

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

FILED

APR 05 2011

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
WILLIAM BROWNING O'BRIEN, M.D.,)
LICENSE NO. 20338,)
)
Defendant.)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 10-06-4011

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, William Browning O'Brien, 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, William Browning O'Brien, M.D., holds Oklahoma license no. 20338.
3. In 1984, Defendant was a registered nurse in the State of Oklahoma. On or about May 24, 1984, Defendant entered treatment at St. John Medical Center in Tulsa, Oklahoma for alcoholism and chemical dependency. Defendant completed treatment approximately two (2) months later.
4. On July 26, 1984, Defendant's nursing license was suspended for one (1) year based upon a finding that he stole narcotics from the hospital where he was employed for his personal use, and that he falsified hospital records to cover the stealing of the narcotics.
5. On or about August 1, 1985, the Oklahoma State Nursing Board reinstated Defendant's nursing license under terms of probation, and on September 24, 1986, Defendant's probation with the Nursing Board was terminated.

6. On or about May 30, 1996, Defendant submitted his Application for Licensure as a physician in the State of Oklahoma. On his application, Defendant advised the Board of his prior disciplinary action before the Nursing Board, his addiction and treatment and disciplinary action by a hospital.

7. On or about July 24, 1997, the Board issued Defendant a medical license.

8. In or around November 1997, Defendant entered inpatient treatment at Rush-Presbyterian St. Luke's Medical Center in Chicago, Illinois for substance abuse.

9. On Defendant's Applications for Renewal of Oklahoma Medical License dated June 3, 1998, June 5, 1999 and June 26, 2000, in response to the question "Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery" within the past year, Defendant answered "NO" on each occasion. Additionally, in response to the question "Have you had a major illness or been hospitalized within the past year", Defendant answered "NO" on each occasion.

10. On Defendant's Application for Renewal of Oklahoma Medical License dated May 1, 2001, over three (3) years after he went to Rush, Defendant finally advised the Board of his treatment at Rush.

11. Based upon Defendant's false statements in his licensure renewal forms, Defendant was given a Letter of Concern by the Board Secretary on or about November 29, 2001.

12. In or around March 2006, Merlin Kilbury, M.D. of the Oklahoma Health Professionals Recovery Program (the "HPRP") received information that Defendant was overusing narcotic pain medications (Oxycodone) that he was receiving for back pain. Dr. Kilbury approached Defendant and asked him to sign a contract with the HPRP and join the program. Defendant agreed and was monitored by the HPRP for approximately two and one-half (2 ½) years, after which time Dr. Kilbury agreed to Defendant's request that he be released from the program.

13. In early 2010, Dr. Kilbury received complaints regarding Defendant's work performance at the VA Medical Center in Muskogee where Defendant worked. Specific complaints included the fact that Defendant often disappeared during his shifts to take "smoke breaks", he was taking a large amount of prescribed controlled dangerous drugs, and an incident where cocaine residue was found on a burned spoon in a bathroom not normally used by patients or staff that Defendant had been in for approximately thirty (30) minutes.

14. Based upon these complaints, Dr. Kilbury travelled to the VA Medical Center in Muskogee to meet with Defendant and his supervisor, Wallace Love, M.D. At the meeting, Dr. Kilbury requested Defendant to provide a urine specimen. Defendant agreed at first, then said he was unable to provide a specimen. Dr. Kilbury waited approximately three (3) hours, but Defendant continued to claim that he was unable to provide a urine specimen.

15. After waiting three (3) hours, Dr. Kilbury asked Defendant to agree to submit a hair sample for testing. Defendant refused to give the hair sample. Dr. Kilbury additionally asked that Defendant renew his contract with the HPRP, to which he also refused. Dr. Kilbury then advised Defendant that he would be reporting Defendant's failure to cooperate with him to the Board.

16. Pharmacy records reflect that from March 9, 2009 until June 18, 2010, Defendant received eleven (11) prescriptions for Oxymorphone, Morphine Sulfate and Dextroamphetamine, Schedule II controlled dangerous substances, for 1000 dosage units, four (4) prescriptions for Phendimetrazine (Bontril), a Schedule III controlled dangerous substance, for 360 dosage units, and four (4) prescriptions for Alprazolam, a Schedule IV controlled dangerous substance, for 240 dosage units. Defendant also received eight (8) prescriptions for Tramadol, a non-controlled pain medication, for 800 dosage units. The majority of these prescriptions were given by Laura Beth Bilbruck, M.D., a long time friend and former medical school classmate of Defendant.

17. Based upon these facts, on or about June 30, 2010, Board Investigator Robert DuVall made an unannounced visit to Defendant at the VA Medical Center in Muskogee. At this time, Investigator DuVall requested that Defendant provide a urine and hair sample for testing. Defendant refused to provide either sample to Investigator DuVall. Mr. DuVall advised Defendant that if the only medications he had taken were from legitimate prescriptions, he had nothing to fear in a drug test. Defendant nevertheless refused to supply a specimen for testing.

18. Title 59 O.S. §509.1(C) provides as follows:

The Board may, upon reasonable cause, require professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.

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

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(4) and OAC 435:10-7-4(3).

B. 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).

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(13) and OAC 435:10-7-4(39).

D. 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 physical condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

E. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

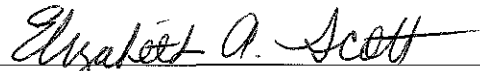
F. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

G. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

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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