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

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OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA EX REL. THE OKLAHOMA BOARD OF MEDICAL LICENSURE AND SUPERVISION,	)	
Plaintiff,	)	
v.	)	**Case No. 02-04-2498**
LONNIE WILLIAM LITCHFIELD, M.D., LICENSE NO. 19449,	)	
Defendant.	)	

AMENDED 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 Amended Complaint against the Defendant, Lonnie William Litchfield, 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, Lonnie William Litchfield, M.D., holds Oklahoma license no. 19449.

3. Defendant practices at the Pain Management and Rehabilitation Center in Oklahoma City, Oklahoma with Troy Tortorici, M.D. During the relevant time at issue, Defendant employed numerous chiropractors, including but not limited to Steve Sweeney, Kris Wilson, Bradley Cockings, Robert Harvey, Ron Brown and Kristi Farrell.

4. Although he did not physically practice there, Defendant and Dr. Tortorici also had an office in Del City known as the Mid-Del branch of the Pain Management and Rehabilitation Clinic. Defendant admits that although he never treated patients at the Mid-Del Clinic, prescriptions for controlled dangerous drugs were called in and authorized by him for patients seen at the Mid-Del Clinic prior to ever being seen or examined by him or any licensed medical doctor and without him having established a legitimate physician patient relationship.

5. The chiropractors employed at the Mid-Del Clinic have admitted that when patients came to the Mid-Del Clinic for an initial evaluation or follow-up treatment, when

narcotics were requested, the customary procedure was for the chiropractor to call the Defendant or Dr. Tortorici directly to obtain authorization for the ordering of narcotics. The chiropractors have admitted that this was done prior to the patient ever seeing the physician and that some patients even received refills of their narcotics without having ever seen the physician.

6. On or about January 24, 2001, Patient AHW, an employee of Defendant, received a prescription from Defendant for Meridia with three (3) refills. On or about March 23, 2001, Patient AHW received a prescription from Defendant for Percocet 10 mg. with one (1) refill. The prescription on Percocet does not contain an original signature but instead contains the stamped signature of Defendant. A review of Defendant's records reveals that Defendant kept no chart on Patient AHW, that he did not perform a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he did not maintain any office record which accurately reflected that evaluation, treatment and medical necessity of treatment of the patient.

7. According to records obtained from the Oklahoma State Bureau of Narcotics and Dangerous Drugs, on or about November 20, 2000 and on June 4, 2001, Defendant wrote prescriptions for Meridia and for Percocet 5 mg., a Schedule II controlled dangerous drug to Jennifer Tortorici, the wife of his partner, Troy Tortorici. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient relating to these prescriptions, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

8. Beginning October 6, 1998 and continuing through July 25, 2002, Patient LCW received narcotics from Defendant. A review of Patient LCW's chart and pharmacy records reveals that during this time, Patient LCW received 138 prescriptions for MS Contin 15 mg., MS Contin 30 mg., MS Contin 60 mg. and Dilaudid 4 mg., all Schedule II controlled dangerous drugs, for a total of 16,870 dosage units for an average of **12.2 dosage units per day of Schedule II controlled dangerous drugs.** A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient until July 1, 2002, after Board investigators had contacted Defendant, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

9. On or around November 26, 2001, Patient SPW was seen and treated in Defendant's office. On this same date, she received prescriptions for Lortab and Flexeril. Patient SPW subsequently received prescriptions for Lortab on December 27, 2001 and January 14, 2002, and for Percocet on February 1, 2002, which prescription did not contain an original signature, but instead contained Defendant's stamped signature. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this

patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

10. On or about November 2, 2001 and November 12, 2001, Patient EFW received prescriptions for Lortab from Defendant. One of these prescriptions did not contain an original signature, but instead contained Defendant's stamped signature. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

11. On or about January 2, 2001, Patient BEW was seen and treated in Defendant's office. Patient BEW's chart contains an unsigned medical report that Defendant had examined Patient BEW on this date and prescribed Lortab for him at that time. A prescription for Lortab written that day to Patient BEW was not written by Defendant, but instead contained the stamped signature of his partner, Troy Tortorici, M.D. The prescription log for Patient BEW reveals eleven (11) prescriptions for Soma and Lortab between November 5, 2001 and February 19, 2002. The prescription log does not contain the January 2, 2001 prescription. Patient BEW's chart does not indicate whether Defendant or his partner, Troy Tortorici, M.D. prescribed each of these medications. Patient BEW claims that he was never examined or treated by Defendant or Dr. Tortorici. A review of Defendant's records additionally reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

12. Beginning August 30, 1999 and continuing through April 8, 2002, Patient HVW was seen and treated with physical therapy in Defendant's office. Patient HVW's chart reveals that during this time, she received twelve (12) prescriptions for Lortab and Soma, as well as prescriptions for other non-controlled medications. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

13. On or about April 26, 2001 September 10, 2001, November 5, 2001, November 12, 2001, and April 22, 2002, Patient RCW received ten (10) prescriptions for Lortab, Oxycontin, and Percocet from Defendant. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician

patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

14. On or about October 8, 2001, Patient PRW was seen in Defendant's office. Patient PRW's chart contains an unsigned medical report that Defendant examined Patient PRW on that date. However, a review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient. Beginning October 8, 2001 and continuing through January 31, 2002, Patient PRW received five (5) prescriptions for Lortab from Defendant. Defendant's records reveal that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

