

IN AND BEFORE THE STATE BOARD OF MEDICAL  
LICENSURE AND SUPERVISION

STATE OF OKLAHOMA

**FILED**

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

JAN 27 1988

Plaintiff,

STATE BOARD OF  
MEDICAL EXAMINERS

THOMAS VOGEL, M.D.  
Medical License No. 8455

CASE NO. 86-10-447

Defendant.

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision en banc on the 22nd day of January, 1988, at the office of the Oklahoma State Medical Association, 601 NW Expressway, 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 Thomas Vogel, M.D., Defendant, appeared in person, pro se for the Defendant.

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

FINDINGS OF FACT

1. That Defendant, Thomas Vogel, M.D., holds Oklahoma Medical License No. 8455.

2. That the Board of Medical Licensure and Supervision 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 the Board finds that the allegations of the complaint as set forth below contain adequate evidence for disciplinary action against the Defendant.

3. That from approximately April 1, through July 31, 1987, Defendant wrote approximately 616 prescriptions for controlled dangerous substances in a total amount of dosage units of 41,650 plus seven prescriptions of controlled dangerous substances in other forms totaling 1,440 dosage units.

4. That a prescription survey conducted in reference to certain scheduled drugs reveals that several patients received narcotic drugs in excess of the amount considered good medical practice or without medical need. A representative sampling from the prescription survey indicates that patient J.D.K. received approximately 11 prescriptions for 1,060 dosage units of scheduled drugs from April 6, 1987, through June 5, 1987, for an average of 17.38 dosage units per day.

5. That the survey reveals that patient D. Bell received nine prescriptions for 762 dosage units of scheduled drugs from April 22, 1987, through July 3, 1987, for an average of 10.44 dosage units per day.

6. That the survey reveals that patient L.M. received five prescriptions for 500 dosage units of scheduled drugs from May 7,

1987, through June 25, 1987, for an average of 10.00 dosage units per day.

7. That the survey reveals that patient D.B. received ten prescriptions for a total of 1,000 dosage units of scheduled medication from April 20, 1987, through August 3, 1987, for an average of 9.43 dosage units per day.

8. That the survey reveals that patient P.S. received eight prescriptions for 786 dosage units of scheduled drugs from April 21, 1987, through July 16, 1987, for an average of 9.03 dosage units per day.

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

#### CONCLUSIONS OF LAW

1. That Thomas Vogel, M.D., holding Oklahoma Medical License No. 8455, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 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 Thomas Vogel, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section IX, Rules 1, 2, and 6, 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."

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

#### ORDER

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

1. That the Defendant, Thomas Vogel, M.D., Oklahoma Medical License No. 8455, will be and is hereby placed on probation to the Oklahoma State Board of Medical Licensure and Supervision for a period of three (3) years beginning on November 13, 1987, under the following terms and conditions:

(a) That during the period of probation Defendant may prescribe controlled dangerous substances only on serially numbered, duplicate prescription pads and shall make the copies available to Investigators of the Oklahoma State Board of Medical Licensure and Supervision at their request.

(b) During the period of probation Defendant will not prescribe, administer or dispense any medications for his personal use, or that of his immediate family, to

specifically include controlled dangerous substances.

- (c) During the period of probation Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.
- (d) That Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- (e) During the period of probation Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.

Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay upon receipt of invoice from the Investigation Division of the Board the costs of investigation, prosecution and probation of this case.


- (g) That violation of any of the terms and conditions of probation shall be grounds for additional charges to be presented to the Board after notice to the Defendant.
- (h) During the period of probation Defendant will reduce the overall number of controlled dangerous substance prescriptions being written for all patients to levels consistent with good medical practice.

During the period of probation Defendant will reduce the duration of time that patients are retained on controlled dangerous substances prescribed to the minimum consistent with medical need.

2. That the jurisdiction of the Board in this individual proceeding will continue in this matter until the terms and conditions of probation are modified or lifted by the Oklahoma State Board of Medical Licensure and Supervision on their own motion or on the motion of the Defendant.

3. The Board further orders that failure to meet any of the above terms of probation will constitute cause for the Board to initiate additional proceedings to suspend or revoke Defendant's Oklahoma Medical License, after due notice and hearing.

DATED this 27<sup>th</sup> day of JANUARY, 1988.

  
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MARK R. JOHNSON, M.D. Secretary  
State Board of Medical Licensure  
and Supervision

APPROVED AS TO FORM;

*Daniel J. Gamino*  
DANIEL J. GAMINO OBA #3227  
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 a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 4 day of February, 1988, to:

Thomas Vogel, M.D.

1044 S.W.44 #412

OKla City OKla 73109-3609

*Jant L. Owens*