

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

FILED

JAN 26 2007

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

Plaintiff)

v.)

GILBERT EUGENE JOHNSON, M.D.,)
LICENSE NO. 19272,)

Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 06-08-3146

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, Gilbert Eugene Johnson, M.D., Oklahoma license no. 19272, 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, Gilbert Eugene Johnson, M.D., holds Oklahoma license no. 19272, and is a family practitioner in Idabel, Oklahoma.

3. A review of pharmacy records in Idabel, Oklahoma reveals that Defendant began treating DWW, another physician in Idabel, on or around January 6, 2004 and continuing through at least July 27, 2006. Prescriptions written or authorized by Defendant to DWW during this time include two (2) prescriptions for Meperidine, a Schedule II controlled dangerous drug, for 90 dosage units, six (6) prescriptions for Testosterone and Hydrocodone, Schedule III controlled dangerous substances, for 155 dosage units, and twelve (12) prescriptions for Alprazolam, Soma and But/Apap/Caf, Schedule IV controlled dangerous substances, for 780 dosage units. A review of Defendant's records reveals that he failed to perform any physical examination on DWW prior to prescribing the controlled dangerous drugs, that he did not establish a valid physician patient relationship prior to prescribing the medications, that he did not establish a legitimate medical

need for the medical treatment, and that he failed to maintain complete and accurate records of all controlled dangerous drugs prescribed.

4. When questioned by the Board's investigator, Defendant admitted that he kept no chart on DWW.

5. With respect to the Testosterone prescribed on November 4, 2004, November 8, 2005, December 13, 2005 and May 15, 2006, Defendant initially told the Board's investigator that he prescribed it for weight lifting, a non-medical purpose. On a subsequent interview, Defendant changed his story and stated that it was for a medical purpose because Levitra and Viagra did not exist at that time. However, a review of pharmacy records reflects that Defendant had prescribed Levitra to DWW on August 24, 2004 and September 13, 2004, and that he had prescribed Viagra on August 24, 2004, all of which was before he prescribed the Testosterone to DWW.

6. Defendant additionally wrote, administered or authorized prescriptions for non-controlled dangerous drugs to DWW, including Viagra, Levitra, Propecia and Promethazine. Defendant failed to perform any physical examination on DWW prior to prescribing these dangerous drugs to him, he did not establish a legitimate medical need for the medications, and he did not establish a valid physician patient relationship prior to prescribing the medications.

7. A review of pharmacy records in Idabel, Oklahoma reveals that Defendant began treating JWW, the wife of DWW, on or around November 4, 2004 and continuing through February 18, 2005. Prescriptions written or authorized by Defendant to JWW during this time include one (1) prescription for Demerol, a Schedule II controlled dangerous substance, for 60 dosage units, one (1) prescription for Histinex HC, a Schedule III controlled dangerous substance, and six (6) prescriptions for Alprazolam and But/Apap/Caf, Schedule IV controlled dangerous substances, for 420 dosage units. A review of Defendant's records reveals that he failed to perform any physical examination on DWW prior to prescribing the controlled dangerous drugs, that he did not establish a valid physician patient relationship prior to prescribing the medications, that he did not establish a legitimate medical need for the medical treatment, and that he failed to maintain complete and accurate records of all controlled dangerous drugs prescribed.

8. When questioned by the Board's investigator, Defendant admitted that JWW was not seen as a patient.

9. A review of pharmacy records in Idabel, Oklahoma reveals that on July 25, 2006 and on October 11, 2006, Defendant wrote or authorized prescriptions in the name of JOW, one of his employees, for Diazepam, a Schedule IV controlled dangerous substance, for 200 total dosage units. A review of Defendant's records reveals that he failed to perform any physical examination on JOW prior to prescribing the controlled dangerous drugs in her name, that he did not establish a valid physician patient relationship prior to prescribing the medications, that he did not establish a legitimate medical need for the medical treatment, and that he failed to maintain complete and accurate records of all controlled dangerous drugs prescribed.

10. Pursuant to Defendant's instructions, JOW picked up the drugs at City Drug, then returned them to Defendant. Defendant's records further reflect that the medications were not meant for JOW's personal use, but were intended for "office use."

11. Pharmacy records in Idabel, Oklahoma further reveals that on March 14, 2006, Defendant wrote or authorized prescriptions to JOW, one of his employees, for Fiorinal w/Codeine and Coughtuss, Schedule III controlled dangerous substances. A review of Defendant's records reveals that he failed to perform any physical examination on JOW prior to prescribing the controlled dangerous drugs in her name, that he did not establish a valid physician patient relationship prior to prescribing the medications, that he did not establish a legitimate medical need for the medical treatment, and that he failed to maintain complete and accurate records of all controlled dangerous drugs prescribed.

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

- A. 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).
- B. 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 (12).
- C. 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 (18) and OAC 435:10-7-4(41).
- D. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- E. 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).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good

medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6) and 59 O.S. §509 (16).


- H. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).
- I. 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).
- J. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509 (11).
- K. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).
- L. Used any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

Conclusion

WHEREFORE, plaintiff 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 the revocation or suspension of the Defendant's license to practice as a physician and surgeon in the State of Oklahoma, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician and surgeon in the State of Oklahoma.

Dated this 26th day of January, 2007 at 2:00 pm.

Respectfully submitted,



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Oklahoma State Board of Medical
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