

**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,)
)
vs.)
)
JAMES MICHAEL FERRIS, M.D.,)
LICENSE NO. MD 27427,)
)
Defendant.)

FILED

SEP 16 2016

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

Case No. 15-12-5249

VERIFIED COMPLAINT FOR PROFESSIONAL MISCONDUCT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), by and through the under signed counsel , alleges and states as follows for its Complaint against the Defendant James Ferris, M.D.:

I. JURISDICTION

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians, surgeons and other allied health professionals in the State of Oklahoma pursuant to 59 O.S. § 480, *et seq.*
2. This action is authorized by 59 O.S. Supp. 2014, § 503 (authorizing sanctions for unprofessional conduct).
3. Dr. Ferris holds Oklahoma medical license no. 27427, which was issued on 21 October 2009.
4. The acts and omissions complained of herein occurred while Dr. Ferris was acting as a physician pursuant to the medical license conferred upon him by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

II. BACKGROUND

5. This Complaint arises out of a multi-agency investigation into Dr. Ferris’ prescribing practices and his relationship with Pharmacist Katherine Dossey. It was discovered that Dr. Ferris and Dossey engaged in a scheme to illegally distribute controlled dangerous substances (“CDS”).

6. As part of this scheme, Dr. Ferris provided Dossey a large amount of blank, pre-signed prescription forms, which Dossey would complete for Schedule II CDS and then fill the prescriptions at her pharmacy. The scheme also provided Dossey access to the entire electronic medical record (“EMR”) of patients without prior written authorization.
7. The scheme was in effect between about 29 June 2015 and 9 December 2015 and resulted in – by Dossey’s admission – at least 1,000 prescriptions for Schedule II CDS being illegally prescribed and given to patients. A review of Dr. Ferris’ prescription records indicates the actual number of illegal Schedule II CDS prescriptions could be as high as 3,000.
8. On or about 29 June 2015, Dr. Ferris executed a written instrument appointing Dossey as his “agent to monitor CII [Schedule II CDS] prescription dispensing and to complete controlled prescription blanks for patients under my [Dr. Ferris’] care . . .”
9. Pursuant to this agreement, Dr. Ferris left a large amount of blank, signed prescription pads with Dossey for Dossey to complete for patients to obtain Schedule II CDS.
10. Dossey, who had access to patients’ EMR, would review the patient records created by Dr. Ferris and determine what prescriptions needed to be filled. Dossey also ran PMP checks on the patients for Dr. Ferris. Dr. Ferris was not checking the PMP for his patients.
11. Dossey would then fill the prescriptions she divined from the EMR, and, in the case of Schedule II CDS prescriptions, complete the blank, pre-signed prescription forms left with her by Dr. Ferris. On occasion, Dossey would even require patients to come into her pharmacy to render urine specimens for drug screens.
12. Effectively, Dossey treated the patient health records as “standing orders” and would even refill Schedule II CDS prescriptions without verifying if a change in medication was required or desired by Dr. Ferris or if the patient used all or some of the medication. In this regard, there was a complete lack of oversight of patients taking Schedule II CDS, and Dr. Ferris failed to determine if a medical need existed for the continuing prescriptions of Schedule II CDS.
13. Patients never authorized Dr. Ferris to share protected health information (“PHI”) with Dossey.
14. On or about 12 November 2015, Dr. Ferris’ practice advised all patients that all prescriptions, including those for Schedule II CDS would be filled at Dossey’s pharmacy.
15. This practice continued until 9 December 2015, when investigators from the State Board of Pharmacy and this Board visited Dossey’s pharmacy and seized 102 blank, pre-signed prescription forms executed by Dr. Ferris in Dossey’s possession. Dossey had these pre-signed prescription forms laying in an unlocked safe accessible to anyone in the pharmacy office.

16. On 15 June 2016, Dossey was disciplined, by way of an agreed order, by the State Board of Pharmacy for her conduct as part of this scheme.
17. In the order, Dossey in pertinent part admits:
 - a. Engaging in a conspiracy to violate the Oklahoma Pharmacy Act, the Prescription Drug Marketing Act, the Robinson-Patman Act, and other state and federal laws;
 - b. Failing to ensure that all prescriptions for CDS filled by her were dated and signed on the day when issued and bearing the drug name, strength, dosage form, quantity prescribed, directions for use, and the contact information of the prescribing practitioner; and
 - c. Violating 21 U.S.C., § 822(B) and 21 C.F.R. 1306.11 by failing to ensure that all prescriptions for Schedule II CDS were filled pursuant to a written prescription signed by the prescribing practitioner.

III. VIOLATIONS

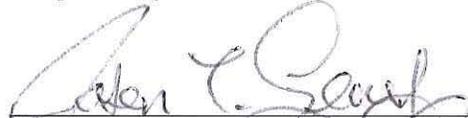
18. Based on the foregoing, Dr. Ferris is guilty of professional misconduct as follows:
 - a. Engaging in dishonorable or immoral conduct which is likely to deceive defraud or harm the public, in violation of 59 O.S. 2011, § 509(8) and Okla. Admin. Code § 435:10-7-4(3);
 - b. Violating the criminal laws of this State, including 63 O.S. Supp. 2012, § 2-401, when such act is connected with the physician's practice of medicine, in violation of 59 O.S. 2011, § 509(9);
 - c. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs, in violation of 59 O.S. 2011, § 509(11);
 - d. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship, in violation of 59 O.S. 2011, § 509(12);
 - e. Failing to provide necessary ongoing medical treatment when a doctor-patient relationship has been established, in violation of 59 O.S. 2011, § 509(19);
 - f. Aiding or abetting the practice of medicine and surgery by an unlicensed person, in violation of 59 O.S. 2011, § 509(14) and Okla. Admin. Code § 435:10-7-4(21);
 - g. Engaging in the improper management of medical records, in violation of Okla. Admin. Code § 435:10-7-4(36);

- h. Violating OBN rules and regulations regarding CDS, including 63 O.S. Supp. 2013 & 2015, § 2-304, 2-309, between at least 1,000 and 3,000 different occasions, in violation of Okla. Admin. Code § 435:10-7-4(27);
- i. Violating, or attempting to violate, directly or indirectly, of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice, in violation of 59 O.S. 2011, §§ 509(13), (14), and Okla. Admin. Code § 435:10-7-4(21).

IV. 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 Dr. Ferris' Oklahoma professional healthcare license, including an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,

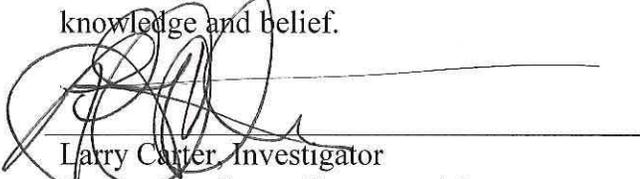


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VERIFICATION

I, Larry Carter, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding Defendant, James Michael Ferris, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



Larry Carter, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: 16 Sept 2006

Oklahoma County
Place of Execution