

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

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

Plaintiff,)

FILED

JAN 26 2006

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

v.)

MARK EDWARD RIGNEY, M.D.,)
LICENSE NO. 22078,)

Defendant.)

Case No. 06-01-3053

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

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 for the State of Oklahoma, and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Mark Edward Rigney, M.D., Oklahoma license no. 22078, who appears in person and pro se, proffer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on January 26, 2006 and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Mark Edward Rigney, 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 evidentiary hearing on the allegations made against him. 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. Defendant further acknowledges that he is entitled to have his interests represented by legal counsel and that he has elected to proceed

without legal representation, thereby waiving his right to an attorney. Defendant acknowledges that he has read and understands the terms and conditions stated herein.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

Findings of Fact

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 Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.

2. Defendant, Mark Edward Rigney, M.D., holds Oklahoma license no. 22078 and is a family practitioner in Tecumseh, Oklahoma.

3. On or about June 29, 2001, Defendant was granted a Special Training License Under Terms of Agreement based upon a history of substance abuse. On or about May 9, 2002, Defendant was granted a full license under the same terms of agreement, which provides as follows:

- 5 Applicant will not prescribe, administer or dispense any medications for personal use.
- 6 Applicant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Applicant will have the affirmative duty to inform any and every doctor treating him of this Order prior to the commencement or continuation of treatment.
- 7 Applicant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.
22. Failure to meet any of the terms of this Agreement shall constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Applicant's license after due notice and hearing.

4. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's licensure under agreement.

5. On or around August 30, 2005, Defendant filled a prescription for fifty (50) Hydrocodone 7.5 mg. tablets prescribed by Erik Gunderson, M.D. as a result of knee surgery performed by Dr. Gunderson on or about August 26, 2005. Defendant admits that he originally

only picked up ten (10) of the tablets, but later went back to get the rest even though he admits he did not need them.

6. On or about September 2, 2005, Defendant contacted Sam Hague, M.D., a personal friend of Defendant's practicing in Blackwell, Oklahoma and obtained a prescription for six (6) Hydrocodone 7.5 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

7. On or about September 13, 2005, Defendant obtained another prescription from Dr. Gunderson for thirty (30) Hydrocodone 7.5 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

8. On or about October 3, 2005, Defendant obtained a prescription from Robert Scott Stewart, M.D., his employer, for thirty-one (31) Clonazepam .5 mg tablets, as well as samples of Ambien and Cymbaxa.

9. On or about October 10, 2005, Defendant obtained a prescription from Michael Salrin, D.O., for fourteen (14) Oxycodone ER 20 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

10. On or about October 24, 2005, Defendant again contacted Dr. Hague and obtained another prescription for eight (8) Hydrocodone 7.5 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

11. On or about October 26, 2005, Defendant again contacted Dr. Hague and obtained another prescription for eight (8) Hydrocodone 7.5 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

12. On or about October 28, 2005, Defendant again contacted Dr. Hague and obtained another prescription for six (6) Hydrocodone 7.5 mg. tablets. Defendant admits that he obtained these drugs without a legitimate medical need for them.

13. In or around September or October 2005, Defendant admits that he ingested Hydrocodone prescribed to his father.

14. In or around September or October 2005, Defendant admits that he took injectable Demerol from his employer intending to inject himself at home. Defendant took the injectable Demerol without the permission of his employer. Defendant claims that when he got home, he changed his mind and disposed of the Demerol without any witnesses.

15. Defendant is guilty of unprofessional conduct in that he:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

B. 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).

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. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant, Mark Edward Rigney, M.D., Oklahoma medical license 22078, is guilty of unprofessional conduct set forth below based on the foregoing facts:

A. Habitually uses habit-forming drugs in violation 59 O.S. §509(4) and OAC 435:10-7-4(3).

B. 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).

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. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physician condition in violation of 59 O.S. §509(15) and OAC 435:10-7-4(40).

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. The license of Defendant, Mark Edward Rigney, M.D., Oklahoma license no. 22078, is hereby **SUSPENDED** for a period of four (4) months beginning November 1, 2005 and continuing until March 1, 2006.
3. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be placed on **PROBATION** for a period of five (5) years following his suspension under the following terms and conditions:
 - A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.
 - B. Upon request of the Board Secretary, Defendant will request all hospitals in which he anticipates practicing to furnish to the Board Secretary of the Oklahoma State Board of Medical Licensure and Supervision a written statement regarding monitoring of his practice while performing services in or to that hospital.
 - C. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.
 - D. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
 - E. Defendant will not prescribe, administer, dispense or possess any drugs in Schedules I through V.

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

G. Defendant will submit biological fluid specimens to include, but not limited to, blood and urine, for analysis, upon request of the Oklahoma State Board of Medical Licensure and Supervision or its designee, and Defendant will pay for the analysis thereof.

H. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

I. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of the Board Order immediately upon initiation, or continuation of treatment.

J. Defendant will have the affirmative duty not to ingest any substance, including but not limited to alcohol, which will cause a body fluid sample to test positive for prohibited substances.

K. Defendant will authorize in writing the release of any and all information regarding his treatment at Rush and any other records of his medical, emotional or psychiatric treatment to the Oklahoma State Board of Medical Licensure and Supervision.

L. Defendant will abide by the terms and recommendations of his postcare contracts with Rush and the Physicians' Recovery Program.

M. Defendant will attend four (4) meetings per week of a local 12-step program, to include the weekly Physicians' Recovery Program meetings.

N. Defendant will enter and continue counseling with Thomas Vaughn or another therapist approved in advance by the Board Secretary, and will authorize in writing the release of any and all records of that treatment to the Board or its designee. Defendant

shall additionally submit quarterly reports from his therapist to the Board Secretary for his review. Defendant will remain in counseling until both the counselor and the Board Secretary authorize his release from counseling.

O. Defendant shall not practice in excess of fifty (50) hours per week unless agreed to in advance in writing by the Board Secretary.

P. Defendant shall practice in a controlled environment approved in advance by the Board Secretary.

P. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

Q. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

R. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

S. Defendant will keep current payment of all assessments by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case, which shall include but is not limited to a one hundred dollar (\$100.00) per month fee during the term of probation.

T. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

U. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

V. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

W. 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 Defendant's license after due notice and

hearing.

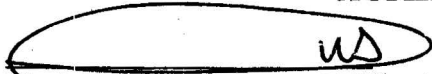
4. Defendant's suspension will be lifted, and his license will be reinstated only upon payment in full of all costs and expenses incurred by the State of Oklahoma prior to January 27, 2006.

Dated this 26 day of January, 2006.

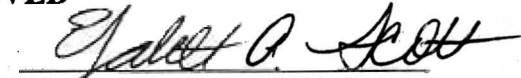


Dianne Gasbarra, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED

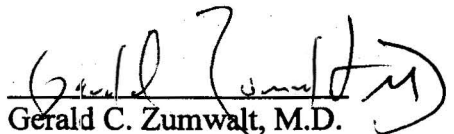


Mark Edward Rigney, M.D.
License No. 22078



Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118

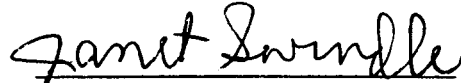
Attorney for the Oklahoma State
Board of Medical Licensure and
Supervision



Gerald C. Zumwalt, M.D.
Secretary and Medical Advisor
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 27 day of January, 2006, I mailed a true and correct copy of the Order Accepting Voluntary Submittal to Jurisdiction to Mark Edward Rigney, 502 N. Broadway, Tecumseh, OK 74873.


Janet Swindle
Janet Swindle