medications to larger quantities at any given office visit. There were no documented discussions of the potential hazards of the medications in the quantities prescribed. Very little monitoring was done through the OBN or with labs, and if they were done, nothing was done with the results. In one case,

a family member mentioned rehab but the prescriptions continued. *I find it appalling that a 22-year-old patient went from a 15 tablet Lortab prescription to 480 tables of controlled medications within four months with no apparent reason and then she was involved in a motor-vehicle accident.*

In summary, I feel that controlled medications in the form of OxyCodone, hydrocodone, Xanax, Valium and Soma were overprescribed in quantities that were dangerous to the patients' wellbeing in the charts reviewed. (Emphasis added.)"

10. On or around 04-19-2012 Board Staff was notified by the Pharmacy Board of a concern from a pharmacist regarding Defendant prescribing to family members. Those prescriptions were being filled at a pharmacy in Elk City. This reporting pharmacist advised she called Defendant's office and was told the two individuals in question (**Patient TC** and **Patient CC**) did not have charts and were not patients. On or around 09-12-2012 Defendant stated Patient CC is his ex-wife and further advised Patient TC is Patient CC's current husband. Defendant admitted he did not have a chart on Patient TC at the clinic. He stated he would simply write the prescriptions when Patient TC came in with Patient CC. He admitted he did not keep records of patient TC's prescriptions.

11. On or around 07-27-2012 JS filed a complaint alleging Defendant prescribed JS's wife, **Patient AS**, Ultram while she was breastfeeding her opioid addicted newborn. A review of pharmacy records for Patient AS was conducted and it did not show large quantities of CDS, however, at that time, Ultram (aka Tramadol) was not a scheduled drug. AS's medical records were obtained. Board Investigator Lane contacted Patient AS's obstetrician and was asked if he ever said he was "okay" with Patient AS taking Ultram as prescribed by Defendant and as stated in Defendant's 04-03-2012 progress note. AS's obstetrician said, "I never said that!" He advised he was surprised when the infant went to the NICU for opioid withdrawals as he was unaware of the patient being on any narcotics. When AS's obstetrician was advised it appeared the patient was getting approximately 240 Ultram per month after her first trimester, the doctor said it made sense why the infant went to the NICU. When asked if he would ever give a pregnant patient that much Ultram he responded, "Good Lord, no; I wouldn't even give a cancer patient that much!"

12. Patient AS's care was discussed with Dr. Roberts. AS's medical records included Discharge Instructions from St. Anthony's South dated 08-01-12 that stated Patient AS's "Current Biopsychosocial Status: Opiate dependency, continuous." St. Anthony's recommended follow-up care to include "90 AA/NA meetings in 90 days, get and utilize a sponsor, and attend aftercare on Wednesdays at 7:30 p.m." This document shows Patient AS

was admitted there for five (5) days; from 07-28-12 to 08-01-12. Defendant saw Patient AS on 08-30-12 and he once again provided her with a prescription for Tramadol #240. When asked by Board Investigator Lane why he would provide Patient AS with more Tramadol when St. Anthony South had diagnosed her with “opiate dependency”, he advised he didn’t think she was an addict. He stated she had been stable on Tramadol #240 for years. He stated he believed Patient AS had always been truthful to him and he had no reason to distrust her.

13. Board Investigator Lane obtained pharmacy records that show patients RB, AS, TC and CC received the following medications from the Defendant:

**Patient RB (From 10-07-2008 to 10-18-2009)**

| <u>Drug</u>         | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|---------------------|-----------------------|-----------------|----------------|
| Alprazolam 1mg      | 13 months             | 1,350           | 3.5            |
| Amphetamine Salt 10 | 10 months             | 900             | 3.0            |
| Hydrocodone 10mg    | 13 months             | 2,840           | 7.3            |
| Oxycodone 10/325    | 3 months              | 150             | 1.7            |
| <b>TOTAL:</b>       | <b>13 months</b>      | <b>5,240</b>    | <b>13.4</b>    |

**Patient AS (From 01-24-2008 to 12-14-2012)**

| <u>Drug</u>        | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|--------------------|-----------------------|-----------------|----------------|
| Carisoprodol 350mg | 31 months             | 3,021           | 3.3            |
| Hydrocodone 7.5mg  | 1 month               | 90              | 3.0            |
| Lorazepam 1mg      | 1 month               | 90              | 3.0            |
| Tramadol 50mg      | 39 months             | 7,150           | 6.1            |
| Zolpidiem 10mg     | 35 months             | 1,110           | 1.1            |
| <b>TOTAL:</b>      | <b>39 months</b>      | <b>12,871</b>   | <b>11.0</b>    |

**Patient TC (From 10-27-2008 to 07-18-2012)**

| <u>Drug</u>      | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|------------------|-----------------------|-----------------|----------------|
| Hydrocodone 10mg | 14 months             | 890             | 2.1            |
| <b>TOTAL:</b>    | <b>14 months</b>      | <b>890</b>      | <b>2.1</b>     |

