

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

STATE OF OKLAHOMA, *ex rel.*)
THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
LYNN JENNINGS, M.D.,)
LICENSE NO. 18381)
)
Defendant.)

FILED

JUN 05 2014

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

Case No: 13-04-4717

COMPLAINT

For its Complaint against the Defendant Lynn Jennings, M.D., the State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision (the "Board") 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 O.S. § 480, *et seq.*
2. The Defendant holds Oklahoma medical license no. 18381.
3. The acts and omissions complained of herein were made while the Defendant was acting as a physician pursuant to her medical license conferred upon her by the State of Oklahoma, and the acts complained of herein were either conducted within, or directed towards patients in, the territorial limits of the State of Oklahoma.

Allegations of Unprofessional Conduct

4. During the time-frames discussed herein, the Defendant was acting either as the medical director or, or consultant to, Camelot Cancer Care ("CCC") located in Tulsa, Oklahoma.
5. On April 22, 2013, the Board received a phone call from Special Agent CB with the FDA Criminal Investigation Unit stating the FDA along with the FBI were going to serve a search warrant on CCC in Tulsa the following day.

6. On April 23, 2013, FDA Agent CH went into CCC posing as a potential patient. Agent CH spoke with staff and gave them a cashier's check in the amount of \$13,000 for treatment. Agent CH was scheduled to have a PICC line inserted on this same date by Tonya Grimes, RN. Agent CH did not see or speak with any physician while acting as a patient. When Agent CH left the facility under the guise of retrieving medical records, the other agents and Board Investigator JL entered the facility and served the search warrant. The same day, two agents were in Texas to interview the Defendant.
7. On May 1, 2013, the Defendant and her counsel came to the Board office for an interview. The Defendant advised she has worked for CCC for approximately three (3) years. She stated when she first started working for CCC she would be in the clinic on a Saturday and Sunday once or twice a month. She would physically see and assess patients and was paid \$250 per consultation. At the time she lived in Wichita Falls, Texas, which she said was about a four (4) hour drive. In May of 2012 she moved to Longview, Texas, making the drive to CCC closer to six (6) hours. The Defendant admitted to FDA agents that she did not physically see or examine any patients of CCC after moving to Longview, Texas.
8. The Defendant told CCC owner, ML, that CCC needed a local doctor as she did not want to continue making the drive to Tulsa. Eventually the consults were only conducted by the Defendant via web based video and she was being paid \$1,000 per consult. The Defendant admitted that not assessing these cancer patients in person "wasn't an ideal situation."
9. The Defendant was given the opportunity to review her prescribing record. It was noted that there were CDS prescribed to ML, Patient HLy and Patient JLy – which are also CCC employees. The Defendant stated she approved the medications, but was unsure since any medical records she had for these individuals were at her home in Texas.
10. The prescribing record reflects Patient JLe received the following prescriptions:
 - Five (5) patches of Fentanyl on April 15, 2013;
 - Ketamine cream on April 17, 2013; and
 - Oxandrolone 2.5 mg #80 on April 19, 2013.
11. The Defendant advised she did not write or authorize these prescriptions. The Defendant admitted that CCC had her signature stamp and apparently used the stamp on these prescriptions without her permission or knowledge. There is no evidence in the medical record that this patient was ever physically examined by the Defendant.
12. On May 8, 2013, medical records were received from the Defendant on CCC Employees ML, HL and JLy. Those respective records evidence the following:
 - a. Patient ML – Pharmacy records show the following prescriptions were filled under Dr. Jennings' name:

- 06-01-2011 Valium 5mg #30
- 10-28-2011 Xanax 0.25mg #60
- 04-24-2012 Xanax 0.25mg #60 (refilled on 06-15-2012)

The five pages of “records” that Dr. Jennings provided consisted of five pages of emails all sent in July 2009 regarding Dr. Jennings prescribing Human Growth Hormone (HGH). None of the above four CDS prescriptions were noted. There is no documented patient history, allergies, vital signs, exams, or follow-ups. There is no evidence in the medical record that this patient was ever physically examined by the Defendant, diagnoses of disease for which these drugs were prescribed to treat, or the efficacy thereof.

- b. Patient HL – Pharmacy records show the following prescriptions were filled under Dr. Jennings’ name:

01-21-2013 Hydrocodone 10mg #90

The two page record Dr. Jennings provided were emails regarding HLy allegedly falling and needing pain medication. ML writes to Dr. Jennings that HLy has fallen and is in pain. Dr. Jennings does not assess HLy, but Dr. Jennings does state, “I have called in some Lortab to the CVS,” although the strength or quantity is not noted. There is no evidence in the medical record that this patient was ever physically examined by the Defendant, or evidence why such a drug in such quantities was needed to treat pain resulting merely from a fall. There is no diagnosis made by the Defendant regarding this patient.

