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STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

PART B

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

FILED

NOV 18 2018

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

Plaintiff,

v.

PURDUE PHARMA L.P., *et al.*,

Defendants.

In the office of the
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816

Judge Thad Balkman

Continuation of "

**DEFENDANT WATSON LABORATORIES, INC.'S OBJECTIONS TO THE SPECIAL
DISCOVERY MASTER'S ORDER ON WATSON'S MOTION TO COMPEL
DISCOVERY REGARDING CRIMINAL AND ADMINISTRATIVE PROCEEDINGS**

EXHIBIT D



Metro doctor accused of running 'pill mill' arrested

by Austin Prickett
Thursday, March 24th 2016

A warrant has been issued for a metro doctor accused of running a "pill mill".

The Oklahoma Attorney General's Office filed 29 felony charges against Dr. Harvey Jenkins for allegedly dispensing prescription pills without a legitimate medical purpose.

Jenkins was the operator of Aria Orthopedics. In 2015, an investigation into the business was opened by the Attorney General's Medicaid Fraud Control Unit. Attorney General Scott Pruitt said Jenkins disregarded the law and endangered Oklahomans.

"Jenkins prescribed pills with the sole purpose of making money and illegally allowed his associates to do so as well." Pruitt said.

Jenkins license to issue prescription medication was revoked in 2015. He now faces 14 counts of conspiracy to illegally possess/distribute controlled dangerous substances (CDS), six counts of making or causing to be made false claims under the Oklahoma Medicaid program, five counts of conspiracy to fraudulently obtain a personal identity of another, one misdemeanor count of conspiracy to practice medicine without a license and four counts of illegally practicing medicine without a license.

Five employees of Aria Orthopedics also face charges in the case. Tashonda Dixon, Julie Brown, Michael Oxley, Taylor Zamarripa and Elsie Murguia all face 14 counts of conspiracy to illegally possess/distribute a CDS within 2,000 feet of a public park and one count of conspiracy to practice medicine without a license. The employees individually face the following counts:

- *Dixon is charged with six counts of making or causing to be made false claims under the Oklahoma Medicaid program and five counts of conspiracy to fraudulently obtain personal identity of another person.*
- *Brown is charged with six counts of making or causing to be made false claims under the Oklahoma Medicaid program, five counts of conspiracy to fraudulently obtain personal identity of another person, and two counts of illegally practicing medicine without a license.*
- *Oxley is charged with six counts of making or causing to be made false claims under the Oklahoma Medicaid program and five counts of conspiracy to fraudulently obtain personal identity of another person.*

- *Zamarripa is charged with six counts of making or causing to be made false claims under the Oklahoma Medicaid program and two counts of illegally practicing medicine without a license.*
- *Murguia is charged with five counts of conspiracy to fraudulently obtain personal identity of another person.*

Arrest warrants were issued for Jenkins and his employees Thursday. Jenkins and Oxley were both taken into custody Thursday.



Accused pill mill doctor and former employees arrested, charged with multiple felonies

POSTED 12:50 PM, MARCH 24, 2016, BY ABBY BROYLES, UPDATED AT 06:27PM, MARCH 24, 2016

OKLAHOMA CITY - The accused pill mill doctor and several of his former employees have been charged with multiple crimes.

Dr. Harvey Jenkins has just been charged with 29 total felonies and one misdemeanor:

- 14 counts of conspiracy to illegally possess/distribute/dispense/prescribe controlled dangerous substances within 2,000 feet of a public park
- Six counts of making or causing to be made false claims under the Oklahoma Medicaid program
- Five counts of conspiracy to fraudulently obtain the personal identity of another person
- One count of conspiracy to practice medicine without a license
- Four counts of illegally practicing medicine without a license

Former Aria Orthopedics employees Tashonda Dixon, Julie Brown, Michael Oxley, Taylor Zamarripa and Elsie Murguia are also charged with many of the same crimes.

In January 2015, agents stormed the metro clinic of Jenkins, accusing him of running a pill mill operation.

He has since been stripped of his license.

The Oklahoma Attorney General Scott Pruitt released the following statement regarding Jenkins' charges:

“As Oklahomans know too well, when opioids are not properly prescribed, they can be dangerous and often result in perilous circumstances for individuals. Most pain management doctors adhere to strict standards when caring for their patients, but Jenkins prescribed pills with the sole purpose of making money and illegally allowed his associates to do so, as well. They not only disregarded the law but endangered the health and safety of Oklahomans in doing so. Their dangerous endeavors make them no better than drug dealers with prescription pads.

I'd like to thank the attorneys and investigators of the Medicaid Fraud Control Unit and many other cooperative partners and Oklahoma agencies for their diligent efforts to keep Oklahomans safe – going above

and beyond the call of duty to investigate, charge and close this dangerous operation."

The Attorney General's office began investigating Jenkins six years ago after the Oklahoma Health Care Authority alerted them to the high number of patients he was billing.

Prosecutors said 85-90 patients a day were seen at Jenkins' office.

"To put that in context, most doctors are going to see 20 patients on a good day with a highly qualified staff. When we began looking into the qualifications of his staff, none of them have any medical license at all," said Assistant Deputy Attorney General Abby Dillsaver.

Two staffers saw most of the patients and used pre-signed prescription pads with Jenkins' signature to prescribe medicine, prosecutors said.

Jenkins and five employees are also accused of essentially stealing another doctor's identity.

It happened after Jenkins had that doctor supervise his office while he was on medical leave.

"During that time period, without this doctor's permission, they electronically saved her signature, and they began to use that in addition to Dr. Jenkins' signature," Dillsaver said.

Jenkins hired a reserve sheriff's deputy to do security at the clinic.

However, according to court documents, Oxley did a lot more than that.

Prosecutors allege Oxley took prescriptions to Jenkins' home for him to sign, even though Jenkins never saw the patients.

Oxley told investigators "it was normally 10 to 15 prescriptions that he would take to Jenkins" at a time.

Jenkins spoke exclusively with NewsChannel 4 last year after he was stripped of his license to prescribe medicine.

He said then he was confident nothing he did was illegal.

"They were not interested in finding out the truth. They were interested in presenting a narrative to the public that my practice was a pill mill, and they were the heroes that came in to save the state of Oklahoma from another pill mill doctor," Jenkins said.

Jenkins has been arrested and is in custody on \$500,000 bond.

Oxley was arrested Thursday, as well.

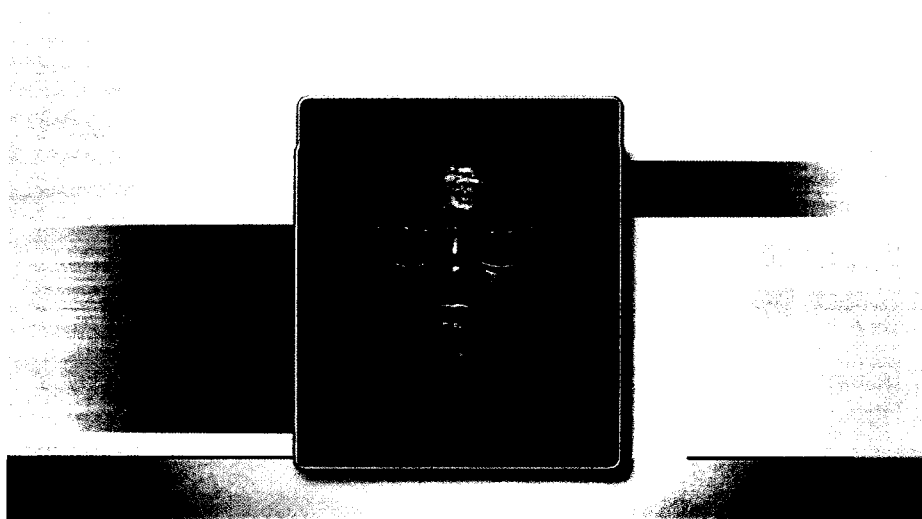
He is in custody on a \$135,000 bond.

Charges Filed Against OKC Doctor, Employees Accused Of Running 'Pill Mill'

Thursday, March 24th 2016, 5:26 PM CDT

Updated:

Thursday, March 24th 2016, 5:38 PM CDT



Dr. Harvey Jenkins has been booked into the Oklahoma County Jail and is being held on a \$500,000 bond.

OKLAHOMA CITY - Dr. Harvey Jenkins and his employees face a total of 29 felony charges and one misdemeanor charge for allegedly running a pill mill operation out of a South Oklahoma City clinic.

They are accused of multiple drug violations that spanned a period of five years - from January 2010 to February 2015. They include conspiracy to practice medicine without a license, distributing and prescribing drugs near a park, prescribing inappropriate combinations of highly addictive drugs to patients while failing to monitor the patients response to the medication.

"We're alleging that they obtained signed blank prescriptions that they would then essentially hand out to the patients that would line up at the door," said Abby Dillsaver who is with Oklahoma Attorney General's Office.

Jenkins and his employees are also accused of submitting fraudulent claims for service to the Oklahoma Health Care Authority and the Oklahoma Medicaid program. They are also accused of fraudulently obtaining an electronic signature of a local doctor without that doctor's consent.

"These are felony counts. They are very serious allegations and if he is convicted then it is difficult to foresee that he could continue to practice medicine in this state," said Dillsaver.

Back in February 2015, Dr. Jenkins had his medical license suspended and license to prescribe revoked after state agents with the Attorney General's office and the Oklahoma Bureau of Narcotics raided his clinic.

Agents allege they found several violations at the Aria Orthopedics Clinic. They said they found prewritten prescriptions, unsecured pain pills, and loose pills. The state also sent in undercover agents who posed as patients to see firsthand how the clinic was being run.

Jenkins has been booked into the Oklahoma County Jail and is being held on a \$500,000 bond.

The AG's office told News 9 the five employees who are charged will face a \$100,000 bond and claims they knowingly took part in the pill mill conspiracy.



Oklahoma doctor charged with 5 counts of second-degree murder bound over for trial

POSTED 2:33 PM, JUNE 27, 2018, BY [KFOR-TV AND K. QUERRY](#), UPDATED AT 02:34PM, JUNE 27, 2018

MIDWEST CITY, Okla. - A Midwest City doctor who was charged with five counts of second-degree murder has been bound over to stand trial.

In June of 2017, Dr. Regan Nichols was arrested at her home after investigators say she over-prescribed large amounts of narcotics, which led to the deaths of several patients.

Between 2010 and 2014, the affidavit states that 10 of Nichols' patients died from overdosing on deadly combinations of narcotics.

The five charges are related to the deaths of five women, who ranged in age from 21-years-old to 55-years-old, each prescribed hundreds of pills. Some of them died within days of visiting her Sunshine Medical Clinic.

"One of the individuals who was prescribed 510 pills died the same day the prescription was filled," Attorney General Mike Hunter said in June of 2017.

In one instance, the victim had been over-prescribed so long, the investigator was surprised she didn't die sooner.

Investigators found three of the victims were prescribed a combination of drugs doctors called the addicts' "holy trinity."

"A deadly three-drug combination of narcotic opioid pain reliever, an anti-anxiety drug, and a muscle relaxer," Hunter said.

Over that five-year period, investigators found Dr. Nichols prescribed more than 3 million doses of narcotics to patients.

In a 2015 hearing in front of the Oklahoma State Board of Osteopathic Examiners, Dr. Nichols said she believed her patients developed a tolerance to the narcotics. She also said her patients didn't want to wait for a pain management specialist, she said, "I think they wanted ongoing narcotics."

After that hearing, she was placed on five years probation by the board, during which time she could not prescribe controlled dangerous substances. However, she is still allowed to practice medicine.

Investigators say it's clear she either didn't know she was doing harm, or didn't care, and her patients paid the ultimate sacrifice.

"She has violated, in my view, the Hippocratic Oath, as well as Oklahoma law," Hunter said, "and we're going to seek to hold her accountable."

On Wednesday, Hunter announced that Nichols had been bound over to stand trial.

"A doctor who prescribes patients with thousands of addictive and dangerous opioids outside of a legitimate medical need is a drug dealer," Attorney General Hunter said. "We are going to hold doctors, like Nichols, accountable for abusing their prescribing authority and the consequent deaths of their patients. We are confident in our case and will bring justice to the loved ones of the victims who lost their lives due to Nichols' reckless prescribing."

A pretrial conference has been set for Sept. 9.

The Washington Post

Health

A doctor prescribed so many painkillers, she's been charged with murdering her patients, authorities say

By Cleve R. Wootson Jr.
June 24, 2017

On Nov. 21, 2012, Sheila Bartels walked out of the Sunshine Medical Center in Oklahoma with a prescription for a "horrifyingly excessive" cocktail of drugs capable of killing her several times over.

A short time later, she was at a pharmacy, receiving what drug addicts call "the holy trinity" of prescription drugs: the powerful painkiller Hydrocodone, the anti-anxiety medication Xanax and a muscle relaxant known as Soma.

In total, pharmacists handed her 510 pills that day — all legal, because she had a prescription with the signature of her doctor, Regan Ganoung Nichols, scrawled at the bottom, according to a probable cause affidavit.

Bartels's lifeless body was found later that day, court documents say. A medical examiner concluded that she died of multiple drug toxicity, another victim of the America's opioid epidemic.

But investigators say the 55-year-old Bartels was also a victim of Nichols, a pain management doctor who investigators concluded "either didn't know or didn't care what she was doing."

Nichols is charged with second-degree murder in the death of Bartels and four other patients, some of whom died just days after receiving large prescriptions from the doctor. She was arrested Friday and released from Oklahoma County Jail on \$50,000 bail.

She couldn't be reached for comment on Saturday. A number listed for Sunshine Medical Center was disconnected. Jail officials didn't know whether she had hired an attorney.

The doctor's arrest is part of a new and growing offensive in America's battle against the abusive use of opioids, which kill an average of 91 people a day, according to the Centers for Disease Control and Prevention.

Law enforcement agents aren't just going after drug dealers and Mexican cartels — they're also targeting pharmaceutical companies and doctors, who they say are irresponsibly flooding the nation with potent painkillers, and holding them responsible for overdose deaths.

"Nichols prescribed patients, who entrusted their well-being to her, a horrifyingly excessive amount of opioid medications," Oklahoma Attorney General Mike Hunter told the Associated Press on Friday as his office announced the doctor's arrest. "Nichols's blatant disregard for the lives of her patients is unconscionable."

Opioids killed more than 33,000 Americans in 2015, according to the CDC. Since 1991, the number of opioid overdose deaths has quadrupled. In 2014, according to the Agency for Healthcare Research and Quality, 1.3 million Americans were hospitalized for opioid-related issues.

And prescription opioids are a primary driver, and prosecutors increasingly have gone to the source to stop abuse. In February 2016, another doctor, Hsiu-Ying "Lisa" Tseng, was sentenced to 30 years to life in prison after three of her patients fatally overdosed, according to the Los Angeles Times.

