

**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.)
)
JAMES ALISTAIR MITCHELL, M.D.)
LICENSE NO. MD 32501,)
)
Defendant.)

FILED

JUN 22 2020

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 16-10-5368

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), for its Verified Complaint against James Alistair Mitchell, M.D. (“Defendant”), alleges and states as follows:

I. JURISDICTION

1. The Board has jurisdiction over the subject matter and 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. 59 O.S. § 480, *et seq.* and Okla. Admin. Code 435:5-1-1 *et seq.*
2. In Oklahoma, Defendant holds medical license no. 32501, issued by agreement with restrictions on August 1, 2016.
3. The acts and omissions complained of herein were made while Defendant was licensed to practice medicine by the State of Oklahoma.

II. ALLEGATIONS OF UNPROFESSIONAL CONDUCT

4. This action arises out of criminal and unprofessional conduct by the Defendant related to two felony convictions against Defendant on October 3, 2017 in the State of North Carolina.
5. On August 1, 2016, Defendant was granted a license by agreement with the Oklahoma State Board of Medical Licensure and Supervision (“the Board”) with specific terms and conditions due to Defendant’s past issues with alcoholism and/or substance abuse. These issues were demonstrated by Defendant’s approximately 3 prior arrests and charges for

alcohol-related driving offenses (misdemeanors), one of which resulted in a conviction for misdemeanor DWI in 2015 in the State of North Carolina.

6. At the time of his application in June 2016, Defendant primarily lived and practiced in North Carolina. At the time his conditional license was issued in August 2016, Defendant was practicing in Tulsa, Oklahoma.
7. On September 1, 2016, approximately one month after Defendant's license was issued, Defendant was arrested on outstanding warrants issued in conjunction with approximately 22 felony charges pending against the Defendant in the State of North Carolina, Cumberland County. Defendant was extradited to North Carolina to face said charges, which included 11 felony counts of "Prescribing a Controlled Substance Without Legal Medical Purpose" and 11 felony counts of "Conspiring to Traffic Opium/Heroin by Possession," all in violation of North Carolina General Statutes (G.S.) 90-106.
8. On October 3, 2017, Defendant plead "guilty" and was convicted of 2 amended Class E Felony Charges of "Attempted Trafficking of greater than 14 but less than 28 Grams of Opiates by Possession," in violation of North Carolina G.S. 90-95(h)(4)B/90-98, in cases numbered 16CRS060226 and 16CRS060227 in the District Court of Cumberland County, State of North Carolina. In both cases, Defendant was sentenced to a term of imprisonment of a minimum of 18 months to a maximum of 34 months, with the sentences to run consecutively. The resulting combined prison term is a minimum of 36 months to a maximum of 68 months. According to the North Carolina Department of Corrections website, the projected release date for Defendant is September 27, 2020. Pursuant to his plea agreement with the State of North Carolina, the remaining felony charges were dismissed.
9. According to the Judgment and Sentencing documents in cases 16CRS060226 and 16CRS060227, the dates of Defendant's offenses were December 21, 2015 and January 19, 2016, prior to Defendant's application to the Board in June 2016; however, Defendant was neither charged, arrested, nor convicted at the time of his application.
10. Additionally, at the time of Defendant's application on June 13, 2016, he failed to disclose in response to the appropriate question that he had previously been arrested and charged with misdemeanor offenses aside from traffic violations, nor did he disclose that he had previously been convicted of a misdemeanor criminal offense of DWI in South Carolina. More specifically, in Response to "Have you ever been arrested, charged with, or convicted of a felony or misdemeanor aside from traffic violations?" Defendant answered "No." It should also be noted that Defendant answered "Yes" to the following question: "Have you ever been arrested, charged with, or convicted of a traffic violation involving the use of any drug or chemical substance, including alcohol?" In further explanation, Defendant added "Charged with Driving Under the Influence of Alcohol on Nov. and March 19. Convicted of one February 19, 2015." While Defendant's misdemeanor conviction did involve the use of a vehicle, it was not a mere "traffic offense involving alcohol." Rather, Defendant was convicted of misdemeanor DWI in Cumberland County, North Carolina on February 19, 2015, which resulted in a suspended sentence and supervision by the North Carolina Department of Corrections' "misdemeanor confinement program." Thus, the

responses on Defendant's 2016 application mischaracterize and misrepresent Defendant's prior criminal history by failing to disclose the previous misdemeanor arrest, charge, and conviction.

11. As a result of his 2016 arrest and, subsequently, two felony convictions in October 2017, other licensing jurisdictions have taken action against Defendant's licenses as follows:
 - a. The Drug Enforcement Administration has taken DEA/Federal Licensure action against Defendant as follows: as of 9/29/2016 the Defendant's license was voluntarily surrendered "based on investigation." Said action is listed as "permanent."
 - b. The North Carolina Medical Board has taken licensure action against Defendant as follows: as of 9/8/2016 the Defendant's license was voluntarily surrendered "while [Defendant was] under investigation." Subsequently, on 2/17/2017, pursuant to a consent order, Defendant's license was revoked indefinitely.

III. VIOLATIONS

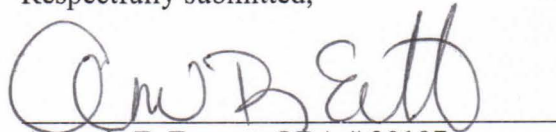
12. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
 - a. The conviction of a felony or of any offense involving moral turpitude, in violation of 59 O.S. 509(5) and Okla. Admin. Code § 435:10-7-4(10).
 - b. Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license, in violation of 59 O.S. § 508. and Okla. Admin. Code § 435:10-7-4(8).
 - c. Conduct likely to deceive, defraud, or harm the public, in violation of 59 O.S. § 509(8) and Okla. Admin. Code § 435:10-7-4(11).
 - d. The violation, or attempted violation, direct or indirect, of any of the provisions of the Act, either as principal, accessory or accomplice, in violation of 59 O.S. § 509(13).
 - e. Violating any state or federal law or regulation relating to controlled substances, in violation of Okla. Admin. Code § 435:10-7-4(27).
 - f. Disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine and surgery based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof, in violation of Okla. Admin. Code § 435:10-7-4(31).
 - g. Violation of any provision(s) of the medical practice act or the rules and regulations of the Board or of any action, stipulation, or agreement of the Board in violation of Okla. Admin. Code § 435:10-7-4(39).

- h. Procuring, aiding or abetting a criminal operation in violation of 59 O.S. 509(1).

V. CONCLUSION

Given the foregoing, the undersigned respectfully 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 Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,

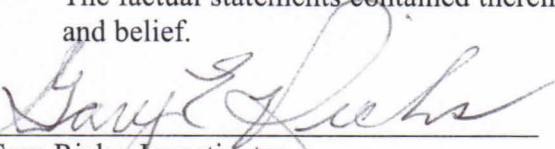
A handwritten signature in cursive script, appearing to read "Amanda E. Everett", written over a horizontal line.

Amanda E. Everett, OBA # 30107
Assistant Attorney General
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
Oklahoma City, Oklahoma 73105
405.962.1400

VERIFICATION

I, Gary Ricks, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

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



Gary Ricks, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: _____

6/15/20

Oklahoma County, Oklahoma
County, State of Execution