

**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.)
)
DAVID DOW MILLER, M.D.,)
LICENSE NO. 12785,)
)
Defendant.)

OCT 04 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 01-07-2353

AMENDED 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 Amended Complaint against the Defendant, David Dow Miller, M.D., Oklahoma license no. 12785, 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, David Dow Miller, M.D., holds Oklahoma license no. 12785.
3. On or about October 8, 1992, Defendant was charged in the District Court of Washington County, State of Oklahoma with Unlawful Distribution of a Controlled Dangerous Substance, Marijuana, a felony charge. On or about October 14, 1992, Defendant pleaded nolo contendere and received a five (5) year deferred sentence.
4. On or about November 10, 1992, a Complaint was filed against Defendant based upon his arrest and admitted use of marijuana. On or about December 3, 1992, the Board Secretary entered an Emergency Order of Suspension of License, which suspension continued until April 8, 1993, at which time Defendant was placed on a five (5) year term of probation.
5. On April 8, 1998, Defendant's probation with the Board expired.

6. Beginning in May 2000 and continuing through March 2001, on approximately twelve (12) occasions, Defendant engaged in sexual intercourse with Patient A. Defendant additionally took pornographic photographs of Patient A. During this period of time, Defendant was maintaining a doctor-patient relationship and prescribing medications for the patient.

7. Beginning in May 2000 and continuing through July 2000, Defendant engaged in sexually explicit conversations with Patient A over the Internet. During this period of time, Defendant was maintaining a doctor-patient relationship and prescribing medications for the patient.

8. Upon information and belief, on or before May 2000, Defendant engaged in a doctor-patient relationship with Patient B and prescribed medications for her. Defendant subsequently engaged in a sexual relationship with Patient B.

9. 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. Committed an act of sexual abuse, 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, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4(44).
- E. 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(13).
- 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(19).

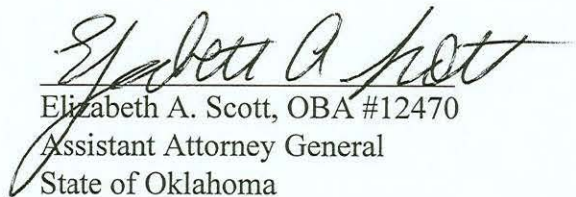
- G. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4(45).

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 24th day of October, 2001 at 2:00 p.m.

Respectfully submitted,


Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma

5104 N. Francis, Suite C
Oklahoma City, OK 73118

Attorney for the State of Oklahoma ex rel.
Oklahoma State Board of Medical
Licensure and Supervision