Prosecutors said Tseng made millions from overprescribing opioids to drug-addicted patients.

Oklahoma doctor charged with murder after patients overdose on opioids - The Washington Post

And lawyers for the Cherokee Nation in Oklahoma have sued the nation's top six drug distributors, according to The Washington Post's Scott Higham and Lenny Bernstein. The suit says the pharmaceutical companies are profiting from the epidemic and “decimating communities across the nation's 14 counties in the state.”

Last month, seven counties in West Virginia, a state that has the highest prescription drug overdose rate in the nation, filed suits against many of the same corporations, according to Higham and Bernstein.

A lawsuit by the state of Missouri against pharmaceutical giants strikes a similar tone.

Missouri Attorney General Josh Hawley said the companies have used bogus science to mislead patients about just how addictive opioids are, according to The Post's Katie Mettler. As a result, the companies have “profited from the suffering of Missourians.”

The lawsuits have different aims, although attorneys in the Missouri case say they want state legislatures to more closely monitor prescription drug use.

Oklahoma's attorney general has been trying to paint Nichols in the same light.

Nichols prescribed more than 3 million doses of controlled dangerous drugs from 2010 through 2014, according to court documents, including “irrational” and dangerous combinations of drugs that led to five deaths.

On March 24, 2010, for example, Debra Messner received a prescription for 450 pills — the same cocktail of Hydrocodone, Xanax and Soma and died six days later of acute drug toxicity, according to court documents. A doctor contracted by the Drug Enforcement Administration to review her case file found that there was “no need for the quantity or combination” of those drugs.

Lynette Nelson was evaluated by Nichols once, a few days before Christmas in 2008. Still, over the next four years, Nelson was prescribed so many potent drugs from Nichols's clinic that investigators were baffled that she didn't die sooner.

She was found dead on March 1, 2012, five days after getting her final prescription of Xanax filled.

In the probable cause affidavit, the doctor contracted by the DEA to examine the dead patients' files concluded that because of Nichols's “lack of the use of the basic fundamental safeguards, patients suffer and very well may end up paying the ultimate price as all ten of these patients did.”

Read more:

A 7-year-old told her bus driver she couldn't wake her parents. Police found them dead at home.

Drugs are killing so many people in Ohio that cold-storage trailers are being used as morgues

This drug dealer's heroin was so powerful that it led to 26 overdoses in a single day

Another parent's overdose, another child in the back seat: A 'new norm' for drug users?

 **591 Comments**



Cleve R. Wootson Jr.

Cleve Wootson is a general assignment reporter for The Washington Post. He was previously a reporter for the Charlotte Observer. Follow 



Opioids

Friday, June 23, 2017

Attorney General Hunter Charges Doctor with Five Counts of Second Degree Murder

OKLAHOMA CITY – Oklahoma Attorney General Mike Hunter today charged Dr. Regan Nichols with five counts of second degree murder in relation to the death of at least five patients during her time working at a Midwest City clinic.

According to the probable cause affidavit, Nichols, an osteopathic physician, knowingly prescribed controlled dangerous substances to patients without a legitimate medical need, in quantities and circumstances that are considered an extreme disregard of human life.

Attorney General Hunter thanked the work of the Drug Enforcement Administration, Oklahoma Bureau of Narcotics, the Oklahoma County District Attorney's Office and the investigating agents and attorneys who worked the case. He said attorneys in his office will do whatever it takes to ensure justice is served to the victims.

"I appreciate the effort from everyone who worked as a team and put this case together," Attorney General Hunter said. "The dangers associated with opioid drugs have been well documented and most doctors follow strict guidelines when prescribing opioids to their patients. Nichols prescribed patients, who entrusted their well-being to her, a horrifyingly excessive amount of opioid medications. Nichols' blatant disregard for the lives of her patients is unconscionable."

The Oklahoma Medical Examiner's reports stated all five deaths were the result of multi-drug toxicity.

Through the investigation, agents found the five individuals who died were prescribed more than 1,800 opioid pills in the same months as their deaths. Three of the five individuals were prescribed a deadly three drug combination of a narcotic opioid pain reliever, an anti-anxiety drug and a muscle relaxer. All of the prescriptions were signed by Nichols.

In addition, data gathered by agents through the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Prescription Monitoring Program indicates that from Jan. 1, 2010 to Oct. 7, 2014, Nichols prescribed in excess of 3 million dosage units of controlled dangerous substances.

After a September 2015 hearing before the Oklahoma State Board of Osteopathic Examiners, the board stripped Nichols of her prescribing authority of controlled dangerous substances. She voluntarily surrendered her credentials with the Drug Enforcement Administration and Oklahoma Bureau of Narcotics.

An Oklahoma County judge has issued a warrant for her arrest. Nichols will be held in lieu of \$50,000 bond.

View the counts against Nichols, here: <http://bit.ly/2s3Qe1G>.

View the probable cause affidavit, here: <http://bit.ly/2sZDugM>.

View a copy of the arrest warrant, here: <http://bit.ly/2rKQ8gr>.

All individuals charged with a crime are presumed innocent until proven guilty in a court of law.

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Former Oklahoma City doctor pleads guilty to eight counts of murder



by **MATT DINGER**

Published: Wed, August 13, 2014 12:00 AM Updated: Wed, August 13, 2014 9:28 PM

A former Oklahoma City doctor has been sentenced to spend a year in prison for each person he murdered.

William Martin Valuck, 71, pleaded guilty Wednesday in Oklahoma County District Court to eight counts of second-degree murder and was given an eight-year prison sentence by Special Judge Susan Johnson. Because of the nature of his crimes, he will have to serve nearly seven years before being eligible for parole.

Valuck, a former osteopathic physician and surgeon, was accused by prosecutors of causing several deaths by over-prescribing pain and anti-anxiety medications to his patients.

Patients Paul Beesley, Joyce Curnett, Christina Green, Lorra Hilton, Victoria Pretzer, SaShawn Saatian, Michelle Salazar and Jennifer Zimmerman all died from drug toxicity.

Valuck did not address any of the two dozen or so family members of victims in the courtroom during Wednesday's hearing, many of whom addressed the court with stories and photos of family members before Valuck entered his plea.

Valuck showed no emotion throughout the proceedings and made no comment while being led to and from the courtroom.

“I honestly don’t feel any sympathy for Mr. Valuck. ... All this just to make a buck. I wonder if he’ll ever feel regret, or just regret getting caught,” said Michael Green, Christina Green’s brother.

“I just hope doctors would know what they’re doing when they dispense medications, so hopefully we won’t have to go through this again,” said James Lambert, father of Victoria Pretzer.

In exchange for the plea to the murders, numerous drug charges against Valuck were dismissed.

He initially had faced 72 counts of distribution of a controlled dangerous substance.

During an earlier preliminary hearing, one murder count was dismissed. Valuck previously had been charged with the murder of a man killed in a car crash caused by a patient reportedly driving while high on medications the doctor prescribed.

At the preliminary hearing, a Drug Enforcement Administration investigator testified that she witnessed vehicles full of patients arrive at the Advanced Care Clinic, 6501 S Western Ave., where Valuck practiced. Most patients were prescribed a combination of the painkiller hydrocodone, the anti-anxiety drug alprazolam, and the muscle relaxer carisoprodol. Oxycodone later was added to the cocktail, investigator Mary Surovec testified.

Prosecutors considered the complexity of the case, the length of time it would take to bring the case to trial and Valuck’s age before offering a plea deal and accepting the plea.

“There aren’t very many cases in this world that I would even consider a single-digit sentence for any sort of homicide,” Oklahoma County First Assistant District Attorney Scott Rowland said. “Realistically, we’re talking about pleading to most or all of the remaining years that he has left. So, in this case, we felt like eight years in prison was just.

“On the flip side, the family gets immediacy, finality. They don’t have to worry about picking up the newspaper every morning for the next few years to see if some appellate court has reversed a jury’s sentence. They don’t have to go through the arduous agony of a jury trial, and perhaps most of all, they get this justice quickly.”

Rowland said doctors who put dollars ahead of patient safety and those who prescribe medications outside the boundaries of the law should rethink their actions.

“I hope they understand that they stand in a position to kill people, and when they do, that’s murder,” he said.

Valuck has requested that he be placed in the Joseph Harp Correctional Facility in Lexington.

A civil lawsuit filed in Oklahoma County by one of the victim’s family members is still pending.

Dismissal of pharmacies from opioids abuse lawsuit upheld



by **RANDY ELLIS**

Published: Sun, March 18, 2018 5:00 AM



File: Former Oklahoma City doctor William Valuck leaves an Oklahoma County court room after pleading guilty to murder. [The Oklahoman archives]

The Oklahoma Court of Civil Appeals has upheld decisions dismissing four central Oklahoma pharmacies from a lawsuit that accused them of negligently refilling opioid prescriptions for a customer who was addicted to the painkillers.

Former fireman Randy L. Frantz Jr. of Midwest City sued the pharmacies, former Oklahoma City doctor William M. Valuck and former physician assistant Michael E. Hume, contending that their negligence contributed to his opioid addiction.

Valuck, 75, is serving an 8-year prison sentence after pleading guilty to eight counts of second-degree murder for causing several deaths by overprescribing pain and anti-anxiety medications.

Hume had his license suspended in 2013.

Valuck and Hume remain as defendants in the lawsuit, along with Advanced Care Clinic where they practiced medicine and Dorothy June Hume, who is Michael Hume's wife and was one of the clinic's owners. One pharmacy, Reliable Discount Pharmacy, also remains as a defendant.

The appellate court upheld an Oklahoma County district judge's decision not to reconsider the dismissal of Crest RX, Buy for Less Pharmacy No. 1006, Eric's Pharmacy and McLoud Clinic Pharmacy from the case.

In the original district court lawsuit, Frantz described himself as a fireman who sought treatment for anxiety and pain.

The anxiety stemmed from post-traumatic stress disorder related to the 1995 Oklahoma City bombing of the Alfred P. Murrah Federal Building, while the pain was related to two self-reported failed back fusions and a repaired anterior cruciate ligament in his right knee, he indicated in the lawsuit.

Valuck prescribed Frantz increasing dosages of a "cocktail of dangerous medications," including Oxycodone, Lortab, Xanax and Soma, the former fireman said.

Frantz accused the pharmacies of "failing to inform patients of the lethal and addictive consequences of certain combinations of dangerous narcotics."

He also accused them of "negligently filling large amounts of dangerous medications by not reviewing a Patient Prescription History Report and/or contacting the prescribing physician."

'Doctrine' comes into play

The pharmacies countered by contending they "did not have a duty to question the physician's judgment in issuing the prescriptions."

Citing something called the "learned intermediary doctrine," they argued that physicians, not pharmacists, are the individuals who have the responsibility of warning patients and that pharmacists are exempt from that requirement.

The pharmacists also said Oklahoma law states that registered pharmacists aren't liable for damages on any claim based on their failure to access Patient Prescription History Reports.

Oklahoma County District Judge Barbara Swinton, who has since gone on to become a judge on the Oklahoma Court of Civil Appeals, ruled in favor of the pharmacies and District Judge Richard Ogden refused to reconsider the decision.

Frantz' attorneys appealed the case to the Oklahoma Court of Civil Appeals, citing exceptions to the learned intermediary doctrine that the Court of Civil Appeals recognized in another case after Swinton had ruled in favor of the pharmacists.

In that other case, the appellate court indicated pharmacists aren't exempt from the duty to warn patients if a prescription is "unreasonable on its face," such as prescribing bizarre quantities or dosages clearly outside of any acceptable range or clearly inappropriate drugs. A duty to warn also exists in a case where a "prescribed drug is clearly contraindicated and the pharmacist has sufficient knowledge of the patient's condition and history to know this," the court indicated in the other case.

David W. Van Meter, one of Frantz' attorneys, said the appellate court's ruling in his client's case was based on technicalities and would not preclude pharmacies from being successfully sued in other cases that fall within exceptions to the learned intermediary doctrine.



Ex-doctor pleads guilty in overdose deaths

AP Published 5:53 p.m. ET Aug. 13, 2014

OKLAHOMA CITY (AP) — A former Oklahoma doctor pleaded guilty to second-degree murder charges on Wednesday in connection to the drug overdose deaths of several patients.

William Valuck, a former pain management doctor, pleaded guilty to eight counts of second-degree murder under a deal with Oklahoma County prosecutors, who agreed to drop dozens of drug charges. The deal calls for the 71-year-old Valuck to spend eight years in prison.

Investigators have said Valuck prescribed more controlled narcotic drugs than any other physician in the state, sometimes as many as 600 pills at a time. Valuck had originally faces first-degree murder charges, which carry up to life in prison.

Nearly two dozen of the victims' relatives attended the hearing, including some who spoke to the court ahead of Valuck's plea. James Lambert, whose daughter Victoria Lambert died from a drug overdose, said her death should send a message to physicians to prescribe such narcotics responsibly.

"Make sure they know what they're doing when they dispense medication. That way we don't have to go through this again," he said.

Stephanie Beesley, whose husband Paul Beesley died from a drug overdose, tearfully described his long-term fight with drug addiction.

"He had a part in his own death," she said, but added: "I don't understand the manner in which the medications were prescribed."

Valuck was charged in connection with the deaths of patients who prosecutors say died of overdoses from drugs he prescribed them. Those drugs included the narcotic painkillers hydrocodone and oxycodone, as well as alprazolam, Valium and Soma.

Federal and state authorities began investigating Valuck in February 2012, after being called by pharmacies and patients' relatives concerned about the amount of narcotics he was prescribing. Investigators later "saw vanloads" of patients pull up at Valuck's pain management clinic in south Oklahoma City and that the parking lot outside was always full of vehicles, U.S. Drug Enforcement Administration agent Mary Surovec testified during a hearing in April.

Oklahoma physician assistant accused of improperly prescribing painkillers, medications



by ANDREW KNITTLE & JACLYN COSGROVE

Published: Mon, March 4, 2013 12:00 AM

A 30-year-old woman's intake of highly addictive painkillers went up 4,000 percent after her first visit with longtime Oklahoma physician assistant Michael Hume.

The woman, diagnosed with cervical disease and arthritis despite no testing or supporting documentation, would lose 15 percent of her body weight while under Hume's care.

Hume, licensed in Oklahoma since 1980, now is accused of recklessly prescribing thousands of powerful painkillers and other controlled substances without keeping adequate records or offering any kind of treatment to those under his care.

He is expected to go before the state medical board Thursday for a disciplinary hearing.

Investigators with the Oklahoma State Board of Medical Licensure and Supervision said that Vista Medical Center, the clinic where Hume worked, did not accept insurance and that the facility's owner paid medical staff based on the number of patients seen each day.

