

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

**STATE OF OKLAHOMA, *ex rel.*** )  
**OKLAHOMA STATE BOARD** )  
**OF MEDICAL LICENSURE** )  
**AND SUPERVISION,** )  
  
**Plaintiff,** )  
  
**v.** )  
  
**JAMES MELVIN GILBERT, M.D.,** )  
**LICENSE NO. MD 9487,** )  
  
**Defendant.** )

**FILED**  
 JUL 24 2018  
 OKLAHOMA STATE BOARD OF  
 MEDICAL LICENSURE & SUPERVISION

**Case No. 17-02-5429**

**VERIFIED COMPLAINT**

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

**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 and surgeons in the State of Oklahoma. 59 O.S. § 480, *et seq.* and Okla. Admin. Code 435:5-1-1 *et seq.*
2. In Oklahoma, Defendant holds medical license no. 9487, issued June 23, 1971.
3. The acts and omissions complained of herein were made while Defendant was acting as a physician pursuant to the 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 UNPROFESSIONAL CONDUCT**

4. This action arises out of complaint from another medical practitioner who stated that a patient of his came to an appointment in an impaired state. The complainant stated that his patient was disheveled, had trouble walking and was slurring her speech. The complainant stated that the patient drove herself to the appointment in that condition. Upon checking the PMP the complainant discovered that the patient was receiving multiple controlled dangerous substance (“CDS”) prescriptions from James Gilbert, M.D.
5. A subpoena was issued to Defendant for nine (9) patient files and records were obtained for each one. Those records were sent for expert review.

6. Subsequently, Board Investigator Stephen Washbourne received Medical Examiner Reports on three overdose deaths associated with Dr. Gilbert. Charts for patients M.T.C., C.T.C. and R.F.C. were obtained and also sent for expert review.
7. The expert found the following trends throughout the patient records obtained:
  - a. There is a lack of documentation of safety assessments for suicide risks and a lack of documentation to support the medications prescribed.
  - b. There is generally, throughout most of the charts, very little in the way of chart documentation regarding why things were being done and justification behind treatment and prescribing.
  - c. Red flags such as repeated lost medications, requests for early refills, DUI arrests were ignored or addressed in a superficial manner.
  - d. There is very little increase in monitoring when red flag behavior was identified or CDS dosages were increased.
  - e. A lack of treatment plans, no consistent mental status exams, and a failure to respond to adverse effects of prescribed medications.
  - f. Very large amounts of pain management CDS and opioid drugs being prescribed, in both number and dosage amounts, being prescribed by a psychiatrist rather than a pain management specialist.
  - g. Defendant often failed to document informed consent and there was little evidence of tapering patients off medications if the desired effect or functional improvement was not achieved.
  - h. Finally, there is little to no use of urine drug screens, even when dosages were very high or there was evidence of behavior consistent with diversion or abuse.
8. In addition to the above issue with the charts and treatment of patients, three patients died from overdose. The medical examiner's reports indicated as follows:
  - a. M.T.C.: This patient died in the hospital after being found at home on August 8, 2012. The medical examiner report lists probable cause of death as combined drug toxicity due to Salicylate, Butalbital and Alprazolam.
  - b. C.T.C.: This patient was found deceased on June 21, 2011. The medical examiner report lists probable cause of death as Methadone toxicity. This patient chart had many of the same flaws and red flags as were associated with the other charts. In addition, Defendant added a prescription of Nuvigil to this patient's drug cocktail, which can affect methadone levels, and is the drug on which this patient overdosed. The amount of opioids prescribed to this patient had morphine milligram equivalent of 455.

- c. R.F.C.: This patient was found deceased on October 20, 2011. The medical examiner report lists probable cause of death as mixed drug toxicity due to Hydrocodone with Alprazolam and Phentermine. A suicide note was found in proximity to this patient.

### III. VIOLATIONS

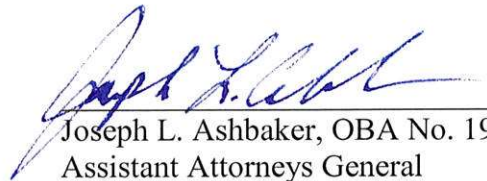
- 9. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
  - a. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public, in violation of 59 O.S. § 509(8) and Okla. Admin. Code § 435:10-7-4(11);
  - b. Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship, in violation of 59 O.S. § 509(12);
  - c. 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. § 509(16) and Okla. Admin. Code §§ 435:10-7-4(2), (6);
  - d. 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. § 509(18) and Okla. Admin. Code § 435:10-7-4(36);
  - e. Failure to provide a proper and safe medical facility setting and qualified assistive personnel for a recognized medical act, including but not limited to an initial in-person patient examination, office surgery, diagnostic service or any other medical procedure or treatment. Adequate medical records to support diagnosis, procedure, treatment or prescribed medications must be produced and maintained, in violation of 59 O.S. § 509(20);
  - f. Indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs, in violation of Okla. Admin. Code § 435:10-7-4(1);
  - g. 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);
  - h. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug, in violation of Okla. Admin. Code § 435:10-7-4(25);

- i. Violation of any provision(s) 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 Okla. Admin. Code § 435:10-7-4(39).

## V. CONCLUSION

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

Respectfully submitted,



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**VERIFICATION**

I, Stephen Washbourne, under penalty of perjury, under the laws of the State of Oklahoma, state as follows:

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

Step Wash

Stephen Washbourne, Investigator  
OKLAHOMA STATE BOARD OF MEDICAL  
LICENSURE AND SUPERVISION

Date: 7-19-18

Oklahoma County  
County, State of Execution