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

FILED

JAN 15 2014

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA EX REL. THE OKLAHOMA BOARD OF MEDICAL LICENSURE AND SUPERVISION,	)	
Plaintiff,	)	
v.	)	**Case No. 12-09-4603**
JEFFREY MICHAEL BRYEN, P.A. LICENSE NO. PA 699	)	
Defendant.	)	

VOLUNTARY SURRENDER OF LICENSE
IN LIEU OF PROSECUTION

State of Oklahoma)
)
Oklahoma County)

I, Jeffrey Michael Bryen, P.A. being of lawful age and after first being duly sworn, depose and state as follows:

1. I hereby voluntarily surrender my Physician Assistant license no. 699.

2. The surrender of my license is freely and voluntarily made. I have not been subject to any coercion or duress, and I am fully aware of the consequences of the surrender of my license.

3. I am the subject of an investigation by the Oklahoma State Board of Medical Licensure and Supervision involving allegations that, if proven, would constitute grounds for disciplinary action by the Board.

4. The allegations to which I have admitted and pled guilty are as follows:

PRIOR HISTORY WITH THE BOARD

5. In October of 2007, the father of a patient complained about the care Defendant provided his daughter and also expressed his complaint that Defendant was addressed as "Doctor" by hospital staff. The matter was investigated and Defendant received a **Letter of Concern without Appearance**.

6. In January of 2012, the mother of a patient complained that Defendant prescribed medications negligently allowing her son to overdose and die within twenty-four (24) hours of his visit to Defendant's office. The matter was investigated and reviewed by Board Medical Advisor who found that the medical record was not supportive of the diagnosis listed. The amounts of controlled dangerous substances ("CDS") prescribed were not extreme for a legitimate problem, but even "normally safe" amounts of CDS can kill a patient if taken at all once. As a result of this investigation, Defendant received a **Letter of Concern with Appearance** on August 15, 2012.

CURRENT UNPROFESSIONAL CONDUCT ALLEGATIONS

Practicing as a P.A. without Proper Supervision

7. Prior to executing a voluntary Agreement not to Practice on 10/25/2012, Defendant practiced at the Allen Rural Family Medicine Clinic in Allen, Oklahoma. His supervising physician was Ralph J. Nelson, D.O. Proper physician supervision of a P.A. requires the supervising physician to be on-site a minimum of one-half day per week. **(435:15-9-2)(b)(4)**. Dr. Nelson supervised Defendant at the Allen clinic nine (9) times in calendar year 2006; three (3) times in 2007; two (2) times in 2008; one (1) time in 2009; one (1) time in 2010; zero (0) times in 2011; and zero (0) times in 2012. **This totals only sixteen (16) supervisory on-site visits in seven (7) calendar years.**

8. When first interviewed Defendant claimed that Dr. Nelson came to the Allen clinic once a week as required for at least one-half day. In subsequent interviews he admitted that was not true and he provided documentation in the form of a log indicating the occasions Dr. Nelson came to the Allen clinic to supervise him as required by law. Defendant further admitted knowing that he was not being properly supervised and that he continued to practice as a P.A.

Self-prescribing and Prescribing to Family Members

9. Defendant prescribed sixty-four (64) separate prescriptions of CDS to either himself or his immediate family that Dr. Nelson denied authorizing. They include the following:

   Patient NBL - This patient was Defendant's mother. According to prescribing records from 01/01/2008 through 09/04/2012 there were forty-six (46) separate CDS prescriptions Schedules III, IV or V filled under either Dr. Nelson or Defendant's name. These include prescriptions for temazepam and hydrocodone. Dr. Nelson denied ever

authorizing any prescriptions for CDS to Patient NBL. Defendant initially denied that he had either written prescriptions for Patient NBL himself or forged Dr. Nelson's name on prescriptions for Patient NBL. In subsequent interviews with Board Investigator JL, Defendant admitted that he had both written prescriptions for Patient NBL himself and forged Dr.Nelson's name on other prescriptions for Patient NBL.

Patient Jeffrey Michael Bryen, Defendant, prescribed hydrocodone to himself on three (3) separate occasions by forging Dr. Nelson's name on prescription slips from 01/01/2008 and 09/04/2012. Defendant initially denied having forged Dr. Nelson's signature on these prescriptions, but admitted to doing that in subsequent interviews with Board Investigator JL.

