

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

FILED

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 01-11-2434

JAMES MARK SERATT, M.D.,)
LICENSE NO. 15674,)

Defendant.)

VOLUNTARY SUBMITTAL TO JURISDICTION

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 for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, James Mark Seratt, M.D., Oklahoma license no. 15674, who appears in person and pro se, offer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on February 1, 2002, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, James Mark Seratt, M.D., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant further acknowledges that he is entitled to have his interests represented by legal counsel and that he has elected to proceed without legal representation, thereby waiving his right to an attorney. Defendant acknowledges that he has read and understands the terms and conditions stated herein.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

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 Defendant, James Mark Seratt, M.D., holds Oklahoma license no. 15674
3. Beginning in or around August 2000 and continuing through July 2001, Defendant engaged in physical conduct with Patient A which was sexual in nature. Specifically, during this time, he engaged in sexual intercourse with her at his office, their homes and various motels. Defendant engaged in these sexual acts at the same time that he was maintaining a doctor-patient relationship and prescribing medications for the patient.
4. Beginning in April 2000 and continuing through June 2001, Defendant wrote or authorized 23 prescriptions for controlled dangerous drugs to Patient A. These prescriptions included Promethazine, Phentermine, Diazepam, Propoxyphene, Hydrocodone, Ambien, Flurazepam, Temazepam and Sonata. Defendant's chart on this patient reveals that he failed to keep any records of the prescribing or ordering of these controlled dangerous drugs, that he failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications.
5. Beginning in or around January 1998 and continuing through June 2001, Defendant prescribed Phentermine to Patient A. Patient A then had the prescriptions filled at pharmacies in the area, and gave 2/3 of the Phentermine back to Defendant for his personal use. Defendant then paid Patient A for his portion of the drugs. Defendant's patient chart on Patient A does not reflect any of these prescriptions written in her name. Defendant admits that he prescribed Phentermine to Patient A for his personal use.
6. On or about August 31, 2000, Defendant prescribed Phentermine to his aunt, Patient B. Patient B then had the prescription filled and gave 2/3 of the Phentermine back to Defendant for his personal use. Defendant admits that he prescribed Phentermine to his aunt Patient B for his personal use. Defendant's chart on this patient reveals that he failed to keep any records of the prescribing or ordering of these controlled dangerous drugs, that he failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications.
7. Beginning on June 18, 2001 and continuing until September 28, 2001, Defendant prescribed Lortab to his uncle, Patient C. His aunt Patient B then retrieved the Lortab from his uncle and gave then to Defendant for his personal use. Defendant admits that he asked his aunt

to retrieve the Lortab from Patient C for his personal use. Defendant's chart on Patient C reveals that on at least two occasions, he failed to keep complete and accurate records of the prescribing or ordering of these controlled dangerous drugs, that he failed to perform any physical examination on this patient prior to prescribing the controlled dangerous drugs, and that he did not establish a legitimate medical need for the medications.

8. On or about May 11, 2001, Defendant prescribed Restoril for Patient A. Patient A subsequently had the prescription filled, then ingested five 30 mg. tablets at Defendant's house and with his knowledge. Patient A and Defendant began to have oral sex, during which time Patient A fell asleep. Defendant dressed Patient A, helped her to her car and told her to drive home while still under the influence of the Restoril. Defendant failed to administer any medical treatment to Patient A at this time. He then began to follow Patient A in his car. Defendant observed Patient A hit a curb, and then observed her car run off the road before she made it to her home. Patient A has no recollection of her drive home from Defendant's home that night.

9. On or about July 27, 2001, Patient A attempted suicide by ingesting 50 Lortab 500 mg. pills. Defendant arrived at Patient A's apartment after she had ingested the pills, but refused to call an ambulance or take her to the emergency room. He then left Patient A's apartment without administering any medical treatment to her.

10. 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. 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).
- F. Committed any 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).
- G. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- H. 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. §2-404.
- I. 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).
- J. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- K. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.
- L. Engaged in the writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- M. Failed to provide necessary on-going medical treatment when a doctor-patient relationship has been established in violation of 59 O.S. §509(20).

- N. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).
- O. 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).
- P. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized an addictive dangerous drug to a family member or to himself in violation of OAC 435:10-7-4(26).
- Q. 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 OAC 435:10-7-4(39).