A complaint filed Jan. 2 against Hume shows that he continued to prescribe large amounts of painkillers, muscle relaxers and powerful anti-anxiety medications after an initial meeting with medical board investigators in September 2011. The document also details Hume's relationship with 10 other patients.

“After the meeting with (Hume), his prescribing habits, medical documentation and medical care did not change,” the complaint states.

Hume also is accused of rarely ordering drug tests for his patients, who are often asked to do so to prove they are ingesting the pills and not selling them on the street, medical board investigators allege.

He and his supervising physician, Dr. William Martin Valuck, no longer work at the clinic.

Valuck, who served several years in federal prison before coming to Oklahoma, has not had any action taken against him by the state medical board.

Attempts to contact Hume to comment on this story were not successful.

Owner denies allegations

Pat Reynolds, the owner of Vista Medical Center, 3700 S Western Ave., is mentioned in the medical board's complaint against Hume.

“The Vista Medical Center is owned and operated by Pat Reynolds, a non-physician, who compensates Defendant based solely on his production. At the time of the incidents in question, Defendant treated approximately 37 patients per day,” according to the complaint.

Reynolds said that information is not accurate.

“I don't have anything to do with them — they left last October,” Reynolds said. “I'm in the facility and real estate business.”

Reynolds said he did not pay Hume or Valuck and that he did not serve as their supervisor. Reynolds said he did not know how many prescriptions Hume was filling.

“I would think if there was a problem there, the medical board would know or the DEA or the Oklahoma Bureau of Narcotics would know,” Reynolds said.

Supervising physician

Valuck, 70, Hume's supervising physician, never has been disciplined as a doctor or had his license suspended or revoked, but the Michigan native did serve five years in federal prison.

Valuck, who also has practiced in Texas and Ohio, was convicted in late 2000 of money laundering, wire fraud and devising a scheme to defraud investors of hundreds of thousands of dollars. He was sentenced to 70 months in prison.

Court records show that Valuck, who at one point operated an ambulance company in Texas, solicited money from other doctors and medical professionals, promising them high returns in vague bank trading program.

In addition to serving prison time, Valuck was ordered to pay more than \$600,000 in restitution. Federal prison records show that he was released from prison on April 15, 2005.

Since 1977, Hume has worked in about 26 clinics and hospitals in Oklahoma.

Since December 2009, he has been supervised by eight physicians, four of whom have been disciplined by the medical board for over-prescribing.

Dr. John Tatom, one of Hume's past supervisors, said he had no reason to think Hume over-prescribed while working in 2009 at Arbuckle Memorial Hospital in Sulphur.

“He did a good job of taking care of people, and there was no reason to believe he over-prescribed that I ever heard,” Tatom said.

Tatom does not have any disciplinary history with the medical board.

Monitoring over-prescribers

Mark Woodward, spokesman for the Oklahoma Bureau of Narcotics and Dangerous Drugs, said neither Hume nor Valuck have been cited by the agency.

Like the state medical board, the bureau can take administrative action against medical professionals who are also required to be registered with the state agency to write prescriptions for controlled drugs like painkillers.

Woodward was tight-lipped about cases involving doctors or other medical professionals accused of over-prescribing, citing a need to protect ongoing investigations.

Last year, Woodward said that doctors and other medical professionals are playing a major role in the state's prescription medication crisis.

He said a doctor “who looks the other way or is known for being lax when writing prescriptions” can attract patients from hundreds of miles away.

Woodward said his agency has observed pill seekers from Texas, Arkansas and Kansas come to Oklahoma solely to go to the doctor.

He said some clinics have lines that form before the start of business.

“If a doctor is known to kind of look the other way ... or if they're known for writing prescriptions without asking too many questions ... word gets around in these circles,” Woodward said. “It's a big concern when people are coming from Amarillo or Wichita Falls or Fort Smith to get prescription drugs, but it's not uncommon for people to put hundreds of miles on their cars just to get their drugs.”

Addicted Oklahoma

Profiting from pain

An investigation by
The Oklahoman and NewsOK.com

In August, when former physician William Valuck pleaded guilty to murder for the prescription drug overdose deaths of eight patients, the owner of an Oklahoma City pain clinic where Valuck plied his illicit trade was never mentioned in the courtroom.

Patrick A. Reynolds, the owner of Vista Medical Center, is not a doctor. His primary business, he has said, is real estate.

Reynolds, 69, of south Oklahoma City, is one of at least several Oklahoma pain clinic owners who hold no medical license.

Public officials and experts in the field say allowing non-physician ownership of clinics makes them more difficult to regulate and helps explain why Oklahoma has among the highest prescription drug abuse and overdose death rates in the country.

“To me, one of the most important things is who gets to own these clinics,” said Sandra LaVenue, deputy general counsel of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. “The clinics that end up in trouble tend to have ownership that is separated from the primary physician...Essentially, what they’re trying to do is separate the money from the prescribing.”

Valuck wasn’t the first person who worked at Vista to run afoul of authorities. At least four other medical professionals who worked at Reynolds’ clinic have been disciplined for overprescribing in Oklahoma or other states.

Three of those five have been linked to the deaths of at least 20 patients from prescription drug overdoses.

Neither Reynolds or his lawyer responded to interview requests.

Several states have adopted laws increasing oversight of pain clinic operations, including bans on non-doctor owners. They say the laws have helped reduce the number of people dying from overdoses.

Narcotics bureau officials helped draft such a measure for Oklahoma. But they backed off earlier this year under pressure from medical industry lobbyists and regulation-wary lawmakers, officials said. They plan to test the waters again in 2015.

FUELING AN EPIDEMIC

Pain clinics dispense highly addictive narcotic drugs such as morphine, oxycodone, hydrocodone, methadone, fentanyl, diazepam (Valium) and alprazolam (Xanax). Those seven drugs account for the majority of prescription drug overdose deaths that in recent years have driven state officials to pursue tougher monitoring, saying the state faces a crisis. Last year, more Oklahomans died of drug overdoses than in car wrecks, on average about two per day.

Several authorities interviewed by *The Oklahoman* and Oklahoma Watch said they believe most doctors specializing in pain management are conscientious practitioners who try to ensure that their patients are not overusing narcotic medications.

The problem has accelerated in recent decades because of a movement within the medical community to dispense opiate drugs more aggressively to treat chronic pain patients instead of reserving the highly addictive medications for terminal patients experiencing extreme pain.

READ: Living with chronic pain, Oklahomans struggle to find a new normal

These authorities said they are convinced most pain management clinics are operating responsibly. But the actions of a few have contributed to the state's prescription drug abuse crisis.

Drug authorities said their goal is to reduce overprescribing without deterring good doctors from providing compassionate care to tens of thousands of Oklahomans with back injuries and other chronic pain conditions.

Addressing the problem of non-doctor-owned pain clinics is near the top of their priority list.

A POWERFUL TOOL

Prescription drug abuse and overdose deaths began to spiral upward following the introduction of new narcotic painkillers such as OxyContin in the 1990s. In recent years, nine states have enacted comprehensive laws designed to increase oversight of and punish abuses by "pill mills."

Florida was among the trailblazers. In 2010, 2011 and 2012, the state took several steps to crack down on rampant overprescribing at clinics. One of the key measures was a 2010 law requiring pain clinics to register with the state and restricting ownership by anyone other than a licensed physician, group of licensed physicians or licensed health care clinic.

Before the changes, Florida was the national epicenter of prescription painkiller abuse. Overdose deaths increased 61 percent from 2003 to 2009. By 2010, the state was home to 98 of the 100 U.S. physicians who dispensed the highest quantities of oxycodone directly from their offices, according to the Centers for Disease Control and Prevention.

Following the enactment of its new pain-clinic restrictions and a series of enforcement raids across the state, more than 250 pain clinics were shut down, the CDC reported. Prescription drug overdose deaths fell 23 percent. Deaths caused by oxycodone plunged 52 percent.

“They’ve clearly cut down on the number of pill mills,” said Sarah Kelsey, CEO of the National Alliance for Model State Drug Laws in Charlottesville, Va. “There are fewer pills on the market, fewer doctors overprescribing.”

Other states that have enacted broad pain clinic regulation acts are Georgia, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, Texas and West Virginia, according to the alliance.

“Certain components of pain clinic laws are an important part of a comprehensive approach,” Kelsey said. “Ownership is certainly a big one. It should be owned by a physician licensed to prescribe controlled substances.”

OKLAHOMA BILL GOES NOWHERE

Oklahoma got its chance to do something about pain clinics earlier this year.

Oklahoma already was a pioneer in some areas of narcotic prescribing oversight. It created the nation’s first computerized prescription monitoring program in 1991. Three years ago, it became the first state to require pharmacists to log narcotic prescriptions online within five minutes of filling them.

But regulators wanted to do more. During a 2013 national conference of drug enforcers in St. Louis, LaVenue asked about Florida’s efforts to crack down on overprescribing. She wanted to know what they considered to be the most important tools to combat the deadly trend.

“They told me that regulating the pain management clinics was the one thing that’s making a substantial difference,” LaVenue said.

When she returned, LaVenue consulted with state Narcotics Bureau Director Darrell Weaver and other bureau officials. They decided to make passage of a pain clinic bill a priority. They helped draft a bill, and persuaded Sen. Rob Standridge, R-Norman, to introduce it. Standridge is a licensed pharmacist who has sponsored other measures to combat drug abuse.

Standridge’s Senate Bill 1267 would have required pain management clinics to register with the narcotics bureau. Under existing law, only the doctors who practice in the clinics are required to register. The bill said pain clinics must be owned and operated by physicians who have not had felony convictions or been subject to drug-related enforcement actions.

State narcotics officials say they are powerless against non-physician owners.

“We don’t have any control over that outside party. He doesn’t have a license with us or a registration. We can’t do anything,” LaVenue said.

“We don’t even know where the pain clinics are.”

Standridge’s bill defined a pain management clinic as any facility in which more than 50 percent of patients receive prescriptions for opioid painkillers, benzodiazepine tranquilizers, barbiturate sedatives or carisoprodol, a muscle relaxer. The definition also included any clinic that advertises itself as a pain management business.

SB 1267 was assigned to the Senate Health and Human Services Committee chaired by Sen. Brian Crain, R-Tulsa.

It never came out. No hearings were held. No votes were cast.

Crain did not respond to requests for an interview.



Narcotics Bureau Director Darrell Weaver. Steve Gooch / The Oklahoman

TOO MUCH FIRE

State Narcotics Bureau spokesman Mark Woodward, who spends part of his time consulting with lawmakers and lobbyists at the state Capitol during legislative sessions, said the bureau agreed to stop pushing for passage after determining that the bill was drawing too much fire.

“We were told there was opposition to it, that some people thought that it was too much government oversight and overreach into this area,” Woodward said. “They said, ‘We’re just not going to move the bill forward.’”

At the time, Woodward said, he was told that lawmakers would consider the issue in an interim study between legislative sessions. No interim study was done.

Director Weaver said the bureau would raise the issue again during the 2015 session.

“We will definitely talk to Sen. Standridge about it,” Weaver said. “We’ll have a conversation about it.”

Standridge, a pharmacist, said he wasn’t sure whether he would reintroduce the bill.

“I’m kind of torn,” Standridge said. “I’m not saying it’s not a worthy objective to try to eliminate drug abuse and addiction. But to me, it looks like the way we’re going down this road may not help any of them, while at the same time curtailing access to all of these medications.”

Standridge said he concurred with Woodward’s description of this year’s legislative inaction.

“I didn’t really have a personal problem with it...It was others who had problems,” he said. “I’d hate to introduce it again for it to languish a few weeks later.”

READ: Roland pain clinic attracts patients from far and wide

Wes Glinsmann, legislative affairs director for the Oklahoma State Medical Association, acknowledged that the physicians group voiced objections to Standridge about the specific provisions of SB 1267.

He said the association was concerned that the bill did not precisely define the term “physician” to mean medical doctors and osteopaths only. Under Oklahoma law, optometrists, chiropractors, podiatrists and dentists also are allowed to call themselves physicians.

In addition, Glinsmann said some of the association’s psychiatrist members were concerned that the bill included the prescribing of benzodiazepine drugs such as diazepam and alprazolam.

Glinsmann said the medical association was not opposed to revisiting the issue.

“We had some specific concerns,” he said. “But we’ve got a very good relationship with Sen. Standridge, and if it’s something he wants to work on, we’d be more than happy to.”

LaVenue said she remains convinced that passage of a pain clinic bill is critical to the state’s efforts to curb overprescribing.

“I still strongly believe that that will make a huge difference,” LaVenue said.

“Anytime we run into a clinic that is a problem, it is always owned by somebody else.”

A BUSINESS MODEL

State drug enforcers and medical licensing boards say defining the scope of the problem is difficult. Current state law does not authorize them to license, register, regulate or take action against clinic owners. They do not track the number of pain clinics or their management.

“We don’t even know who owns the clinic. Or ask,” said Deborah Bruce, executive director of the Oklahoma State Board of Osteopathic Examiners.

No standard definition exists of what constitutes a pain clinic. In the nine states that have enacted comprehensive pain clinic acts, the definition varies from one state to another.

According to the National Alliance for Model State Drug Laws, indicators of “pill-mill” activity can include:

High-volume practices.

Limited appointments, walk-ins accepted.

Cash payments required.

Failure to screen for substance abuse disorders.

Missing or deficient patient histories.

Missing or deficient prior medical records.

Inadequate physical examinations.

Inadequate diagnostics.

Limited non-narcotic care strategies.

Controlled substances as primary therapy.

Physicians or prescribers near the end of their careers.

Physicians or prescribers with abuse or addiction problems.

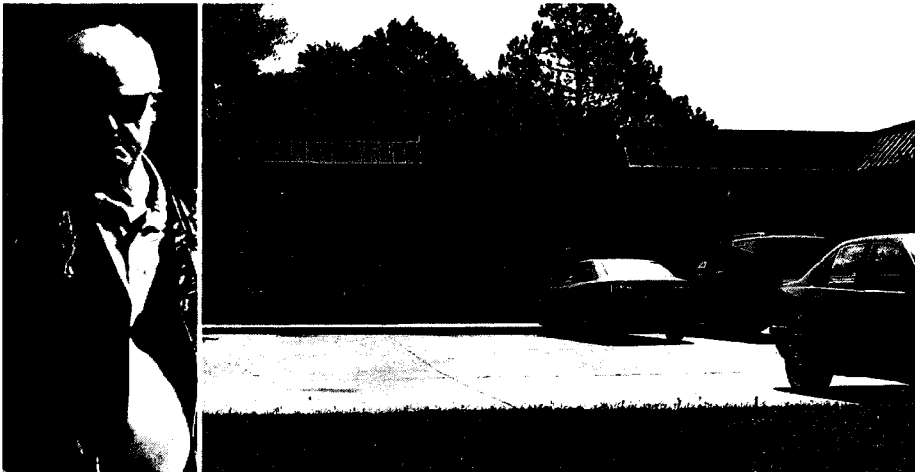
Patients who travel long distances to clinic.

