

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.)
)
TYSON DINH QUY, M.D.,)
LICENSE NO. 25749,)
)
Defendant.)

JAN 28 2011

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 10-09-4075

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, Tyson Dinh Quy, 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, Tyson Dinh Quy, M.D., holds Oklahoma license no. 25749 and practices family medicine in Purcell, Oklahoma.
3. On or about September 6, 2010, Defendant went to work at Purcell Hospital. Defendant was scheduled to begin work at 6:00 a.m. Hospital staff noticed that Defendant appeared to be impaired so they reported this to Berry Winn, M.D. Dr. Winn called Defendant and advised him to sleep in a room at the hospital.
4. Defendant slept until approximately 12:45 p.m. at which time he left the hospital and attempted to drive himself home. While driving home, Defendant was pulled over by the Purcell Police Department on suspicion of driving while under the influence. Defendant admitted to Board investigators that he was impaired at the time he was pulled over. Defendant performed poorly on the field sobriety test and he agreed to submit to a drug test at the Purcell Municipal Hospital.

5. When Defendant was pulled over by the Purcell Police Department, police found a 9mm sub-compact pistol with 13 rounds of ammunition in the weapon and an extra magazine with 16 rounds of ammunition. Police also found a Kabar fixed blade knife. Defendant was then arrested for **DRIVING UNDER THE INFLUENCE (DRUGS)** and **POSSESSION OF A LOADED WEAPON WHILE UNDER THE INFLUENCE OF NARCOTICS**.

6. On or about September 7, 2010, Defendant was charged with **DRIVING UNDER THE INFLUNCE (DRUGS)**, Case No. CM-2010-00330, in the District Court of McClain County, State of Oklahoma. This case is still pending.

7. At the time of his arrest, Defendant tested **POSITIVE** for Ambien, Alprazolam, Butalbital, Chlorpheniramine, and Citalopram.

8. When initially questioned by Board investigators, Defendant admitted that he had taken two (2) Ambien 10 mg. at 10:00 p.m. and one (1) Ambien 10 mg. at 2:30 a.m. before his 6:00 a.m. shift at the hospital. He also admitted that he had ingested some Tussicaps containing Hydrocodone and some Butalbital that had not been prescribed to him. He claimed that he had obtained these through samples at his work. Additionally, Defendant admitted that he had ingested some Xanax prescribed to his grandmother that he claimed she had left at his house before she returned to Laos in 2009. He confirmed these admissions in a written statement he sent to the Board.

9. A review of the PMP reveals that from October 28, 2009 until August 16, 2010, Defendant was regularly obtaining Ambien from three (3) different physicians.

10. From September 27, 2010 through December 31, 2010, Defendant obtained treatment at Pine Grove for substance abuse.

11. On or about January 25, 2011, Board investigators again interviewed Defendant. When questioned about the Tussicaps and Butalbital he had ingested prior to his DUI arrest, Defendant continued to claim that he obtained these drugs through samples at his place of employment. When questioned further, Defendant admitted that he had lied to Board investigators and that he had actually stolen these sample medications from his father's locked drug cabinet. Defendant's father is a licensed physician in Oklahoma City, Oklahoma. He admitted that he had also stolen Lunesta from his father's drug cabinet in the past. He admitted that he did not tell Pine Grove that he had stolen these medications.

12. When questioned about the Xanax he had ingested prior to his DUI arrest, Defendant continued to claim that he had obtained the drugs from a blister pack left by his grandmother when she moved to Laos in 2009. He showed an empty blister pack to Board investigators. When questioned by investigators as to how the drugs in the empty blister pack could have a manufacture date of February 2010 when he claimed his grandmother left them at his house in 2009, he admitted that he had been lying to Board investigators about how he obtained these drugs. He told Board investigators that he would now be completely honest. He then admitted that he had bought the Xanax, along with some Ambien, on the Internet. He

admitted that he did not tell Pine Grove that he had been purchasing Xanax and Ambien on the Internet. He also admitted that he had lied to Board investigators when he was first interviewed and had decided to continue lying at this interview until he was caught in his lie by Board investigators.

13. When questioned on how much Xanax he had allegedly purchased on the Internet, Defendant admitted that he had purchased sixty (60) dosage units of Xanax 2mg. Defendant admitted that he had told Pine Grove that he had only ingested ten (10) dosage units over a period of time, when in fact he had ingested all sixty (60) dosage units, and had ingested ten (10) dosage units just prior to his DUI arrest.

14. 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. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).


I. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

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).

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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