Patient SBL – This patient was Defendant's wife. She received one (1) CDS prescription for Xanax filed under Dr. Nelson's name. Dr. Nelson denied ever authorizing Xanax for Patient SBL. Defendant initially denied forging Dr. Nelson's name on this prescription, but admitted doing so in subsequent interviews with Board Investigator JL.

Patient JBL – This patient was Defendant's son. From 01/01/2008 through 09/04/2012 there were fourteen (14) separate CDS prescriptions for hydrocodone filled under Dr. Nelson's name. Dr. Nelson denied ever authorizing any CDS to be prescribed to Patient JBL. Defendant initially denied having forged Dr. Nelson's name on prescription slips for Patient JBL, but subsequently admitted doing so in further interviews with Board Investigator JL.

Improper Prescribing of Schedule II CDS

10. Defendant forged the signature of his supervising physician, Dr. Nelson, on at least thirty-three (33) separate Schedule II CDS prescriptions. Defendant initially denied that he had forged Dr. Nelson's signature on the thirty-three (33) prescription slips he presented to Board Investigator JL. In subsequent interviews with Board Investigator JL, Defendant in fact admitted that he had forged Dr. Nelson's signature on all thirty-three (33) of the Schedule II CDS prescriptions he presented to Board Investigator JL.

Fraudulent License Renewal

11. On 09/25/2012 Oklahoma Bureau of Narcotics ("OBN") served an immediate suspension of Defendant's OBN registration (No. 26495) to Defendant and he was told his privileges to possess, administer, dispense, prescribe and/or distribute scheduled CDS were immediately suspended.

12. On 10/25/2012 Defendant signed an agreement with this Board not to practice.

13. On 03/19/2013 Defendant filled out his application for renewal of Oklahoma physician assistant license and stated "NO" to Paragraph C: "Have you been investigated by or

requested to appear before a licensing or disciplinary agency other than the Oklahoma State Board of Medical Licensure and Supervision?"; and Paragraph J: "Have you surrendered or had any adverse action taken against any narcotic permits (state or federal)?"

14. Defendant is guilty of unprofessional conduct in that he engaged in/violated:

    a) 59 Okla. Stat. §509.1: Procuring, aiding or abetting a criminal operation;

    b) 59 Okla. Stat. §509.7 (a) and (b): Conviction or confession of a crime involving violation of: The anti-narcotic or prohibition laws and regulations of the federal government and/or laws of this state;

    c) 59 Okla. Stat. §509.8: Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;

    d) 59 Okla. Stat. §509.9: The commission of 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. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct;

    e) 59 Okla. Stat. §509.11: The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs;

    f) Oklahoma Administrative Code ("**OAC**") 435:10-7-4(5): Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use;

    g) OAC 435:10-7-4(6): Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need;

    h) OAC 435:10-7-4(8): Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic re-registration of a medical license;

    i) OAC 435:10-7-4(11): Conduct likely to deceive, defraud, or harm the public;

j) OAC 435:10-7-4(19): The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery;

k) OAC 435:10-7-4(26): Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself;

l) OAC 435:10-7-4(27): Violating any state or federal law or regulation relating to controlled substances;

m) OAC 435:10-7-4(43): Failure to report to the Board unprofessional conduct committed by another physician;

n) OAC 435:15-5-11(a)(3): Obtaining or attempting to obtain a certificate as a physician assistant by fraud or deception;

o) OAC 435:15-5-11(a)(4): Negligent while in practice as a physician assistant or violating the Code of Professional Ethics adopted by the American Academy of Physician Assistants, Inc.;

p) OAC 435:15-5-11(a)(7): Violating any provision of the Medical Practice Act or the rules promulgated by the Board;

q) OAC 435:15 -5-1(b): A physician assistant must function only under the supervision of a licensed physician. Nothing in the Physician Assistant Act shall be construed to permit physician assistants to provide health care services independent of physician supervision. Physician supervision shall be conducted in accordance with the following standards:

   i. OAC 435:15-5-1(b)(2): The supervising physician regularly reviews the health care services provided by the physician assistant and any problems or complications encountered;

