



SEALED

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER,
ATTORNEY GENERAL OF OKLAHOMA

Plaintiff

STATE OF OKLAHOMA
CLEVELAND COUNTY, S.S.
FILED In The
Office of the Court Clerk
MAY 02 2019

For Judge Balkman's
Consideration

vs.

- (1) PURDUE PHARMA L.P.;
- (2) PURDUE PHARMA, INC.;
- (3) THE PURDUE FREDERICK COMPANY,
- (4) TEVA PHARMACEUTICALS USA, INC.;
- (5) CEPHALON, INC.;
- (6) JOHNSON & JOHNSON;
- (7) JANSSEN PHARMACEUTICALS, INC.
- (8) ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS;
- (9) JANSSEN PHARMACEUTICA, INC.,
n/k/a JANSSEN PHARMACEUTICALS, INC.;
- (10) ALLERGAN, PLC, f/k/a ACTAVIS PLC,
f/k/a ACTAVIS, INC., f/k/a WATSON
PHARMACEUTICALS, INC.;
- (11) WATSON LABORATORIES, INC.;
- (12) ACTAVIS LLC; and
- (13) ACTAVIS PHARMA, INC.,
f/k/a WATSON PHARMA, INC.,

In the office of the
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

Defendants.

SEALED

DEFENDANTS TEVA PHARMACEUTICALS USA, INC.,
CEPHALON, INC., WATSON LABORATORIES, INC., ACTAVIS LLC,
AND ACTAVIS PHARMA, INC., f/k/a WATSON PHARMA, INC.'S
MOTION FOR SUMMARY JUDGMENT AND BRIEF IN SUPPORT

EXHIBIT 42 FILED UNDER SEAL

EXHIBIT 42

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

FILED

AUG 17 2016

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff,)

vs.)

Case No. 15-01-5092

WILLIAM KERRY SMITH, M.D.,)
LICENSE NO. MD 29740,)

Defendant.)

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision ("Board"), alleges and states as follows for its Complaint against William Kerry Smith, M.D. ("Defendant"):

I. JURISDICTION

1. The Board has jurisdiction over the subject matter and is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians, surgeons and other allied health professionals in the State of Oklahoma pursuant to 59 Okla. Stat. § 480 *et seq.*
2. Defendant holds Oklahoma medical license number 29740.
3. The acts and omissions complained of herein occurred while Defendant was acting as a physician pursuant to his medical license conferred upon him by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

II. ALLEGATIONS OF PROFESSIONAL MISCONDUCT

4. This case was initiated through information provided by Oklahoma Bureau of Narcotics ("OBN") and verified by Board Investigator Larry Carter. The OBN initiated an investigation predicated on a complaint by a Confidential Informant (CI). The CI alleged that Defendant would trade controlled dangerous substance ("CDS") prescriptions for sexual favors.
5. OBN Agent Hawk interviewed Defendant on December 19, 2014. During that interview Defendant admitted that he had prescribed CDS to women whom he was involved with sexually. He further admitted that he had issued prescriptions to people outside his

medical practice and that he had exchanged CDS prescriptions in exchange for sexual favors. At the conclusion of the interview, Agent Hawk asked if Defendant would surrender his OBN registration, and Defendant complied.

J.K.C. & T.B.C.

6. During his interview with Agent Hawk, Defendant admitted that he had written prescriptions to J.K.C., a patient Defendant met online, knowing that J.K.C. is addicted to opioid drugs and has a felony conviction for drug offenses. Defendant admitted to writing small, post-dated, prescriptions to be filled weekly for J.K.C. Defendant admitted that he had written one prescription and delivered it to J.K.C. in the parking lot of his clinic on the day of his interview with Agent Hawk. Defendant further admitted that he did not require J.K.C. to make appointments or have the patient come in to the clinic to receive those prescriptions.
7. Agent Hawk subsequently interviewed J.K.C. In that interview J.K.C. stated that she had met Defendant on a dating website. She went on to say that during that relationship, Defendant prescribed Oxycodone to her without medical need.
8. Agent Hawk reviewed the medical record of J.K.C. and found it to be only 5 pages long. It consisted of one office visit on August 16, 2014. There were no records of any tests, blood work, x-rays or any other tests warranting the issuance of prescriptions for opioids. Twelve (12) prescriptions for Oxycodone were issued from Defendant to J.K.C. prior to the only appointment in that patient's record. J.K.C. would often travel from Arkansas to Defendant's clinic in Sallisaw and would pick up multiple post-dated prescriptions.
9. Some of the prescriptions written for J.K.C. were filled in Arkansas and some in Oklahoma. Defendant used his Oklahoma Bureau of Narcotics Registration for all of the prescriptions for J.K.C. Agent Hawk found that from June 27, 2014 to December 26, 2014, J.K.C. received prescriptions for 157 doses of Oxycodone 30 mg, a Schedule II drug, illegally.
10. J.K.C. would often get a ride from a friend, T.B.C, from Arkansas to Oklahoma to receive prescriptions. Defendant would prescribe Oxycodone to T.B.C. as "payment for driving."
11. T.B.C. was interviewed by Agent Hawk, and stated that he would give the Oxycodone prescribed to him by Defendant to J.K.C. Defendant did not have a medical record for T.B.C. and T.B.C. informed Agent Hawk that he had no medical need for Oxycodone and was only getting it to give to J.K.C.
12. T.B.C. obtained 12 prescriptions totaling 277 doses of Oxycodone, a schedule II substance, through prescriptions provided by Defendant with no doctor-patient relationship being established.