**\*\*\*\*These 14 prescriptions were not documented in any medical record\*\*\*\***

**Patient CC (From 04-10-2008 to 12-11-2012)**

| <u>Drug</u>       | <u>Amount of Time</u> | <u>Quantity</u> | <u>Avg/Day</u> |
|-------------------|-----------------------|-----------------|----------------|
| Hydrocodone 7.5mg | 7 months              | 1,260           | 6.0            |
| Hydrocodone 10mg  | 51 months             | 10,180          | 6.7            |

|                    |                  |               |            |
|--------------------|------------------|---------------|------------|
| Lorazepam 1mg      | 13 months        | 510           | 1.3        |
| Oxycodone 5mg      | 5 months         | 660           | 4.4        |
| Oxycodone 15mg     | 2 months         | 120           | 2.0        |
| Oxycodone 10mg     | 12 months        | 750           | 2.1        |
| Phentermine 37.5mg | 6 months         | 180           | 1.0        |
| Temazepam 30mg     | 2 months         | 60            | 1.0        |
| Triazolam 0.25mg   | 39 months        | 1,710         | 1.5        |
| <b>TOTAL:</b>      | <b>57 months</b> | <b>15,430</b> | <b>9.0</b> |

14. On or around 10-25-12, the four medical records for Patients RB, AS, TC and CC were provided, along with their pharmacy records, to Board Expert, for his expert review. His overall summary reads as follows:

“In August 2012 I submitted my report after reviewing five charts of Dr. Dennis Roberts. You have that report. I was then asked to review four more charts. In all cases there were quite large quantities of controlled medications prescribed. One case ended with the death of a patient from an overdose of narcotics. I could not find out whether it was accidental or otherwise. Another case involved a pregnant mother who was prescribed medications during her pregnancy and gave birth to an addicted baby. The two other patient charts were related to the physician through family ties and were given prescriptions for period of time with no recorded office visits. I also quickly reviewed five other charts that revealed large quantities of controlled medications prescribed.

On overview, Dr. Roberts rarely used lab work or OBN reports to monitor [sic] his patients’ medication use. He appears to be dealing with a difficult patient clientele, Medicaid or patients with no insurance who are usually very “streetwise.” He did have signed narcotic contracts on most of the patients at some time. Of greatest concern was the lack of meaningful HPI’s, physical exams, or, comprehensive plans of care Most records were identical in content, possibly a fault of EMR’s. Diagnoses were vague and pain levels ranged from 0 to 7. One visit in 2003 was excellent in all aspects of charting.

The most important principal of practicing medicine is to do no harm. I do feel that Dr. Roberts has some compassion for his patients *but his prescribing habits are dangerous, excessive and have caused harm to his patients.* (Emphasis added.)”

15. On 03-06-2013 during an interview with Board Investigator Lane, Dr. Roberts advised he was “given the pink slip” from Midwest Physicians on 11-20-2012. He stated they “didn’t like all the junk going on. They didn’t like the pain management.”

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

- A. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public as stated in 59 O.S. §509.8;
- B. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship as stated in 59 O.S. §509.12;
- C. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards as stated in 59 O.S. §509.16;
- D. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient as stated in 59 O.S. §509.18;
- E. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained as stated in 59 O.S. §509.20;
- F. Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs as stated in Oklahoma Administrative Code Rule 435-10-7-4(1);
- G. Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standard as stated in Oklahoma Administrative Code Rule 435-10-7-4(2);

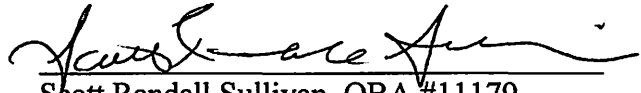
- H. Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need as stated in Oklahoma Administrative Code Rule 435-10-7-4(6);
- I. Conduct likely to deceive, defraud, or harm the public as stated in Oklahoma Administrative Code Rule 435-10-7-4(11);
- J. Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes as stated in Oklahoma Administrative Code Rule 435-10-7-4(24);
- K. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug as stated in Oklahoma Administrative Code Rule 435-10-7-4(25);
- L. Violating any state or federal law or regulation relating to controlled substances as stated in Oklahoma Administrative Code Rule 435-10-7-4(27);
- M. Improper management of medical records as stated in Oklahoma Administrative Code Rule 435-10-7-4(36); and
- N. Failure to provide a proper setting and assistive personnel for medical act, including but not limited to examination, surgery, or other treatment. Adequate medical records to support treatment or prescribed medications must be produced and maintained as stated in Oklahoma Administrative Code Rule 435-10-7-4(41).

### **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,

A handwritten signature in cursive script, appearing to read "Scott Randall Sullivan", written over a horizontal line.

Scott Randall Sullivan, OBA #11179  
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