Patients whose physical appearance suggests abuse or addiction.

“The thing about these doctors, they don’t work hard,” LaVenue said. “...Forty seconds, and then they get \$190 cash. There’s huge money to be made.”

Some suspect clinics have smartened up and now cover their tracks with more complete patient records, LaVenue said. But that doesn’t mean the patient records are legitimate. “They can come up with an X-ray, MRI, from 10 years ago,” she said.

The clinic doctors, in turn, “don’t order any testing...no blood work, no additional MRIs, X-rays,” LaVenue said.



Left: Patrick Reynolds. Right: Vista Medical Center in southwest Oklahoma City. Staff Photos / The Oklahoman

‘A DOCTOR’S INCOME’

Patrick Reynolds, who owns Vista Medical Center in southwest Oklahoma City where Valuck worked for three years, has been making money from the medical industry for at least three decades.

From 1985 to 1996, Reynolds co-owned Chronic Pain Associates, which operated clinics at 2520 NW Expressway and 3200 S Western Ave., until his partner went to court seeking to force him out of the business.

The former partner, Laurence Altshuler, testified that Reynolds had a bad temper, behaved rudely, harassed employees and had an office worker “spy” on Altshuler, who said he feared for his safety.

“There was just a lot of coldness between us. I didn’t want to see him. I didn’t want him around,” Altshuler said in a court hearing.

In his lawsuit, Altshuler claimed Reynolds’ involvement in the business violated the Oklahoma Professional Entity Act, which says unless a person is a licensed medical professional he or she cannot serve as a shareholder, officer, director or manager of a corporation engaged in the practice of medicine.

READ: Disturbances, thefts are common at Oklahoma City clinic

Altshuler, an internist, saw patients, offered diagnoses, ordered tests and wrote prescriptions while Reynolds ran the business end: hiring and firing, collecting accounts and soliciting business from workers’ compensation and personal injury attorneys, according to court records.

Reynolds countersued for, among other things, wrongful termination, breach of contract and intentional infliction of emotional distress, as well as assault and false imprisonment, related to Altshuler hiring off-duty Oklahoma City police officers to escort Reynolds from their offices on the day he was let go.

In a court hearing, now-retired Oklahoma County District Judge John M. Amick said it was obvious the two men could no longer work together.

“The corporation, it seems to me, was unethical from the very outset. And the lack of ethics benefited Mr. Reynolds,” Amick said. “He had what some people might call a bird’s nest on the ground in that he was getting a doctor’s income without being a doctor.”

Reynolds testified that he earned almost \$2.7 million during the 11 years he co-owned Chronic Pain Associates, according to court records, or an average of about \$245,000 a year.

Amick said he thought Reynolds’ role in the corporation was illegal and that the corporation should be dissolved and the assets disbursed.

Soon after, Reynolds and Altshuler reached a settlement and the corporation was dissolved.

Reached at his Tulsa office, Altshuler declined comment for this story.

BACK IN BUSINESS

Within months, Reynolds was back in business, opening Vista Medical Center in a nondescript 4,800-square-foot former bank building at 3700 S Western Ave.

In the years since, Vista has marketed itself as a weight loss center, an immigration medical clinic and a pain management practice.

Meanwhile, the clinic's medical providers racked up some of the highest prescribing rates in the state for controlled dangerous substances, and three of the clinic's medical personnel were linked to at least 20 overdose deaths.

Court and disciplinary records and interviews with former employees paint a portrait of Reynolds as being deeply involved in the clinic's day-to-day operations, including matters involving patient care and prescribing practices.

Physician assistant Rob M. Phillips, 57, of Oklahoma City, worked at Vista for four months in 2005 before quitting, partly over differences with Reynolds, he said.

Phillips said Reynolds pressured him to overprescribe and do other things Phillips considered unethical.

"That was his M.O.," Phillips said. "He was pressuring me."

Phillips said when the clinic received a shipment of flu vaccine, Reynolds "was sitting there drawing them up himself. He's not a medical professional. So yeah, it was very wrong to do something like that. I can remember he would get mad when the medical assistant would draw up the flu shot because he thought they were wasting 1cc to 2cc of the flu vaccine."

DAVID LEE TRENT

Phillips said David Lee Trent, a general surgeon, was the medical director of Vista when he worked there, but that he only saw Trent once at the clinic during that period and could rarely track him down if he had a question.

Trent had been charged 10 years before in Latimer County with fraudulently writing prescriptions for a controlled dangerous substance, though the felony charge was dismissed.

The Oklahoma Board of Medical Licensure and Supervision disciplined Trent three times between 1978 and 1996 for overprescribing. His license was suspended a final time in 2007 after he was deemed incompetent.

Medical board records show that Trent's medical license is inactive and that he has "agreed not to practice."

Trent, whose last known address is in Wilburton, could not be reached for comment.



Former Vista Medical Center physician assistant Joe Beasley speaks at his Oklahoma City home about his experiences working at Vista under Dr. Cecil Moore before resigning, in part, over prescribing practices involving narcotics. Chris Landsberger / The Oklahoman

CECIL ALLEN MOORE

Despite Trent's departure, trouble at Vista continued.

In 2010, the Oklahoma Board of Osteopathic Examiners opened a file on Cecil Allen Moore, an osteopath who was practicing at Vista, after a woman called to say he was overmedicating her sister.

In late 2011, the board launched an investigation of Moore's prescribing practices after receiving complaints from pharmacies, other patients and relatives. But it wasn't until early 2012 that the board began investigating Moore in earnest after learning that Moore was still prescribing narcotics after letting his license lapse.

When the board examined Moore's patient files and investigated further, the board discovered that Moore's prescribing practices during parts of 2010 and 2011 were linked to the overdose deaths of nine patients.

Medical board and state Narcotics Bureau records show that during one three-month period Moore was writing an average of 101 narcotic prescriptions every day at Vista for a total of 633,000 pills.

In February 2012, the board suspended Moore's license to practice, noting that his prescribing practices "constitute a serious danger to the health, safety and well-being of the public." The board later revoked his license permanently.

Repeated efforts to contact Moore for comment were unsuccessful.

Jill Smoot said she never knew her son, Aaron, 43, who suffered from mental illness, was one of Moore's patients who died of an overdose until recently contacted by a reporter. Smoot died in August 2011 from a fatal combination of oxycodone and other prescription narcotics, according to the medical examiner.

Jill Smoot said she was shocked to learn that medical professionals at Vista continued to overprescribe after her son's death and that the clinic remains in operation.

"I've been outraged for some time," Smoot said about the care received by her son, who grew up in south Oklahoma City and attended high school at Christian Heritage Academy in Del City. "I was outraged before, but I didn't have anything to connect it with until now. What do I do?"

READ: Son's overdose death an 'ugly' sight for Oklahoma City man

Retired physician assistant Joe Beasley said he worked for about two months at Vista under Moore before resigning, in part, over prescribing practices involving narcotics. Beasley, 67, said he rarely saw Moore at the clinic and that he quickly found himself "pretty much at odds professionally," with Reynolds, who he said "pretty much ran the show."

"As far as I was concerned, when I was there, I was the medical authority," Beasley said. "I got some vociferous input from Patrick regarding prescribing. I felt I just needed to leave. I told him I wasn't putting my medical license or DEA number (a number the federal agency assigns health care providers allowing them to write controlled substance prescriptions) at risk for him or anybody else."

"I didn't like having a layman tell me how to practice medicine," Beasley said. "I wanted to get people off of pain meds and back to work and he thought they should continue to return (for treatment). It's all about money."

WILLIAM VALUCK

William Valuck, an osteopathic physician and surgeon, began working part time at Vista in 2010 and went full time the following year. Before long, he was writing narcotic prescriptions at a rate of nearly 30,000 a year.

By February 2012, the U.S. Drug Enforcement Administration already was looking into his prescribing activities after being called by pharmacies and patients' relatives concerned about the amount of narcotics he was prescribing.

Most of his patients received combined prescriptions for the painkiller hydrocodone, the anti-anxiety drug alprazolam and the muscle relaxer carisoprodol, a DEA agent testified at Valuck's preliminary hearing in April 2014.

Valuck left Vista in November 2012, during a three-month period in which he wrote an average of 115 prescriptions for controlled drugs every workday, according to court testimony. Valuck's patients used 215 pharmacies in 50 cities to fill his prescriptions.

It was about that same time that the DEA received reports of one or two of Valuck's patients dying, the agent testified.

One pharmacy chain began denying his prescriptions, she said.

By late spring 2013, the DEA and state Bureau of Narcotics and Dangerous Drugs Control had opened a full investigation into Valuck. Valuck had left Vista and gone to work at another clinic, Advanced Care Clinic, about three miles from Vista.

In August 2014, Valuck, 72, pleaded guilty in Oklahoma County District Court to eight counts of second-degree murder and was given an eight-year prison sentence. Because of the nature of his crimes, he will have to serve nearly seven years before being eligible for parole.

MICHAEL HUME

Michael Hume worked as a physician assistant under both Moore and Valuck at Vista, and later under Valuck at Advanced Care. Like Vista, Advanced Care was not owned by a medical professional. That clinic, instead, was owned by Hume's wife, Dorothy June Hume, who has no medical license.

In November 2013, Hume voluntarily surrendered his license in lieu of prosecution for overprescribing and his role in the overdose deaths of three patients.

In a sworn admission statement filed with the Oklahoma State Board of Medical Licensure and Supervision, Hume said that Reynolds owned and operated Vista and paid him "solely on his production."

During the period reviewed by the board, Hume was treating about 37 patients a day.

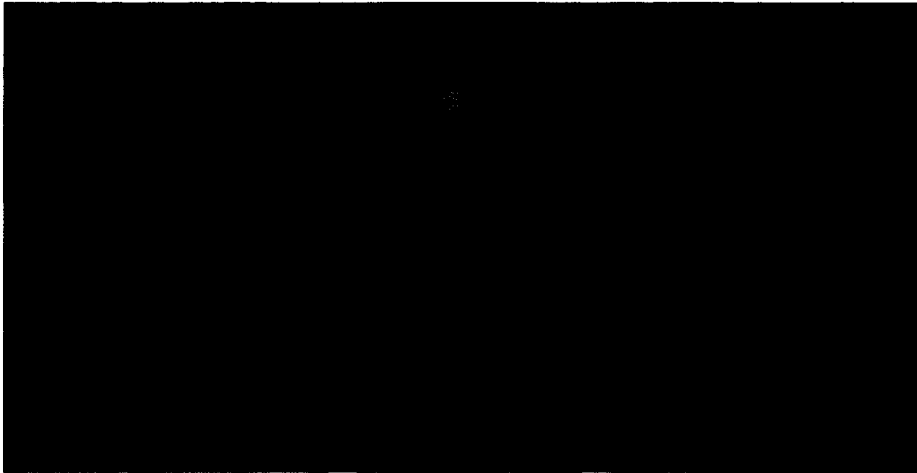
Hume said Vista didn't accept insurance, Medicare or Medicaid, only cash. Patients were charged \$250 for the first office visit, \$140 for the second and \$100 per visit thereafter.

Hume declined comment for this story.

Helen Broadbooks, 63, of Lexington, lost her daughter, Carie Marie Simmons, 27, to an overdose of prescription drugs in May 2013. Broadbooks said her daughter saw Valuck for about two years, both at Vista and Advanced Care.

“You should write prescriptions and see patients based...on that patient’s needs, not based on how many narcotic prescriptions you can write to keep them coming back every month,” Broadbooks said. “When you pay a doctor to work for you and his salary is based on how many narcotic prescriptions he writes on a given day, that’s criminal, Broadbooks said.

READ: Mother blames doctors, pain clinics for daughter’s death



Michelle Casson holds a photo of her son Sashawn Saatian. Saatian was one of the eight people Dr. William Valuck was convicted of killing through overprescribing that led to overdoses. Read Saatian's story. Chris Landsberger / The Oklahoman

MICHAEL E. SALRIN

After Valuck left Vista, another doctor with a history of problem prescribing went to work at the clinic. By the end of 2013, that doctor, Michael E. Salrin, was the 10th-highest prescriber of oxycodone to Medicaid patients in Oklahoma, according to the Oklahoma Health Care Authority. Through the first eight months of 2014, Salrin, 69, is the second-highest prescriber.

Salrin was disciplined by the Kansas State Board of Healing Arts in 1989, after a consultant hired by the state medical board found that Salrin was “inappropriately and questionably prescribing and dispensing controlled substances to his patients.”

In December 1992, after moving to Oklahoma, Salrin petitioned the Oklahoma State Board of Osteopathic Examiners to regain the authority to write prescriptions for narcotic drugs after he had moved to Oklahoma. The authority was granted.

Salrin worked at a clinic in Shawnee, Family Medicine Specialists, prior to coming to Vista Medical Center. He could not be reached for comment.

“It blows my mind. I think it should be shut down,” Michelle Casson, 53, said when told that another doctor with a history of overprescribing had replaced Valuck at Vista. Her son, SaShawn Saatian, 33, died August 8, 2013, of a drug overdose, a day after Valuck prescribed him 240 pills.

“How far does it have to go, where more people die? I just don’t get it.”

READ: Son's death in cheap motel room haunts, motivates his mother

TAMMY HERNANDEZ

Meanwhile, another former Vista employee who left the clinic in May, 2013 was charged in November with two felonies for obtaining diazepam and hydrocodone with a forged or altered prescription. Tammy Hernandez, 42, of south Oklahoma City, who former patients say worked the front office at Vista, was spotted by surveillance cameras in a southwest Oklahoma City Walmart on July 8 picking up the drugs and exiting the pharmacy, according to court records.

In August 2012, Hernandez told police that her son, Kevin M. Lange, had entered Vista, walked behind the counter, pushed her and another woman to the ground, grabbed a cash box containing about \$2,200 and run out the door. Lange was charged with felony grand larceny. He pleaded guilty in January, was fined \$50 and sentenced to three years on probation.

CIVIL LAWSUITS

Since February, the families of four of Valuck’s patients who overdosed and died have filed medical negligence lawsuits against Vista, Valuck, Hume and others.

“Patrick Reynolds managed all aspects of Vista Medical Center with an iron fist,” the lawsuit contends, including paying bills, controlling patient scheduling, collecting payments and hiring and firing staff, including doctors.

The lawsuits contend Vista was a known “pill mill” where patients “would show up in van loads from all over the state.”

In seeking to be dismissed from one of the lawsuits, Reynolds argued that he is only the landlord and bears no responsibility for the patient deaths.

Lawyers for the families countered that Reynolds is far more than the landlord.

Phillips, the former physician assistant, agreed.

“He ran things. He absolutely ran things, period. No ifs, ands or buts about it,” Phillips said. “And it was like, ‘I’m going to run things my way...And if it’s not my way, it’s gonna be the highway.’”