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. Based on the foregoing facts, Defendant, James Mark Seratt, Oklahoma license 15674, is guilty of the unprofessional conduct set forth below:

- 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. 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).
- F. Committed any 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).
- G. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- H. 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. §2-404.
- I. 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).
- J. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- K. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-404, OAC 475:25-1-3 and OAC 475:30-1-3.

- L. Engaged in the writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- M Failed to provide necessary on-going medical treatment when a doctor-patient relationship has been established in violation of 59 O.S. §509(20).
- N. Purchased or prescribed any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of OAC 435:10-7-4(5).
- O. 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).
- P. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized an addictive dangerous drug to a family member or to himself in violation of OAC 435:10-7-4(26).
- Q. 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 OAC 435:10-7-4(39).

Order

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

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.
2. The license of Defendant, James Mark Seratt, M.D., Oklahoma

license no. 15674, is hereby **SUSPENDED** beginning March 14, 2002, and continuing for a period of ninety (90) days.

3. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of five (5) years following his suspension under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board or its designee.

B. Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.

C. Defendant will obtain psychotherapy with a doctorate level therapist to be approved in advance by the Board Secretary. Defendant shall submit quarterly reports of his treatment from his therapist to the Board Secretary or his designee for his review.

D. Defendant will notify the Board or its designee of any entry or re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

E. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.

F. Within the first six (6) months of probation, Defendant shall attend a seminar approved in advance by the Board Secretary

for a minimum of ten (10) hours on appropriate professional boundaries designed for healthcare professionals who have engaged in sexual misconduct. Defendant shall provide to the Board Secretary proof of completion of said seminar.

G. Within the first three (3) months of probation, Defendant shall attend a seminar approved in advance by the Board Secretary for a minimum of ten (10) hours on outpatient pain management and the prescribing of psychoactive/psychotropic substances. Defendant shall provide to the Board Secretary proof of completion of said seminar.

H. Defendant will not supervise allied health professionals for whom a formal supervisory arrangement is required under Oklahoma law, e.g., physician assistants or advanced registered nurse practitioners.

I. Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

J. Defendant will not prescribe, administer or dispense any medications for personal use.

K. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Board Order immediately upon initiation, or continuation of treatment.

L. Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

M. Defendant will affiliate with the Oklahoma Physician's Recovery Program.

N. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

O. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

P. Defendant will keep duplicate, serially numbered prescriptions of all substances readily retrievable, in numerical order and will furnish copies to investigators or other authorized agents or the Board immediately upon request.

Q. Defendant will keep the Board informed of his current address.

R. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case, including but not limited to a \$100.00 per month monitoring fee.

S. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

T. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

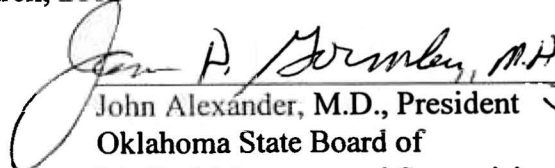
U. Defendant shall submit any required reports and forms on a timely basis to the Compliance Coordinator or designee.


V. Applicant shall have a female chaperone, who shall be a licensed health care provider, with him in the room at all times that he is examining or performing services on a female patient.

W. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify your license after due notice and hearing.

4. This Voluntary Submittal to Jurisdiction and Order will go into effect, Defendant's suspension will be lifted, and his license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to March 15, 2002.

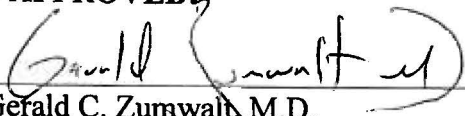
Dated this 14 day of March, 2002


John Alexander, M.D., President ~~JAMES GORMLEY, MD~~
Oklahoma State Board of
Medical Licensure and Supervision

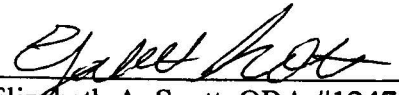


James Mark Seratt, M.D.
License No. 15674

AGREED AND APPROVED:



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



Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118
405/848-6841

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 15 day of March, 2002, a mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to James M. Seratt, MD PO Box 59 22408 Hwy 51, Tahlequah, OK 74465.



Janet Owens, Secretary