

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

**FILED**

MAR 18 2011

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

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

Plaintiff )

v. )

Case No. 10-04-3967

JAMES DULL RUTTER, IV, M.D., )  
LICENSE NO. 21574, )

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, James Dull Rutter, IV, M.D., Oklahoma license no. 21574, 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, James Dull Rutter, IV, M.D., holds Oklahoma license no. 21574 and practices internal medicine and pediatrics in Grove, Oklahoma.

3. On or about July 7, 2009, Patient TDD, a 35 year old female, approached Defendant at the Grove Hospital. Defendant knew Patient TDD because she was a nursing instructor and often brought nursing students to the hospital. Patient TDD advised Defendant that she was seeing a pain specialist in Tulsa for back problems but that she would be out of her pain medication before she could get in to see her doctor. Patient TDD advised Defendant that

she wanted Demerol so Defendant wrote her a prescription for ninety (90) Demerol pills “to get her through” until she could see her regular doctor.

4. Defendant admits that Patient TDD had never been a patient of his, he never performed a physical examination on her, and he did not keep a medical chart or any record of his prescription to Patient TDD.

5. Defendant admits that at the time Patient TDD asked for the Demerol, he did not observe Patient TDD limping, nor did he notice any physical signs of pain. He also admitted that he did not see any prescription bottle to confirm that Patient TDD was actually taking Demerol.

6. Defendant did not obtain Patient TDD’s medical records from her specialist in Tulsa to confirm what he was prescribing to her, but instead, immediately prescribed Demerol to Patient TDD on her request. In fact, Defendant’s specialist in Tulsa had **not** prescribed Demerol to her for over three (3) years.

7. On or about September 5, 2009, **Patient TDD was found dead** in her home. Vinita police officers who first arrived at her home found that Patient TDD had been injecting Demerol that she had crushed and had accidentally overdosed.

8. An investigation was subsequently conducted by the State Medical Examiner’s Office. The cause of Patient TDD’s death was ruled to be “Acute combined drug toxicity. Due to: Meperidine, Normeperidine.”

9. 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. Failed to conduct an initial in-person patient examination and to maintain adequate medical records to support the diagnosis, procedure, treatment or prescribed medications in violation of 59 O.S. §509 (20).
- C. 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).
- D. 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 (18) and OAC 435:10-7-4(41).

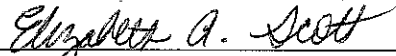
- E. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- F. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).
- G. Confessed to a crime involving violation of the antinarcotics laws and regulations of the federal government and the laws of this state in violation of 59 O.S. §509(7).
- H. 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(16) and OAC 435:10-7-4(2) and (6).
- I. Engaged in indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- J. Failed to establish a physician/patient relationship prior to providing patient-specific medical services, care or treatment in violation of OAC 435:10-7-4(49).

### *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 18<sup>th</sup> day of March, 2011 at 10:00 a.m.

Respectfully submitted,



Elizabeth A. Scott, OBA #12470  
Assistant Attorney General  
State of Oklahoma  
101 N.E. 51<sup>st</sup> Street  
Oklahoma City, OK 73105

Attorney for the State of Oklahoma ex rel.  
Oklahoma State Board of Medical  
Licensure and Supervision