

**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,)

FEB 2 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 00-11-2276

RICKY JOE NELSON, M.D.,)
LICENSE NO. 18882,)

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, Ricky Joe Nelson, 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, Ricky Joe Nelson, M.D., holds Oklahoma license no. 18882.

3. During an approximate two (2) month period in 1999, Defendant wrote prescriptions over the Internet for NMC Marketing. According to the Defendant, NMC Marketing would have a patient answer medical questions on a form via the Internet. The completed questionnaire would then be placed on a web page where Defendant would review the answers to these questions over the Internet, then would prescribe drugs to these patients. Once Defendant reviewed the questionnaire, his prescription, by electronic signature, would go to Rx Direct to be filled. Defendant claims that most of the prescriptions he wrote for NMC Marketing were for Viagra. Defendant admits that he did not talk to patients with NMC, but would only review the forms filled out by the patients via the Internet. Defendant received \$10.00 per prescription that he wrote from NMC.

4. On or about July 3, 1999, Patient RBW, a resident of the state of North Carolina, contacted the Pillbox, an Internet pharmacy, regarding obtaining controlled dangerous substances over the Internet. The Internet pharmacy advised Patient RBW to contact Defendant at 4:00 p.m.

on July 3, 1999. At that time, Defendant allegedly reviewed the medical history questionnaire provided by the pharmacy over the Internet, spoke with the patient over the telephone, and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

5. On or about June 21, 2000, Patient JMW, a resident of the state of Kentucky, contacted the Pillbox pharmacy regarding obtaining controlled dangerous substances over the Internet. The Internet pharmacy advised Patient JMW to contact Defendant at 2:40 p.m. on June 21, 2000. At that time, Defendant allegedly reviewed the medical history questionnaire provided by the pharmacy over the Internet, spoke with the patient over the telephone, and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

6. On or about July 24, 2000, Patient MBW, a resident of the state of Tennessee, contacted the Pillbox pharmacy regarding obtaining controlled dangerous substances over the Internet. The Internet pharmacy advised Patient MBW to contact Defendant. At that time, Defendant allegedly spoke with the patient over the telephone and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

7. On or about July 26, 2000, Patient GSW, a resident of the state of Illinois, contacted the Pillbox pharmacy regarding obtaining controlled dangerous substances over the Internet. The Internet pharmacy advised Patient GSW to contact Defendant at 2:30 p.m. on July 26, 2000. At that time, Defendant allegedly reviewed the medical history questionnaire provided by the pharmacy over the Internet, spoke with the patient over the telephone, and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

8. On or before August 24, 2000, Patient EMS, a resident of the state of Ohio, was the subject of an investigation by the United States Department of Justice concerning marijuana trafficking. During this investigation, the Department of Justice intercepted telephone calls between Patient EMS and a person named "Brian" at the Pillbox pharmacy regarding obtaining controlled dangerous substances over the Internet. "Brian" advised Patient EMS to contact Defendant at 3:20 p.m. on August 24, 2000. The Department of Justice also intercepted a telephone conversation between Patient EMS and Defendant wherein after briefly speaking with the patient, the Defendant prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy. Federal agents intercepted an additional telephone call after Patient EMS spoke with the Defendant, wherein Patient EMS laughingly told a friend that he had "just got done with the doctor" and "the doc cut me off", and that the patient could not even finish telling the doctor his problems.

9. On or about August 30, 2000, Patient SMW, a resident of the state of Ohio, contacted the Pillbox pharmacy regarding obtaining controlled dangerous substances over the Internet. "Brian" at the Internet pharmacy advised Patient SMW to contact Defendant at 4:30 p.m. on August 30, 2000. At that time, Defendant allegedly reviewed the medical history

questionnaire provided by the pharmacy over the Internet, spoke with the patient over the telephone, and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy. After this telephone conversation with the Defendant, Patient SMW telephoned Patient EMS who was still the subject of the federal wiretap referenced in paragraph 8 above, and told Patient EMS that going to the doctor was the "easiest thing I've ever done".

10. On or about September 12, 2000, Patient JMW, a resident of the state of Kentucky, telephoned Defendant again and requested more controlled dangerous substances. After speaking with the patient over the telephone, Defendant prescribed an additional 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

11. On or about October 4, 2000, Patient MBW, a resident of the state of Tennessee, telephoned Defendant again and requested more controlled dangerous substances. After speaking with the patient over the telephone, Defendant prescribed an additional 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

12. On or about October 13, 2000, Patient VSW, a resident of the state of Texas, contacted an Internet pharmacy regarding obtaining weight loss medications over the Internet. The Internet pharmacy advised Patient VSW to contact Defendant on October 13, 2000. At that time, Defendant allegedly reviewed the medical history questionnaire provided by the pharmacy over the Internet, spoke with the patient over the telephone, and prescribed 100 Hydrocodone with two (2) refills and 100 Diazepam with two (2) refills to be filled at the originating Internet pharmacy.

13. On or about October 16, 2000, Patient JRW, a resident of the state of Texas, contacted EmpireDrugs.com, an Internet pharmacy, regarding obtaining Viagra over the Internet. The patient completed a questionnaire, which was forwarded to Defendant over the Internet. Defendant allegedly reviewed the questionnaire completed by the patient, which provided that the patient had had no physical examination within the past year and he consumed more than two (2) servings of alcohol per day. The questionnaire did not contain any report on the patient's blood pressure. The Defendant then authorized a prescription for four (4) Viagra to be filled at through the originating Internet pharmacy by Value Drugs in Sun City, Arizona.

14. When Steve Washbourne, Oklahoma State Board of Medical Licensure and Supervision investigator, interviewed Defendant along with Special Agent Kent Wood of the Federal Food and Drug Administration, Defendant admitted to them that he has an Alabama driver's license and claims to be an Alabama resident with a domicile in Oklahoma, and that he drives two (2) vehicles, both with expired tags and registered to his mother and to his former business. Defendant additionally admitted that the checks he received from NMC as payment for prescriptions authorized by him were not made out to him, but were made out to "Night Hawk" to avert lawyers who were after him.

15. Defendant is guilty of unprofessional conduct in that he:
- A. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
 - B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) 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(14) and OAC 435:10-7-4(39).
 - D. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
 - E. Failed 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(19).
 - F. Engaged in indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs in violation of OAC 435:10-7-4(1).
 - G. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).
 - H. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).
 - I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-404 and OAC 435:25-1-3.
 - J. Committed an 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(10).
 - K. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).

L. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404 and OAC 475:25-1-3.

M. Engaged in improper management of medical records in violation of OAC 435:10-7-4(36).

N. Failed to provide a proper setting and assistive personnel for medical acts, including, but not limited to examination, surgery, or other treatment in violation of OAC 435:10-7-4(41). Adequate medical records to support treatment or prescribed medications must be produced and maintained.

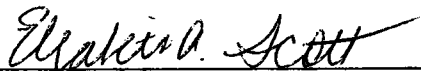
O. Has utilized his Oklahoma license for practice in another state, territory, district or federal facility and has violated any laws in the state in which he is practicing or any federal, territorial or district laws that are in effect in the location in which he is using his Oklahoma license to practice in violation of OAC 435:10-7-4(46).

P. Failed to obtain informed consent, based on full and accurate disclosure of risks, before prescribing, dispensing, or administering medical treatment for the therapeutic purpose of relieving pain in accordance with Oklahoma Administrative Code 435:10-7-11 where use may substantially increase the risk of death in violation of OAC 435:10-7-4(48).

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,



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