

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

FILED

MAY 28 2010

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff,)

v.)

ROGELIO BOMBACH, M.D.,)
LICENSE NO. 12832)

Defendant.)

Case No. 09-11-3870

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on May 20, 2010, at the office of the Oklahoma State Medical Association, 313 N.E. 50th Street, 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 pro se.

The Board *en banc* after hearing arguments of counsel, reviewing 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.* 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.

2. Defendant, Rogelio Bombach, M.D., holds Oklahoma license no. 12832 and practices as a family practitioner in Sayre, Oklahoma.

3. On or about June 17, 2009, Patient DCL was treated by Defendant at the Sayre Memorial Hospital Emergency Room for a fractured toe. Defendant issued Patient DCL a prescription for Lortab at this visit.

4. On or about October 22, 2009, Patient DCL was treated by Defendant in his office in Sayre, Oklahoma. Patient DCL complained of sleep problems, depression and pain. Patient DCL was pregnant at the time. Defendant prescribed Patient DCL Ambien and Naproxyn. Before the patient left, Defendant wrote his phone number on a prescription pad, gave it to the patient, and told her to call him if she got depressed.

5. Later during the evening of Thursday, October 22, 2009, Defendant called Patient DCL. He advised her that he got her telephone number from her medical chart. He offered to take Patient DCL and her seven (7) year old son with him to Oklahoma City in two (2) days where he planned to visit his sons. Patient DCL agreed.

6. On or about Friday, October 23, 2009, Patient DCL and her son came to Defendant's home for dinner. During this conversation, Patient DCL advised Defendant that she was pregnant. Defendant advised her to stop taking the Naproxyn and Ambien he had prescribed to her.

7. On Saturday, October 24, 2009, Defendant picked up Patient DCL and her son. They returned to his house where he showered. They then drove to Mustang, Oklahoma where Patient DCL's friend had agreed to babysit the child. Defendant and Patient DCL drove to the Embassy Suites in Oklahoma City where Defendant paid for a room. Defendant and Patient DCL ate dinner at a restaurant near the hotel. Defendant and Patient DCL then went to two (2) different bars near the hotel where they drank alcoholic beverages. Defendant drank alcoholic beverages with Patient DCL knowing that she was pregnant. They then walked to Christy's Toy Box, an adult only store near the bar where they had been drinking. Patient DCL claims that Defendant advised her that he was going to purchase something and would meet her back at the bar. Patient DCL claims that she left the store. Shortly thereafter, Patient DCL claims that Defendant met her at the bar, then they returned to their room at the Embassy Suites. Defendant and Patient DCL slept in the same bed that night.

8. Defendant and Patient DCL returned to her home the next day. Defendant advised Patient DCL that she and her son should stay with him at his house so that he could observe her for her depression. They also discussed what medications she could take while she was pregnant. Patient DCL agreed to stay with Defendant at his house.

9. Defendant dropped Patient DCL and her son at her house so that she could gather some personal belongings. During that time, Defendant texted Patient DCL and mentioned "IVM for stress relief". Patient DCL continually asked what "IVM" was, but Defendant would not tell her. Patient DCL spent the night at Defendant's house that night where they slept in the same bed.

10. The next day, October 26, 2009, Defendant texted Patient DCL during the day where he kept telling her she needed "IVM" for stress relief. She again kept asking him what that meant. Defendant admits that he finally told her it meant "Inner Vaginal Massage". He explained that it had been proven to relieve stress and treat depression.

11. A few days later, Patient DCL noticed vaginal itching and observed a scratch on her vaginal area. She called Defendant and left him a voicemail message advising him that he had scratched her. Defendant then called Patient DCL back and left her a voicemail message where he said he could not have scratched her because he did not have fingernails. He stated that the scratch might have been from a sex toy.

12. Patient DCL continued to stay with Defendant for the next week and sleep in his bed with him. Patient DCL agrees that she did not engage in sexual intercourse with Defendant. Patient DCL does claim that Defendant fondled her breast and kissed her on a few occasions. Defendant denies these claims.

13. On November 6, 2009, Patient DCL removed her belongings from Defendant's house.

14. On or about November 17, 2009, Board investigators subpoenaed Patient DCL's medical chart from Defendant's clinic. Defendant was not aware that Board investigators obtained this copy of the patient record from the clinic. The patient record did not contain any record of Defendant's prescription for Ambien to Patient DCL. The patient record additionally included a handwritten addition to the record where it is noted "LMP-2-3 wk-regular".

15. On or about December 1, 2009, Board investigators interviewed Defendant. During this interview, Defendant provided his copy of the patient record. On this patient record, however, the notation that Ambien had been prescribed to the patient had been added by someone.

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

- A. Abused the physician's position of trust in the doctor-patient relationship in violation of OAC 435:10-7-4(44).
- B. Committed any 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).
- C. Confessed to a crime involving a violation of the antinarcotic laws and regulations of the federal government or the laws of this state in violation of 59 O.S. § 509 (7).

- D. 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).
- E. 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(17).

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. Abused the physician's position of trust in the doctor-patient relationship in violation of OAC 435:10-7-4(44).
- B. Committed any 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).
- C. Confessed to a crime involving a violation of the antinarcotic laws and regulations of the federal government or the laws of this state in violation of 59 O.S. § 509 (7).
- D. 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).
- E. 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(17).

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(4), (8), (13) and (15) and OAC 435:10-7-4(3), (11), (39) and (40).

Order

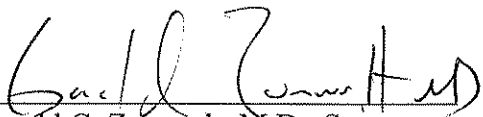
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, Rogelio Bombach, M.D., Oklahoma license no. 12832, is hereby **SUSPENDED** beginning May 20, 2102 and continuing for a minimum period of **NINETY (90) DAYS**, during which time he shall complete a boundaries course to be approved in writing in advance by the Board Secretary. After Defendant completes the boundaries course, he may appear before the Board to report on the course and to seek reinstatement of his license.

2. 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.

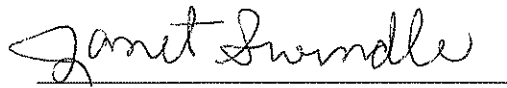
3. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

Dated this 28 day of May, 2010.


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

CERTIFICATE OF SERVICE

I certify that on the 28 day of May, 2010, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Suspension to Rogelio Bombach, P.O. Box 636, Pauls Valley, OK 73035.


Janet Swindle