

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

FILED

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

Plaintiff,

v.

KATHLEEN ELLEN MASON-MORTON, P.A.,
LICENSE NO. PA 964,

Defendant.

NOV 06 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-05-3777

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, Kathleen Ellen Mason-Morton, P.A., 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 physician assistants in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and §519.1 *et seq.*

2. Defendant, Kathleen Ellen Mason-Morton, P.A., holds Oklahoma license no. PA964. At the time of the events which are the subject of this Complaint, Defendant practiced at the Jon Ric International Medical Spa and Salon, also known as Jon Ric MMG LP ("Jon Ric Salon"), a limited liability company that she formed on or about January 12, 2005. Defendant and her husband own ninety percent (90%) of the spa and the remaining ten percent (10%) is owned by a nurse, Gayla Campbell, and her husband. Defendant operates the spa on a daily basis.

EMPLOYMENT OF STEPHANIE BERG, M.D.

3. Beginning on or about March 8, 2007 and continuing through March 31, 2009, Defendant's supervising physician was Stephanie Berg, M.D.

4. During this time that Dr. Berg was her supervising physician, Defendant employed Dr. Berg at the Jon Ric Salon. Defendant, by and through her company, the Jon Ric Salon, paid Dr. Berg a fee to act as her supervising physician in the amount of ten percent (10%)

of all procedures performed at the spa that required physician supervision. Bank records provided by Defendant reveal the following checks were given to Dr. Berg:

05/01/07	856.35
05/18/07	1,282.00
06/10/07	1,054.30
07/10/07	929.05

5. In or around August 2007, Board staff learned that Defendant was employing Dr. Berg, her supervising physician. Board staff contacted Defendant and advised her that this arrangement was unacceptable, in that a physician assistant is not allowed to employ his or her supervising physician. Board staff followed up with a letter to Defendant dated October 1, 2007 whereby Defendant was directed to 59 O.S. §519.6(B)(e), which provides as follows:

[I]t remains clear that the physician assistant is an agent of the supervising physician; but, **in no event shall the supervising physician be an employee of the physician assistant.**

6. After being notified that the State was investigating her for employing her supervising physician, on or about August 28, 2007, Defendant attempted to get around this law by directing the Jon Ric Salon to pay Dr. Berg indirectly through OU Physicians, which would then pay Dr. Berg. Bank records provided by Defendant reveal the following checks were given by Defendant, through the Jon Ric Salon, to OU Physicians, which then paid Dr. Berg:

08/14/07	683.76
09/19/07	1,257.25
10/10/07	1,206.47
11/27/07	1,009.82
01/17/08	1,028.80
02/18/08	1,197.26
03/20/08	1,546.72
04/19/08	1,281.18
05/20/08	805.25
06/16/08	806.41
07/15/08	795.36
08/16/08	1,568.20
09/20/08	1,457.62
10/10/08	1,003.13
11/10/08	1,379.67
12/15/08	1,762.28
01/10/09	699.32

EMPLOYMENT OF ANDREA MILLER, M.D.

7. Beginning on or about January 5, 2009 and continuing through August 24, 2009, Defendant's supervising physician was Andrea Miller, M.D., a fifth year diagnostic radiology resident in Oklahoma City, Oklahoma at Integris Baptist Hospital.

8. During this time that Dr. Miller was her supervising physician, Defendant employed Dr. Miller at the Jon Ric Salon. Defendant, by and through her company, the Jon Ric Salon, paid Dr. Miller a fee to act as her supervising physician in the amount of ten percent (10%) of all procedures performed at the spa that required physician supervision. Bank records provided by Defendant reveal the following checks were given to Dr. Miller:

02/10/09	1,479.86
03/15/09	993.00
04/23/09	1,011.98
05/20/09	1,924.32

9. Dr. Miller admits that during the time she was employed by Defendant and the Jon Ric Salon, she never examined any patients, nor did she perform any medical treatments on any patients. To the contrary, her employment consisted strictly of reviewing Defendant's patient charts.

EMPLOYMENT OF CHARINY HERRING, D.O.

10. Beginning on or about March 28, 2008 and continuing through July 5, 2008, Defendant's supervising physician was Chariny Herring, D.O.

11. During this time that Dr. Herring was her supervising physician, Defendant employed Dr. Herring at the Jon Ric International Medical Spa and Salon. Defendant, through the Jon Ric Salon, paid Dr. Herring a fee to act as her supervising physician in the amount of ten percent (10%) of all procedures performed at the spa that required physician supervision. Bank records provided by Defendant reveal the following checks were given to Dr. Herring:

03/07/08	7.50
03/08/08	7.50
04/18/08	182.50
06/16/08	510.00
06/16/08	87.50

INADEQUATE PHYSICAL EXAMINATIONS

12. Beginning April 19, 2008 and continuing through February 12, 2009, Defendant performed three (3) Botox treatments and five (5) dermal filler treatments on Patient AMM. Defendant's chart on this patient reveals that she performed no physical examination on this

patient at any of the eight (8) appointments, that she recorded no vital signs, that she did not obtain a complete patient history, that she did not formulate a treatment plan, and that she did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. Defendant's patient chart consists of an informed consent form and pictures showing various injection sites and amounts of drugs injected.

13. Beginning March 15, 2008 and continuing through November 13, 2008, Defendant performed three (3) Botox treatments and two (2) dermal filler treatments on Patient KJM. Defendant's chart on this patient reveals that she performed no physical examination on this patient at any of the five (5) appointments, that she recorded no vital signs, that she did not obtain a complete patient history, that she did not formulate a treatment plan, and that she did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. The chart reflects that the patient was also seen for weight loss and that she signed an informed consent for Releana, a weight loss drug. However, Patient KJM's chart does not reflect whether or not Releana was ever prescribed by Defendant.

14. Beginning July 22, 2007 and continuing through January 15, 2009, Defendant performed four (4) Botox treatments and one (1) dermal filler treatment on patient VFM. Defendant's chart on this patient reveals that she performed no physical examination on this patient at any of the five (5) appointments, that she recorded no vital signs, that she did not obtain a complete patient history, that she did not formulate a treatment plan, and that she did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. Defendant's patient chart consists of two (2) informed consent forms and pictures showing various injection sites with amounts of drugs injected.

15. Beginning April 20, 2007 and continuing through June 6, 2008, Defendant performed five (5) Botox treatments on patient GSM. Defendant's chart on this patient reveals that she performed no physical examination on this patient at any of the five (5) appointments, that she recorded no vital signs, that she did not obtain a complete patient history, that she did not formulate a treatment plan, and that she did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

16. On October 18, 2008 and November 1, 2008, Defendant performed Botox treatments on Patient RDM. Defendant's chart on this patient reveals that she performed no physical examination on this patient at either of these appointments, that she recorded no vital signs, that she did not obtain a complete patient history, that she did not formulate a treatment plan, and that she did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

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

A. Violated a provision of the Medical Practice Act or the rules promulgated by the Board pursuant to OAC 435:15-5-11(7), 59 O.S. §519.6(B)(e) and OAC 435:15-5-1(b)(6).

B. 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).

C. 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).

D. 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).

E. 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).

Conclusion

WHEREFORE, the Plaintiff respectfully 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 and any other appropriate action with respect to Defendant's physician assistant license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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Attorney for the Plaintiff