15. On or about January 2, 2001 and February 28, 2001, Patient CCW was seen and treated in Defendant's office. Subsequently, on January 2, 2002 and January 14, 2002, Patient CCW received prescriptions for Lortab from Defendant. Neither of these prescriptions contained the original signature of Defendant, but instead contained his stamped signature. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

16. Beginning June 18, 2001 and continuing through December 18, 2001, Patient ADW was seen and treated in Defendant's office. An unsigned medical report reflects that Patient ADW received a prescription for Lortab from Defendant on June 18, 2001. Patient ADW additionally received a prescription for Lortab from Defendant on June 27, 2001 which did not contain the original signature of Defendant, but instead contained his stamped signature. From September 24, 2001 through October 29, 2001, Patient ADW received six (6) prescriptions for Lortab and Soma from Defendant. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

17. Beginning on or around February 19, 2001 and continuing through January 21, 2002, Patient JAW was seen and treated in Defendant's office. Patient JAW's chart reflects that beginning January 7, 2002 and continuing through April 29, 2002, Patient JAW received fourteen (14) prescriptions for Lortab, Soma and MSContin, one of which was post-dated by Defendant. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship

prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

18. Defendant admitted that on April 18, 2002, a prescription signed by him for Lortab was given to Patient ANW by Steve Sweeney, the chiropractor he employs. On this date, Patient ANW was treated only by the chiropractor. Defendant also admitted that he was not present in the office on April 18, 2002 when the narcotics were prescribed to Patient ANW. Defendant additionally admitted that he had left pre-signed prescriptions in his office earlier that week that were subsequently filled out by office staff, and that one of these pre-signed prescriptions for Lortab had been given to Patient ANW. A review of Patient ANW's chart reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

19. On or about July 1, 2002, Ron Brown, an employee of Defendant, received a prescription for Lortab from Defendant. A review of his chart reveals no indication that Defendant ever performed a physical examination on this patient, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

20. Defendant admitted to a Board investigator that he has used pre-signed and stamped prescriptions, and that pain medication has been prescribed prior to the patient seeing either him or his partner, Troy Tortorici, M.D. Defendant admitted that it was possible for patients to receive controlled dangerous substances without having ever seen either him or his partner, Troy Tortorici, M.D.

21. Defendant's partner, Troy Tortorici, M.D., has admitted to a Board investigator that the practice with respect to treatment of patients seen at the Pain Management and Rehabilitation Center was for Steve Sweeney, the chiropractor, to examine, diagnose and treat the patients, after which time the chiropractor would sometimes, but not always, call Defendant or Dr. Tortorici on the telephone. The Defendant or Dr. Tortorici would then call the chiropractor and prescribe the controlled dangerous substances to the patient. In some instances, pre-signed or stamped prescriptions were given to patients without the chiropractor ever contacting Defendant.

22. For the past three (3) years, Defendant and his staff have utilized a stamped signature on his prescriptions, including those for Schedule II controlled dangerous drugs. A review of the records of Reliable Discount Pharmacy in Oklahoma City, Oklahoma reveals that between August 3, 2001 and January 7, 2002, Defendant issued seven (7) separate prescriptions for Oxycontin and Percocet, both Schedule II controlled dangerous drugs, on prescriptions which did not contain his original signature, but instead contained his stamped signature. Other than

the stamped signature, the writing on the prescriptions is not that of Defendant, but is that of the office receptionist, Andrea Hallman. All but one of these prescriptions were written and stamped on days when Defendant was not scheduled to be in the clinic.

23. A review of the records of Pan Med Pharmacy in Oklahoma City, OK reveals numerous other stamped prescriptions for Schedule III through IV controlled dangerous drugs. Other than the stamped signature, the writing on the prescriptions is not that of the Defendant, but is that of the office receptionist, Andrea Hallman, or in some instances, the actual prescription, including the drug, dosage and instructions, are also stamped.

24. Defendant has admitted that subsequent to being contacted by Board investigators, he or his office staff at his direction changed or supplemented patient charts.

25. 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(9) and OAC 435:10-7-4(11).

B. 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).

C. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(15) and OAC 435:10-7-4(21).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. 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), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-4.

F. 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).

G. 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) and 435:10-7-4(41).

H. 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.

I. Prescribed, dispensed or administered a controlled substance 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 standards in violation of 59 O.S. 509(17).

J. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

K. 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).

L. Engaged in the delegation of authority to another person for the signing of prescriptions for either controlled or non-controlled drugs in violation of OAC 435:10-7-4(7).

M. Engaged in the use of 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).

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

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,

Elizabeth A. Scott (OBA #12470)
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Attorney for the Plaintiff

CERTIFICATE OF MAILING

I certify that on the 6 day of September, 2002, I mailed a true and correct copy of the Amended Complaint by mailing the same, postage prepaid, to John Goodman, 301 N. Harvey, Suite 210, Oklahoma City, OK 73102.

Janet Swindle