

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

FILED

JUN 14 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, ex rel,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION)

Plaintiff,)

CASE NO. 13/01/4656

ROBERT MICHAEL HOLBROOK)
Medical License No. 22135)

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, Scott Randall Sullivan, Special Prosecutor, and for its Complaint against the Defendant, Robert Michael Holbrook, MD., 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 Title 59 O.S. §490 et seq.
2. Defendant Robert Michael Holbrook, MD, holds Oklahoma medical license no. 22135.

BACKGROUND

3. At the time of the events in question, Defendant Holbrook practiced Internal Medicine and Gastroenterology at Norman Gastroenterology Associates in Norman, Oklahoma.
4. On or about December 27, 2012, the Drug Enforcement Agency [DEA] contacted the Board's Chief Investigator to report a concern regarding Defendant Holbrook's prescribing habits. The DEA's complaint consisted of relaying information they received from a Walgreen's pharmacist who reported that Defendant Holbrook had been prescribing Hydrocodone 10 mg long term to a patient in whom she had learned **did not have a medical record**. The Pharmacist

later talked to Dr. Holbrook, who admitted to her he had written prescriptions to the patient and that the patient was his neighbor.

5. Additional information derived from pharmacy records led Board staff to gather information about more patients who were being prescribed long-term controlled and dangerous substances [CDS].

PRESCRIBING VIOLATIONS

PATIENT CGJ

6. Medical records belonging to patient CGJ were obtained from Defendant Holbrook. From 2008 to 2013, pharmacy records revealed that Defendant Holbrook had prescribed eighty-six [86] prescriptions of Hydrocodone 10 mg for a total of **6,610 dosage units. In the five [5] years of prescribing, only two [2] face to face patient encounters were documented in the medical records.** Defendant's chart on this patient reveals that he failed to perform adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

PATIENT SMJ

7. Medical records belonging to patient SMJ were requested from Defendant Holbrook. Defendant Holbrook's office staff informed Board staff that there were no medical records for the patient. Later, Defendant Holbrook produced **one [1] face to face patient encounter record** from 2008 which he reported to have found in the warehouse. Defendant Holbrook admitted to Board staff that SMJ was his neighbor. From 2008 to 2012, pharmacy records revealed that **Defendant Holbrook prescribed 103 prescriptions for Hydrocodone 10 mg for a total of 8,240 dosage units.** Defendant's chart on this patient reveals that he failed to perform adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

PATIENT RPJ

8. Medical records belonging to patient RPJ were obtained from Defendant Holbrook. The records reveal that **Defendant Holbrook had two [2] in office face to face patient encounters with patient RPJ in 2010.** In addition, he performed an endoscopy on patient RPJ in 2010. Pharmacy records reveal that Defendant Holbrook continued to prescribe controlled dangerous substances to RPJ from 2010 until 2013 in the way of **160 dosage units of Hydrocodone 10 mg, 480 dosage units of Phentermine and 250 dosage units of Tramadol.** Defendant Holbrook admitted to Board staff that RPJ was a female tech who worked at a rural hospital. Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

PATIENT BSJ

9. Medical records belonging to patient BSJ were obtained from Defendant Holbrook. **The records revealed no face to face patient encounters.** Later, Defendant Holbrook produced a record dated March 10, 2009 in which he informed Board staff that he found in the warehouse. In addition, he also informed Board staff that BSJ was an operating scrub tech who worked at an area hospital. Pharmacy records revealed that Defendant Holbrook began prescribing to BSJ in 2008 and continued until 2013. **He prescribed 102 prescriptions of Hydrocodone 10 mg for a total of 8,704 dosage units.** Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

PATIENT SWJ

10. Medical records belonging to patient SWJ were obtained from Defendant Holbrook. **The records revealed no face to face patient encounters.** Later, Defendant Holbrook produced a record dated December 10, 2008 in which he informed Board staff that he found in the warehouse. In addition, Defendant Holbrook informed Board staff that SWJ was an employee of one of his friends. Pharmacy records revealed that **Defendant Holbrook prescribed 309 controlled**

dangerous substances to SWJ from 2009 to 2013. 33 other prescribers were also listed in the pharmacy records. **Defendant Holbrook prescribed 12,920 dosage units of Hydrocodone 10 mg, 1,340 dosage units of Diazepam and 2,010 dosage units of Alprazolam.** Defendant's chart on this patient reveals that he failed to perform ongoing adequate physical examinations on this patient while prescribing CDS, that he did not order appropriate tests, that he did not establish a legitimate medical need for the continuation of medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

ADMISSIONS BY DEFENDANT HOLBROOK

11. Defendant Holbrook admitted to Board staff that he did indeed write prescriptions for all the patients cited above. He further admitted that he gave the medical personnel patients prescriptions at their work place. His other patients listed above would call him when they needed a prescription and he would either allow them to pick up the prescription at his backdoor, or at another known location. Lastly, he admitted that he failed to maintain proper documentation.

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. 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), OAC 435:10-7-4(39), and OAC 435:15-5-11(7).

 - 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. 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).

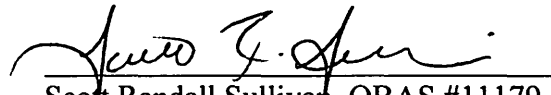
- E. Prescribed, dispensed or administered a controlled substance or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. 509(16).
- F. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- 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).

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 assistant 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 assistant in the State of Oklahoma.

Dated this 10th day of June, 2013.

Respectfully submitted,



Scott Randall Sullivan, OBAS #11179
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Attorney for the State of Oklahoma ex rel.
Oklahoma State Board of Medical
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