

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

FILED

JUN 01 2012

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 11-08-4376

MICHAEL EDWARD HUME, P.A.,)
LICENSE NO. PA281,)

Defendant.)

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, Michael Edward Hume, P.A., Oklahoma license no. PA281, 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 physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §§ 480 *et seq.* and 887.1 *et seq.*

BACKGROUND

2. Defendant, Michael Edward Hume, P.A., holds Oklahoma physician assistant license no. PA281 and at the time of the events in question, practiced at Vista Medical Center in Oklahoma City, Oklahoma under the supervision of William M. Valuck, D.O.

3. According to the records of the Oklahoma Board of Osteopathic Medicine, Dr. Valuck previously lost his Texas license based upon his conviction in federal court in Texas in late 2000 based upon numerous federal crimes including wire fraud and money laundering. He was sentenced to prison for seventy (70) months and assessed restitution in the approximate amount of \$634,000.00. In 2007, he applied for and received his Oklahoma DO license.

4. The Vista Medical Center is owned and operated by Pat Reynolds, a non-physician, who compensates Defendant based solely on his production. At the time of the incidents in question, Defendant treated approximately thirty-seven (37) patients per day.

5. Vista Medical Center does not accept any insurance, Medicare or Medicaid, and accepts only cash. Vista charges \$250.00 for the first office visit, \$140.00 for the second office visit, and \$100.00 per office visit thereafter.

PRESCRIBING VIOLATIONS

PATIENT SWR

6. From December 31, 2010 until February 7, 2012, Defendant wrote or authorized fifty-seven (57) prescriptions for controlled dangerous drugs to Patient SWR for alleged back pain. These prescriptions include seventeen (17) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 2,460 dosage units, and forty (40) prescriptions for Xanax, Soma and Temazepam, Schedule IV controlled dangerous drugs, for 3,540 dosage units, for a total of **6,000 dosage units** for an average of **14.93 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, 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.

7. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #150, Soma #90 and Xanax #90, all without any prior medical records or tests or any documentation to substantiate the alleged back pain. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of these three (3) controlled dangerous drugs for over a year while never obtaining any objective evidence of the patient's pain.

PATIENT FHR

8. From January 6, 2011 until January 26, 2012, Defendant wrote or authorized thirty-six (36) prescriptions for controlled dangerous drugs to Patient FHR for alleged arm pain. These prescriptions include twelve (12) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 1,890 dosage units, twelve (12) prescriptions for Soma, a Schedule IV controlled dangerous drug, for 1,390 dosage units, and twelve (12) prescriptions for Xanax, a Schedule IV controlled dangerous drug, for 1,400 dosage units, for a total of **4,680 total dosage units** at an average of **14.14 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not order appropriate tests, that he did not obtain appropriate consultations, 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.

9. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #120, Soma #90, and Xanax #120, all without any prior medical records or tests or any documentation to substantiate the alleged arm pain. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of Lortab, Soma and Xanax while never obtaining any objective evidence of the patient's complaints.

PATIENT DSR

10. From April 25, 2011 until January 23, 2012, Defendant wrote or authorized twenty-seven (27) prescriptions for controlled dangerous drugs to Patient DSR for alleged pain and anxiety. These prescriptions include nine (9) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 1,430 dosage units, and eighteen (18) prescriptions for Soma and Xanax, Schedule IV controlled dangerous drugs, for 1,950 dosage units, for a total of **3,380 total dosage units** at an average of **13.63 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not order appropriate tests, that he did not obtain appropriate consultations, 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.

11. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #120, Soma #90 and Xanax #90, all without any prior medical records or tests or any documentation to substantiate the alleged back pain and anxiety. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of these three (3) controlled dangerous drugs while never obtaining any objective evidence of the patient's complaints.

PATIENT TRR

12. From October 19, 2010 until February 6, 2012, Defendant wrote or authorized fifty-three (53) prescriptions for controlled dangerous drugs to Patient TRR for alleged back and shoulder pain. These prescriptions include fifteen (15) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 1,920 dosage units, and thirty-eight (38) prescriptions Soma, Xanax, Temazepam, Provigil, and Ambien, Schedule IV controlled dangerous drugs, for 3,730 dosage units, for a total of **5,650 total dosage units** at an average of **13.55 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not order appropriate tests, that he did not obtain appropriate

consultations, 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.

13. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #120 and Soma #120, all without any prior medical records or tests or any documentation to substantiate the alleged back and shoulder pain. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of Lortab, continuing Soma, and adding Xanax, Ambien, Provigil and Temazepam, while never obtaining any objective evidence of the patient's complaints.

PATIENT DHR

14. From August 24, 2011 until February 8, 2012, Defendant wrote or authorized fifteen (15) prescriptions for controlled dangerous drugs to Patient DHR for alleged pain. These prescriptions include five (5) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 660 dosage units, and fifteen (15) prescriptions for Soma and Xanax, Schedule IV controlled dangerous drugs, for 1,200 dosage units, for a total of **1,860 total dosage units** at an average of **13.10 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not obtain an adequate history, that he did not order appropriate tests, that he did not obtain appropriate consultations, 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.

15. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #120, Soma #120 and Xanax #120, all without any prior medical records or tests or any documentation to substantiate the alleged pain. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe these three (3) controlled dangerous drugs while never obtaining any objective evidence of the patient's pain.

PATIENT JSR

16. From August 24, 2011 until February 8, 2012, Defendant wrote or authorized eighteen (18) prescriptions for controlled dangerous drugs to Patient JSR for alleged pain. These prescriptions include six (6) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 970 dosage units, and twelve (12) prescriptions for Soma and Xanax, Schedule IV controlled dangerous drugs, for 1,140 dosage units, for a total of **2,110 total dosage units** at an average of **12.41 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not obtain an adequate history, that he did not order appropriate tests, that he did not obtain appropriate consultations,

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.

17. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Norco 10 mg. #140, Soma #90 and Xanax #90, all without any prior medical records or tests or any documentation to substantiate the alleged pain. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe these three (3) controlled dangerous drugs while never obtaining any objective evidence of the patient's pain.

PATIENT KBR

18. From November 10, 2010 until February 7, 2012, Defendant wrote or authorized forty-two (42) prescriptions for controlled dangerous drugs to Patient KBR for alleged wrist and back pain. These prescriptions include fifteen (15) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 2,010 dosage units, and twenty-seven (27) prescriptions for Soma and Xanax, Schedule IV controlled dangerous drugs, for 2,880 dosage units, for a total of **4,890 total dosage units** at an average of **12.26 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not order appropriate tests, that he did not obtain appropriate consultations, 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.

19. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #130 and Soma #90, all without any prior medical records or tests or any documentation to substantiate the alleged wrist and back pain. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of Lortab, Soma and Xanax while never obtaining any objective evidence of the patient's complaints.

PATIENT RBR

20. From September 15, 2010 until February 7, 2012, Defendant wrote or authorized thirty-three (33) prescriptions for controlled dangerous drugs to Patient RBR for alleged shoulder and back pain. These prescriptions include fifteen (15) prescriptions for Hydrocodone 10 mg., a Schedule III controlled dangerous drug, for 2,190 dosage units, and eighteen (18) prescriptions for Soma and Valium, Schedule IV controlled dangerous drugs, for 1,830 dosage units, for a total of **4,020 total dosage units** at an average of **9.41 dosage units per day of controlled dangerous drugs**. Defendant's chart on this patient reveals that he failed to perform an adequate physical examination on this patient prior to prescribing the controlled dangerous drugs, that he did not order appropriate tests, that he did not obtain appropriate consultations, 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.

21. Defendant's chart reflects that on the patient's **first** visit to Defendant, he prescribed Lortab 10 mg. #120 and Soma #90, all without any prior medical records or tests or any documentation to substantiate the alleged shoulder and back pain. Subsequent monthly visits were for the stated purpose of "Refills" as noted in the chart. Throughout the patient's treatment, Defendant did nothing to treat the patient other than prescribe increasing amounts of Lortab and Soma while never obtaining any objective evidence of the patient's complaints.

22. Defendant is guilty of unprofessional conduct in that he:

- 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. 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), OAC 435:10-7-4(39), and OAC 435:15-5-11(7).
- C. 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).
- D. 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).
- E. Prescribed, dispensed or administered a controlled substance or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. 509(16).
- F. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- G. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good

medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6).

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 assistant 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 assistant in the State of Oklahoma.

Dated this 15 day of ^{June} ~~May~~, 2012 at 8:00 a.m.

Respectfully submitted,



Elizabeth A. Scott, OBA #12470

Assistant Attorney General

State of Oklahoma

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Attorney for the State of Oklahoma ex rel.

Oklahoma State Board of Medical

Licensure and Supervision