

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,)

APR - 4 2008

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff)

v.)

Case No. 08-01-3433

DAVID RAY MITCHELL, M.D.,)
LICENSE NO. 19340,)

Defendant.)

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, David Ray Mitchell, M.D., Oklahoma license no. 19340, 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, David Ray Mitchell, M.D., holds Oklahoma license no. 19340 and is a practicing psychiatrist in Tulsa, Oklahoma.

3. Beginning in or around June 1995 and continuing through the end of September 2007, Defendant practiced at Laureate Psychiatric Clinic and Hospital in both the inpatient and outpatient eating disorders unit.

4. Defendant admits that he began treating Patient DML beginning in or around October 2006 and continuing through September 5, 2007. Defendant treated Patient DML in the Laureate outpatient clinic for both bulimia and anorexia. Defendant's treatment of Patient DML consisted of medication management as part of her therapy for her eating disorder. Defendant treated Patient DML both individually and in group settings.

5. During this time, Defendant prescribed Patient DML both an anti-depressant and Klonopin on several occasions.

6. In or around the end of September 2007, Defendant resigned from Laureate after being previously demoted due to an incident where he made a sexually inappropriate comment to a female patient.

7. Defendant admits that beginning in or around the end of September 2007 and continuing through the end of December 2007, Defendant engaged in sexual intercourse with Patient DML. Both Defendant and Patient DML were married at the time of the sexual conduct. Defendant engaged in these sexual acts on numerous occasions in his office at Laureate, at hotels, in his car and at Patient DML's family cabin.

8. During the course of their sexual relationship, Patient DML became distraught over her relationship with Defendant and seriously "cut herself", thereby necessitating an inpatient hospital stay for psychiatric care.

9. On or about December 29, 2007, Patient DML and Defendant ended their sexual relationship. Patient DML eventually confessed the sexual relationship to her counselor, who contacted Defendant and advised him that if he did not report his misconduct to the Board, that she would. Defendant then contacted Board staff and reported his sexual misconduct.

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 (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).

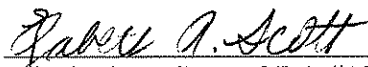
- F. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- G. Is unable to practice medicine with reasonable skill and safety to patients by reason of ... any mental or physical condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

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 4~~th~~ day of April, 2008 at 2:00 p.m.

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 State of Oklahoma ex rel.
Oklahoma State Board of Medical
Licensure and Supervision