

and rolled his car twice. When Oklahoma Highway Patrol officers arrived, he appeared to be under the influence of alcohol and was carrying a loaded firearm. He was then transported to Park View Hospital in El Reno, Oklahoma. Defendant admitted to hospital employees that he had been drinking alcohol that night. Hospital employees also noted that he smelled of alcohol and asked that he submit to a drug test. However, Defendant refused to submit to any drug test.

7. On or about April 19, 2009, Defendant was charged in the District Court of Canadian County, State of Oklahoma, with **DRIVING UNDER THE INFLUENCE (ALCOHOL)** and **CARRYING A LOADED FIREARM WHILE UNDER THE INFLUENCE**.

8. On or about September 2, 2009, Defendant plead guilty to the charge of **DRIVING UNDER THE INFLUNCE (ALCOHOL)**, Case No. CM-2009-634, in the District Court of Canadian County, State of Oklahoma. Defendant received a five (5) month deferred sentence and was placed on probation.

9. From July 5, 2010 through October 3, 2010, Defendant obtained inpatient treatment for substance abuse at Talbott Recovery Center. Defendant subsequently lived at a halfway house associated with Talbott for three (3) months until January 4, 2011.

10. On or about December 20, 2010, Defendant admitted to Board investigators that on that date of his car accident, he had drank several beers at a casino in Canadian County then had attempted to drive home. Defendant admitted to investigators that he is an alcoholic.

FRAUDULENT RENEWAL

11. On or about June 8, 2007, Defendant submitted his Application for Renewal of Oklahoma License for the period August 2, 2007 through August 1, 2008. On his Application for Renewal, Defendant was also asked the following question: "Since the last renewal....[h]ave you been arrested for, charged with, or convicted of a traffic violation involving the use of any drug or chemical substance including alcohol?" In response to this question, Defendant answered "NO". Defendant with charged with Transporting an Open Container (alcohol) on July 24, 2006.

12. On or about June 1, 2009, Defendant submitted his Application for Renewal of Oklahoma License for the period August 2, 2009 through August 1, 2010. On his Application for Renewal, Defendant was also asked the following question: "Since the last renewal....[h]ave you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?" In response to this question, Defendant answered "NO". Defendant with charged with the DUI on April 19, 2009.

13. On or about June 23, 2010, Defendant submitted his Application for Renewal of Oklahoma License for the period August 2, 2010 through August 1, 2011. On his Application for Renewal, Defendant was asked the following question: "Since the last renewal....[h]ave you been addicted to or abused any drug or chemical substance including alcohol?" In response to

this question, Defendant answered "NO". Defendant admits that he was abusing alcohol and drugs and writing false prescriptions at the time he filled out the renewal application.

**FAILURE TO DOCUMENT PRESCRIPTIONS FOR
CONTROLLED DANGEROUS SUBSTANCES
TO ANOTHER PHYSICIAN - TRADING PRESCRIPTIONS**

14. A review of pharmacy records reveals that from February 29, 2008 through March 15, 2010, Defendant received at least twelve (12) prescriptions for controlled dangerous drugs from Phillip Benton Brown, M.D., a fellow medical student and residency classmate of Defendant. Drugs prescribed include nine (9) prescriptions for Ambien, two (2) prescriptions for Cheratussin with Codeine, and one (1) prescriptions for Sonata.

15. PMP records additionally reflect that during this same period of time, Defendant wrote or authorized at least three (3) prescriptions to Phillip Benton Brown, M.D. for controlled dangerous drugs. Drugs prescribed include Fentanyl Transdermal patch, Hydromorphone and Cheratussin with Codeine.

16. Defendant admits that when he or Dr. Brown desired a prescription for controlled dangerous substances, they would either call or text each other, and then they would call in the prescriptions in each other's names.

17. Both Defendant and Dr. Brown admit that they kept **no chart** on the treatment of each other, that they failed to perform a complete physical examination prior to prescribing the controlled dangerous drugs, that they failed to obtain a full patient history on each other, that they did not order appropriate tests, that they did not establish a legitimate medical need for the medications, and that they did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

**FRAUDULENT PRESCRIPTIONS
TO FAMILY MEMBER**

18. A review of pharmacy records reveals that beginning November 22, 2009 and continuing through April 7, 2010, Defendant wrote or authorized five (5) prescriptions for controlled dangerous to Timothy Smith, his brother. Drugs prescribed include one (1) prescription for Oxycodone #30, one (1) prescription for Meperidine #60, one (1) prescription for Hydrocodone #60, one (1) prescription for Ambien #30, and one (1) prescription for Temazepam #14.

19. Defendant admits that he kept **no chart** on this patient, that he failed to perform a complete physical examination on this patient prior to prescribing the controlled dangerous drugs, that he failed to obtain a full history of the patient, 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.

20. Defendant admitted to Board investigators that these prescriptions authorized in the name of his brother were not for his brother but were instead for his own personal use. Defendant admitted that in both of these instances, he asked his brother to pick up the controlled dangerous substances and to give them back to Defendant for his personal use.

SEXUAL MISCONDUCT

21. Beginning in or around October 2009 and continuing through December 2009, Defendant admits that he was involved in a sexual relationship with Patient JMW, a nurse at the hospital where he worked. A review of the pharmacy records reveals that from December 24, 2009 through April 27, 2010, Defendant wrote or authorized at least four (4) prescriptions to Patient JMW. These prescriptions include one (1) prescription for Demerol, one (1) prescription for Valium, and two (2) prescriptions for Cheratussin AC.

22. Defendant admits that he kept **no chart** on this patient, that he failed to perform a complete physical examination on this patient prior to prescribing the controlled dangerous drugs, that he failed to obtain a full history of the patient, 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.

FAILURE TO DOCUMENT PRESCRIPTIONS FOR CONTROLLED DANGEROUS SUBSTANCES TO FRIENDS

23. A review of the PMP reveals that on or about May 22, 2010, Defendant wrote a prescription for Oxycodone to Patient MCW, a friend. Defendant admits that he kept **no chart** on this patient, that he failed to perform a complete physical examination on this patient prior to prescribing the controlled dangerous drugs, that he failed to obtain a full history of the patient, 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.

24. A review of the PMP reveals that on or about June 2, 2010, Defendant wrote or authorized a prescription for Ambien to Patient MBRW, a friend. Defendant admits that he kept **no chart** on this patient, that he failed to perform a complete physical examination on this patient prior to prescribing the controlled dangerous drugs, that he failed to obtain a full history of the patient, 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.

25. A review of PMP records reveals that from March 24, 2008 until July 20, 2008, Defendant wrote or authorized four (4) prescriptions for Ambien to Patient MBAW. Defendant admits that he kept **no chart** on this patient, that he failed to perform a complete physical

examination on this patient prior to prescribing the controlled dangerous drugs, that he failed to obtain a full history of the patient, 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.

26. 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 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).
 - 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 physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).
 - E. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).
 - F. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
 - G. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - H. Confessed to a crime involving violation of the antinarcotic laws and the laws of this state in violation of 59 O.S. §509(7).

- I. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(9).
- J. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).
- L. 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).
- M. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509(17).
- N. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4(23).
- O. Prescribed or administered a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).
- P. 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).
- Q. 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).
- R. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- S. Failed to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act,

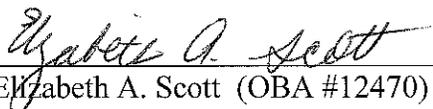
including but not limited to an initial in-person patient examination in violation of 59 O.S. §509(20). Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained.

T. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of OAC 435:10-7-4(49).

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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