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9/16/86

IN AND BEFORE THE STATE BOARD OF MEDICAL EXAMINERS  
STATE OF OKLAHOMA

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

Plaintiff

vs.

JAMES VANCE MILLER, M.D.,  
Medical License No. 7951,

Defendant.

FINAL ORDER

This cause comes on for hearing before the Oklahoma Board of Medical Examiners en banc on September 5, 1986, at 5104 North 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 the Defendant, James Vance Miller, M.D., appeared in person and by counsel, Andrew M. Coats.

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

FINDINGS OF FACT

1. That James Vance Miller, M.D., holds Oklahoma Medical License No. 7951.
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 from August 2, 1985 through November 25, 1985, Defendant wrote approximately 89 prescriptions for Schedule II drugs in a total amount of 6,498 dosage units and in the period of time from August 1, 1985 through December 3, 1985, Defendant wrote a total of approximately 471 prescriptions for Schedule III, IV and V drugs including refills for a total of 38,610 oral dosage units, 128 ounces, and 1,390 ml.
4. That a prescription survey conducted in reference to certain scheduled drugs reveals that patient G.D.L. received 3 prescriptions and 15 refills for scheduled drugs from August 15, 1985 to November 1, 1985 for an average of 22.78 dosage units per day of scheduled drugs.
5. That the survey reveals that patient E.W. received 12 prescriptions including refills for a total of 1,120 dosage units of scheduled drugs from August 7, 1985 through November 23, 1985, for an average of 10.27 dosage units per day of scheduled drugs.

6. That the survey reveals that patient S.R. received 5 prescriptions for a total of 420 dosage units of scheduled drugs from October 21, 1985 through November 15, 1985, for an average of 16.15 dosage units per day of scheduled drugs.

7. That the survey reveals that patient J.N. received approximately 4 prescriptions for a total of 520 dosage units of scheduled drugs from September 13, 1985 through November 15, 1985 for an average of 8.12 dosage units per day of scheduled drugs.

8. That the survey reveals that patient J.L.M. received approximately 9 prescriptions for a total of 730 dosage units of scheduled drugs from August 5, 1985 through November 1, 1985, for an average of 8.20 dosage units per day of scheduled drugs.

9. That patient records reveal that scheduled drugs were being prescribed in excess of the amount considered for the medical need presented.

10. That the Defendant did maintain careful documentation on all patient records and that patient records were complete and in good order.

11. That the Defendant did explain in some detail the particular physical problems of the five individual patients set forth in the Complaint and the Board specifically found that a medical need did exist for the dispensing, prescribing and administering of controlled substances or narcotic drugs to those patients.

CONCLUSION OF LAW

1. That James Vance Miller, M.D., holding Oklahoma Medical License No. 7951, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, §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 James Vance Miller, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section IX, Rules 1 and 2, to-wit:

"Rule 1: Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs."

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

ORDER

IT IS THEREFORE ORDERED BY THE Board of Medical Examiners of Oklahoma as follows:

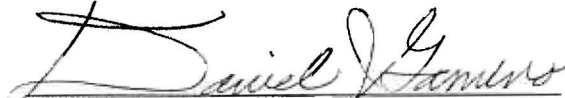
1. That Oklahoma Medical License 7951 of James Vance Miller, M.D. be kept in full force and effect and that the Board not impose any revocation, suspension, probation or limitation on that license.

2. That the Board request the Defendant to maintain duplicate, serially numbered prescriptions for all controlled dangerous substances for a period of six months beginning on September 5, 1986 and that the Defendant submit the duplicates to the Board of Medical Examiners for inspection every thirty days and that the Defendant meet with any investigators or representatives of the Board whenever requested.

DATED this 6th day of October, 1986.

  
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 Northwest 63rd Street  
Oklahoma City, Oklahoma 73116  
(405) 840-3741  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of October, 1986, I deposited in the U. S. Mails, postage prepaid, a true and correct copy of the above and foregoing Final Order addressed to:

Andrew M. Coats  
Attorney at Law  
1800 Mid-America Tower  
20 North Broadway  
Oklahoma City, Oklahoma 73102

  
DANIEL J. GAMINO