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

STATE OF OKLAHOMA, *ex rel.*   )
OKLAHOMA STATE BOARD   )
OF MEDICAL LICENSURE   )
AND SUPERVISION,   )
)
          Plaintiff,   )
)
v.   )   Case No. 14-12-5090
)
DENNIS RIVERO, M.D.,   )
LICENSE NO. MD 25366,   )
)
          Defendant.   )

FILED

FEB 22 2016

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision ("Board"), alleges and states as follows for its Complaint against Dennis Rivero, M.D. ("Defendant"):

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 holds Oklahoma medical license number 25366. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to his medical license conferred upon him by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

I. ALLEGATIONS OF PROFESSIONAL MISCONDUCT

3. On January 22, 2014, the Board received a complaint alleging Defendant is generally a disruptive physician and that he performed a wrong-site surgery for an ankle fusion on November 18, 2013.

4. The complainant added that Defendant placed the bulk of the blame for the wrong-site surgery on the operating room staff. Defendant later confirmed having such an opinion in an interview.

5. On December 17, 2014, Investigator Jana Lane contacted the complainant to discuss the allegations. Investigator Lane was informed that Defendant paid a settlement directly to

the Patient. This payment was not made by Defendant's medical malpractice insurance carrier.

6. On December 17, 2014, Investigator Lane faxed a subpoena to Defendant for the relevant patient's record. The subpoenaed records were received on December 29, 2014.

7. The records indicated that the right ankle was the surgery site. The medical records further reflect that the patient was prepped and draped by the operating room team in standard fashion. It indicates that a time out was called in which Defendant and four other people allegedly participated.

8. The patient records state that Defendant made a lateral incision, performed an osteotomy of the fibula, divided anterior ligaments and reflected the fibular posteriorly to visualize the joint surfaces. Debridement of the joint was started by removing an osteophyte. It was only at that point that Defendant realized his mistake when he notices that the ankle joint had no "advanced osteoarthritis" and that he was operating on the wrong ankle.

9. On December 23, 2014, Investigator Lane conducted a phone interview with Defendant. Defendant admitted that he conducted a wrong-site surgery on the patient in question and that he settled the case and paid the patient using his own money.

10. Subsequently, Defendant admitted that he was not present for the "time out" and instead relied on others to ensure that the correct site was being operated on.

11. Defendant settled a civil suit in the District Court in and for Muskogee County, Case number CJ-2013-00537 on or about March 27, 2014, at which time it was dismissed. That suit was filed against Defendant by the patient in the instant matter.

12. On September 27, 2014, Defendant filed an Application for Renewal of Oklahoma License with the Board. On that application he answered "No" to the question "Have you had any adverse judgment, settlement, or award against you arising from a professional liability claim?" That answer was false.
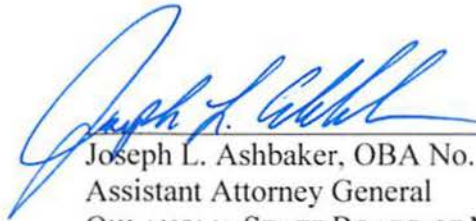
II. VIOLATIONS

13. Based on the foregoing, the Defendant is guilty of professional misconduct as follows:

    a. Failure 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, office surgery, diagnostic service or any other medical procedure or treatment in violation of 59 O.S. 2011, § 509(20) and Okla. Admin. Code § 435:10-7-4(41);

    b. Gross or repeated negligence in the practice of medicine and surgery in violation of Okla. Admin. Code § 435:10-7-4(15);

c.   Fraud or misrepresentation in applying for procuring a medical license or in connection with applying for or procuring periodic re-registration of a medical license in violation of Okla. Admin. Code § 435:10-7-4(8);

d.   The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine in violation of Okla. Admin. Code § 435:10-7-4(19); and

e.   Any adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of Okla. Admin. Code 435:10-7-4(34).

III. CONCLUSION

Given the foregoing, the undersigned requests 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 the Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.
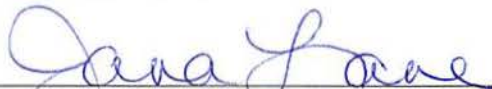
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Verified Complaint; 14-12-5090
Dennis Rivero, M.D., #25366

VERIFICATION

I, Jana Lane, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1.   I have read the above Complaint regarding the Defendant, Dennis Rivero, M.D.; and

2.   The factual statements contained therein are true and correct to the best of my knowledge and belief.

_____   Date: _02-22-2016_

Jana Lane, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Oklahoma City, OK
Place of Execution

Verified Complaint; 14-12-5090
Dennis Rivero, M.D., #25366