



SEALED

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

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

Plaintiff

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

For Judge Balkman's
Consideration

vs.

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

In the office of the
Court Clerk MARILYN WILLIAMS

Case No. CJ-2017-816
Honorable Thad Balkman

William C. Hetherington
Special Discovery Master

Defendants.

SEALED

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

EXHIBIT 43 FILED UNDER SEAL

EXHIBIT 43

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

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
vs.)
)
WILLIAM KERRY SMITH, M.D.,)
LICENSE NO. MD 29740,)
)
Defendant.)

FILED
MAR 23 2017
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 15-01-5092

**ORDER GRANTING MOTION FOR DEFAULT JUDGMENT
AND REVOCATION OF LICENSE**

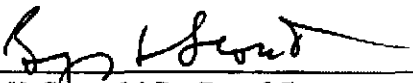
This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision ("Board") on January 12, 2017, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board, the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250-323 and the Oklahoma Open Meetings Act, 25 O.S. §§ 301-314.

Joseph L. Ashbaker, Assistant Attorney General appeared on behalf of the Plaintiff and the Defendant did not appear and did not appear through counsel.

The Board having considered argument of counsel and evidence, hereby grants the motion for default judgment and revoked the license of William Kerry Smith, M.D., License No. MD 29740, based upon his failure to respond to the Complaint and Citation filed on August 17, 2016.

This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.

Dated this 23rd day of March, 2017.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 24th day of March, 2017, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

William Kerry Smith, M.D.
20189 N. CR 4515
Stigler, Oklahoma 74462
Defendant

U.S. First Class Mail

Mr. Donn F. Baker, Esq.
303 West Keetoowah
Tahlequah, Oklahoma 74464
***Counsel for Defendant,
William Kerry Smith, M.D.***



Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-180A

FILED

MAR 23 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Billy Stout, M.D., Board Secretary
Oklahoma State Board of Medical
Licensure and Supervision
101 N.E. 51st Street
Oklahoma City, OK 73105-1821

March 20, 2017

Dear Secretary Stout:


This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with respect to Medical Doctor Licensee 29740. The proposed action is to enter default judgment revoking the license to practice medicine. The Board issued a complaint on August 29, 2016, alleging professional misconduct claiming the licensee traded controlled dangerous substance prescriptions for sexual favors. Although receipt of the complaint was confirmed, the licensee did not respond to the complaint, nor did the licensee respond after default judgment was sought.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480–518.1, authorizes the Board to discipline licensees who engage in unprofessional conduct, 59 O.S.Supp.2016, § 503. Unprofessional conduct includes the “dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public,” “commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician’s practice of medicine,” “[p]rescribing or administering a drug ... without sufficient examination and the establishment of a valid physician-patient relationship,” “[p]rescribing, dispensing or administering of controlled substances...in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need...” as well as sexual misconduct with patients. 59 O.S.2011, § 509(8), (9), (12), (16), (17). Further, the Board’s administrative rules require the filing of a “written answer under oath . . . within 20 days after the service” of a citation and complaint. 59 O.S. 2014, § 503, OAC 435:3-3-8(a).

Given the licensee’s disregard for the disciplinary process—not even requesting an extension—the Board may reasonably believe that default judgment and revocation of the license are necessary both to prevent the illicit prescription of dangerous substances and to ensure the licensee does not engage in additional violations.



It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy to ensure the adequate regulation of dangerous substances and requiring that medical doctors observe standards of professionalism.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL