

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

FILED
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OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
THE OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE AND)
SUPERVISION,)
)
Plaintiff,)
)
vs.)
)
ANDREA JAMES, M.D.,)
LICENSE NO. MD 23846,)
)
Defendant.)

Case No. 14-01-4899

VERIFIED COMPLAINT

The State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision (the “Board”), alleges and states as follows for its Complaint against Andrea James, M.D. (“Defendant”):

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. § 480 *et seq.*
2. Defendant, Andrea James, M.D., holds Oklahoma medical license number MD 23846. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to her medical license conferred upon her by the State of Oklahoma. Such acts and omissions occurred within the physical territory of the State of Oklahoma.

Allegations of Unprofessional Conduct

3. This matter originated on January 14, 2014 when investigator JL received a complaint regarding Defendant Andrea James, MD. Complainant said he believed Defendant had written prescriptions for CDS for a co-worker without the co-worker’s knowledge or permission. Complainant later wrote in a statement that when he confronted Defendant, she “indicated it was all a misunderstanding”. Defendant stated she had prescribed the pill bottles to A.H., and that A.H. had forgotten. Complainant confirmed Defendant is his patient and he prescribes both CDS and non-CDS to her. Complainant advised Defendant no longer works at his clinic.

4. On January 15, 2014 investigator JL travelled to the clinic where the following pill bottles were produced:

<u>RX Date</u>	<u>Patient</u>	<u>RPh</u>	<u>RX</u>	<u>Qty</u>	<u>Remaining</u>
01-13-13	Andrea James	Walmart	Ritalin 20mg ER	#90	7
09-11-13	Andrea James	Dave's	Vyvanse 70mg	#30	69
10-16-13	Andrea James	Dave's	Adderall 20mg	#30	26
04-15-13	M.H.	CVS	Vyvanse 60mg	#60	14
07-09-13	M.H.	Dave's	Vyvanse 70mg	#25	*46
09-18-13	M.H.	Dave's	Phentermine 37.5	#30	34

5. Investigator J.L. interviewed Defendant on January 17, 2014. When asked why she wrote prescriptions for A.H. without her knowledge, Defendant said there was a period when there was going to be fifteen (15) days when her doctor could not see her because he was too busy. Defendant was afraid she would run out of medication; so she wrote these prescriptions to A.H. with A.H.'s permission. Defendant said she did not end up needing the extra medication. Defendant said she has never taken medications that were not legally prescribed to her. At another time during this interview, Defendant advised when she wrote and filled under A.H.'s name; she was thinking she might need to increase her personal dosage of medication. Defendant said she changed her mind about increasing her dosage and didn't end up taking any of them. Later during the interview, she changed her story again and advised the CDS written under A.H.'s name were actually for Defendant's husband. At the end of the interview, Defendant admitted, "I could have taken very few of them". When asked again, Defendant admitted she took *some* of the medications prescribed to A.H.
6. Defendant signed an agreement not to practice medicine with the Board on January 17, 2014.
7. Investigator JL interviewed employee A.H. A.H. stated on Tuesday December 17, 2013 that Defendant stayed the night with her due to the long distance Defendant had to travel to get to the clinic as well as marital problems. On Thursday December 19, 2013 Defendant informed A.H. that she had left some of her belongings at A.H.'s house. Defendant asked A.H. if she would bring them to the clinic. When she picked up Defendant's belongings, a pill bottle rolled out of the bag. A.H. looked at the pill bottle and saw the name of M.H. on it. A.H. noticed there were multiple pill bottles and went through Defendant's bag. A.H. advised she found 21 bottles of pills. The bottles were prescribed to her (A.H.), M.H., W.J. (Defendant's spouse), and Defendant. A.H. stated that there were five bottles with her name on them. A.H. further stated that she had no knowledge of Defendant writing these prescriptions to her and she did not give permission to use her name for prescriptions.
8. A.H. brought Defendant's belongings along with the pill bottles to the clinic. A.H. said she kept the five bottles that had her name on them and gave Defendant the remaining 16 prescriptions. When A.H. confronted Defendant regarding the prescriptions, Defendant became defensive and did not give an explanation about why A.H.'s name was on some

of the prescriptions. Defendant told A.H. it was all a misunderstanding and that she was simply holding medication for her husband and M.H. A.H. produced the following five pill bottles:

