

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

FILED

JAN 17 2002

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 00-07-2223

DONALD EUGENE BECKER, M.D.,)
LICENSE NO. 6750)

Defendant.)

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on January 17, 2002, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared through counsel, Doug Rice.

The Board *en banc* after hearing arguments of counsel, reviewing the pleadings and the exhibits admitted, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board 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 pursuant to 59 Okla. Stat. §480 *et seq.*

2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

3. Defendant, Donald Eugene Becker, M.D., holds Oklahoma license no. 6750.

4. From January 4, 1999 until March 16, 2000, Defendant wrote or authorized 93 prescriptions for controlled dangerous drugs to Patient DRW. These prescriptions include ninety-one (91) prescriptions for Fiorinal, a Schedule III controlled dangerous drug, for a total of 2184 dosage units, one (1) prescription for Diazepam, Schedule IV controlled dangerous drug, for a total of 24 dosage units, and one (1) prescription for Lortab, a Schedule III controlled dangerous drug, with 12 dosage units. Defendant's chart on this patient reveals that he failed to keep any records of the prescribing or ordering of these controlled dangerous drugs, that he failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications.

5. From April 1993 until May 9, 2001, Defendant authorized by telephone prescriptions for controlled dangerous drugs to Patient EVW. At no time during this eight (8) year period of time did Defendant physically examine the patient nor did he establish a legitimate medical need for the medication.

6. From January 13, 2000 through August 15, 2000, Defendant wrote or authorized eighteen (18) prescriptions for controlled dangerous drugs to Patient HBW. These prescriptions were for Tylenol #2, Phenaphen #4 and Phenaphen #3, each of which is a Schedule III controlled dangerous drug. Each of the prescriptions was for 30 dosage units. Defendant's chart on this patient reveals that he failed to keep any records of the prescribing or ordering of these controlled dangerous drugs, that he failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications. The Defendant's chart reveals that the patient was not seen by the Defendant from June 1999 through May 2001.

7. From January 2000 through September 2000, Defendant wrote or authorized nine (9) prescriptions for Acetaminophen #4, a Schedule III controlled dangerous substance, for treatment of Patient MHW's back pain. Each of the prescriptions was for 120 dosage units. During this period of time, Defendant did not physically examine the patient's back, nor did he order any tests regarding the same. Defendant's chart on this patient reveals the Defendant's knowledge that the patient was addicted to the prescribed drug, yet the Defendant continued to prescribe the medication. Defendant's chart additionally reveals that Defendant failed to keep complete and accurate records of the prescribing of the controlled dangerous drugs, that he failed to perform a physical exam prior to prescribing the controlled dangerous drugs and that he did not establish a legitimate medical need for the medications.

8. From January 17, 2000 through September 1, 2000, Defendant wrote or authorized ten (10) prescriptions for Propoxyphene/APAP, a Schedule IV controlled dangerous substance for Patient MHW, each time for 100 dosage units. A review of Defendant's chart on this patient reveals that Defendant saw the patient only one (1) time during this time that he was prescribing for her, and made no notation of any need for pain medication. A review of the patient's chart both before and after Defendant wrote or authorized these prescriptions reveals that the patient was not complaining of any pain. Defendant's chart additionally reveals that he failed to keep any records of the prescribing or ordering of these drugs, that he failed to perform

a physical examination before prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications.

9. From January 5, 2000 through March 19, 2000, Defendant wrote or authorized sixteen (16) prescriptions for Hydrocodone/APAP, a Schedule III controlled dangerous substance, for Patient PMW, each time for 24 dosage units, as well as one (1) prescription on April 12, 2000 for Acetaminophen #4 for 50 dosage units. Defendant's chart on the patient reveals the Defendant's knowledge that the patient was addicted to the prescribed drugs, yet the Defendant continued to prescribe the medications. Defendant's chart additionally reveals that he failed to keep any records of the prescribing or ordering of these drugs, and that he did not establish a legitimate medical need for the medications.

10. From January 3, 2000 through September 1, 2000, Defendant wrote or authorized prescriptions for Oxycodone/APAP, a Schedule II controlled dangerous substance, to Patient LPW. Defendant's chart on this patient reveals that he did not establish a legitimate medical need for the medications. Defendant's chart additionally reveals the Defendant's knowledge that the patient was addicted to the prescribed drugs, yet the Defendant continued to prescribe the medications.

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

A. Engaged in 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).

B. 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).

C. 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).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-404.

- F. Prescribed a controlled substance 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).
- G. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- H. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.
- I. Committed gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).
- J. Except as otherwise permitted by law, prescribed, sold, administered, distributed, ordered or gave to a habitué or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4(25).

Conclusions of Law

- 1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the “Act”) and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.
- 2. Defendant is guilty of unprofessional conduct as follows:
 - A. Engaged in 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).
 - B. 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).
 - C. 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).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-404.

F. Prescribed a controlled substance 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).

G. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

H. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.

I. Committed gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

J. Except as otherwise permitted by law, prescribed, sold, administered, distributed, ordered or gave to a habitué or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4(25).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 Okla. Stat. §509 (8), (9), (10), (13), (17) and (19), OAC 435:10-7-4 (1), (2), (6), (11), (15), (25) and (27), 63 O.S. §2-404, OAC 475:25-1-3, and OAC 475:30-1-3.

Order

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

1. The license of Defendant, Donald Eugene Becker, M.D., Oklahoma license no. 6750, is hereby **SUSPENDED** as of the date of this hearing, January 17, 2002, with said suspension to continue indefinitely until Defendant completes all recommendations of the Colorado Personalized Education for Physicians ("CPEP") program, including but not limited to

a comprehensive neuropsychological examination and an individualized education plan to be developed by CPEP

2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

3. Defendant's suspension will be lifted, and his license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to January 18, 2002.

Dated this 17 day of January, 2002.



John Alexander, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 25 day of January, 2002, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Suspension to Doug Rice, Derryberry, Quigley, Solomon & Naifeh, 4800 N. Lincoln Blvd., Oklahoma City, OK 73105.



Janet Owens