E.S.C. & R.S.C.

13. Defendant began a relationship with E.S.C. and R.S.C. in approximately September of 2013. He had met E.S.C. on Craigslist and was trying to have a sexual relationship with her. He subsequently gave E.S.C. \$100 to help her with her rent and began prescribing opioids and benzodiazepines to E.S.C. and R.S.C. E.S.C. admitted to allowing Defendant to believe that she would eventually have sex with Defendant if he continued to prescribe CDS to her and R.S.C. Nude photographs of E.S.C. as well as inappropriate text messages were sent by cellular phone between E.S.C. and Defendant.
14. The medical records for these individuals were incomplete, did not indicate any past medical history and no tests were recorded to verify injury or need for pain medications.
15. Defendant admitted to attempting to have a sexual relationship with E.S.C. Prior to forming a valid doctor-patient relationship, E.S.C. filled prescriptions for 1,064 doses of Oxycodone 30 mg, 120 doses of Hydrocodone 10 mg, 120 doses of Clonazepam 2 mg, 60 doses of Carisoprodol 350 mg, and 235 doses of Alprazolam 2 mg.
16. R.S.C. filled prescriptions, provided by Defendant, for 321 doses of Oxycodone, 30 mg, 60 doses of Clonazepam 2 mg and 60 doses of Alprazolam 2 mg without a genuine doctor-patient relationship being established and without medical need.

K.H.C.

17. On April 1, 2015, Agent Hawk interviewed K.H.C. regarding her experiences with Defendant.
18. K.H.C. arrived in Oklahoma in 2013 without insurance. She was referred to Defendant by her mother and Defendant agreed to see her without insurance. Defendant loaned K.H.C. money and accompanied her on a trip out of state during the time he was prescribing her CDS.
19. After asking for and receiving K.H.C.'s cell phone number for the stated purpose of contacting her regarding her medical examination, Defendant used the number to call and text frequently. Defendant called and texted requesting a dating relationship. When K.H.C. made it clear that she was not interested in a personal relationship with Defendant, Defendant would imply that he would have to stop seeing her medically which would cause a financial hardship on K.H.C. Defendant discovered that K.H.C. had a personal relationship with another man and he became furious. Defendant made threats, which were ultimately reported to the Sallisaw Police Department.
20. Defendant has subsequently been charged with forty (40) counts of felony Distribution of CDS Not in Course of Legitimate Business, in violation of 63 O.S. § 2-406 in the District Court of Sequoyah County, Oklahoma, Case Number CF-2016-305.

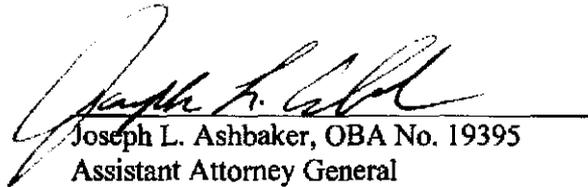
II. VIOLATIONS

21. Based on the foregoing, the Defendant is guilty of professional misconduct as follows:
- a. Dishonorable or immoral conduct likely to deceive, defraud, or harm the public, in violation of 59 O.S. 2011, § 509(8) and Okla. Admin. Code § 435:10-7-4(11);
 - b. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine, in violation of 59 O.S. 2011, § 509(9);
 - c. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship, in violation of 59 O.S. 2011, § 509(12);
 - d. 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, in violation of 59 O.S. 2011, § 509(16), Okla. Admin. Code § 435:10-7-4(1), Okla. Admin. Code § 435:10-7-4(2), Okla. Admin. Code § 435:10-7-4(6);
 - e. Engaging in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient, in violation of 59 O.S. 2011, § 509(17);
 - f. Failure 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. 2011, § 509(18), Okla. Admin. Code § 435:10-7-4(36);
 - g. Failure to maintain adequate medical records to support diagnosis, procedure, treatment or prescribed medications, in violation of 59 O.S. 2011, § 509(20), Okla. Admin. Code § 435:10-7-4(41);
 - h. Commission of any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery, in violation of Okla. Admin. Code § 435:10-7-4(23);
 - i. Violating any state or federal law or regulation relating to controlled substances in, violation of Okla. Admin. Code § 435:10-7-4(27);
 - j. Abuse of physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in, violation of Okla. Admin. Code § 435:10-7-4(44);
 - k. Engaging in predatory sexual behavior, in violation of Okla. Admin. Code § 435:10-7-4(45);

1. Failure to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment, in violation of Okla. Admin. Code § 435:10-7-4(49).

III. CONCLUSION

Given the foregoing, the undersigned requests 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 the Defendant's professional license, including an assessment of costs and attorney's fees incurred in this action as provided by law.

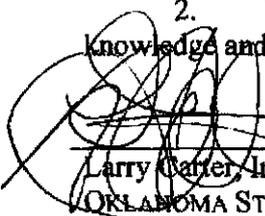


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VERIFICATION

I, Larry Carter, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

1. I have read the above Complaint regarding the Defendant, William Kerry Smith, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



Larry Carter, Investigator
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Date: 16 Aug 2016
Oklahoma County
Place of Execution