

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

FILED

APR 14 2008

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

Plaintiff

v.

MILLARD LAFAYETTE HENRY, M.D.,
LICENSE NO. 18023,

Defendant.

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 08-01-3447

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, Millard Lafayette Henry, M.D., Oklahoma license no. 18023, 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, Millard Lafayette Henry, M.D., holds Oklahoma license no. 18023.

PRIOR DISCIPLINARY ACTION

3. On or around August 28, 1998, Defendant engaged in physical conduct with a patient which was sexual in nature. Specifically, Defendant allowed manual genital manipulation upon himself to occur in his office.
4. After hearing by the Board en banc, the Board issued an Order accepting a Voluntary Submittal to Jurisdiction dated January 20, 2000 whereby Defendant's license was **FORMALLY REPRIMANDED** and he was placed on a **TWO (2) YEAR PROBATION** beginning January 20, 2000.

CURRENT UPROFESSIONAL CONDUCT ALLEGATIONS

PATIENT DNW

5. A review of Defendant's records reveals that Defendant began treating Patient DNW, a twenty-eight (28) year old female, on or around April 3, 2007 and continuing through February 19, 2008. Defendant's records reflect that Patient DNW was treated for alleged chronic back pain on at least twenty-one (21) different occasions in Defendant's office during this time period.

6. During this time, Patient DNW's chart reflects that Defendant wrote or authorized numerous prescriptions to her for Lortab, a Schedule III controlled dangerous substance, and for Soma and Ambien, Schedule IV controlled dangerous substances. Defendant's chart reflects that he additionally wrote, administered or authorized prescriptions for non-controlled dangerous drugs to Patient DNW. These medications include Ultracet, Motrin, Fioricet, Flexeril, Z-Pack, Naprosyn and Medrol Dose-pack. Defendant additionally administered numerous injections of medications for Patient DNW's alleged back pain.

7. During the patient's third visit to Defendant's office, Defendant closed the exam room door and blocked it so that his nurse could not be present during the exam. During this visit, Defendant began engaging in sexual activity with Patient DNW.

8. During the next ten (10) to eleven (11) office visits, Patient DNW and Defendant engaged in oral sex. On each of these office visits, Defendant blocked the door to the exam room so that his nurse could not be present during the sexual activity.

9. Defendant subsequently asked Patient DNW to meet him outside the office to have sex. Defendant and Patient DNW met at a Sonic drive-in, then travelled to a Wal-Mart parking lot together, but did not have sex since there were too many people in the parking lot at that time.

10. During one of Patient DNW's office visits with Defendant, he took a picture of her vaginal area with his cell phone camera.

11. During the course of their sexual relationship, Patient DNW claims that Defendant gave her several pre-signed prescriptions for Lortab with no name on them for Patient DNW's use.

12. Patient DNW and two (2) other individuals were subsequently arrested for attempting to pass the pre-signed prescriptions. At this time, Board investigators learned of the sexual relationship between Patient DNW and Defendant.

BOARD AND OBN UNDERCOVER INVESTIGATION

13. Board investigators and OBN agents then met with Patient DNW and asked her to wear a recording device into an office visit with Defendant in an attempt to corroborate her claim that she and Defendant had engaged in a sexual relationship. Patient DNW agreed to the investigators' request.

14. On February 19, 2008, while equipped with both an audio and video recording device, Patient DNW arrived for her office visit with Defendant. A female OBN agent accompanied her to the visit posing as a friend. The OBN agent waited in the waiting room while Patient DNW went back to the exam room with Defendant. A review of the recordings reflects that Defendant and Patient DNW initially engaged in sexual conversations. Defendant then exposed his penis and asked Patient DNW to perform oral sex on him. Patient DNW told Defendant she had to go tell her friend in the waiting room to leave since it was going to take awhile. Patient DNW left the exam room and she exited the building with the OBN agent.

15. Board investigator Steve Washbourne along with another OBN agent entered Defendant's office and asked to speak with him. When confronted with the audio and video recordings, Defendant admitted that he had exposed his penis to Patient DNW. Defendant further admitted that other sexual encounters had occurred in his office with Patient DNW. Defendant admits that he engaged in these sexual acts at the same time that he was maintaining a doctor-patient relationship and prescribing controlled dangerous substances and other dangerous drugs to this patient.

16. Investigator Washbourne asked Defendant if he had ever met Patient DNW outside of the office. Defendant lied and stated "NO". When confronted with Patient DNW's claim that they had met at a Sonic drive-in, then moved to the Wal-Mart parking lot, Defendant then admitted that he had met Patient DNW at the Wal-Mart parking lot with the intent to have sex with her.

17. Investigator Washbourne then asked Defendant if he had engaged in any sexual encounters with any patients other than Patient DNW and the patient involved in the disciplinary action in 2000, to which Defendant lied and answered "NO".

18. Approximately one (1) week later, Defendant admitted to an assessment facility that he had become sexually involved with approximately **6 PATIENTS** over the past ten (10) years, rather than the two (2) he had previously admitted to Investigator Washbourne.

PRESCRIBING VIOLATIONS

19. Defendant additionally admitted to the assessment facility that he had taken Ambien for some time during 2007. However, a review of pharmacy records reflects that Defendant has not received a valid prescription for Ambien at any time from July 1, 2006 until the present.

20. 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. Wrote a false or fictitious prescription 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 (11).
- G. Engaged in indiscriminate or excessive prescribing, dispensing or administering of Controlled or Narcotic drugs in violation of OAC 435:10-7-4(1).
- H. Prescribed, dispensed or administered a controlled substance or narcotic drug in excess of the amount considered good medical practice or prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standard in violation of OAC 435:10-7-4(2) and (6).
- I. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- J. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- K. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

- L. 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) and (26).
- M. 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 14th day of April, 2008 at 12:00 p.m.

Respectfully submitted,



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Oklahoma State Board of Medical
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