

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

**STATE OF OKLAHOMA, *ex rel.*,
THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND
SUPERVISION,**)
)
)
)
)
Plaintiff,)
)
vs.)
)
**DONALD H. KIM, M.D.,
LICENSE NO. MD 21721,**)
)
Defendant.)

FILED

DEC 04 2020

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 18-11-5674

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.*, the Oklahoma State Board of Medical Licensure and Supervision ("Board"), alleges and states as follows for its Complaint against DONALD H. KIM, M.D. ("Defendant"):

I. JURISDICTION

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, holds Oklahoma medical license number 21721. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to the medical license conferred upon him by the State of Oklahoma, and such acts and omissions occurred within the physical territory of the State of Oklahoma.

II. ALLEGATIONS OF UNPROFESSIONAL CONDUCT

3. This case was initiated by a patient complaint alleging a violation of patient confidentiality. That allegation was not proven and the allegation was unconfirmed. During that investigation however, records were reviewed along with the Defendant's PMP records. Those gave rise to concerns of prescribing and standard of care. Ultimately, 4 patient records were reviewed. All four of those records had numerous instances rising to the level of unprofessional conduct.
4. The records reviewed showed that Defendant consistently failed to perform adequate patient evaluations. He failed to obtain adequate medical histories and failed to perform adequate physical examinations of patients. He failed to adequately elicit past and

current pain treatments and responses to those treatments, assess affects of pain on physical and psychological functioning, failed to acknowledge and address important underlying diseases or conditions such as anxiety, chronic obstructive pulmonary disease, depression, obesity and sleep apnea, and he failed to adequately elicit and evaluate histories of substance abuse. Though urine drug screens were utilized, potentially aberrant test results were often unaddressed or inadequately addressed.

5. Defendant failed to establish adequate treatment plans for his patients. Long term, typically high-dose opioid therapy was the foundation of his treatment plans. Opioids were usually prescribed in conjunction with other, often multiple, central nervous system depressants prescribed by Defendant as well as other physicians. There was little to no evidence of consideration of the risks and benefits of such prescriptions. Little attention was given to the use of non-opioid approaches to pain management. There was little documentation of treatment success including improvements in physical and psychosocial function.
6. Defendant failed to perform and/or document adequate periodic reviews of the course of treatment. There was little to no review of the risk to benefit analysis of of high-dose opioids and little attention paid to nonprescription treatments.
7. Defendant showed little inclination to refer to, or consult with other healthcare providers. This included patients with comorbid psychiatric disorders and/or substance abuse issues.
8. Patient records were deficient in several respects. Current medication lists in medical records were often unreliable and pertinent surgical histories were not kept up to date and were often unintelligible.
9. The 4 patient charts were sent for expert review. The expert determined that the patient care provided by Defendant repeatedly fell below the standard of care and failed to satisfy the Oklahoma Board of Medical Licensure and Supervision's criteria for the treatment of pain.

III. VIOLATIONS

10. Based on the foregoing, the Defendant is guilty of unprofessional conduct as follows:
 - a. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards in violation of Title 59 § 509(16)
 - b. Failure 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 Title 59 § 509(18):
 - c. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-

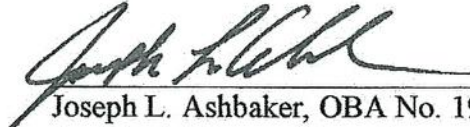
person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. **Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained in violation** of Title 59 § 509(20) and OAC 435:10-7-4(41):

- d. Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic Drugs in violation of OAC 435:10-7-4(1):
- e. Prescribing, dispensing or administering of Controlled substances or Narcotic drugs in excess of the amount considered good medical practice or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards OAC 435:10-7-4(2):
- f. Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need in violation of OAC 435:10-7-4(6):
- g. Conduct likely to deceive, defraud, or harm the public in violation of OAC 435:10-7-4(11):
- h. Gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15):
- i. Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17):
- j. Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18):
- k. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4(25):
- l. Improper management of medical records in violation of OAC 435:10-7-4(36).

CONCLUSION

Given the foregoing, the undersigned requests 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 the

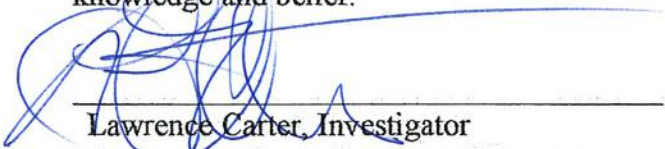
Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.


Joseph L. Ashbaker, OBA No. 19395
Assistant Attorney General
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
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VERIFICATION

I, Lawrence Carter, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding the Defendant, DONALD H. KIM, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.


Lawrence Carter, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: 2 Dec 2020
Oklahoma County