Oklahoma Attorney General Scott Pruitt. Jim Beckel / The Oklahoman

‘BEGINNING OF THE STORY’

Medical, legal and drug enforcement authorities interviewed by Oklahoma Watch and *The Oklahoman* were unable to cite any criminal or enforcement actions ever being taken against non-physician clinic owners in Oklahoma.

That’s partly because, in the absence of a Florida-style statute, Oklahoma law does not give drug enforcers or medical licensing boards any jurisdiction over clinic owners.

Oklahoma Attorney General Scott Pruitt told *The Oklahoman* and Oklahoma Watch that a district attorney, or even his office, could bring charges against a clinic owner for distribution of controlled dangerous substances, if the facts of the case merit it.

“There’s nothing that insulates that individual or any other individual from criminal liability if they are in fact engaged in overprescribing,” Pruitt said.

“They can create all the layers they want,” Pruitt said. “If, factually, there is a connection...to the physicians that are engaged in a practice of overprescribing and pill mills, there’s criminal liability on all fronts. ...From an investigatory standpoint, we would target those kinds of investigations because of that very relationship.”

Pruitt said he had not reviewed the history of Vista Medical Center and Reynolds and was not commenting specifically on that case.

Scott Rowland, the Oklahoma County assistant district attorney who led the prosecution of Valuck, responded cryptically when asked whether Reynolds might be the subject of future criminal action.

“My answer to you is probably not going to completely answer your question,” Rowland told *The Oklahoman* and *Oklahoma Watch*. “That’s a very open, active case, and I wouldn’t be willing to discuss it publicly in the press. That entire matter. I think I said publicly, at the time, that more charges could come from this.”

“The Valuck prosecution was the beginning of that story, not the end of it.”



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Sapulpa doctor with history of excessive prescriptions, drug trafficking allowed to keep his license

In 1984, Kinney was placed on probation for excessive prescribing of controlled substances. The Oklahoma Medical Board was investigating whether a repeat of that behavior was to blame for the deaths of two of his patients in 2015.

September 18, 2017 / Micah Choquette (<https://sapulpatimes.com/author/sltadmin/>)



(<https://sapulpatimes.com/wp-content/uploads/2017/09/Roger-Kinney.jpg>)
Photo by Meg Wingerter, The Oklahoman.

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Micah is the owner/Editor-In-Chief of Sapulpa Times and passionate about telling the everyday stories in the town that we love. You can find him on Twitter at @meetmicah (<http://twitter.com/meetmicah>) or email him at news@sapulpatimes.com (<mailto:news@sapulpatimes.com>).

A Sapulpa doctor with a history of excessive prescribing went before the Oklahoma Board of Medical Licensure and Supervision to determine whether he'd face discipline for two overdose deaths that may have resulted in his prescriptions, according to an article from NewsOK.com (<http://newsok.com/sapulpa-doctor-disciplined-after-two-overdose-deaths/article/5564304>).

Dr. Roger Kinney, who has been operating in Sapulpa since at least the 1980s, was being investigated about prescriptions involving opioids and benzodiazepines that may have played a role in the deaths of two of his patients.

The drugs are used to treat anxiety and have been shown to slow breathing, increasing the chances that a patient taking them might overdose.

Kinney says it was a common practice to prescribe both drugs to patients before the Centers for Disease Control and Prevention began calling them out as high potential for misuse.

Assistant attorney general Joe Ashbaker called Kinney's methods "slipshod at best, at worst, reckless."

It seems to be a pattern that Kinney has shown before. In 1984 he was placed on probation for excessive prescribing of controlled substances and two years later was sent to prison for writing prescriptions in exchange for cocaine.

(<http://newsok.com/article/2117500>) He served 26 months, and had his medical license reinstated in 1989. Kinney says his behavior in the 1980s was a result of falling in with the wrong crowd, insisting that cocaine use was common back then.

While it appeared that history was repeating itself some decades later, Elizabeth Scott, who is Kinney's attorney says it isn't the case. She argued that the patients who overdosed may have died by suicide and that Kinney's care and documentation were adequate. She reasoned that Kinney promised to comply with whatever demands the board were to make.

In the end, the board determined that Kinney could keep his medical license but would not be allowed to prescribe Schedule II drugs or Suboxone—also used for treating opioid addiction. He'll also serve a 90-day suspension and take a course on medical records.

Featured Image: Roger Kinney, right, consults with his legal team on Thursday. Photo by Meg Wingerter, *The Oklahoman*. Used with permission.

Sapulpa doctor disciplined after two overdose deaths



by MEG WINGERTER

Published: Mon, September 18, 2017 5:00 AM



Roger Kinney, right, consults with part of his legal team during a break in his discipline hearing Thursday. [PHOTO BY MEG WINGERTER, THE OKLAHOMAN]

Oklahoma City — Addictive substances loomed large over the cases before the Oklahoma Board of Medical Licensure and Supervision at its meeting Thursday.

The board spent more than two hours hearing and considering the case of Roger Kinney, a Sapulpa physician whose prescribing patterns had also attracted scrutiny in the 1980s.

Board investigators pulled a sample of 10 patient records, after a complaint in late 2015, and found two overdose deaths where Kinney's prescribing of opioids and benzodiazepines, used to treat anxiety, may have played a role. Both types of drugs can slow breathing, increasing the odds of an overdose.

The state also argued Kinney didn't adequately document why he prescribed large doses of potentially dangerous medications to patients.

“Dr. Kinney's practices were at best slipshod, at worst reckless,” said Joe Ashbaker, an assistant attorney general.

Kinney said it wasn't unusual to prescribe both opioids and benzodiazepines to patients before the Centers for Disease Control and Prevention identified the practice as risky. He said he has decided to stop prescribing Schedule II drugs, which are those the Drug Enforcement Agency has decided have a high potential for misuse.

“Back before the last CDC recommendations it was very common practice, whether it was right or wrong,” he said.

Elizabeth Scott, Kinney's attorney, argued that the two patients who overdosed had shown signs of mental health problems, and may have died by suicide. She also said Kinney's care and documentation were adequate, and that he would comply with any limitations the board wished to impose.

“He's willing to do anything you ask,” she said.

It wasn't Kinney's first time before the board. He was placed on probation for one year in 1984 for excessive prescribing of controlled substances, and was sentenced to federal prison in 1986 for writing an opioid prescription in exchange for cocaine. He served 26 months in prison, but his license was reinstated afterward in 1989. He told the board cocaine use was common in the 1980s, and that he “fell in with the wrong crowd.”

The board found Kinney had prescribed excessive amounts of controlled substances and failed to keep adequate records in the current case, but elected to let him keep his license. Kinney will have to serve a three-month suspension and take a medical records course. He also won't be allowed to prescribe Schedule II drugs or Suboxone, a medication used to treat opioid addiction.

Thomas Jenkins, a Tonkawa physical therapy assistant, wasn't so fortunate. The board voted to revoke his license after he missed daily check-in phone calls 15 times in the past year.

Jenkins had appeared before the board after he was arrested by the Ponca City Police Department in October 2013 for driving while intoxicated, felony eluding and possession of a firearm while intoxicated. He pleaded guilty and received a two-year deferred sentence, according to board documents. The

documents also included allegations he took hydrocodone pills from the homes of clients following a medical procedure in mid-2013.

Ashbaker argued that while missing the calls didn't result in any harm to patients, it raised questions about Jenkins' ability and willingness to follow rules that keep the public safe.

“If you can't do something simple like (checking in), ... why would you think he's going to do the complicated and difficult things?” he said.

Jenkins said a board investigator who worked with him told him that maintaining his license should be the most important thing in his day, but he gave priority to his morning prayer and meditation sessions, which sometimes lasted as long as two hours. He said he now considered compliance his top priority.

“My priority was my sobriety and my relationship with my higher power,” he said.

The board also approved an agreement to allow Renae Mayer, a Tulsa physician, to continue to practice.

Mayer allegedly wrote herself 15 prescriptions for Tylenol with codeine under her married name, Renae Bufogle, from January to November 2016. She told investigators she didn't use the pills while working, but they helped her sleep. She said she has fibromyalgia and old injuries from a car accident that still caused her pain.

She also allegedly wrote prescriptions for methylphenidate, an attention-deficit disorder medication for her son. She said her son's doctor had stopped practicing, and she didn't want him to go without his medication.

Tulsa physician was known as ‘queen of lean’ for ‘purple drank’ prescriptions, board says



by JACLYN COSGROVE

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A Tulsa physician who prosecutors said is known on the streets of Tulsa as the “queen of lean” will continue to be barred from practicing medicine, based on a medical board decision Thursday.

The state Board of Medical Licensure and Supervision voted unanimously to keep an emergency suspension in place on the medical license of Dr. Tamerlane Rozsa, a Tulsa-based family medicine physician.

Rozsa will have another hearing before the board in September, when the board likely will determine whether she can keep her medical license.

Her license was suspended after an emergency hearing in early April in Tulsa.

The hearing was held after board investigators asked her to stop practicing medicine and stop prescribing narcotics, and Rozsa refused, according to board records.

“(Rozsa) is in no condition mentally or physically to practice medicine at this time,” the board complaint reads. “...(Rozsa) is prescribing large quantities of CDS (controlled dangerous substances) without establishing any medical necessity and without adequate records.”

Lawyer says her health better

At Thursday’s hearing, Rozsa’s attorney, Daniel Gamino, said her health has improved since board investigators came to her office, and her office has undergone construction to improve conditions for patients.

“The doctor is able to practice medicine without danger to public safety and welfare,” Gamino said.

During the hearing, Rozsa said her medical license has been in good standing for years and that she doesn’t have any pending malpractice claims.

Meanwhile, prosecutors argued that not only was Rozsa’s medical office “filthy,” but she prescribed high quantities of painkillers, controlled dangerous substances, without much discretion about whether patients needed them.

Jason Seay, an assistant attorney general for the board, said Rozsa’s case was not about “old paint and ugly carpet,” but rather how much and how often Rozsa prescribed powerful painkillers and how she acted during patient visits.

Seay said Rozsa was known as the “queen of lean” among drug seekers because of the amount of promethazine with codeine that she prescribes.

Substance called ‘Purple Drank’

The substance is known as “purple drank,” especially among hip hop artists, and is sometimes mixed with soda pop or candy to enhance its flavor.

Rozsa told investigators, “It’s a very popular drug among the black population” and her black patients preferred the cough syrup to others, according to board records.

Rozsa said Seay and the board’s claims against her were “largely untrue.”

Seay asked Rozsa if she remembered when the state Health Department representative came to investigate her office. Rozsa said she did.

“You had her escorted out of your office?” Seay asked.

“I did,” Rozsa said, adding that the woman came without documentation showing she had authority to look around the office.

Both Gamino and Seay made multiple objections throughout the hearing.

Seay showed a photograph of Rozsa sitting in a wheelchair in her office with blankets over her, her prescription pad in her lap.

Seay said Rozsa lived in her office, sleeping on an air mattress.

Rozsa said that wasn't true and that her home was being remodeled, has mold and was burglarized and trashed.

"It just seems, to some extent, unbelievable," said Dr. J. Andy Sullivan, a longtime board member. "You were living in your office in a wheelchair."

Probation continues for prolific prescriber linked to deaths

BY WARREN VIETH, OKLAHOMA WATCH

BROKEN ARROW — Authorities found Kelly Bell lying face down in bed, wearing a red robe, a towel wrapped around her strawberry blond hair.

On the bed next to her they found a nearly empty pill bottle containing carisoprodol, a potent muscle relaxer also known as Soma. Elsewhere in Bell's Okmulgee home they found partially full bottles of morphine, oxycodone and clonazepam, all powerful drugs.

All of the prescriptions had been written by Dr. Joshua Livingston, proprietor of the South Pointe Pain Management Clinic and Transformation Weight Loss Clinic in Tulsa.

The Okmulgee County sheriff's office recorded Livingston's name, but noted that it hadn't tried to contact the doctor to let him know his patient had died.

Nobody had told the board about the four patient deaths.

Bell, 50, who suffered from chronic joint pain, anxiety and panic, died on Oct. 9, 2011. Four months went by before the Office of the Chief Medical Examiner in Oklahoma City finished its report on Bell's death and forwarded it to the Bureau of Narcotics and Dangerous Drugs Control.

By that time, another one of Livingston's patients had succumbed to an overdose. A 32-year-old chronic pain sufferer in Pawhuska died en route to the hospital on Jan. 13, 2012. His blood tested positive for oxycodone and alprazolam, both of which had been prescribed to him by Livingston. The medical examiner's report on his death was not completed for another four months.

By then, a third patient had died. Mary Doak, 61, was found dead on the living room couch in her Tulsa home on May 5, 2012. On her last office visit, Livingston had written her prescriptions for morphine, oxycodone, alprazolam and carisoprodol. Her blood tested positive for morphine and alprazolam. It also tested positive for tramadol, another narcotic she apparently obtained from a different source.

It only took the medical examiner's office two months to finish Doak's report. Yet by then, a fourth Livingston patient had died. Regina Ogunlana, 64, was found on the floor

of her Tulsa bedroom on May 30, 2012. A chronic pain sufferer, Ogunlana died from an overdose of oxycodone that Livingston had prescribed along with two other drugs, alprazolam and zolpidem.

Two of Ogunlana's siblings said they had no idea their sister had died from an overdose until they were called by a reporter last week. They had thought her death was caused by congestive heart failure.

"Wow. That is something," said Donald Turner, her brother.

Learning the cause of death "won't change anything for her," he said. "But it's good to know. If you write something, maybe it will help somebody later ... I appreciate it, and I appreciate you calling. We would have never known."

Another three months passed before the Oklahoma Board of Osteopathic Examiners began investigating Livingston after another patient's relative complained that Livingston was prescribing too many drugs.

Nobody had told the board about the four patient deaths.

When the board ran a check on Livingston's prescribing practices, they were shocked.

Over a three-month period in early 2012, Livingston was dispensing narcotics at a rate of 24,588 prescriptions — or 2.3 million doses — per year.

He was seeing 60 to 100 patients each workday. His clinics wrote or authorized an average of 186 prescriptions per day. About a third of the prescriptions were for powerful Schedule II narcotics such as morphine and oxycodone.

Patients were filling his prescriptions at 201 pharmacies in 40 cities, including Tulsa, Oklahoma City, Moore, Norman, Lawton, Perry and as far away as Elk City.

Livingston's clinics had no dispensing logs. The patient files for the four overdose victims contained no psychological assessments, no prior medical records, no hospital records, no imaging results, no alternative treatment plans and no mention of the risks of controlled dangerous substance use, drug abuse, alcohol consumption or suicide.

The board reviewed 30 patient medical records and 11 patient charts. None complied with its rules on prescribing narcotics to treat intractable pain.