- c. JLy - Pharmacy records show the following prescriptions were filled under Dr. Jennings’ name:

10-04-2010 Xanax 0.5mg #60
 11-03-2010 Xanax 0.5mg #60
 11-30-2010 Xanax 0.5mg #60
 12-28-2010 Xanax 0.5mg #60
 01-31-2011 Xanax 0.5mg #60 (refilled 02-28-2011)
 03-28-2011 Xanax 0.5mg #180
 06-21-2011 Xanax 0.5mg #180
 08-17-2011 Xanax 0.5mg #180
 11-01-2011 Xanax 0.5mg #180
 12-09-2011 Klonopin 0.5mg #60
 01-16-2012 Xanax 0.25mg #60 (refilled 02-13-2012)
 02-28-2012 Xanax 0.25mg #60 (refilled 03-27-2012)
 05-04-2012 Hydrocodone 10mg #240

There were 14 pages produced for JLy's medical record. Thirteen (13) pages were emails, one page was a copy of a prescription. The records mention a prescription for Xanax on 11-30-2010, 12-28-2010, and 01-31-2011. Although it does not note the strength, dosage or quantity. There is a note dated 01-16-2012 for Xanax 0.25mg PO BID #60 with 1 refill. It is noted that Dr. Jennings also prescribed Metformin 500mg 2 PO BID #120 with 1 refill without any explanation of why the Defendant needed it. There is a note for the 02-28-2012 Xanax 0.25mg 1 BID prn #60 with 1 refill. On 04-23-2012, the Defendant ordered Rocephin (antibiotic) IV and to "consider giving him an IV for hydration as well." There is a note that she called in hydrocodone 10mg 2 PO every 6 hours on 05-04-2012. She states, "I have it written for a month's supply but I think that you will not need the entire amount since you are planning to wean down." There is a note on 11-17-2012 that Dr. Jennings called in Xanax #30, but it did not appear to be filled.

Of the sixteen (16) total CDS prescriptions to JLy, eight (8) were not noted in the chart. There is no notation of this patient's history, allergies, vital signs, exams, or follow-ups. There is no evidence in the medical record that this patient was ever physically examined by the Defendant, diagnoses of disease for which these drugs were prescribed to treat, or the efficacy thereof.

13. CCC records further indicate that patient KS was seen and treated at the clinic beginning April 8, 2013. There are no notes or logs on what medications were given to this patient, although there is an order date April 9, 2013, stamped with the Defendant's signature, for the placement of a PICC line. No medical records from other providers were present. There is no evidence in the medical record that this patient was ever physically examined by the Defendant.
14. Dr. Jennings' financial gain resulting from the years she worked at CCC is as follows:

<u>Year</u>	<u>Gross</u>	<u>Expenses</u>	<u>Net</u>
2010	\$29,661	(17,443)	\$12,218
2011	\$19,050	(425)	\$18,625
2012	\$33,250	(0)	\$33,250
2013	<u>\$18,000</u>	<u>(0)</u>	<u>\$18,000</u>
TOTALS:	\$99,961	(17,868)	\$82,093

Violations

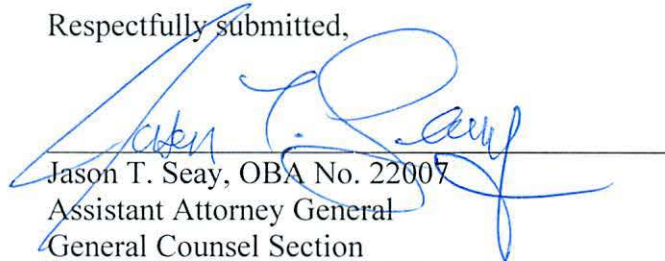
15. The Defendant is guilty of unprofessional conduct by:
 - a. Failing to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 O.S. 2011, § 509(10);

- b. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship in violation of 59 O.S. 2011, § 509(12);
- c. Failing 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. 2011, § 509(18);
- d. Failing to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications in violation of in violation of 59 O.S. 2011, § 509(20);
- e. Delegating authority to another person for the signing of prescriptions for either controlled or non-controlled drugs in violation of Okla. Admin. Code § 435:10-7-4(7);
- f. Improperly managing medical records in violation of Okla. Admin. Code § 435:10-7-4(36);
- g. Failing to maintain adequate medical records to support treatment or prescribed medications in violation of Okla. Admin. Code § 435:10-7-4(41); and
- h. Failing to establish a physician-patient relationship prior to providing patient-specific medical services, care or treatment in violation of Okla. Admin. Code § 435:10-7-4(49).

Conclusion

Given the foregoing, the undersigned 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 a monetary fine, license suspension or revocation, and any other appropriate action with respect to the Defendant's professional license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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