

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

FILED

APR 11 2012

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)	
EX REL. THE OKLAHOMA BOARD)	
OF MEDICAL LICENSURE)	
AND SUPERVISION,)	
Plaintiff,)	
)	
v.)	Case No. 07-05-3290
)	
HOLLY TINA MYERS,)	
LICENSE NO. RC2215)	
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, Holly Tina Myers, RC 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 respiratory care therapists in the State of Oklahoma pursuant to 59 O.S. §2030 et seq. and Oklahoma Administrative Code Rule 435:5-1-3.
2. Defendant, Holly Tina Myers, holds Oklahoma license no. RC2215.

History with the Board

3. On May 31, 2007 a formal Complaint was filed herein resulting from Defendant's traffic stop by the Broken Arrow Police Department on or about April 9, 2007 for not having a license plate displayed. The police searched her car and arrested her for possessing almost one (1) gram of Methamphetamine, used smoking devices and a loaded semi-automatic pistol.
4. After further questioning of Defendant Broken Arrow Police subsequently obtained a search warrant for Defendant's home where they found three (3) zip-top baggies of compressed marijuana, four (4) baggies containing crystal Methamphetamine, and a set of counter-balance scales with Methamphetamine residue.
5. As a result of that search warrant, Defendant was again arrested on or about April 9, 2007 and charged in the District Court of Wagoner County, State of Oklahoma, with

UNLAWFUL POSSESSION OF CONTROLLED DANGEROUS DRUGS WITH INTENT TO DISTRIBUTE, UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA, AND POSSESSION OF CONTROLLED DANGEROUS DRUGS WITHOUT AFFIXING APPROPRIATE TAX STAMP.

6. On November 1, 2007, after hearing before the Board en banc, the Board entered a Final Order of Suspension whereby it suspended Defendant's license for a minimum of six (6) months after which time she could apply for reinstatement.

7. On November 3, 2011, after hearing before the Board en banc, Defendant was placed on probation for a term of five (5) years pursuant to the Order Granting Reinstatement of License Under Terms of Probation filed herein on November 3, 2011.

Violation of Probation

8. Pursuant to the terms of Defendant's probation, Defendant is required to check in each day for random monthly drug testing through Affinity. Defendant has missed checking in with Affinity 29 times in an eight-month period. Defendant was contacted by Board Staff, Ms. Crowder, after each missed call-in to discuss her reasons for same and to help her stay focused during the probation period. **Defendant was drug tested once a month and never missed taking a random drug test.**

9. In December of 2012 Defendant injured her knee, requiring surgery and physical therapy. She started blaming her missed call-ins on her knee injury and the pain it was causing her. Ms. Crowder and the Board's Compliance Coordinator attempted to help Defendant by staying in contact with her, but she continued to apologize and said she would do better in the future.

10. On March 1, 2013 Defendant submitted to a random urine test. The test was positive for Ethyl. An ETG was subsequently performed on the test. The cutoff level for a positive result is set at 500. Defendant tested at a level of 4175.

11. On or about March 15, 2013 Board's Compliance Coordinator contacted the Defendant to discuss her positive drug test. Initially she denied drinking alcohol and blamed the positive result on medications. After further discussion she admitted she attends "business mixers where wine is served." When asked if she drank any wine she said, "I don't think so. I will need to check the date of the mixer." Upon further discussion and questioning by the Board's Compliance Coordinator, Defendant ultimately denied consuming any alcohol while on probation.

12. Defendant is in violation of the following paragraphs of the Order Granting Reinstatement of License Under Terms of Probation filed herein on November 3, 2011:

Paragraph F: Defendant will have the affirmative duty

not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances including but not limited to alcohol.

Paragraph L: Defendant shall promptly notify the Board of any relapse including any entry or re-entry, into a treatment program for substance abuse.

13. Defendant is guilty of unprofessional conduct in that she is in:

Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of any action, stipulation or agreement of the Board as stated in *Oklahoma Administrative Code Rule 435:10-7-4 (39)*.

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,



Scott Randall Sullivan, OBA #11179
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Attorney for Plaintiff