Livingston acknowledged to investigators that he did not require his patients to provide prior medical records. He said he checked his patients' 12-month prescribing history on the state's online Prescription Monitoring Program and asked them to submit to a urine test before prescribing narcotics.

It is not known whether Livingston ever declined to write prescriptions to patients with a history of doctor-shopping. Bell's Prescription Monitoring Program records showed that she had been obtaining narcotic prescriptions from three doctors at the same time.

On March 21, 2013, the board placed Livingston on probation for five years and suspended his authority to write narcotic prescriptions during that time. It ordered him to take a course in proper prescribing of controlled substances. By that time, 17 months had passed since Bell's death.

Livingston has moved to a different clinic, Restorative Pain To Wellness Center in Broken Arrow. He practices primary care medicine and does not write prescriptions for narcotic drugs. His partner, Dr. Jim Meehan, writes prescriptions to patients who need them.

The clinic's website contains no mention of the disciplinary case against Livingston.

Contacted by a reporter last week, Livingston declined to comment on the deaths of his four patients. But he noted that an autopsy was performed in only one of the four cases, and disputed whether cause of death can be adequately determined in any death without an autopsy, even if a toxicology report detects narcotics in the dead person's blood.

"You can't just do toxicology and assume that's the cause of death," Livingston said. "That's the only real comment I'd have, not specific about those cases, but about all cases. That's an inadequate determination of the cause of death ... I know it's expensive to do an autopsy, and I know they're backlogged and all of those other things, but it's just not fair to the families."

Livingston also declined to comment on the osteopathic board's criticism of his prescribing and record-keeping practices.

"The board made their determination. My determination is kind of irrelevant," he said.

"I obviously would not feel like I was doing anything out of the scope of standard practice. However, the board decided I was."

Tulsa physician has most patient overdose deaths

BY JACLYN COSGROVE

By the time the pharmacist called in April 2009, three patients already were dead.

The pharmacist told the Oklahoma medical board that Dr. Joseph Knight, a Tulsa-based infectious disease specialist, was prescribing some of his out-of-town patients as many as 270 oxycodones per month and that Knight came to his pharmacy, appeared under the influence of prescription drugs and tried to fill a prescription he'd written to his wife. The pharmacist refused.

Two weeks after that call, another of Knight patient's died. Another overdose.

Before 2011 ended, nine of Knight's patients would be dead from overdoses, medical board records show.

But it wouldn't be until Dec. 28, 2012, that the board filed its first public complaint against Knight. By the time the board took action against him in March, Knight's license had expired.

Nearly five years had passed since his first patient died from an overdose.

He has not tried to renew his license and is not practicing in Oklahoma.

Knight has the highest number of patient overdose deaths among doctors disciplined by the state's two physician licensing boards in the past five years, an analysis by *The Oklahoman* and Oklahoma Watch has found.

Investigators found that in 2012 Knight's office manager had paid a patient to help burn medical records.

Because there is no consistent mechanism in place to notify the board or any other regulatory authority of an overdose death, it can take months — if not years — for board investigators to link patient overdoses to a doctor and take action.

In most cases, it's a public complaint, often from a patient's family member, that launches an investigation.

In Knight's case, in addition to the pharmacist, the board also heard from a patient's mother who contacted them in August 2009 complaining that Knight had prescribed her daughter "huge amounts" of Xanax, methadone and hydrocodone "with no regard to her addiction or well-being."

Knight treated the woman's daughter, who isn't named in the board complaint, for four months for "alleged neck and back pain with sciatica."

Medical board investigators later found there were "no physical findings to support those diagnosis or reason for the pain nor are there any supporting physician records to support treatment for chronic pain."

After reviewing the patient chart Knight kept for the woman, the medical board concluded that Knight's treatment wasn't safe and that the combination and amount of drugs he prescribed could have caused "potential patient harm."

The board's medical expert who analyzed Knight's patient records came to the same conclusion on the other eight patient deaths.

As part of the same investigation, the board also ordered Knight to undergo a mental health evaluation that recommended he submit to drug screening, meet weekly with a mental health professional and "discontinue the use of narcotics, benzodiazepines and sedative-hypnotics ... (and) that his use of Ambien should be tapered."

Later, investigators found that in 2012 Knight's office manager had paid a patient to help burn medical records. When investigators searched the patient's house, they found hundreds of patient files, as well as more than 1,800 doses of painkillers, anti-anxiety drugs and other often-abused prescriptions with Knight's name on them.

Knight declined to comment on the investigation's findings, although his attorney, Linda Scoggins, disputes all of the board's findings and says her client does not have a drug problem.

Scoggins argued that the majority of the cases did not have a clear correlation between the drugs Knight prescribed and the patients' causes of death.

Scoggins, a longtime Oklahoma City health care attorney, said Knight was a responsible pain management doctor who was thorough in his analysis of each patient's case.

Over about a six-year period, Knight saw nearly 600 pain and headache patients. Of those, he stopped seeing 232 because they violated the clinic's pain management contract, Scoggins said.

Scoggins said the "drug overdose" allegation that the board makes is easily refuted in six of the cases.

Of the three remaining patients, the cause of death is not clear but "Dr. Knight stands behind his treatment," she said.

She pointed out that spouses of two of the three remaining patients continued to see Knight for intermittent medical issues after their spouses died.

“In other words, there is a legitimate difference of opinion, at least on the seven that were Dr. Knight’s patients at the time of death, and Dr. Knight relied on his own expertise to treat the patients’ chronic pain,” Scoggins wrote in an e-mail. “Should Dr. Knight choose to submit an application to renew his Oklahoma license which expired on or about Sept. 1, 2013, the board and Dr. Knight have agreed that the differing opinions will be heard at that time.”

TULSA WORLD

Eight overdose deaths spur DEA investigation of south Tulsa doctor

A Tulsa physician was writing the equivalent of
about seven prescriptions per hour

By Harrison Grimwood Tulsa World

Feb 5, 2018



Different brands and dosages of fentanyl patches are pictured. The drug is considered 80 times more powerful than morphine and can kill by inhibiting breathing. Associated Press file

Federal agents allege that eight overdose deaths since July 2011 are tied to one south Tulsa doctor.

Special agents with the Drug Enforcement Administration raided Christopher Moses' office, Southside Medical Clinic at 8222 S. Harvard Ave., in late January as part of an investigation into alleged drug trafficking and drug diversion — diverting prescription drugs from their legal purpose — at the clinic.

Agents cited the eight patient deaths, the volume of prescriptions and undercover purchases of narcotics in an application seeking a search warrant for his office.

The U.S. Drug Enforcement Agency began investigating Moses, who operates Southside Medical, "based on complaints ... that Dr. Moses was prescribing large amounts of prescription narcotics," Special Agent Darren Glanz said in an affidavit.

Agents seized 63 boxes of documents and four bags of computer hard drives, according to the returned documentation of the search. The federal documents were unsealed late last week.

Glanz cited eight overdose deaths between July 2011 and February 2017 in the affidavit for a search warrant. Those eight deaths are alleged to link to prescriptions for narcotics written by Moses.

One woman was found dead in February 2017 with one fentanyl patch in her mouth, one on her back and three used patches on her nightstand, according to the affidavit. Her prescription was for a 30-day supply and was filled six days earlier.

Others were found dead from combined drug toxicity. A 33-year-old Tulsan died in 2013 from such toxicity. He filled prescriptions for oxycodone and alprazolam, a mild tranquilizer, on Aug. 21, 2013, and was found dead two days later. Tulsa police found empty pill bottles for the painkiller and tranquilizer as well as another empty prescription bottle that had been filled the same day.

Moses was the only physician who prescribed controlled substances to that patient in August 2013, according to the warrant affidavit.

Medical examiners and investigators in a different death said that man died from a cocktail of morphine, oxycodone and alprazolam. According to the affidavit, Moses prescribed the oxycodone and alprazolam. Law enforcers were told that he acquired the morphine elsewhere.

Moses' office said he was busy with patients Monday and that he would not comment "due to the investigation." Moses' registrations with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Board of Osteopathic Examiners remained in good standing as of Monday morning. A DEA spokesman did not return a request to check Moses' registration status with that agency.

Glanz alleges in the affidavit that Moses wrote about 25,400 prescriptions from January 2016 to Jan. 3, equating to about seven prescriptions per hour.

Painkillers — methadone, fentanyl patches, hydrocodone and oxycodone — and alprazolam accounted for about 70 percent of those prescriptions, Glanz wrote in the affidavit.

Starting in early September, DEA agents went undercover to "in order to obtain a prescription for controlled substances without a valid medical purpose," he wrote.

The first undercover agent presented fake medical documents and complained of pain but did not exhibit symptoms. Glanz wrote that the agent was prescribed hydrocodone. On a follow-up exam, Moses prescribed a greater quantity, according to the affidavit.

A second undercover agent made a similar claim. Moses wrote a prescription for a painkiller and told the agent he would need an X-ray before another prescription could be written. The agent did not return for an X-ray.

During follow-up visits to Moses' office, the agents were prescribed Narcan, a drug used to treat overdoses. Moses reportedly told the agent it was a safety issue. He reportedly

told the agent that “we don’t want anybody dying because of the medication we wrote for them,” Glanz wrote in the affidavit.

The two undercover agents conducted at least seven visits since September, noting that consultations were brief after initial visits and that at least two visits with Moses were shorter than five minutes.

Records do not indicate whether the U.S. Attorney’s Office has filed any charges in connection with the investigation.



Addicted Oklahoma

Problem prescribers help
fuel deadly epidemic

An investigation by
The Oklahoman and Oklahoma Watch

Sue Martin sits on her daughter's bed, holding onto her daughter's purse. The purse was returned to her by the medical examiner after Martin's daughter, Lorra Hilton, died of a drug overdose. Nate Billings / The Oklahoman

Published: April 6, 2014

On Jan. 27, 2010, Dena Kay Brasfield died in her sleep.

Two days earlier, the 40-year-old clothing store worker had gone to see Oklahoma City doctor Cecil Allen Moore, complaining of migraines, anxiety and panic attacks. He prescribed her unusually large doses of alprazolam, an addictive anti-anxiety drug, and oxycodone, a potent opiate painkiller.

Police determined Brasfield had taken only a few more oxycodone pills than the doctor authorized. They weren't sure how much alprazolam she took. The medical examiner ruled it an accidental overdose. Nobody reported the death to the Oklahoma Board of Osteopathic Examiners.

It wasn't until late 2011, after receiving complaints about Moore from pharmacists, other patients and relatives, that the board launched an investigation of his prescribing practices. They soon made a gruesome discovery: Eight of Moore's patients had died of overdoses in 2010 and 2011. Not one had been reported to the board.

By the time the board revoked Moore's license in mid-2012 for prescribing violations, more than two years had passed since Brasfield swallowed her fatal cocktail of prescription drugs.

UNDETECTED DEATHS

The eight deaths on Moore's watch, and others like them, expose troubling gaps in the state's system for combating an epidemic that has seen Oklahoma surge to near the top of national rankings for prescription drug abuse and overdose deaths.

In 2012, unintentional prescription drug overdoses claimed the lives of 534 Oklahomans. State health authorities say about half of them had taken drugs prescribed by their own doctors.

While much of Oklahoma's enforcement efforts are aimed at drug-seekers, far less effort is dedicated to identifying, investigating and pursuing the problem providers — the doctors who supply the sometimes deadly dosages.

Despite the fact that almost one out of every two overdose deaths involves a drug the person was prescribed legally, state investigators don't check regularly to see whether the prescriber might be linked to other overdose deaths.

In some instances, that allowed problem prescribers to escape detection by regulators and to continue to overprescribe, in some cases for years, leading to additional deaths and injuries, an investigation by *The Oklahoman* and Oklahoma Watch has found.

Doctors such as Joshua Livingston, who saw 60 to 100 patients a day at his South Pointe Pain Clinic in Tulsa. Four of his patients died of overdoses. After the first death in August 2011, 18 months went by before Livingston was placed on probation and his prescribing practices were restricted.

Or Dr. Joseph Knight, a Tulsa infectious disease specialist who had nine patients die of overdoses from 2009 to 2011. It wasn't until March of this year that the medical board heard his case, more than five years after his first patient died.

Or Dr. Amar Bhandary, an Oklahoma City psychiatrist, who during 2008 and 2009 wrote prescriptions that resulted in the overdose deaths of five people. It wasn't until 2013 that the state medical board and prosecutors moved against him.

Or Dr. Robert Wayne Mosier of Tahlequah who in 2007 and 2008 had four patients die from lethal overdoses shortly after he prescribed them controlled substances. It wasn't until 2009 that the narcotics bureau pulled his prescribing license.

Had it not been for complaints from the public, their prescribing practices might never have been discovered.

“We need a process to speed this up. We need it desperately,” said Deborah Bruce, executive director of the Oklahoma Board of Osteopathic Examiners. “If we’re really going to save lives and reduce the number of deaths, we need a process ... that speeds up the attention.”



Family photographs of Dena Brasfield. Genevieve Brasfield / Provided

SYSTEMIC SHORTCOMINGS

Calls for fixing gaps in the monitoring system come at a time when an estimated 5 percent of the state’s residents over age 11 — about 164,000 people — are abusing prescription narcotics, according to a recent federal survey. Oklahoma ranked eighth among the states for nonmedical use of prescription painkillers.

In the past 12 years, Oklahoma has seen the overall number of overdose deaths from prescription drugs more than double, and the number of deaths due to hydrocodone and oxycodone more than quadruple. Overdose deaths now surpass motor vehicle crashes as the leading cause of unintentional injury in the state and are the leading cause of death by injury for Oklahomans ages 25 to 64.

“Obviously, with the number of deaths we have, we have a problem,” said Dr. Eric Frische, medical adviser to the Oklahoma State Board of Medical Licensure & Supervision.

The investigation also found:

- The medical examiner’s office typically takes two to three months — and even sometimes a year or more — to complete its death investigation reports and turn them over to the state narcotics bureau for review. By the time the drug agency finds out about a fatality, more overprescribing and overdoses have occurred.

- The state’s primary tool for tracking narcotic sales — the Prescription Monitoring Program — is underused by enforcement authorities and many prescribers. The narcotics bureau does not mine the program data routinely to target overprescribers, relying instead on tips and complaints to initiate almost all cases. Many physicians do not check the program regularly to prevent “doctor-shoppers” from obtaining multiple prescriptions for dangerous drugs.
- State agencies and licensing boards do not regularly share with each other information about overprescribing and patient deaths. The medical examiner typically does not record the names of prescribing physicians when it collects evidence in overdose cases. Neither the medical examiner nor the narcotics agency routinely notify the medical boards of overdose cases they might want to review. And the state’s Medicaid agency does not notify the medical boards if the agency pulls a doctor’s Medicaid license for any reason.
- State licensing boards rarely discipline doctors involved in overprescription deaths. Since 2007, only 11 doctors linked to overdose deaths have been subject to disciplinary actions by their licensing boards.
- State enforcers say local prosecutors are reluctant to pursue criminal overprescription cases against doctors, saying they are expensive, time-consuming, difficult to litigate and, in some cases, unpopular with the community where the doctor practices. In the past two years, prosecutors have filed criminal charges against just one doctor investigated by the narcotics agency for drug diversion.
- Existing state laws hamstring the ability of the narcotics bureau and medical licensing boards from collaborating effectively to detect and deter overprescribing. At the insistence of the medical lobby, all Prescription Monitoring Program data is deemed confidential and its dissemination restricted, making it more difficult for the licensing boards to identify problem prescribers.

