

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

FILED

JAN 15 2015

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*)
THE OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE AND)
SUPERVISION,)

Plaintiff,)

vs.)

Case No. 14-03-4937

DAVID L. GRAHAM, M.D.)
LICENSE NO. 20601,)

Defendant.)

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Jason T. Seay, Assistant Attorney General, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, David L. Graham, M.D., Oklahoma medical license no. 20601 who appears in person and through counsel, Elizabeth R. Sharrock, offer this Agreement effective January 15, 2015, for acceptance by the Board *en banc* pursuant to Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, the Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on May 23, 2014, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

The Defendant, David L. Graham, M.D., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for an evidentiary hearing on the allegations made against him. The Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. The Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that this agreement has been reviewed and discussed with him and his legal counsel.

Agreements and Stipulations

The Plaintiff, the Defendant and the Board Staff stipulate and agree 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 O.S. § 480 et seq.
- 2) The Defendant, David L. Graham, M.D., holds Oklahoma medical license no. 20601
- 3) This matter initiated as a result of a written complaint made by JT, related to HT, who was a patient and employee of the Defendant.
- 4) On or about April 8, 2014, Board Investigator SW interviewed HT. HT stated the Defendant treated JT between 2004 and 2006. In approximately 2007 or 2008 HT emailed the Defendant, and they subsequently began a relationship.
- 5) HT became an employee of the Defendant in 2011 and their sexual relationship continued. HT stated the Defendant prescribed medication to her during this time .
- 6) On or about April 23, 2014, Board Investigator SW interviewed the Defendant. The Defendant admitted that HT was a patient of his and they had been involved in a “long-term sexual relationship” which began in approximately 2008 and ended in March of 2014.
- 7) A review of HT’s medical chart revealed that HT became a patient of the Defendant in 2005 and continued to be a patient through 2013. A review of the prescription record revealed that HT received CDS medications from the Defendant in 2012 and 2013.

Conclusions of Law

1. The Defendant is guilty of unprofessional conduct in that he engaged in:
 - a) 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 Title 59 O.S. 2011, § 509(17);
 - b) Commission of any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee’s practice of medicine in violation of Oklahoma Administrative Code Section 435:10-7-4(23); and
 - c) Abuse of physician’s position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of Oklahoma Administrative Code Section 435:10-7-4(44).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction;
2. It is **ORDERED** that Defendant is hereby **PUBLICALLY REPRIMANDED**; and
3. It is **ORDERED** that the Defendant will be placed on **PROBATION** for a period of five (5) years and said probation shall have the following provisions:

Standard Terms:

- a) The Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by the Defendant until clarification of interpretation is received by the Defendant from the Board or its designee.
- b) The Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) The Defendant will keep the Board informed of his current address.
- d) The Defendant will keep current payment of all assessments by the Board for prosecution, investigation and monitoring of his case, which shall include, but is not limited to, a fee of one hundred fifty dollars (\$150.00) per month during the term of probation, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.

Until such time as all indebtedness to the Board has been satisfied, the Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

- e) The Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- f) The Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

The Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss the Defendant's case with the Defendant's treating physicians and/or any physicians holding the Defendant's records.

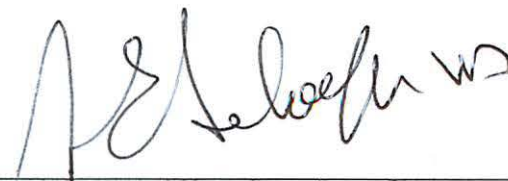
- g) Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify the Defendant's license after due notice and hearing. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

Specific Terms:

- h) Defendant shall follow all recommendations contained in the Palmetto Assessment dated 27 May 2014 with the single exception that Defendant shall be required to have a chaperone, to be approved of by Board staff, rather than a "work place monitor," as the term is used in Paragraph 5 on Page 3 of the Assessment.
- i) Defendant will attend a boundaries course to be approved by Board Secretary.
- j) Defendant will have an employee, approved of by Board staff, serve as chaperone while seeing patients.
- k) Defendant will see a Board-approved psychologist twice monthly until Board Secretary deems it no longer necessary.

- 1) Defendant will sign a five-year contract with Oklahoma Health Professionals, Inc. ("OHPP.")

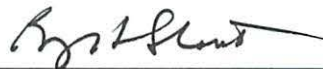
Dated this 9th day of January, 2015.



John William Kinsinger, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



David L. Graham, M.D.
License No. 20601



Billy H. Stout, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision



Elizabeth R. Sharrock, OBA No. 16934
PIERCE COUCH HENDRICKSON
BAYSINGER & GREEN
1109 N. Francis
Oklahoma City, OK 73106
Attorney for Defendant



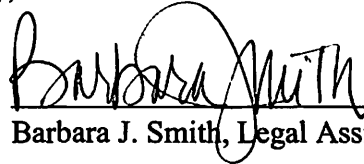
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– Primary Contact Information –

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Oklahoma City, Oklahoma 73105
405/962.1400
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Certificate of Service

I certify that on the 15th day of January, 2015, a true and correct copy of this Order was provided, postage prepaid, to Ms. Elizabeth Sharrock, PIERCE COUCH HENDRICKSON BAYSINGER & GREEN, 1109 N. Francis, Oklahoma City, OK 73106.


Barbara J. Smith, Legal Assistant

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