

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

SEP 30 2010

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)
)

v.)

Case No. 10-09-4087

JUSTIN DANIEL GENSON, P.A.,)
LICENSE NO. PA1867,)

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, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Justin Daniel Genson, P.A., 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 assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and §519.1 *et seq.*

2. Defendant, Justin Daniel Genson, P.A., holds Oklahoma physician assistant license no. PA1867.

3. On or about January 14, 2010, Defendant was granted a physician assistant license under terms of an Agreement for Licensure based upon a history of alcohol abuse and four (4) prior arrests: (a) a DUI arrest in 1998; (b) a Minor in Possession arrest in 1999; (c) a Malicious Injury/Mischief/Assault arrest in 2000; and (d) a DUI arrest in 2007. The Agreement for Licensure provides as follows:

5. Applicant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances, including but not limited to alcohol.

9. Applicant will notify the Board or its designee of any relapse, including entry, or re-entry, into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written

authorization for any and all records associated with said treatment, assessment or evaluation.

10. Applicant will notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for traffic or criminal offenses, including driving under the influence or while intoxicated or involving alcohol or any other prohibited substance.

4. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's licensure under agreement.

5. On or around **January 20, 2010, Defendant was arrested** by the Norman Police Department and charged with Driving a Motor Vehicle While Under the Influence of Alcohol. At the time of the arrest, Defendant admitted to the police officer that he had consumed three (3) beers. Defendant could not stand on his own and was transported to Norman Regional Hospital for a blood test.

6. On or about **April 15, 2010, Defendant was again arrested** by the Norman Police Department and charged with Driving a Motor Vehicle While Under the Influence of Alcohol. At the time of the arrest, Defendant registered a 0.11 and 0.12 on the Breathalyzer test.

7. On or about April 29, 2010, Defendant met with Tom Sosbee, the Board's Compliance and Education Coordinator, as well as Gary Ricks, Compliance officer, to go over the terms of Defendant's Agreement for Licensure. During this meeting, Defendant did not reveal that he had been arrested on both January 20, 2010 and April 15, 2010 for DUI.

8. On or about **May 4, 2010, Defendant was arrested** by the Oklahoma Highway Patrol and charged with Driving a Motor Vehicle While Under the Influence of Alcohol. At the time of the arrest, Defendant was unsteady on his feet, had slurred speech and bloodshot eyes, and admitted to the Highway Patrol Officer that he had drank "1/2 of whiskey". He also told the officer that "I'm drunk" and that he was an alcoholic.

9. On or about May 10, 2010, Board staff learned through sources other than Defendant about the January 20, 2010 and the April 15, 2010 arrests for DUI.

10. On or about May 12, 2010, Defendant executed an Agreement with the Board Secretary whereby he agreed that he would not practice as a physician assistant until the Complaint to be filed against him had been heard by the Board.

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

- A. Habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1).

B. Violated any provision of the Medical Practice Act or the rules promulgated by the Board in violation of OAC 435:15-5-11(a)(7).

C. 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).

D. 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).

E. 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).

F. Is habitually intemperate or habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

G. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).

H. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

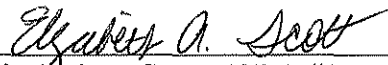
I. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

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 physician assistant license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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