

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

FILED

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

Plaintiff

v.

WESLEY E. POPE, M.D.,
LICENSE NO. 17440,

Defendant.

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 07-02-3248

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, Wesley E. Pope, M.D., Oklahoma license no. 17440, 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, Wesley E. Pope, M.D., holds Oklahoma license no. 17440 and practices at the TriCity Family Clinic in Newcastle, Oklahoma.

Sexual Misconduct-Patient RTD

3. Beginning in or around 1999 and continuing through 2004, Patient RTD worked for Defendant at the TriCity Family Clinic as the office manager and administrator. During this time, Patient RTD and Defendant purchased a home together and began living together as partners. Defendant also gave Patient RTD a Cadillac Escalade.

4. Beginning in or around 2001 and continuing throughout 2004, Defendant treated Patient RTD. During this time, Defendant wrote or authorized at least twenty-one (21) prescriptions for or injections of controlled dangerous drugs to Patient RTD for alleged back and neck pain. Medications prescribed or administered include Demerol and Avinza, Schedule II

controlled dangerous drugs, Testosterone, Panlor and Lortab, Schedule III controlled dangerous drugs, and Alprazolam, Stadol and Sonata, Schedule IV controlled dangerous drugs.

5. Beginning in or around 2000 and continuing through approximately 2004, Defendant engaged in a sexual relationship with Patient RTD. Defendant engaged in these sexual acts at the same time he was maintaining a doctor-patient relationship and prescribing controlled dangerous substances to this patient.

6. On or about May 18, 2007, the Board's investigator interviewed Defendant. When questioned about Patient RTD, Defendant denied having a sexual relationship with him.

7. On or about August 17, 2007, the Board's investigator again confronted Defendant about his relationship with Patient RTD. The investigator advised him that he had corroborated the sexual relationship with substantial evidence. At that time, Defendant admitted that he did have a sexual relationship with Patient RTD during the time that he was treating him and prescribing controlled dangerous substances to him.

Prescribing Violations-Patient RTD

8. Patient RTD continued to work for Defendant at the TriCity Clinic in early 2005. Pharmacy records reflect that although Defendant stopped treating Patient RTD after 2004, Patient RTD continued to fill prescriptions in Defendant's name by forging Defendant's signature on prescriptions. Pharmacy records show that from January 7, 2005 until July 5, 2005, Patient RTD forged fourteen (14) prescriptions for Avinza and Morphine, Schedule II controlled dangerous substances.

9. In early 2005, Kathy Terry, R.N., Defendant's nurse, received several telephone calls and faxes from pharmacies questioning the narcotic prescriptions presented to them by Patient RTD. Ms. Terry advised Defendant that the prescriptions were not in Patient RTD's chart since he was no longer a patient. Defendant advised Ms. Terry that the prescriptions were forged. On more than one occasion, he nevertheless directed her to call the pharmacies back and to advise them that the prescriptions were legitimate so that they would fill them for Patient RTD, Defendant's partner.

10. Several months later, Patient RTD broke up with Defendant, quit working for him, and began dating another person. Only after that time did Defendant begin to advise pharmacies that the prescriptions being presented by Patient RTD in Defendant's name were forgeries and should not be honored.

11. Patient RTD subsequently moved to Colorado, where he continued to forge Defendant's name on prescriptions. He was later arrested, charged and convicted in Colorado with Obtaining or Attempting to Obtain a CDS by Forgery/Fraud, a felony. He was sentenced to three (3) years probation.

12. In or around April 2005, a former employee, James Walker, L.P.N., moved into Defendant's guesthouse. Mr. Walker lived in Defendant's guesthouse until January 2006. During this time, Defendant admitted to Mr. Walker that he had "OK'd" some of the prescriptions that Patient RTD had forged. Mr. Walker asked Defendant why he would do that, to which Defendant stated that he loved Patient RTD and did not want to get him in any trouble.

