

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

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
 Plaintiff,)
)
 v.)
)
ROBERT CHISHOLM, M.D.,)
LICENSE NO. 22563)
 Defendant.)
)

FEB 08 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No: 12-12-4562

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, and for its Complaint against the Defendant, Robert Chisholm, 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, Robert Chisholm, M.D., holds Oklahoma license no. 22563 which expired on November 1, 2012.

**CURRENT UNPROFESSIONAL
CONDUCT ALLEGATIONS**

1. This case was initiated as a result of a telephone call on 11-13-12 by a patient of Dr. Chisholm. Patient stated she went by Dr. Chisholm’s office and it was closed during regular business hours. She called the Oklahoma State Board of Medical Licensure Supervision and Licensure (OSBMSL) to inquire as to any

information the OSBMSL might have regarding the relocation of Dr. Chisholm's medical office and how she might obtain a copy of her medical records.

2. On 11-13-12 an OSBMLS Investigator (Investigator) emailed Dr. Chisholm. Dr. Chisholm responded via email later that same day stating he did intend on practicing again and will be renewing his license later in the week. Dr. Chisholm also stated "I am burned out from running a solo practice for 10 years."

3. As of this date, Dr. Chisholm has not renewed his medical license.

4. On 11-14-12 Investigator emailed Dr. Chisholm inquiring as to how patients could obtain a copy of their medical records. Once again, Dr. Chisholm responded stating he planned on dropping off medical records with a local colleague and they would be available for patients to pick up. Investigator continued to receive phone calls from former patients on 11-14-12. Some patients were stating they were running out of their medications and needed their records. Once again, Dr. Chisholm was contacted via email and notified of the additional phone calls and requests for records. Investigator also advised Dr. Chisholm to place a voice message on his clinic phone and let his patients know when they could pick up their records.

5. The next day, 11-15-12, Investigator again emailed Dr. Chisholm and asked him when his patients could get their records. Dr. Chisholm did not respond.

6. On 11-19-12 Investigator again notified Dr. Chisholm that Investigator was continuing to receive requests from his former patients and they are in need of their records. Dr. Chisholm was advised to be a proactive as possible in letting the patients know how they could obtain their records. Again it was advised that Dr. Chisholm leave a message on his office phone detailing how and when his patients could get their medical records. Dr. Chisholm did not respond.

7. On 11-27-12 Investigator emailed Dr. Chisholm and informed him that OSBMLS was continuing to receive calls asking for help in this matter. Dr. Chisholm responded via email apologizing for the inconvenience and stating his former patients would be able to pick up their records from Dr. Armendariz, who is located in the same building starting the next week. Investigator believed that would bring this matter to conclusion.

8. On 12-10-12 Investigator received a call from Dr. Armendariz's nurse. She stated that Dr. Armendariz received a phone call from Dr. Chisholm asking if he would be willing to take the patient records, to which Dr. Armendariz responded, "Yes." Dr. Armendariz was told by Dr. Chisholm he would deliver his office key. The nurse informed Investigator that Dr. Chisholm was never seen nor was his office key delivered. Investigator emailed Dr. Chisholm informing him of the conversation. Dr. Chisholm was advised to take the necessary steps to help his patients obtain their medical records.

9. The date of 11-27-12 was the actual last date Investigator had any communication with Dr. Chisholm. A certified letter requiring him to make arrangements for his patients to obtain their medical records was mailed to Dr. Chisholm at his last known address on 12-18-12. The letter was not picked up and was returned to OSBMLS on 12-31-12. Investigator has left numerous voicemails for Dr. Chisholm with no response.

10. As of 1-22-13 OSBMLS has received over 40 patient requests for their medical records.

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

A. Violated 59 O.S. 509.19 which states as follows:

509. Unprofessional Conduct – Definition - The words "unprofessional conduct" as used in Sections 481 through 514 of this title are hereby declared to include, but shall not be limited to, the following:

(19.) Failure to provide necessary on-going medical treatment when a doctor-patient relationship has been established, which relationship can be severed by either party providing a reasonable period of time is granted; and

B. Violated **Rule 435:10-7-4.35, 36, 37 and 38: Unprofessional Conduct** which states as follows:

The Board has the authority to revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct.

Pursuant to 59 O.S., 1991, Section 509, "Unprofessional Conduct" shall be considered to include:

(35) Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when legally requested to do so by the subject patient or by a legally designated representative of the subject patient;

(36) Improper management of medical records;

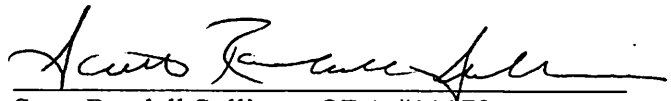
(37) Failure to furnish the Board, its investigators or representatives, information lawfully requested by the Board; and

(38) Failure to cooperate with a lawful investigation conducted by the Board.

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
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
Oklahoma City, OK 73105
(405) 962-1400, Ext. 142

Attorney for Plaintiff