

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

**FILED**

NOV 10 2010

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

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

v. )

Case No. 09-10-3851

SCOTT GREGORY BEARDEN, P.A., )  
LICENSE NO. PA841 )

Defendant. )

**FINAL ORDER OF ADMINISTRATIVE FINE  
AND ORDER FOR BOUNDARIES EVALUATION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 4, 2010, at the office of the Board, 101 N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and through counsel, Jacob Rowe.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

***Findings of Fact***

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and 887.1 *et seq.* The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Scott Gregory Bearden, P.A., holds Oklahoma physician assistant license no. PA841 and practiced in Ponca City, Oklahoma.

3. Beginning on or about September 23, 2004 and continuing through June 15, 2009, Defendant treated Patient RWW for various illnesses, as well as for depression and insomnia. Pharmacy records reflect that during this time, Defendant prescribed numerous controlled and non-controlled drugs to this patient.

4. Defendant admits that on or about May 18, 2009, he and Patient RWW entered into a sexual relationship which continued until on or about June 30, 2009.

5. Pharmacy records reflect that on or about June 15, 2009, during the course of their sexual relationship, Defendant prescribed Hydrocodone to Patient RWW.

6. On or about October 6, 2009, Board investigators interviewed Defendant, at which time he admitted that he prescribed controlled dangerous substances to Patient RWW after he and the patient began their sexual relationship.

7. On or about November 12, 2009, Board investigators subpoenaed the patient chart of Patient RWW. A review of this chart reveals a small handwritten note written on the bottom of a May 2, 2009 progress note. The notation is signed by Defendant and allegedly dated June 16, 2009. Defendant's notation states "Lortab 7.5/300 #20 Walgreens Rx 'Dx' Back Pain". Nothing in the record supports back pain, the prescription to the patient was actually written on June 15, 2009, and Defendant had no way of knowing where the prescription would be filled since he signed an original prescription and it was not called in to any pharmacy.

8. Defendant's chart on this patient reveals that he failed to perform a complete physical examination on this patient prior to prescribing the controlled dangerous drugs on June 15, 2009, specifically, that he did not examine the patient's back, lower or upper extremities and did not perform any neurological examination, that he did not order appropriate tests, that he did not establish a legitimate medical need for the medications, and that he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

9. A review of Defendant's records reveals that Defendant began treating Patient TWW on or around September 3, 2004 and continuing through at least June 4, 2009. Defendant's records reflect that he treated Patient TWW on at least seventeen (17) separate occasions during this period of time.

10. When questioned by Board investigators, Defendant admitted that he had entered into a sexual relationship with Patient TWW. When asked when the sexual relationship with Patient TWW began, Defendant advised Board investigators that they entered into a sexual relationship several months after he last treated her on June 4, 2009. However, Patient TWW admitted to Board investigators that they actually began their sexual relationship approximately **one (1) month** after she was last treated by Defendant, in July 2009. This was just one (1) week after Defendant's sexual relationship with RWW, the first patient he had a sexual relationship with, had ended.

11. 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. 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).
  - C. 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).
  - D. Prescribed or administered a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).
  - E. 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).
  - F. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).

### *Conclusions of Law*

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. 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. 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).

C. 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).

D. Prescribed or administered a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).

E. 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).

F. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(a)(7).

3. The Board further found that the Defendant's license should be disciplined based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (8), (12), (13), (16) and (18), OAC 435: 10-7-4 (2), (6), (11), (39) and (41), and OAC 435:15-5-11(a)(7).

### *Order*

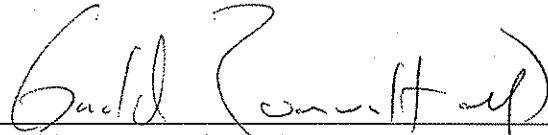
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. Defendant, Scott Gregory Bearden, P.A., Oklahoma physician assistant license no. PA841, shall pay an **ADMINISTRATIVE FINE** in the amount of **\$5,000.00** to be paid immediately.

2. Within three (3) months of the date of this Order, Defendant shall complete a **BOUNDARIES COURSE** and shall submit to an **EVALUATION ON BOUNDARIES ISSUES**. The course and evaluation shall be approved in writing in advance by the Board Secretary. After Defendant completes the boundaries evaluation, he shall appear before the Board to report on the evaluation.

3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

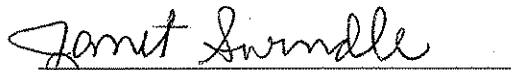
Dated this 10 day of November, 2010.



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

### CERTIFICATE OF SERVICE

I certify that on the 10 day of November, 2010, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Jacob Rowe, 1309 N. Shartel Avenue, Oklahoma City, OK 73103.



Janet Swindle