

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

FILED

SEP 09 2008

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 06-12-3221

GRIFFITH MILLER, M.D.,)
LICENSE NO. 7796,)

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, Griffith Miller, M.D., Oklahoma license no. 7796, 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 physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. Defendant, Griffith Miller, M.D., holds Oklahoma license no. 7796.

**PRIOR DISCIPLINARY ACTION
AND LETTER OF CONCERN**

3. On or about September 30, 1983, Defendant was placed on a **FIVE (5) YEAR PROBATION** by the Board based upon his prescribing of controlled dangerous substances in excess of the amount considered good medical practice and without documented medical need.
4. On or about September 5, 1986, the Board terminated Defendant's probation.
5. On or about September 26, 2002, Defendant appeared before the Board Secretary on a **LETTER OF CONCERN**. The Letter of Concern was based upon Defendant's prescribing

of controlled dangerous substances and his failure to document adequate follow-up, as well as the non-uniformity of his prescriptions. After meeting with the Board Secretary, Defendant agreed that he would keep better records.

PRACTICING WHILE IMPAIRED

6. On or about November 2, 2006, Defendant was admitted to Norman Regional Hospital for abdominal pain. Defendant remained in the hospital until November 16, 2006, during which time he was administered controlled dangerous substances on a daily basis for treatment of his colon resection.

7. While hospitalized and while under the influence of controlled dangerous substances, Defendant authorized five-hundred sixty-seven (567) prescriptions for controlled dangerous substances to his patients.

PERSONAL SUBSTANCE ABUSE

8. A review of the Oklahoma Prescription Monitoring Program ("PMP") reflects that from August 10, 2006 through June 14, 2008, Defendant wrote or authorized twenty-three (23) prescriptions for Xanax 2 mg. to Patient JFD, Defendant's ex-wife, for 2,070 dosage units. He additionally wrote or authorized forty-nine (49) prescriptions for Ambien, Hydrocodone, Sonata, Valium, Carisoprodol, Histinex, Lonox and Phentermine to this patient.

9. A review of Defendant's medical chart on Patient JFD reflects no dates, vital signs or a diagnosis to support the prescriptions to the patient.

10. Defendant has admitted to Board investigators that over the past two (2) years, he has taken **one (1) to two (2) Xanax per week** that was not prescribed to him. He admits that he prescribed Xanax to his ex-wife, Patient JFD, who then gave the medications back to him. Defendant additionally admitted that he had also been taking Ambien, which he had prescribed to Patient JFD, who gave some of it back to Defendant for his personal use.

NARCOTICS LAW VIOLATIONS PRESCRIBING CONTROLLED DANGEROUS DRUGS TO FAMILY MEMBERS

11. In 2005, during the course of an investigation, Defendant was personally advised by Board Investigators Steve Washbourne and Mike Kiser that he could not write prescriptions for controlled dangerous substances to his children. The Board had received information that Defendant was prescribing controlled dangerous substances to his daughter. At that time, Defendant acknowledged that he understood the law and would not write prescriptions for controlled dangerous substances to his children any longer.

12. A review of the PMP reflects that from July 10, 2007 until August 5, 2008, Defendant wrote or authorized sixty-one (61) prescriptions for controlled dangerous substances

to his son, Patient CMD. Medications prescribed include Xanax, Hydrocodone, Ambien, Carisoprodol and Histinex.

13. On July 21, 2008, Board investigators interviewed Defendant. At this time, Defendant admitted to Board investigators that he had been prescribing controlled dangerous drugs to his son, but claimed he did not know he could not do so. Board investigators told him he could not and he acknowledged that he now knew he could not prescribe controlled dangerous substances to his son.

14. Subsequent to meeting with Defendant, Board investigators reviewed a PMP showing prescriptions from Defendant to his son and found that even after being told he could not prescribe controlled dangerous substances to his son, he nevertheless continued to do so as follows:

a. On July 23, 2008, two (2) days after meeting with Board investigators, Defendant prescribed his son ninety (90) Xanax, one-hundred twenty (120) Lortab and ninety (90) Soma.

b. Just one day later, on July 24, 2008, Defendant prescribed his son ninety (90) Xanax, one-hundred twenty (120) Lortab, ninety (90) Soma and thirty (30) Ambien. The pharmacist questioned the Ambien prescription and actually called Defendant to verify the validity of the prescription. At that time, Defendant advised the pharmacist that the prescription was legitimate and advised him to fill it.

c. On August 5, 2008, Defendant prescribed his son ninety (90) Xanax, one-hundred twenty (120) Lortab and ninety (90) Soma.

15. On August 22, 2008, the Board Secretary conducted a hearing on the State's Application for an Emergency Suspension of Defendant's license.

16. At the Emergency Suspension hearing, Defendant admitted under oath that he had ingested controlled dangerous substances he had prescribed to his ex-wife, which she had then given back to him for his personal use.

17. Defendant additionally admitted that he had prescribed controlled dangerous substances to his son and that he had "always" known he could not prescribe to family members, but that he did it anyway.

18. When questioned as to why he had given his son prescriptions for Xanax, Lortab and Soma on July 23, 2008, then just one (1) day later, gave his son more prescriptions for Xanax, Lortab, Soma and Ambien, Defendant testified that he did not remember giving his son the prescriptions.

19. After reviewing the evidence submitted, as well as the testimony of witnesses, including Defendant, the Board Secretary **SUSPENDED** Defendant's medical license.

20. On or about August 26, 2008, Defendant's counsel appeared before Cleveland County District Judge William Heatherington and appealed the Order of Emergency Suspension by obtaining an *ex parte* Temporary Restraining Order in an attempt to keep the Board from enforcing the Order of Emergency Suspension.

21. According to numerous pharmacies in the Norman, Oklahoma area, upon receipt of the *ex parte* Temporary Restraining Order on August 26, 2008, Defendant immediately began writing significantly more prescriptions for controlled dangerous substances to his patients than he had previously done. Defendant additionally posted a sign at his office advising his patients to fill their prescriptions outside of Cleveland County since many Norman pharmacies were refusing to fill his prescriptions.

22. On September 4, 2008, Defendant voluntarily surrendered his DEA Certificate of Registration, thereby giving up his right to prescribe, order, manufacture, distribute, possess, dispense or administer any controlled dangerous substances.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- C. 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 (13) and OAC 435:10-7-4(39).
- D. 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 (18) and OAC 435:10-7-4(41).
- E. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- F. 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 (12).
- G. Prescribed, dispensed or administered a controlled substance 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(16).

- H. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- I. 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 standard in violation of OAC 435:10-7-4(2) and (6).
- J. 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).
- K. 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).
- L. Habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).
- M. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).
- N. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).
- O. Was convicted of or confessed to a crime involving violation of the antinarcotics or prohibition laws and regulations of the federal government in violation of 59 O.S. §509(7).

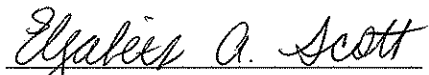
- P. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(9).
- Q. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).
- R. 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).

Conclusion

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 the revocation or suspension of the Defendant's license to practice as a physician and surgeon in the State of Oklahoma, 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 and surgeon in the State of Oklahoma.

Dated this 9th day of September, 2008 at 10:30 a.m.

Respectfully submitted,


Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118

Attorney for the State of Oklahoma ex rel.
Oklahoma State Board of Medical
Licensure and Supervision