

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

FILED

OCT 02 2006

STATE OF OKLAHOMA
EX REL. THE OKLAHOMA BOARD
OF MEDICAL LICENSURE
AND SUPERVISION,

Plaintiff

v.

TINA CHRISTINE SMALL, M.D.,
LICENSE NO. 24054,

Defendant.

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 06-08-3138

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, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Tina Christine Small, M.D., Oklahoma license no. 24054, 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, Tina Christine Small, M.D., holds Oklahoma license no. 24054 and practices physical medicine and rehabilitation in Lawton, Oklahoma.

3. Beginning in or around April 2005 and continuing through July 8, 2006, Defendant treated Patient TCE following her surgery for a malignant brain tumor. Defendant's treatment of the patient included pain management.

4. During the course of the patient's treatment, Defendant obtained coupons from drug representatives for six (6) free Morphine Actiq suckers. According to the coupons, patients are only eligible to redeem one (1) coupon. To get around this requirement, on or about April 22, 2005, Defendant wrote a prescription for six (6) Morphine Actiq suckers, a Schedule II controlled dangerous substance, in the name of JCE, the patient's husband. Defendant admits that although written in the name of JCE, the prescription was intended for the use of Patient TCE.

5. Defendant also admits that she kept no chart on JCE, the patient's husband, during this period of time, that she did not establish a legitimate medical need for the medical treatment, that she did not perform any examination prior to prescribing the medication, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. The only record kept by Defendant is a copy of the prescription written to JCE, which was kept in the chart of Patient TCE.

6. To further circumvent the limitation on the use of these coupons, in or around April or May 2005, Defendant wrote a prescription for six (6) Morphine Actiq suckers, a Schedule II controlled dangerous substance, in the name of CRE, the patient's sister-in-law. Defendant admits that although written in the name of CRE, the prescription was intended for the use of Patient TCE.

7. Defendant also admits that she kept no chart on CRE, the patient's sister-in-law, that she did not establish a legitimate medical need for the medical treatment, that she did not perform any examination prior to prescribing the medication, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. Defendant kept no record of this prescription in the name of CRE.

8. In or around mid-2006, Defendant wrote a prescription for thirty (30) Xanax, a Schedule IV controlled dangerous substance, with two (2) refills, in the name of CFE, the sister of Patient TCE. Defendant admits that she did not establish a legitimate medical need for the medical treatment, that she did not perform any examination prior to prescribing the medication, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. Defendant kept no record of this prescription in the name of CFE.

9. During the course of Defendant's treatment of Patient TCE, on one (1) occasion, Defendant agreed to meet JCE, the patient's husband, at "Scooters", a local bar. During this meeting, Defendant admits that she had a beer with the patient's husband, then left.

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

- 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. 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).

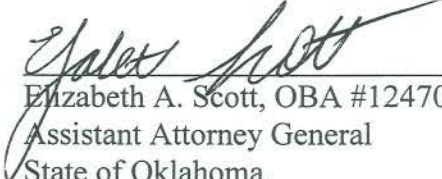
- C. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509 (11).
- D. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. § 509 (13) and OAC 435:10-7-4(39).
- E. 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).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- G. 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).
- H. Prescribed, dispensed or administered a controlled substance 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 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).
- I. 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).

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 and surgeon 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 and surgeon in the State of Oklahoma.

Dated this 2nd day of October, 2006 at 4:00 p.m.

Respectfully submitted,


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Oklahoma State Board of Medical
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