

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

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

SEP 27 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 00-05-2192

TERRY DUANE RAPP, M.D.,)
LICENSE NO. 10615)

Defendant.)

AGREED ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 27, 2001, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared through counsel, Craig Box.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the pleadings filed, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*

2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

3. Defendant, Terry Duane Rapp, M.D., holds Oklahoma license no. 10615.

4. In or around 1992, Defendant began using hydrocodone samples from his office. Defendant had no lawful prescriptions for hydrocodone at that time.

5. At some point thereafter, Defendant entered a treatment facility for substance abuse.

6. On Defendant's Application for Renewal of Oklahoma Medical License dated July 1, 1992 and each year thereafter through August 2, 1997, in response to the question "Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery" within the past year, Defendant answered "NO" on each occasion. Additionally, in response to the question "Have you had a major illness or been hospitalized within the past year", Defendant answered "NO" on each occasion.

7. In or around May 1997, Defendant relapsed and began using hydrocodone, Lomotil and Ultram, again without a lawful prescription.

8. On or around December 24, 1997, Defendant entered Talbott Recovery Campus for treatment for substance abuse. Defendant was discharged from Talbott in May 1998.

9. On Defendant's Application for Renewal of Oklahoma Medical License dated June 8, 1998, in response to the question "Are you now using any drug or chemical substance including alcohol which has an adverse impact on your ability to practice medicine and surgery" within the past year, Defendant answered "NO". In response to the question "Have you had a major illness or been hospitalized within the past year", Defendant answered "NO".

10. During September and October 1999, Defendant relapsed on hydrocodone.

11. From March 2000 through April 5, 2000, Defendant continued to abuse hydrocodone.

12. On or about April 5, 2000, Defendant entered the Menninger Clinic for substance abuse. Defendant remained in inpatient treatment until June 9, 2000, at which time he continued with outpatient treatment.

13. In or around July 2000, investigators for the Oklahoma State Board of Medical Licensure and Supervision contacted Defendant as part of their investigation and requested certain information from Defendant. In response to this request, Defendant's attorney sent a letter to the Board Secretary outlining some of the information requested. In response to this letter from Defendant's attorney, Elizabeth A. Scott, counsel for the Board, sent a letter dated October 6, 2000 to Defendant's attorney requesting certain information necessary to complete the State's investigation of Defendant. Information requested included (a) a signed statement from the Defendant setting forth what he had done; (b) medical records from a previous injury in 1992; (c) records from the facility where Defendant was treated in 1992 for substance abuse; (d) records from Talbott-Marsh where Defendant was treated from December 1997 through May

1998; (e) signed releases to enable Board investigators to obtain treatment records from Talbott and Menninger's; (f) confirmation of Defendant's association with the Physician's Recovery Program; (g) an explanation of Defendant's current malpractice claim; and (h) an explanation for the care of Defendant's patients since he entered treatment.

14. On or about November 13, 2000, counsel for the Board attempted to contact Defendant's attorney by telephone as to the status of the information requested. Defendant's attorney did not return the telephone call of counsel for the Board.

15. On or about November 21, 2000, counsel for the Board again attempted to contact Defendant's attorney by telephone as to the status of the information requested. Defendant's attorney did not return the telephone call of counsel for the Board.

16. On July 19, 2001, the Board entered an Order of Suspension wherein Defendant's license was suspended pending full hearing at the September 27-29, 201 Board meeting.

17. Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. 407 §509(5) and OAC 435:10-7-4(3).

B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

C. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

E. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).

F. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

G. Engaged in fraud or misrepresentation in applying for or Procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

H. Prescribed, sold, administered, distributed, ordered or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).

I. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-406 and §2-407.

J. Committed an act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

K. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).

L. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-406 and §2-407 and OAC 475:25-1-3.

M. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4(25).

N. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

O. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, Terry Duane Rapp, M.D., Oklahoma license no. 10615, is hereby **SUSPENDED** beginning September 27, 2001 and continuing indefinitely pending completion of an evaluation and assessment, as well as any inpatient treatment recommended at a nationally recognized treatment center approved by the Board. Upon completion of the evaluation, assessment and treatment, Defendant may appear before the Board at its next regularly scheduled Board meeting to report the results of his evaluation. If the Board at that time elects to reinstate Defendant's license, it shall be under terms of probation to be determined at the time of reinstatement.
2. If Defendant fails to enter a nationally recognized treatment center for assessment and evaluation prior to the November 8-10, 2001 Board meeting, the Complaint against Defendant shall be heard at the November 8-10, 2001 Board meeting.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.
4. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

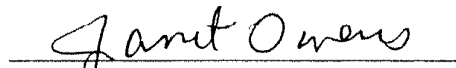
Dated this 27 day of September, 2001.



John Alexander, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 28 day of September, 2001, I mailed, via first class mail, postage prepaid, a true and correct copy of this Agreed Order of Suspension to Craig Box, Gungoll, Jackson, Collins, Box & Devoll, P.C., 323 W. Broadway, P.O. Box 1549, Enid, OK 73702.


Janet Owens