

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

FILED

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

DEC 18 2003

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 03-08-2701

BONNIE D. MOSS, P.A.)
LICENSE NO. PA431,)

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, Bonnie D. Moss, P.A., 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.*

2. Defendant, Bonnie D. Moss, P.A., holds Oklahoma license no. PA431

3. From approximately November 2002 through August 2003, Defendant was employed as a physician assistant under the supervision of William E. Smith, M.D.

4. From November 4, 2002 through August 7, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient BBW, Defendant's sister-in-law. These prescriptions include nineteen (19) prescriptions for Histussin, Lortab, Hydrocodone and H-C Tussive, Schedule III controlled dangerous drugs, and twenty-one (21) prescriptions for Ambien, Soma and Valium, Schedule IV controlled dangerous drugs, for a total of forty (40) prescriptions for 2472 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

5. Defendant admits that approximately once per month, with respect to some of the prescriptions for Ambien and Soma, that she called them in under Patient BBW's name, then picked them up for her own personal use. Defendant admits that when she picked up the prescriptions in the name of Patient BBW, that she signed the insurance log at the pharmacy and represented herself as Patient BBW so that Patient BBW's insurance would pay for the prescriptions, rather than Defendant paying for them. Defendant did this with the knowledge and consent of Patient BBW and Patient DBW.

6. From November 22, 2002 through May 17, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient DBW, Defendant's brother-in-law. These prescriptions include twenty-five (25) prescriptions for Histussin, Hydrocodone, Lortab and H-C Tussive, Schedule III controlled dangerous drugs, and seven (7) prescriptions for Ambien, Soma and Diazepam, Schedule IV controlled dangerous drugs, for a total of thirty-two (32) prescriptions for 1,410 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient DBW.

7. From November 26, 2002 through May 15, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient ABW, Defendant's five (5) year old niece. These prescriptions include twenty-four (24) prescriptions for Histussin and H-C Tussive, a Schedule III controlled dangerous drug, for a total of 1,122 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient ABW.

8. From December 4, 2002 through May 19, 2003, Defendant wrote or called in prescriptions for controlled dangerous drugs to Patient CBW, Defendant's five (5) year old niece. These prescriptions include seventeen (17) prescriptions for H-C Tussive, a Schedule III controlled dangerous drug, for a total of 816 dosage units. A review of Defendant's records reveals no indication that Defendant ever performed a physical examination on this patient prior to prescribing the controlled dangerous drugs, that she did not establish a legitimate medical need for the medical treatment, and that she failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. No patient record exists for Patient CBW.

9. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. He has violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).
- B. He has engaged in dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).
- C. He has 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(14) and OAC 435:10-7-4(39).
- D. He habitually uses intoxicating liquors or habit-forming drugs in violation of OAC 435:15-5-11(a)(1), 59 O.S. §509(5) and OAC 435:10-7-4(3).
- E. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- F. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
- G. Prescribed, sold, administered, distributed, ordered or gave a 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).
- H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- I. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

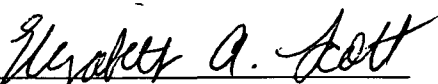
- J. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- K. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- L. 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(13).
- M. 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 standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- N. 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).
- O. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- P. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government or the laws of this state in violation of 59 O.S. §509(8).
- Q. 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(19).

10. These allegations raise serious concerns about Defendant's ability to practice as a physician assistant in the State of Oklahoma with reasonable skill and safety.

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 suspension or revocation, 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 17th day of December, 2003.

Respectfully submitted,


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Oklahoma Board of Medical Licensure and
Supervision