13. In or around April 2006, Patient RTD returned to Oklahoma and again began working at the TriCity Clinic and living with Defendant. Within weeks, office staff began receiving telephone calls from area pharmacies regarding prescriptions allegedly signed by Defendant to Patient RTD. Cindy Saffle, director of the Medical Records Department at the TriCity Clinic, advised Defendant that the prescriptions were in the handwriting of Patient RTD. Defendant later advised Ms. Saffle that he had spoken with Patient RTD and that he was going to apologize to her for the incident. During this time, Patient RTD continued to work at the clinic and live with Defendant at their home.

14. On or about May 18, 2007, the Board's investigator interviewed Defendant regarding the prescriptions allegedly forged by Patient RTD in Defendant's name in 2006. At this time, he and Patient RTD were again living together again and by Defendant's own admission, were sleeping in the same bed. At this time, Defendant denied having any knowledge of any of the prescriptions that had been forged by Patient RTD.

15. On or about August 17, 2007, the Board's investigator again confronted Defendant about his knowledge that Patient RTD had been forging his name on prescriptions for narcotics. The Board's investigator advised Defendant that he had corroborated this claim with Defendant's employees. Defendant initially continued to lie and claim that he had no knowledge that Patient RTD was forging prescriptions in his name. However, at the close of the interview, Defendant admitted that he had in fact been advised on at least one or two occasions of possible forged prescriptions by Patient RTD in his name.

Prescribing Violations-Patient JTD

16. In or around July 2005, Patient JTD moved into Defendant's guesthouse with James Walker, L.P.N. On the first day that Patient JTD moved into Defendant's guesthouse, Patient JTD and James Walker advised Defendant that Patient JTD was a convicted felon and a former drug addict. Defendant nevertheless began prescribing controlled dangerous substances to Patient JTD for alleged back pain caused by moving. Pharmacy records reflect that from August 1, 2005 until September 12, 2005, Defendant wrote five (5) prescriptions for controlled dangerous drugs to Patient JTD. These prescriptions include one (1) prescription for Percocet, a Schedule II controlled dangerous drug, for sixty (60) dosage units, three (3) prescriptions for Lortab and Testosterone, Schedule III controlled dangerous drugs, for two-hundred fifty (250) dosage units, and one (1) prescription for Xanax, a Schedule IV controlled dangerous drug, for one-hundred (100) dosage units (with one refill). Defendant's chart on this patient reveals that he failed to perform a sufficient physical examination prior to prescribing the controlled dangerous drugs, that he failed to record any vital signs, that he did not order appropriate tests, including labs and x-rays, that he did not establish a legitimate medical need for the medications, and that

he did not maintain an office record which accurately reflects the evaluation, treatment and medical necessity of treatment of the patient. His chart contains no reference to Patient JTD's drug addiction. Defendant's chart reflects only one (1) office visit on August 1, 2005.

17. 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 (8) and OAC 435:10-7-4 (11).
 - B. Engaged in physical conduct with a patient which is sexual in nature, ... in violation of 59 O.S. §509 (17).
 - C. Committed an act of sexual ... 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 [or] manipulation ... in the doctor-patient relationship in violation of OAC 435:10-7-4(44).
 - E. 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).
 - 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 (18) and OAC 435:10-7-4(41).
 - G. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
 - H. 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(12).
 - I. 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(9).
 - J. Prescribed, dispensed or administered controlled substances or narcotic drugs in excess of the amount considered good

medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 O.S. §509(16) and OAC 435:10-7-4(2) and (6).

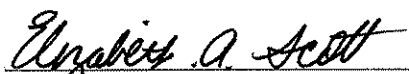
- K. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- L. Prescribed, sold administered, distributed, ordered, or gave to a habitué or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4(25).
- M. 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 or herself in violation of OAC 435:10-7-4(26).
- N. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- O. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

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 30th day of November, 2007 at 7:30 a.m.

Respectfully submitted,



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