Some regulators said they were troubled by the findings of the investigation by Oklahoma Watch and *The Oklahoman*, acknowledging they had not fully recognized the size and scope of the overprescribing problem.

Lyle Kelsey, executive director of the Oklahoma State Board of Medical Licensure & Supervision, said he planned to more aggressively pursue problem doctors in response to the findings shared with him by reporters.

“We are not going to educate prescribers out of this deadly epidemic. I need ... investigators with keen knowledge of the drug problems. I also need more prosecutors to keep things moving toward proper discipline,” Kelsey said.

“I am ready to be part of the solution and do whatever we need to address this problem.”

On March 6, Kelsey won approval from the medical board to hire three additional staff members to help investigate and prosecute prescription drug cases.



Recovering addict Sara Mach sits with her cat, Prada. Mach died from an overdose but was revived by paramedics 10 minutes after they arrived on the scene. Read the story about the day she died and her connection to Dr. Amar Bhandary. Sarah Phipps / The Oklahoman

UNGATHERED EVIDENCE

After an overdose death, authorities gather a wealth of information, including the person's medical history and, when available, a list of any prescription drugs the person may have been taking.

Unlike their counterparts in some states, Oklahoma medical examiners don't routinely collect the names of the doctors who prescribed the drugs, saying it's not their responsibility. Nor does the Medical Examiner's Office alert the prescribing doctors or their medical licensing boards that a patient has died.

"We stay away from quality-of-care issues," Medical Examiner's Office spokeswoman Amy Elliott explained.

Dr. Hal Vorse, an Oklahoma City addiction treatment specialist, said he finds that hard to understand.

"Well, what are they there for?" he asked. "We ought to be monitoring those deaths just like we monitor infectious diseases and track where these people are getting their drugs, what's the source of the drugs, and finding out where we need to intervene."

By failing to collect or report the prescriber's name, the medical examiner omits key evidence that could delay any investigation into whether the prescriber may be linked to other overdoses.

Other public health crises, such as Oklahoma's recent influenza outbreak, are monitored far more closely, said Vorse, who oversees three drug and alcohol treatment facilities and teaches addiction medicine at OU's Health Sciences Center.

“Every week we get a report of how many deaths were due to influenza since this outbreak started,” he said. “We know every week who’s dying. Why can’t we get that same data on overdose deaths? There’s 10 times as many people dying from overdoses than dying from influenza.

Kelsey, the head of the state medical licensing board, said collecting and forwarding such information could be helpful in more quickly identifying problem prescribers.

“We’d welcome that,” Kelsey said. “If you had that kind of reporting system, it would be terrific.”

MASSIVE BACKLOG

Eventually, the medical examiner forwards a death investigation report to the state narcotics bureau.

But because of a massive backlog in completing the investigations, it generally takes months before the report is submitted. An analysis of more than 2,000 overdose deaths by Oklahoma Watch and *The Oklahoman* shows that, on average, 105 days elapsed between an overdose death and the completion of the report. In 30 cases, it took more than a year to finish the report. The longest time lag was 653 days.

That makes a timely analysis of the death impossible. Earlier this year, the narcotics agency said it was still receiving reports from the medical examiner involving 2011 overdoses.

Even when it receives an overdose death report, the bureau does not routinely seek to link any prescribed drug found in the person’s system with the doctor who provided it. Nor does the agency make any attempt to link the prescriber with any previous overdose deaths, saying that’s a quality-of-care issue and the responsibility of the various licensing boards.

“We don’t tell doctors how to practice medicine,” bureau spokesman Mark Woodward said.

UNSHARED INFORMATION

Neither the narcotics bureau, the medical examiner’s office, nor local law enforcement authorities routinely report the names of doctors connected to overdose deaths to the licensing boards to review for potential overprescribing.

That's led to case after case where regulators failed to stop a problem prescriber in a timely manner, allowing them to continue to write prescriptions that led to more deaths and injuries.

"At this juncture, we will not know that until somebody is dead and their family member has reported it, and that's a little late in the game," said Bruce, head of the state's Board of Osteopathic Examiners.

The narcotics bureau also doesn't forward its reports on high-volume prescribers and patients to the state's medical licensing boards so they can intervene quickly with the physicians they oversee. Even in cases where the narcotics bureau or the U.S. Drug Enforcement Agency suspends or revokes a doctor's right to prescribe, neither agency notifies the medical provider's licensing board of the action.

Kelsey, the medical board director, said there needs to be more proactive reporting of prescribing practices and overdose deaths, "so we don't have to go out and grab everything and find out it's two or three years old before we even get a hold of it."

Terri White, the state's mental health commissioner, said she thought it was critical for data to be shared regarding prescription drug overdoses.

"We're supportive of anything that increases the use of data in decision making, particularly in terms of treatment," said White, who also oversees the state's substance abuse services.

Vorse, the addiction specialist, agreed, saying the investigation's findings highlighted the need for better information sharing among the various agencies, licensing boards and prescribers, who in many cases may not even know their patient is dead.

In a profession where the most important principle is do no harm, doctors need to be aware when their patients die of an overdose, he said. "A lot of these doctors may not realize that they're the outliers," Vorse said.



Pharmacist Mary Jane Fry enters information into the Oklahoma's Prescription Monitoring Program. David McDaniel / The Oklahoman

NEGLECTED DATABASE

For the past eight years, most Oklahoma pharmacists have been logging every narcotic prescription they fill into an online database called the Prescription Monitoring Program, or PMP. For the past two years, they have been required to do so within five minutes of filling the scrip.

Mary Jane Fry, a pharmacist at Medic Pharmacy at Hefner Pointe, has seen an increase in the number of people calling and asking specific questions about the drugs they want. That's usually a red flag.

"If somebody calls us up and asks if we have a drug, and then they show up 30 minutes later, and it's from another part of town, then we're more suspicious, and that's when we would use the PMP," Fry said.

All in-state medical providers licensed to prescribe controlled dangerous substances in Oklahoma have access to the monitoring program data. It only takes a minute or two to log on to the system and check a patient's prescribing history to make sure he or she isn't getting simultaneous prescriptions from several physicians, a practice known as doctor-shopping.

State authorities say Oklahoma's real-time monitoring program information is one of the best in the nation.

But it only works well if people bother to use it. And many doctors don't.

Last year, Oklahoma pharmacies filled 9.7 million prescriptions for controlled dangerous substances. The biggest seller by far was hydrocodone — enough doses of the potent painkiller to give every man, woman and child in the state 50 pills apiece.

Yet Oklahoma medical doctors, physician assistants and other licensed prescribers logged into the Prescription Monitoring Program only 1.2 million times last year. Even allowing for the fact that one log-in might cover two or three prescriptions, that still suggests that most doctors aren't using the system routinely to make sure their patients aren't doctor-shopping.

Lea Gray, a recovering addict in Hollis, said she was simultaneously filling hydrocodone prescriptions written by four doctors. None of them detected her doctor-shopping because none of them bothered to check the monitoring program, she said.

"We look to doctors as people that are smarter than us, that are going to help us, that are going to point us in the right direction," Gray said. "If you've got a doctor that's not aware and not trained in addiction and doesn't know the signs or doesn't care, then it's a recipe for disaster."

It's been several years since Gray gave up her hydrocodone habit, but she said she thinks the monitoring program is still underused by prescribers.

"I work for a hospital, and nobody around here uses it," she said. "The pharmacy checks it, but the doctors don't."

PRESSURE FOR CHANGE

Under existing law, Oklahoma doctors are not required to check the Prescription Monitoring Program when they write narcotics prescriptions. When attempts have been made to make monitoring program use mandatory, their professional associations have lobbied successfully against it. Most doctors know their patients, the associations argued, and mandatory checks would take too much time.

"That was, from a clerical and time standpoint, completely unworkable for a physician's office," said Wes Glinsmann, director of state legislation and political affairs for the Oklahoma State Medical Association.

This year, Gov. Mary Fallin has thrown her support behind legislation that would require monitoring program checks for every narcotic prescription, and it appears that the physician groups might agree to at least some degree of mandatory participation.

"We want them, every single time they prescribe ... to look," said the bill's author, Sen. A.J. Griffin, R-Guthrie.

"We think we know our neighbors. We think we know our friends. But we don't necessarily know everything that's going on with that person," Griffin said. "If we can identify that someone may have a problem with these medications while they're still at the doctor's office ... that's a prime time to start intervention."

Dr. Charles Shaw, who specializes in addiction medicine, said he runs a monitoring program check on each of his patients at least every three months, and wishes other doctors would do the same.

"If they would do that on every patient, they wouldn't be handing out a bunch of Lortabs to John Smith who just got them down the street yesterday from another doctor," Shaw said. "All it takes is a little bit of time."

Not only do many doctors fail to use the monitoring program, the narcotics bureau does not routinely share with other enforcement agencies its periodic tallies of the highest-prescribing physicians and the biggest-volume patients.

In some cases, the numbers are eye-popping.

During a three-month period in 2012, Dr. William Valuck wrote an average of 115 prescriptions for controlled drugs every work day at his southwest Oklahoma City clinic. Valuck's patients used 215 pharmacies in 50 cities to fill his prescriptions.

The narcotics bureau said Valuck was "by far" the state's top prescriber of controlled dangerous substances in 2013, writing 12,000 more narcotics prescriptions than the second-largest dispenser. In 2012, he was writing narcotics prescriptions at a rate of nearly 30,000 a year.

Even so, the bureau contends that circulating its roster of big prescribers might unfairly cast aspersions on pain doctors and other physicians who are writing large numbers of narcotic prescriptions for legitimate reasons.

"As far as a top-prescribers list, absolutely not. Because that's just a scarlet letter on some doctor who may not be doing anything wrong, who just sees a lot of patients," said narcotics bureau spokesman Woodward.

"We're not ever going to be in the business of saying we don't think 200 pills was right for that patient. That's not our call."

But the licensing board directors said they have the ability to distinguish legitimate practitioners from flagrant overprescribers. If they were reviewing those rosters on a regular basis, they might be able to intervene with the outliers before disaster strikes, they said.

Providing the list might have helped them spot Valuck. In December, he was charged with nine counts of murder after eight of his patients died of drug overdoses and a ninth was accused of causing a fatal traffic accident.

"Until Lorra died, I didn't know there was a doctor like that, doing what he was doing," said Sue Martin, whose daughter, Lorra Hilton, 49, died of a Lortab overdose two days after Valuck prescribed her 300 pills.

"She shouldn't have been able to get that many of the pills he was prescribing to her — all at once like that. It's not right."



A collage of photographs of Lorra Hilton at the home of her mother, Sue Martin. Nate Billings / The Oklahoman

LITTLE DISCIPLINE

A review of disciplinary records shows that the state's two largest licensing boards rarely discipline doctors as a result of overdose deaths.

Despite at least 300 people now dying each year from drugs their doctors prescribed them, and nearly three times as many suffering nonfatal overdoses, the state's two physician licensing boards have sanctioned just 11 doctors since 2007 for overprescribing that led to deaths. Even in those cases, the boards didn't know patient deaths had occurred until they were well into their investigations.

The discipline in most cases amounted to the doctor's license being surrendered, revoked or suspended, in some cases for a year or less. Others were put on probation, sometimes with restricted prescribing ability. Among the 11 doctors with patient deaths, four are still practicing in Oklahoma.

For narcotics agents, building the administrative case required to pull a problem prescriber's license is complicated, bureau officials said.

"I think everyone wants to believe that you just look at the PMP and find the big prescribers and, voila, you have your bad doctor," said Sandra LaVenue, the narcotics bureau's general counsel. "I wish it was that easy."

"A doctor can legally prescribe," LaVenue said. "You have to determine where does a good prescription go bad. Most people getting these pain pills had something in their past that made need for pain pills legit. So, it's when did your pain go from real to phantom and you're just an addict? That's where that case hinges."

Officials say they have to be careful about moving against a doctor based on allegations that can't be supported by evidence.

“A doctor’s career could be harmed very easily by, ‘Oh, he had three overdose deaths in the last six months,’” LaVenue said. “That could really destroy somebody’s career, and you have to be very careful with the information you’re throwing out there. Yeah, they did have three deaths. But were the patients taking more than they were supposed to or decide to have a party on a Friday night?”

Manpower is also an issue.

Pursuing problem prescribers is just one of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control’s many responsibilities. The agency’s 90 agents also are charged with combating human trafficking, monitoring the state’s pharmacies and providing investigative support to the state’s 77 sheriffs and hundreds of police departments. In many jurisdictions, the bureau serves as the only drug enforcement agency. About 15 agents are assigned to work drug diversion cases.

“We have barely the manpower to focus out there,” said Darrell Weaver, the agency’s director.

SQUEAMISH PROSECUTORS

Criminal cases against overprescribers are even rarer.

LaVenue and Weaver both mentioned that prosecutors are reluctant to pursue cases against doctors.

LaVenue said bureau agents “shopped” cases to state and federal prosecutors to “test the waters to see if a district attorney is interested in filing a particular case.” In the last two years, only one case that was forwarded by the bureau to a district attorney — William Valuck — resulted in criminal charges being filed. Other cases have been submitted, but no action has been taken by prosecutors, she said.

“Just because an attorney doesn’t bring a case doesn’t mean they don’t want to,” LaVenue said. “It may come down to they don’t have money, or this guy is a pillar of the community and you’re not going to get an impartial jury. People want to trust doctors.

“If you have a doctor who’s lived there a long time, the prosecutor is sitting there saying, ‘I have to convince a jury this doctor is a bad guy.’”

That’s not always easy.

LaVenue cited the case of Dr. Bhandary, the Oklahoma City psychiatrist who had five patients die from prescription overdoses.

In 2012, a federal grand jury charged Bhandary in a 53-count indictment. He faced up to life in prison for each of the five counts of illegal distribution of controlled substances

that resulted in the deaths. In addition, he faced up to 20 years in prison on each of the other 48 counts of illegal distribution of controlled substances.

