

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.)

BARBARA KAY TULEY, M.D.,)
LICENSE NO. 17220,)

Defendant.)

MAY 10 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 01-04-2324

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, Barbara Kay Tuley, M.D., 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, Barbara Kay Tuley, M.D., holds Oklahoma license no. 17220.

3. From June 6, 2000 until August 24, 2000, Defendant wrote two (2) prescriptions to patient DDW. Both of these prescriptions were for Darvocet, a controlled dangerous drug. A review of Defendant's records reveals that she failed to make and keep any records of the drugs she was prescribing to DDW and failed to document performing physical examinations on DDW prior to prescribing the drugs to him.

4. Subsequent to and during the time Defendant was prescribing the drugs to DDW, she engaged in a sexual relationship with DDW.

5. On or about August 23, 2000, Patient DDW contacted Defendant complaining of a possible sinus infection and asked that she meet him at a local gas station in Ada, Oklahoma. Defendant met Patient DDW sometime after 9:00 p.m., spoke with him briefly, and gave him some Biaxin samples.

6. On or about April 24, 2001, Board Investigator Steve Washbourne interviewed Defendant. At that time, Mr. Washbourne requested that Defendant provide to him a copy of Patient DDW's chart. Defendant advised Mr. Washbourne that the patient's records were not at her office, but were instead at her residence. She left her office and returned approximately 15 minutes later with an alleged patient chart for Patient DDW. The patient chart provided by Defendant contained an incorrect date for the August 23, 2000 meeting with Patient DDW. The patient chart likewise did not reflect any entry for the Darvocet prescribed by Defendant on June 6, 2000 and August 24, 2000.

7. Defendant is guilty of unprofessional conduct in that she:

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. 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(14) and OAC 435:10-7-4(39).

C. 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).

D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).

E. 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), 63 O.S. §2-404 and OAC 475:25-1-3.

F. Committed an 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. Committed any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of 435:10-7-4(23).

H. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of 435:10-7-4(44).

I. 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) and 435:10-7-4(41).

J. 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 and OAC 475:25-1-3.

K. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

Conclusion

WHEREFORE, the Plaintiff respectfully 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 suspension or revocation and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

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 Plaintiff