

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, )

Plaintiff )

v. )

JAMES KENT ROBBERSON, M.D., )  
LICENSE NO. 11847, )

Defendant. )

APR -9 2010

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Case No. 09-11-3880

**COMPLAINT**

COMES NOW the plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, James Kent Robberson, M.D., Oklahoma license no. 11847, alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. Defendant, James Kent Robberson, M.D., holds Oklahoma license no. 11847 and practices as a family practice physician in Wynnewood, Oklahoma.

**PREVIOUS DISCIPLINARY ACTION**

3. On or about February 3, 2000, the Board entered an Order Accepting Voluntary Submittal to Jurisdiction whereby Defendant's license was **SUSPENDED** for a period of **SIX (6) MONTHS**, to be followed by **INDEFINITE PROBATION** based upon Defendant's admission that he had engaged in sexual conduct with four (4) patients. Defendant additionally admitted that he had been abusing Demerol, Lortab, Phentermine and Halcyon. Defendant obtained treatment for both his drug abuse as well as his sexual misconduct.
4. On November 3, 2005, Defendant appeared before the Board and requested that his probation be terminated. The Board granted Defendant's request.

## PATIENT AWD-SEXUAL MISCONDUCT

5. In or around 2006, Patient AWD began working as a nurse in Defendant's office.

6. A review of Defendant's records reveals that Defendant began treating Patient AWD on or around December 28, 2006 and continuing through at least March 16, 2009. Defendant's records reflect twelve (12) office visits where she sought treatment from Defendant for alleged back, shoulder, hand and knee pain. The only prescriptions reflected in Defendant's records are for Flexeril and Naprosyn, both non-controlled medications.

7. A review of the PMP and pharmacy records reflects that beginning on or around March 1, 2008 and continuing through March 16, 2009, Defendant authorized at least thirty-three (33) additional prescriptions for controlled dangerous substances to Patient AWD which were not documented in the patient chart. These prescriptions include thirty-two (32) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, and one (1) prescription for Lorazepam, a Schedule IV controlled dangerous drug. Nowhere in Defendant's records is there any reference to the Hydrocodone or Lorazepam. A review of Defendant's records reveals that Defendant did not establish a legitimate medical need for the medical treatment, that he did not perform a sufficient examination prior to prescribing medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

7. Beginning in or around March 2008 and continuing through April 2009, Defendant engaged in sexual intercourse with Patient AWD. Defendant admits that he engaged in sexual intercourse with this patient approximately twenty (20) times, either at his home or at his medical office. Defendant admits that one (1) of these incidents occurred at his office during business hours. Defendant admits that he engaged in these sexual acts at the same time that he was maintaining a doctor-patient relationship and prescribing controlled dangerous substances to this patient.

8. Defendant continued to prescribe controlled dangerous substances to Patient AWD after he knew she had become addicted to Hydrocodone.

## PATIENT EWD-PRESCRIBING VIOLATIONS

9. A review of Defendant's records reveals that Defendant began treating Patient EWD, the husband of Patient AWD, on or around March 14, 2006 and continuing through at least January 16, 2009. Defendant's records reflect twelve (12) office visits where Patient EWD sought treatment from Defendant for alleged back, shoulder and ear pain. The only prescriptions reflected in Defendant's records are for non-controlled medications.

10. A review of the PMP and pharmacy records reflects that beginning on or around March 21, 2008 and continuing through March 12, 2009, Defendant authorized at least forty (40) additional prescriptions for controlled dangerous substances in the name of Patient EWD which

were not documented in the patient chart. These prescriptions include thirty-five (35) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, and five (5) prescriptions for Temazepam and Propoxyphene, Schedule IV controlled dangerous drugs. Nowhere in Defendant's records is there any reference to the Hydrocodone, Temazepam or Propoxyphene. A review of Defendant's records reveals that Defendant did not establish a legitimate medical need for the medical treatment, that he did not perform a sufficient examination prior to prescribing medications, and that he failed to maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient.

11. Patient EWD did not receive any of the forty (40) prescriptions for controlled dangerous substances written in his name, nor were they intended for him. To the contrary, Patient AWD admits that these prescriptions were received by and intended for her, all with Defendant's knowledge and consent. Patient AWD admits that Defendant wrote these prescriptions in the name of Patient EWD so as to reduce the appearance of excessive prescriptions to Patient AWD.

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

- A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).
- B. Engaged in physical conduct with a patient which is sexual in nature ... in violation of 59 O.S. §509 (17).
- C. Committed an act of sexual ... misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
- D. Abused the physician's position of trust by coercion [or] manipulation ... in the doctor-patient relationship in violation of OAC 435:10-7-4(44).
- E. 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 (13) and OAC 435:10-7-4(39).
- F. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509 (18) and OAC 435:10-7-4(41).

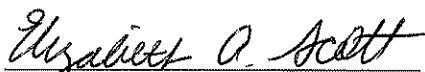
- G. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- H. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).
- I. Except as otherwise permitted by law, 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).
- J. Wrote a false or fictitious prescription or any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).
- K. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- L. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6).
- M. Prescribed, dispensed or administered a controlled substance or narcotic drugs in excess of the amount considered good medical practice, or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. 509(16).
- N. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

***Conclusion***

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including the revocation or suspension of the Defendant's license to practice as a physician and surgeon in the State of Oklahoma, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician and surgeon in the State of Oklahoma.

Dated this 9<sup>th</sup> day of April, 2010 at 8:00 a.m.

Respectfully submitted,



Elizabeth A. Scott, OBA #12470

Assistant Attorney General

State of Oklahoma

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Attorney for the State of Oklahoma ex rel.

Oklahoma State Board of Medical

Licensure and Supervision