

**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.** )

**Case No. 02-09-2551**

**DAVID L. ROGERS, M.D.,** )  
**LICENSE NO. 19924,** )

**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 L. Rogers, M.D., Oklahoma license no. 19924, 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 L. Rogers, M.D., holds Oklahoma license no. 19924.

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. 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 (9) and OAC 435:10-7-4 (11).
  - B. 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).
  - C. Committed an act of sexual abuse, 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, manipulation or fraudulent representation 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 OAC 435:10-7-4(39).
- F. Was convicted of or confessed to a crime involving violation of the laws of this state in violation of 59 O.S. §509(8).
- G. Committed any 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).
- H. 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(12).  
  
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(13).
- J. Violated, or attempted to violate, directly or indirectly, any provision of this act, either as a principal, accessory or accomplice in violation of 59 O.S. §509(14).
- K. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4(45).
- L. Prescribed, dispensed or administered controlled substances or narcotic drugs 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 standards in violation of 59 O.S. §509(17).
- M. 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).
- N. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).

- O. 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).
- P. Dispensed, prescribed or administered a Controlled substance or Narcotic drug without medical need in violation of OAC 435:10-7-4(6).
- Q. Engaged in the use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).
- R. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).
- S. 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).
- T. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- U. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- V. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).
- W. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4(45).

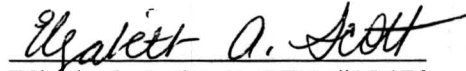
### *Conclusion*

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 16<sup>th</sup> day of May, 2003 at 9:00 a.m.

Respectfully submitted,



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