

IN AND BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,
STATE BOARD OF MEDICAL
EXAMINERS,

Plaintiff,

v.

CHARLES CALEB ELLIOTT, M.D.,
Medical License No. 7914,

Defendant.

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STATE BOARD
MEDICAL EXAMINERS

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Examiners en banc on January 18, 1985, at 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 George Short, Attorney, appeared on behalf of the Defendant and the Defendant appeared in person.

The Board of Medical Examiners en banc heard the testimony and reviewed exhibits and being fully advised in the premises the Board of Medical Examiners therefore finds as follows:

FINDINGS OF FACT

1. That Charles Caleb Elliott, M.D., holds Oklahoma Medical License No. 7914.
2. That the Board of Medical Examiners 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 during the summer of 1984, Dr. Elliott wrote a prescription for Tuinal to one Brenda McNutt without any physical examination or any doctor-patient relationship being established.
4. That also in the summer of 1984, Dr. Elliott wrote a second prescription for Tuinal to the aforesaid Brenda McNutt without seeing her, but only acting on a telephone call, and left the prescription in an envelope on his desk for her to pick up, and Ms. McNutt did pick up the prescription.
5. That later in the summer of 1984, Dr. Elliott wrote a prescription for Brenda McNutt for Tuinal and also on that date Dr. Elliott wrote a prescription for Dilaudid for one Meredith Brantly or Utterman, a friend of Brenda McNutt.
6. That later in the summer of 1984, Brenda McNutt encountered Dr. Elliott and Meredith Brantly and received a prescription for Tuinal without the establishment of a doctor-patient relationship.
7. That during this period of time, Brenda McNutt never saw Dr. Elliott in his professional capacity, never gave him any medical history or underwent any kind of physical examination or had any physical complaints that she brought to his attention and never exhibited any medical need for the aforesaid drugs.

CONCLUSIONS OF LAW

1. That Charles Caleb Elliott, M.D., holding Oklahoma Medical License No. 7914, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, §509, Paragraphs 10, 12, 13 and 17, to-wit:

"10. The commission of any act which is a violation of the criminal laws of Oklahoma 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."

"12. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of Oklahoma to be controlled or narcotic drugs."

Prescribe or administer a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship."

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

2. That Charles Caleb Elliott, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section IX, Rules 2 and 6, to-wit:

"Rule 2: Prescribing, dispensing or administering of controlled or narcotic drugs in excess of the amount considered good medical practice."

"Rule 6: Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need."

3. That 21 C.F.R. §1306.04 (a) provides as follows

"A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. . . . An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances."

4. And Rule 700.03 of the Oklahoma Bureau of Narcotics and Dangerous Drugs provides in pertinent part:

"A prescription for a controlled dangerous substance to be effective must be issued for a legitimate medical purpose by a registered or otherwise authorized individual physician acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled dangerous substances is upon the prescribing physician, . . . An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of 63 O.S. 1971, §§2-309 and 2-312 and a person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled dangerous substances."

ORDER

IT IS THEREFORE ORDERED by the Board of Medical Examiners of Oklahoma as follows:

1. That Defendant, Charles Caleb Elliott, M.D., License No. 7914, be and is hereby suspended from the practice of medicine until the next meeting of the Board of Medical Examiners which is presently scheduled for May 24 and 25, 1985.

2. During the time of the aforesaid suspension of the Defendant's license, Defendant is to obtain a complete physical and emotional examination by a physician who is chosen by the Board and who shall make a full report to the Board for their consideration at the meeting of May 24 and 25, 1985.


3. That in addition to the aforesaid suspension, upon the reinstatement of the Defendant's license the Defendant's license shall be and is hereby placed on a period of probation with the Oklahoma State Board of Medical Examiners for a period of five years, beginning on May 24, 1985, under the following terms and conditions:

- a. That the Defendant shall not prescribe, administer or dispense any controlled dangerous substances to any patients or persons.
- b. During the period of probation Dr. Elliott will furnish to the office of the State Board of Medical Examiners all current legal addresses and any change of address in writing.

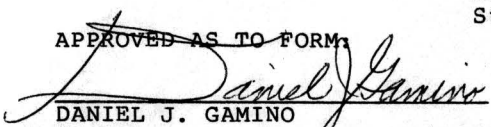
That Defendant shall appear before this Board or a designated member thereof whenever requested to do so.

- d. That the Board will reconsider the sanctions imposed in this case at 9:00 a.m. on May 24, 1985, along with the results of the physical and emotional examination and that the Defendant must be present at that time, with counsel or other representative, if desired, and that the Board specifically retains jurisdiction to make additional terms of probation and to consider possible additional action against the medical license of the Defendant.

DATED this 31st day of January, 1985.


MARK R. JOHNSON, M.D., Secretary
State Board of Medical Examiners

APPROVED AS TO FORM:


DANIEL J. GAMINO
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 on the 1st day of February, 1985, I mailed a true and correct copy of the above and foregoing Final Order, postage prepaid, to Charles Caleb Elliott, M.D., P.O. Box 2419, Ada, OK 74820, and to George Short, 1800 Liberty Tower, Oklahoma City, OK 73102, Attorney for Defendant.