   ii. OAC 435:15-5-1(b)(4): The supervising physician or alternate supervising physician routinely is present in the facility to provide medical care to patients;

   iii. OAC 435:15-5-1(b)(5): In remote patient care settings, the supervising physician shall be present in the facility at least one-half day each week the facility is in operation;

iv. OAC 435:15-9-2(a): Proper physician supervision of the physician assistant is essential. Supervision implies that the physician regularly and routinely reviews, and is involved in the health care services delivered by the physician assistant. Supervision also implies that the physician is directing the care delivered by the physician assistant. This may be done by establishing standards and protocols in advance of the care to be given, which the physician assistant will follow in delivering care; directly observing at the time the act or function is performed; or reviewing the care given through chart reviews and audits. While each type of supervision is important, **the most essential aspect is that supervision is provided frequently and on an on-going basis**. At the same time, it is important for the physician assistant to recognize his/her own limitations and to seek appropriate physician supervision and consultation whenever the physician assistant is unsure about a particular patient problem or treatment;

v. OAC 435:15-9-2(b)(4): The supervising physician is **on-site to provide medical care to patients a minimum of one half day per week**. Additional on-site supervision may be required at the recommendation of the Committee and approved by the Board;

vi. OAC 435:15-9-3(b): It is assumed by the Board that the physician will be actively involved in the initial care of any new patient seen in the practice . . . . In addition, the patient shall be scheduled to see the physician at their next scheduled clinic appointment;

vii. OAC 435:15-9-4(a)(2): It is assumed that the physician regularly and systematically checks the charts and notes of the patients seen by the physician assistant, checking for accuracy and completeness of such records, and in particular, the suitability of the plan of management. It is assumed that this type of review is conducted within 48 hours of the care being delivered. It is further assumed that the supervising physician reviews, at least on an annual basis, all existing protocols and orders governing the care given by the physician assistant. This review should be conducted on all protocols and orders for both the outpatient and inpatient settings;

viii. OAC 435:15-9-4(a)(3): It is assumed that if the primary supervising physician is not available to supervise the physician assistant, another licensed physician, approved by the Board, will be available to provide such supervision;

r. OAC 435:15-11-1(a): A physician assistant who is recognized by the Board to prescribe under the direction of a supervising physician and is in compliance with the registration requirements of the Uniform Controlled Dangerous Substances Act, in good faith and in the course of professional practice only, may issue written and oral prescriptions and orders for medical supplies, services and drugs, including controlled medications in Schedules III, IV, and V pursuant to 63 O.S. §2-312 as delegated by the supervising physician and as approved in the Physician Assistant Drug Formulary (OAC 435:15-11-2); and

s. OAC 435:15-11-1(d): Prescriptions for Schedules III, IV and V controlled medications may be written for up to a 30-day supply. No refills of the original prescription are allowed. In order for a physician assistant to prescribe a controlled substance in an out-patient setting.

15. I hereby submit my wallet card and wall certificate as evidence of my intent to surrender my license.

16. I hereby agree that I will not apply for reinstatement of my Oklahoma Physician Assistant license for a minimum of **one year** from the entry of the Order Accepting Voluntary Surrender in Lieu of Prosecution, and that if the Board ever reinstates my Oklahoma Physician Assistant license, it will be under terms of probation to be set by the Board at the time of reinstatement.

17. As a condition to accepting my surrender of license in lieu of prosecution, I acknowledge that the Board may require me to pay all costs expended by the Board for any legal fees and costs and any investigation, probation and monitoring fees, including but not limited to staff time, salary and travel expense, witness fees and attorney fees.

DATED this 14 day of Jan, 2014.

Jeffrey Michael Bryen, P.A.

Subscribed and sworn before me this 14th day of Jan, 2014.

Johna Stevens
Notary Public

My commission expires on 5-23-15.

JOHNA STEVENS
NOTARY
07004673
EXP. 05/23/15
PUBLIC
STATE OF OKLAHOMA

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STATE OF OKLAHOMA

ACCEPTED:

Gerald Zumwalt MD

Gerald C. Zumwalt, M.D.
Secretary Oklahoma State Board of Medical
Licensure and Supervision

Date: 1-16-14