

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

FILED

STATE OF OKLAHOMA, ex rel.,)
OKLAHOMA STATE BOARD OF)
MEDICAL LICENSURE AND)
SUPERVISION,)

OCT 19 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 09-06-3791

KIMBERLY ANNE NELSON, PTA)
LICENSE NO. TA831,)

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, Kimberly Anne Nelson, PTA, 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 physical therapy assistants in the State of Oklahoma pursuant to 59 O.S. §§ 480 *et seq.* and 887.1 *et seq.*

2. Defendant, Kimberly Anne Nelson, PTA holds physical therapy assistant license no. TA831 in the State of Oklahoma.

3. In or around May and June 2009, Defendant worked as a physical therapy assistant at Right Rehab in Oklahoma City, Oklahoma under the supervision of Paul Clark, PT.

4. Between May 11, 2009 and June 4, 2009, Defendant submitted false and fraudulent Physical Therapy Visit Records relating to Patient HWD to her employer, as well as false and fraudulent billing records to her employer for submission to the federal Medicare program. Specifically, Defendant represented that she provided physical therapy services to Patient HWD on May 11, 2009, May 14, 2009, May 18, 2009, May 25, 2009, May 28, 2009, June 2, 2009 and June 4, 2009. When questioned by Board Investigator Robert DuVall, Defendant admitted that she in fact did not provide the physical therapy services on these dates.

Defendant further admitted that she forged Patient HWD's signature on the Physical Therapy Visit Records on these dates.

5. Between May 21, 2009 and June 5, 2009, Defendant submitted false and fraudulent Physical Therapy Visit Records relating to Patient TPD to her employer, as well as false and fraudulent billing records to her employer for submission to the federal Medicare program. Specifically, Defendant represented that she provided physical therapy services to Patient TPD on May 21, 2009, May 23, 2009, May 25, 2009, May 26, 2009, May 28, 2009, June 2, 2009, June 4, 2009 and June 5, 2009. When questioned by Board Investigator DuVall, Defendant admitted that she in fact did not provide physical therapy services on some of these dates. Defendant further admitted that she forged Patient TPD's signature on the Physical Therapy Visit Records on the dates she did not provide the physical therapy services.

6. On or about June 9, 2009, Defendant's supervising physical therapist, Paul Clark, advised Defendant that he had set up a meeting with Patient TPD to discuss the alleged fraudulent billing. However, prior to Mr. Clark's meeting with Patient TPD, Defendant visited Patient TPD. During this visit, Defendant falsified the Patient Data Flow Sheet by writing on the Flow Sheet that she had performed physical therapy services with the patient on at least three (3) different occasions when in fact she had not.

7. When later questioned by Board Investigator DuVall, Defendant admitted that she falsified the Patient Data Flow Sheet to try to keep her supervisor from finding out that she had not performed some of the physical therapy treatments.

8. Defendant is guilty of unprofessional conduct in that she:

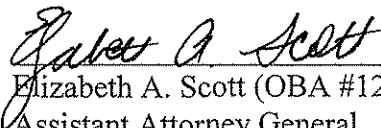
- A. Is guilty of conduct unbecoming a person licensed as a physical therapist or physical therapy assistant or guilty of conduct detrimental to the best interests of the public or his profession in violation of 59 O.S. §887.13(9).
- B. Is guilty of any act in conflict with the ethics of the profession of physical therapy in violation of 59 O.S. §887.13(10).
- C. Engaged in dishonorable or immoral conduct that is likely to deceive, defraud, or harm the public in violation of OAC 435:20-5-8(b)(5).
- D. Participated in fraud, abuse and/or violation of state or federal laws in violation of OAC 435:20-5-8(b)(8).
- E. Engaged in conduct which potentially or actually jeopardizes a patient's life, health or safety in violation of OAC 435:20-5-8(b)(9).

- F. Engaged in negligence while in practice of physical therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board in violation of OAC 435:20-5-8(b)(12).
- G. Engaged in fraudulent billing practices and/or violation of Medicare and Medicaid laws or abusive billing practices in violation of OAC 435:20-5-8(b)(15).
- H. Engaged in the improper management of medical records,, inaccurate recording, falsifying or altering or failing to complete documentation of patient records in violation of OAC 435:20-5-8(b)(16).
- I. Falsely manipulated patient records ... in violation of OAC 435:20-5-8(b)(17).
- J. Violated any provision of the Physical Therapy Practice Act or the rules and regulations of the board ... in violation of OAC 435:20-5-8(b)(31).

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 suspension or revocation, 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 physical therapy assistant in the State of Oklahoma.

Dated this 19th day of October, 2009.

Respectfully submitted,


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Oklahoma Board of Medical Licensure and
Supervision