

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,)

MAY 16 2003

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)
DAVID L. ROGERS, M.D.,)

Case No. 02-09-2551

LICENSE NO. 19924)

Defendant.)

APPLICATION TO DETERMINE EMERGENCY

Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("State"), seeks to have an emergency declared to enable the Secretary of the Board to conduct an emergency suspension hearing against Defendant, David L. Rogers, M.D., Oklahoma medical license number 19924, as authorized under 59 Okla. Stat. §503.1 and 75 Okla. Stat. §314. In support of this application, the State submits the following:

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.* (the "Act"). Under Section 503.1 of the Act, the Secretary of the Board may determine that "an emergency exists for which the immediate suspension of a license is imperative for the public health, safety and welfare."

2. Defendant, David L. Rogers, M.D., holds Oklahoma license no. 19924, and is authorized to practice as a physician and surgeon in the State of Oklahoma.

3. Prior to and during 1994, Defendant was a licensed physician in the State of Arkansas. During this time, Defendant engaged in sexual relationships with three (3) separate female patients in the State of Arkansas. As a result of this sexual misconduct, Defendant obtained treatment at Del Amo Hospital.

4. In 1996, Defendant applied for licensure in the State of Oklahoma. During the application process, Defendant revealed the prior sexual misconduct in the State of Arkansas. Based upon his prior sexual misconduct, the Board issued Defendant a license under a five (5) year term of probation to begin November 14, 1996.

5. On or about May 3, 2001, the Board terminated Defendant's probation early so as to allow him to take his Family Practice Board examination.

6. On or about April 16, 2002, Defendant called Patient DMB at her home to discuss her treatment. During the telephone conversation, Defendant asked Patient DMB if she and her husband would be willing to engage in a sexual "threesome" in exchange for Lortab. Patient DMB declined Defendant's offer and complained to the Board. In September 2002, Board investigator Birdsong questioned Defendant about this alleged incident and Defendant denied that it had occurred. When later questioned by Board investigator Washbourne on April 30, 2003, Defendant admitted that he had lied to investigator Birdsong, in that he had propositioned Patient DMB to have a "threesome" with her and her husband.

7. Beginning in early to mid-2002, Defendant met TCW through a chat line on the telephone. At that time, Defendant advised TCW that if she would set him up with sexual partners, he would give her controlled dangerous substances. Under the arrangement between Defendant and TCW, Defendant would give TCW the money to pay for the prescriptions, he would call them in under her name and various other names, and she would give him back some of the controlled dangerous substances. TCW admits that Defendant ingested some of the Hydrocodone in her presence and additionally smoked marijuana in her presence. In return for the controlled dangerous substances, on several occasions, TCW met Defendant at the Habana Inn in Oklahoma City, Oklahoma. Pursuant to Defendant's request, she approached numerous men at the hotel bar and arranged for the men to meet Defendant at the motel for the purpose of having sexual intercourse with him. TCW observed Defendant ingesting Xanax at the motel and then having sex with the men, all in exchange for controlled dangerous substances.

8. Beginning in or around September 2002 and continuing through November 2002, Defendant engaged in physical conduct with TCW which was sexual in nature. Specifically, Defendant engaged in sexual intercourse with TCW at at least two (2) motels in Oklahoma City, Oklahoma. Defendant engaged in these sexual acts at the same time that he was prescribing controlled dangerous substances, including Lortab and Xanax, to her. At one point, TCW was receiving approximately 300 pills per week from Defendant, in her own name as well as other names she would ask him to call the prescriptions in under. Defendant admitted performing these acts of sexual misconduct to the Board investigator. Defendant additionally admitted that he knew that TCW was selling some of the controlled dangerous substances that Defendant was prescribing to her. A review of Defendant's records reveals that Defendant kept no chart on TCW, that he did not perform a physical examination on her, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he did not maintain any office record which accurately reflected the evaluation, treatment and medical necessity of treatment of the patient.

9. On or about October 26, 2002, Defendant called in a prescription for Hydrocodone for SSW, a friend of TCW. A review of Defendant's records reveals that Defendant kept no chart on SSW, that he did not perform a physical examination on her, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a

valid physician patient relationship prior to prescribing the medications, and that he did not maintain any office record which accurately reflected the evaluation, treatment and medical necessity of treatment of the patient.

10. On or about October 27, 2002, Defendant wired \$250.00 to TCW in the name of her neighbor for the purpose of maintaining her silence with respect to their arrangement whereby they would exchange drugs for sex.

11. On or about November 20, 2002, Defendant called in a prescription for Hydrocodone for TCW in exchange for her promise to set him up with her neighbor for the purpose of having sexual intercourse. When Defendant arrived at the neighbor's home, no one was there so he called the pharmacy and rescinded the prescription to TCW. Later that same day, Defendant and TCW spoke on many occasions and Defendant again authorized the prescription for Hydrocodone for TCW. A review of Defendant's records reveals that Defendant kept no chart on TCW, that he did not perform a physical examination on her, that he did not establish a legitimate medical need for the medical treatment, that he did not establish a valid physician patient relationship prior to prescribing the medications, and that he did not maintain any office record which accurately reflected the evaluation, treatment and medical necessity of treatment of the patient.

12. On or about April 29, 2003, Board investigator Washbourne interviewed Defendant and questioned him regarding his relationship with TCW. At that time, Defendant denied knowing TCW. Subsequently, on April 30, 2003, Board investigator Washbourne again interviewed Defendant. At that time, Defendant admitted that he had lied to investigator Washbourne, in that he had given TCW controlled dangerous substances and had had sexual intercourse with her.

13. The State is basing its application for emergency upon the magnitude of the charges against Defendant, his prior history of sexual misconduct, his admission of the present sexual misconduct, and his knowledge that the drugs he was trading for sex were being sold to the public.

14. Defendant's prior history of sexual misconduct, his admission of the present sexual misconduct, his knowledge that the drugs he was trading for sex were being sold to the public, as well as the magnitude of charges against him, justify an emergency suspension hearing to protect the public health, safety and welfare.

WHEREFORE, the State respectfully requests that an emergency be declared, that an emergency suspension hearing be conducted by the Secretary and that the Secretary suspend Defendant's license until a hearing before the Board *en banc*.

Respectfully submitted,



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ATTORNEY FOR THE STATE

OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION