

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.

WARREN H. PORTER, M.D.
Medical License No. 6287,

CASE NO. 90-10-1134

Defendant.

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on February 1, 1991, at the office of the Oklahoma State Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Warren H. Porter, M.D., Defendant, appeared in person, pro se, waived his right to counsel, and announced ready to proceed.

The Board of Medical Licensure and Supervision en banc heard the oral argument of counsel, reviewed exhibits, and being fully advised in the premises, the Board of Medical Licensure and Supervision finds as follows:

FINDINGS OF FACT

1. That Defendant, Warren H. Porter, M.D., holds Oklahoma Medical License No. 6287.
2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.
3. That from approximately July 1, 1990, through November 15, 1990, Defendant did write a total of 1,401 prescriptions for 62,036 dosage units of controlled dangerous substances, plus an additional 140 prescriptions of other forms totaling 18,607 units.
4. That a prescription survey conducted in reference to certain schedule drugs reveals that Defendant's patient H.H. received approximately 50 prescriptions for 2,590 dosage units of controlled dangerous substances from July 6, 1990, through November 13, 1990, for an average of 13.46 dosage units per day, and the drugs included Percocet 5mg., Tussionex Sus, Darvon Comp 65, and Diazepam 10mg.
5. That the survey reveals that Defendant's patient J.H. received approximately 5 prescriptions for 648 dosage units of Darvocet-N 100mg. and Phenobarbital 30mg. from July 6, 1990, through August 30, 1990, for an average of 11.57 dosage units per day.
6. That the survey reveals that Defendant's patient W.B. received approximately 6 prescriptions for 287 dosage units of

Darvocet-N 100mg., Flurazepam 30mg., and Meprobamate 400mg., from July 17, 1990, through August 10, 1990, for an average of 11.48 dosage units per day.

7. That the survey reveals that Defendant's patient I.V. received approximately 29 prescriptions for 1,362 dosage units of Percodan, Vicodin, Diazepam 5mg., and Lomotil from July 10, 1990, through November 8, 1990, for an average of 11.26 dosage units per day.

8. That the survey reveals that Defendant's patient M.H. received approximately 17 prescriptions for 1,308 dosage units of Butalbital AC, Lorazepam 1mg., Meprobamate 400mg., Propoxyphene Apap, 100mg., and Propoxyphene Nap/Acet from July 13, 1990, through November 14, 1990, for an average of 10.55 dosage units per day.

9. That all of the above, in addition to other patient records, reveal that Defendant prescribed controlled dangerous substances in excess of the amount considered for the medical need presented.

CONCLUSIONS OF LAW

1. That Warren H. Porter, M.D., holding Oklahoma Medical License No. 6287, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 509, Paragraph 17, to-wit:

"17. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards."

2. That Warren H. Porter, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section X, Rules 1A, 1B, and 1F, to-wit:

"Rule 1A: Indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs."

"Rule 1B: Prescribing, dispensing or administering of controlled or narcotic drugs in excess of the amount considered good medical practice."

"Rule 1F: Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need."

ORDER

IT IS THEREFORE ORDERED by the Oklahoma Board of Medical Licensure and Supervision as follows:

1. That the Defendant, Warren H. Porter, M.D., holding Oklahoma Medical License No. 6287, should be and is hereby placed on a term of probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of five (5) years beginning on February 1, 1991, under the following terms and conditions:

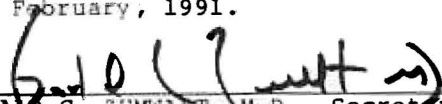
(a) That during the period of probation Defendant may prescribe controlled dangerous substances only on serially-numbered, duplicate prescription pads and shall make the copies available to Investigators of the Oklahoma State Board of Medical Licensure and

Supervision at their request, to include all dispensing records on CDS to include sample medications.

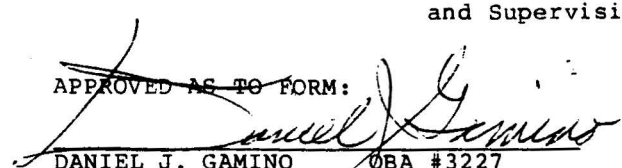
- (b) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (c) Defendant shall appear before the Board en banc or a designated member thereof whenever requested to do so.
- (d) During the period of probation Defendant will submit to the Investigative Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (e) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay within 30 days of receipt of invoice from the Investigation Division of the Board the costs of investigation, prosecution and probation of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- (f) During the period of probation Defendant shall notify any hospital where he holds staff privileges, or clinic, or group where he practices, of the terms and conditions of this Order and supply a copy thereof.
- (g) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after due notice to the Defendant.

2. That the jurisdiction of the Board in this individual proceeding will continue in this matter until the terms and conditions of probation are modified or withdrawn by the Oklahoma State Board of Medical Licensure and Supervision, either on their own motion or on the motion of the Defendant.

DATED this 12th day of February, 1991.


GERALD C. ZUMWALT, M.D., Secretary
State Board of Medical Licensure
and Supervision

APPROVED AS TO FORM:


DANIEL J. GAMINO OBA #3227
Daniel J. Gamino & Associates, P.C.
3315 NW 63
Oklahoma City, OK 73116
(405) 840-3741
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 13 day of February, 1991, to:

WARREN H. PORTER, M.D.

P O Box 15568
Del City, OK 73155

Janet L Owens