<u>RX Date</u>	<u>Patient</u>	<u>RPh</u>	<u>Prescriber</u>	<u>RX</u>	<u>Qty</u>	<u>Remaining</u>
04-19-13	A.H.	Walgreens	James	Alprazolam 2mg	180	0
04-24-13	A.H.	Walmart	James	Phentermine 37.5mg	180	35
09-16-13	A.H.	Dave's	James	Alprazolam 2mg	90	7
09-16-13	A.H.	Dave's	James	Temazepam 30mg	90	6
10-24-13	A.H.	Dave's	James	Adderall 30mg	270	186

DAVE'S PHARMACY

9. On January 16, 2014, investigator J.L. travelled to Dave's Pharmacy and spoke with the owner and pharmacist Dave. Dave said W.J. (Defendant's Husband) would pick up the prescriptions Defendant wrote under A.H.'s name. Dave said when he questioned W.J. on why they were filling the medications for this individual, W.J. explained she was a patient of Defendant who wanted the medication mailed to her.

MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT

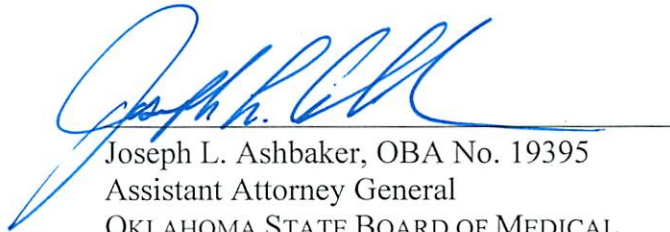
10. Defendant has been evaluated and treated at several facilities for her mental health and substance abuse issues. Defendant was evaluated at PRC from January 24-27, 2014. That evaluation resulted in an Assessment Discharge Summary and Recommendations. Defendant was then admitted as an inpatient at Menninger Clinic on February 03, 2014. She received a psychiatric evaluation upon admission and a neuropsychological exam on February 25, 2014. Defendant claimed she could not afford treatment at Menninger Clinic. On March 05, 2014 during a conference call, Menninger said they would be in contact with PRC to see if they would accept Defendant in their out-patient treatment center. Defendant left Menninger Clinic sometime in March 2014. Defendant returned to PRC from March 14, 2014 through May 06, 2014. Defendant was noncompliant with PRC's rules. PRC discharged her and recommended a higher level of care. Defendant attended Bradford from May 13, 2014 through June 24, 2014 for substance abuse issues. Upon discharge, Bradford wrote, "She will need to complete the behavioral psychiatric treatment that she began at the Professional Renewal Center." On June 24, 2014 Defendant called investigator JL and advised that she cannot afford to go to Acumen at this time. Defendant advised she plans to return to her home and get a job (not in the medical field) to save money to go to Acumen.
11. Based on the foregoing, the Defendant is guilty of professional misconduct as follows:
 - a. Habitual intemperance or the habitual use of habit-forming drugs in violation of 59 O.S. 2011, § 509(4);

- b. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public in violation of 59 O.S. 2011, § 509(8) & Okla. Admin. Code § 435:10-7-4(11);
- c. 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. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct in violation of 59 O.S. 2011, § 509(9);
- d. The writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. 2011, § 509(11);
- e. The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice in violation of 59 O.S. 2011, § 509(13);
- f. 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(2);
- g. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the State Board of Medical Licensure and Supervision may, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by it in violation of 59 O.S. 2011, § 509(15);
- h. The habitual or excessive use of any drug which impairs the ability to practice medicine with reasonable skill and safety to the patient in violation of Okla. Admin. Code § 435:10-7-4(3);
- i. Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need in violation of Okla. Admin. Code § 435:10-7-4(6);
- j. Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of Okla. Admin. Code § 435:10-7-4(24);
- k. Violating any state or federal law or regulation relating to controlled substances in violation of Okla. Admin. Code § 435:10-7-4(27);

1. The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, in violation of Okla. Admin. Code § 435:10-7-4(40).

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, Jana Lane, 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, Andrea James, M.D.; and
2. The factual statements contained therein are true and correct to the best of my knowledge and belief.



Jana Lane, Investigator
Oklahoma State Board of Medical
Licensure and Supervision

Date: 03-20-2015

Oklahoma City, OK
Place of Execution