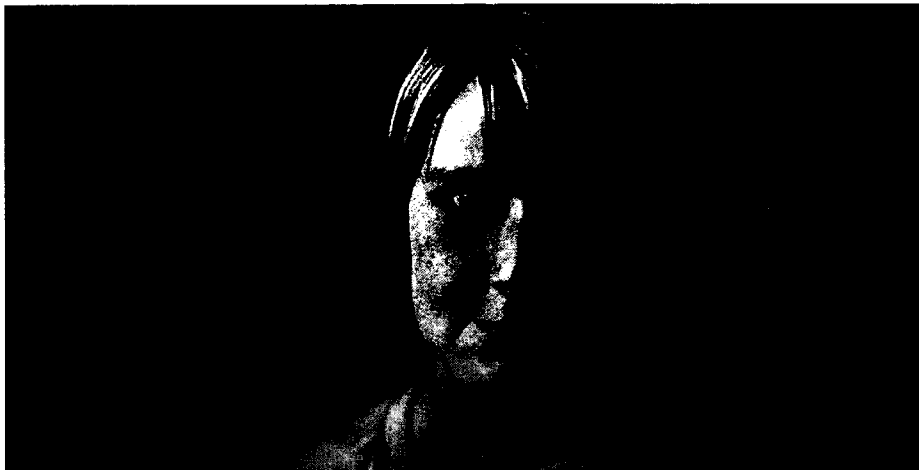
To LaVenue, it seemed like a slam dunk case of overprescribing. Despite solid evidence, convincing witnesses, dramatic testimony and a defendant who at one point fled the country, the trial ended with a hung jury.

Bhandary later pleaded guilty, but to health care fraud. He was sentenced to 30 months in prison, fined \$20,000 and ordered to pay restitution and forfeit commercial property.

“Identifying and proving — that’s a fine line,” LaVenue said. “I don’t know what else we can do with the resources we have and the laws we have.”

Chris Ross, president-elect for the Oklahoma District Attorneys Council, agreed.

“What I have to prove is: He knowingly prescribed them to somebody who didn’t need them or he prescribed them too much,” Ross said.



Recovering addict Lea Gray. She once went undetected as she simultaneously filled hydrocodone prescriptions written by four doctors.

PHYSICIAN'S PERSPECTIVE

Some defend the doctors, saying it’s wrong to blame prescribers for the bad behavior of some patients or make them assume primary responsibility for preventing overdoses from occurring.

“To say that the responsibility for deaths rests solely on the shoulders of physicians is grossly unfair,” said Bruce, the osteopathic board director. “But to say that physicians share in the responsibility for solving this problem ... is imminently fair.”

Bruce said, in her experience, even the most extreme overprescribers who are disciplined by her board seem to feel genuine remorse when fatal overdoses occur.

“They don’t always think they’re responsible for the death, but they do regret it very much that the patient died on their watch,” Bruce said.

“It’s been my observation that some doctors don’t know how to say no,” she said. “They have someone that’s in front of them that makes a good case for how much they hurt, and the drug-seekers are really good actors and actresses. They’re really good at milking the system and milking people.”

Dr. Jorg Pahl, a psychiatrist who specializes in neurology and internal medicine, said he fears that the threat of criminal prosecution will cause many pain specialists to stop providing compassionate treatment to people who need it. He said he already has reduced his pain management practice by at least 70 percent.

“I don’t feel safe,” said Pahl, who testified as an expert witness for Bhandary. “After I (saw) a doctor who I ... considered as very, very good in pain management, and I saw what problems he got into, well, I’m not going to have my license taken.”

Health care attorney Daniel Gamino said there should be a mechanism to allow a neutral review of patient deaths — not in a criminal setting and not in a professional licensure setting, but rather in a doctor-to-doctor peer-reviewed setting.

“There is a place for CDS (controlled dangerous substances) and it can be safely done, and it can be lawfully done, but scorekeeping just based on patient deaths is not a valid read or measure of the physician’s prescribing,” Gamino said. “Somewhere lost in all the law enforcement approach is: ‘What about the patients?’ And, ‘What about the patient’s condition?’ If the doctors are all afraid to prescribe appropriate (medication), then how does the patient get any relief if that medication is appropriate?”

Medical Association Executive Director Ken King noted that some prescription drug overdose victims did not obtain their narcotics from the doctor who originally prescribed them.

“They’re getting it from drug diversion,” King said. “They’re buying it off a friend, or it’s teenagers rummaging through an elderly relative’s medicine cabinet.”

UNREPORTED DEATHS?

Dena Kay Brasfield’s death in January 2010 went largely unnoticed.

It took weeks for the medical examiner’s office to finish its report, and it didn’t send a copy to the osteopathic board.

Over the next 19 months, seven more of Moore’s patients died from overdoses of drugs he had prescribed them. The second occurred in September 2010 and the last in August 2011. Those deaths were not reported to the board either.

The board opened a file on Moore in 2010 after a woman called to say he was overmedicating her sister. But it didn't begin investigating him in earnest until early 2012, after receiving other complaints and learning that he was still prescribing narcotics after letting his license lapse. When it sequestered Moore's patient files, it discovered the eight deaths.

Bruce, the board's executive director, said she cannot say with certainty that no additional deaths would have occurred if the board had been notified of Brasfield's overdose shortly after it occurred and launched its investigation sooner. But it's possible, she said.

"I can't tell you that these people would still be alive if the medical examiner had notified us. But it would have been a 2010 case or a 2011 case instead of a 2012 case," Bruce said.

"I've been here 6½ years, and I haven't opened a single case because somebody died. We find out about the deaths after we open the case."

And the deaths continue, at a rate of nearly two Oklahomans per day.



PRESS RELEASE

OKLAHOMA BUREAU OF NARCOTICS
AND DANGEROUS DRUGS CONTROL

FOR IMMEDIATE RELEASE: July 5, 2012

CONTACT: OBND SPOKESMAN MARK WOODWARD, (405) 521-2885 OR (800) 522-8031

STATE AND LOCAL AUTHORITIES UNCOVER AND HALT PRESCRIPTION DRUG SCHEME INSIDE SULPHUR NURSING HOME

Charges have been filed against several Sulphur nursing home employees for illegally obtaining and diverting prescription medication. Mark Woodward, Spokesman for the Oklahoma Bureau of Narcotics (OBN) says the charges stem from a joint investigation that began in January, 2012 involving OBN, the Oklahoma Attorney General's Office, the Sulphur Police Department, and the Murray County Sheriff's Department.

"During an audit, information surfaced that over 9,000 dosage units of controlled substances had been diverted by employees of the Callaway Nursing home in Sulphur. Over 8,400 of the dosage units involved the pain medication Hydrocodone."

---Mark Woodward, OBN Spokesman

Woodward says employees would use their position of phoning legitimate prescriptions authorized by doctors to call in fraudulent prescriptions of Hydrocodone for residents of the nursing home.

"These residents had not been prescribed the Hydrocodone by doctors. There is no evidence that any resident was deprived of their legitimate medications. Evidence suggests some of the employees would personally use small amounts of the diverted medication, but the majority of the fraudulent drugs were sold on the streets of Sulphur."

---Mark Woodward, OBN Spokesman

OBN Director Darrell Weaver says it is a tragedy that people will use their official capacity to defraud the system and obtain pain medication.

"I am very pleased that law enforcement in the Sulphur area united to put a halt to such a troubling diversion scheme. These folks were making economic gain by selling illegally obtained prescription pain medicines on the streets of Murray County. We must continue to send a message that this

type of activity will not be tolerated and we will aggressively work to prosecute those involved.”

---Darrell Weaver, OBN Director

The Murray County District Attorney's Office has filed charges against six individuals. Warrants were issued for Jackie Allen Alexander, 63, Director of Nursing at Callaway for Conspiracy to Obtain Controlled Substances by Fraud; Melanie A. Kirby, 39, Assistant Director of Nursing for Callaway, for Conspiracy to Obtain Controlled Substances by Fraud; Carrie Billings, 41, for Conspiracy to Obtain Controlled Substances and Medicaid Fraud; Sierra D. Williams, 23, for Conspiracy to Obtain Controlled Substances by Fraud and Medicaid Fraud; Mackenzie Digby, 30, for Conspiracy to Obtain Controlled Substances by Fraud and Medicaid Fraud; and Angela Ford, 33 for Conspiracy to Obtain Controlled Substances by Fraud.



THE UNITED STATES ATTORNEY'S OFFICE
WESTERN DISTRICT *of* OKLAHOMA

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Western District of Oklahoma

FOR IMMEDIATE RELEASE

Thursday, June 28, 2018

Three Doctors, a Pharmacist, and a Business Owner Charged in Opioid Indictments

The Two Cases Are Part of New Western Oklahoma Opioid Enforcement Team

OKLAHOMA CITY – A federal grand jury has returned two indictments involving the illegal distribution of and fraudulent billing for prescription opioids by health care professionals, announced Robert J. Troester, Acting United States Attorney for the Western District of Oklahoma.

United States v. Robison and Hallaba

On June 20, 2018, the grand jury charged **Melvin Lee Robison, D.O.**, 64, and **Moheb Hallaba, M.D.**, 89, for conspiracy, distributing opioids illegally, and billing Medicare fraudulently. According to the indictment, in 2015 the Oklahoma State Board of Osteopathic Examiners began to investigate the prescription writing of Dr. Robison, who practiced in Sayre, Oklahoma. The grand jury alleges that in September 2015, Dr. Robison hired Dr. Hallaba to write prescriptions at his clinic. From September 2015 to April 2017, both doctors are alleged to have signed hundreds of prescriptions per week without reviewing patient files or seeing the patients. In particular, they are charged with 54 counts of distributing controlled substances—including in particular Schedule II opioids such as Oxycodone, OxyContin, and fentanyl—outside the usual course of professional medical practice and without legitimate medical purpose.

According to the indictment, their criminal distribution of these drugs resulted in five patient deaths.

Dr. Robison is also charged with 51 counts of fraudulent Medicare billing. These offenses involved billing for services when he is alleged to have been out of the country and for patient visits allegedly conducted by a nurse practitioner rather than by Dr. Robison himself.

If convicted of conspiracy or of distributing controlled substances illegally, each defendant could be imprisoned for up to twenty years. If convicted of any of the five distribution counts alleged to have resulted in deaths, however, each defendant would face a sentence of not less than twenty years and up to life. Any of these counts could result in a fine of up to \$1,000,000 and a term of supervised release of at least three years. Each count of health care fraud against Dr. Robison would carry a sentence of up to ten years in prison, a fine of up to \$250,000, and not more than three years of supervised release, in addition to restitution. The indictment also seeks forfeiture of the proceeds of the offenses.

This case is the result of an investigation by the Drug Enforcement Administration; the Department of Health and Human Services, Office of Inspector General; the FBI; and the Oklahoma Bureau of Narcotics and Dangerous Drugs. Assistant U.S. Attorneys David P. Petermann, Jacquelyn M. Hutzell, and Amanda Green are prosecuting the case.

The public is reminded these charges are merely accusations and that Robison and Hallaba are presumed innocent unless proven guilty beyond a reasonable doubt. Reference is made to court filings for further information.

United States v. Ferris, Dossey, and Isbell

Also on June 20, a federal grand jury returned a 103-count indictment against **James Ferris, M.D.**, 44, **Katherine Dossey**, 49, and **Sherry Isbell**, 48. All three defendants are charged with drug distribution and Medicare fraud. According to the indictment, Isbell owned a company in Wellston, Oklahoma, called Physicians At Home, which employed Dr. Ferris and several physician assistants and nurse practitioners. It is alleged that Isbell owned and operated Mid-Oklahoma Medical Access Clinic ("MOMAC"), for which Ferris also worked. Dossey is alleged to have been a pharmacist who owned and operated Wellston Clinic Pharmacy.

The grand jury alleges that from September 1 to December 9, 2015, Dr. Ferris signed stacks of blank Physicians At Home and MOMAC prescription pads and gave them to Dossey, who completed them by filling in the date, patient information, drug type, and drug dosage. According to the indictment, Dossey completed and filled approximately 1,711 prescriptions for Schedule II controlled substances by using blank prescription pads that Dr. Ferris had signed.

All three defendants are charged with 62 counts of distributing Schedule II controlled substances—hydrocodone, fentanyl, and similar opioids—outside the usual course of professional medical practice. They are also charged with 41 counts of Medicare fraud for billing Medicare for invalid prescriptions.

If convicted of distributing controlled substances illegally, each defendant would face imprisonment up to twenty years and a fine of up to \$1,000,000, plus not less than three years of supervised release. Each count of Medicare fraud could result in a sentence of up to ten years, a fine of up to \$250,000, and up to three years of supervised release. The indictment also seeks forfeiture of the proceeds of the crimes, including real property Dossey is alleged to own in Wellston.

This case is the result of an investigation by the Drug Enforcement Administration; the Department of Health and Human Services, Office of Inspector General; the FBI; the Oklahoma Bureau of Narcotics and Dangerous Drugs; the Oklahoma Pharmacy Board; and the Oklahoma Medical Board. Assistant U.S. Attorney Amanda Green is prosecuting the case.

The public is reminded these charges are merely accusations and that Ferris, Dossey, and Isbell are presumed innocent unless proven guilty beyond a reasonable doubt. Reference is made to court filings for further information.

Both of these cases are part of the National Health Care Fraud Takedown, announced by Attorney General Jeff Sessions this morning in Washington. The largest health care fraud enforcement action in Department of Justice history, the takedown—focused particularly on opioid offenses—included criminal charges against 76 doctors and involved more than \$2 billion in false billings.

A New Opioid Enforcement Team

These two cases are also part of a larger law enforcement effort to focus on the prosecution of opioid-related offenses in the Western District of Oklahoma. Today Acting U.S. Attorney Troester formally announced that state and federal agencies are combining forces to address the opioid crisis as the Western Oklahoma Opioid Enforcement Team. Making the announcement with Troester were:

- Mike Hunter, Oklahoma Attorney General
- John Scully, Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs
- Clyde Shelley, Special Agent-in-Charge for the Drug Enforcement Administration
- Dennis Passerman, Assistant Special Agent-in-Charge for the FBI
- Jason Meadows, Assistant Special Agent-in-Charge of the Department of Health and Human Service, Office of Inspector General
- Rick Adams, Incoming Director of the Oklahoma State Bureau of Investigation
- Kevin Caramucci, Assistant Special Agent-in-Charge for the Internal Revenue Service—Criminal Investigations

Other members of the team include the District Attorney's Office for Oklahoma County; the District Attorney's Office for Cleveland, Garvin, and McClain Counties; the Defense Criminal Investigative Service; and the Office of Personnel Management, Office of Inspector General.

This enforcement team will take advantage of all legal tools—criminal, civil, and administrative—to protect citizens from the illegal distribution and use of opioids, whether through health care providers or street dealers. It will consider prosecution and other litigation in both federal and state court to maximize effectiveness.

Topic(s):

Opioids
Health Care Fraud

Component(s):

USAO - Oklahoma, Western

Updated June 29, 2018