

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.

GARY PAUL KULA, M.D.,
LICENSE NO. 12616

Defendant.

NOV 15 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 00-09-2237

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 9, 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 in person and through counsel, Stan Ward.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, 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, Gary Paul Kula, M.D., holds Oklahoma license no. 12616.

4. On or about May 8, 1987, this Board entered a Final Order in a case styled **State of Oklahoma v. Gary Paul Kula, M.D.**, wherein the Board found that Defendant had engaged in a sexual relationship with a patient at the same time that he was maintaining a doctor-patient relationship and prescribing medication for the patient. The Board placed Defendant under a three (3) year probation wherein his practice of psychiatry was restricted.

5. From July 1987 through September 1987, Defendant engaged in a sexual relationship with the patient with whom he had engaged in a sexual relationship set forth in paragraph 4 above. Defendant engaged in this sexual relationship with the patient while he was on probation with the Board. The Defendant did not advise his treating psychiatrist or the Board of his continued sexual relationship with this patient while on probation. The Defendant subsequently appeared before the Board in January 1988 wherein he asked that his probation be terminated two (2) years early. Unaware of his continued violation of his probation, the Board terminated his probation effective May 2, 1988.

6. On or about February 3, 1996, Defendant was summarily suspended from Norman Regional Hospital based upon alleged improper conduct towards patients, employees and other members of the medical staff. After a hearing and further review, Defendant's clinical privileges were reinstated subject to his agreement to not practice at Norman Regional Hospital for three (3) years.

7. In or around August 1996, Defendant contacted the patient with whom he had had the sexual relationships with as set forth in paragraphs 4 and 5 above. Defendant and this patient corresponded for several months then for the third time began a sexual relationship in September 1997. Defendant subsequently married this patient.

8. On June 11, 1998, October 17, 1998, October 26, 1998 and January 9, 1999, Defendant prescribed controlled dangerous substances to his wife. These prescriptions were all filled at the Kerr & Reavis Drug Store in Ardmore, Oklahoma.

9. On or about May 22, 2000, Defendant engaged in physical conduct with Patient A which was sexual in nature. Specifically, Defendant rubbed the top part of her breast and bra strap, locked the office door and kissed the patient by inserting his tongue in her mouth, all against the patient's will. Defendant engaged in these sexual acts at the same time that he was maintaining a doctor-patient relationship and prescribing medication for the patient.

10. Beginning in September or October 2000 and continuing through January 2001, Defendant engaged in physical conduct with Patient B which was sexual in nature. Specifically, in September or October, 2000, Defendant kissed her in his office during a counseling session. During a visit to his office in November 2000, Defendant locked the office door, kissed her on the mouth, and fondled her breasts and vagina. During this same office visit, Defendant unzipped his pants, exposed his penis and made sexually suggestive remarks to her. Defendant engaged in these sexual acts at the same time that he was maintaining a doctor-patient relationship and prescribing medication for the patient.

11. On or about November 26, 2000, December 1, 2000, December 22, 2000, January 3, 2001, and on January 15, 2001, Defendant engaged in sexual intercourse with Patient B at Motel 6 and Days Inn motels, both located in Ardmore, Oklahoma. During this period of time when Defendant was engaging in sexual intercourse with this patient, Defendant was maintaining a doctor-patient relationship and prescribing medication for the patient.

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 (9) and OAC 435:10-7-4 (11).
- B. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509 (18).
- C. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself in violation of OAC 435:10-7-4(26),

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.

2. 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 (9) and OAC 435:10-7-4 (11).
- B. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 O.S. §509 (18).

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

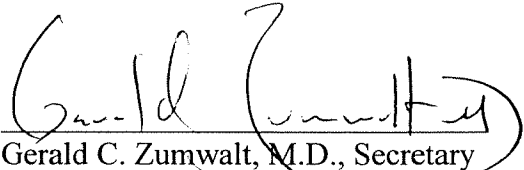
3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (9) and (18), and OAC Title 435:10-7-4(11) and (26).

Order

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

1. The license of Defendant, Gary Paul Kula, M.D., Oklahoma license no. 12616, is hereby **SUSPENDED** as of the date of this hearing, November 9, 2001 for a minimum of one (1) year.
2. Defendant is additionally required to complete an evaluation for his sexual misconduct at a treatment center approved in advance by the Board Secretary.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
4. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this 15 day of November, 2001.


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 16 day of November, 2001, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Stan Ward, 629 24th Avenue SW, Norman, OK 73069 and Gary Paul Kula, 330 West Gray, Suite 304, Norman, OK 73069.

Janet Owens
Janet Owens