

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,)

Plaintiff,)

v.)

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

Defendant.)

FEB 06 2009

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 06-01-3053

FINAL ORDER OF SUSPENSION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on January 29, 2009, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel and the witnesses, reviewing the pleadings filed, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

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.* 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 medical license no. 22078.
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, he was granted a full license under the same terms of agreement.

4. On or about January 26, 2006, Defendant and the Board entered into a Voluntary Submittal to Jurisdiction whereby Defendant was **SUSPENDED** for four (4) months beginning November 1, 2005 and continuing until March 1, 2006, to be followed by a five (5) year **PROBATION**. Defendant's suspension and probation were based upon substance abuse.

5. On June 23, 2006, the Board accepted Defendant's **VOLUNTARY SURRENDER OF LICENSE IN LIEU OF PROSECUTION** based upon Defendant's substance abuse.

6. On or about May 15, 2008, the Board entered an Order Granting Reinstatement of License Under Terms of Probation. The Order provides that Defendant shall be on **INDEFINITE PROBATION** as follows:

- 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.
- L. Defendant will abide by the terms and recommendations of his postcare contracts with Rush and the Physicians' Recovery Program.
- Q. Defendant shall promptly notify the Board of any relapse, including any entry, or re-entry, into a treatment program for substance abuse.

7. 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 the terms of the Final Order of Probation.

8. On or about July 28, 2008, Defendant tested positive for Tramadol on a drug test performed by the Oklahoma Health Professionals Recovery Program. Defendant did not have a valid prescription for Tramadol.

9. On or about July 30, 2008, Defendant again tested positive for Tramadol on a drug test performed by the Oklahoma Health Professionals Recovery Program. Defendant did not have a valid prescription for Tramadol.

10. After his two (2) positive drug tests, Defendant was advised by the Oklahoma

Health Professionals Recovery Program to contact the Board to advise the Board of his relapse. However, Defendant failed to do so.

11. Defendant is guilty of unprofessional conduct in that he:
 - A. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
 - B. 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).
 - C. 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).
 - D. 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).

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 is guilty of unprofessional conduct in that he:
 - A. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
 - B. 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).

C. 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).

D. 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).

3. The Board further found that the Defendant's license should be suspended based upon any or all of the violations of the unprofessional conduct provisions of 59 Okla. Stat. §509 (8), (13) and (15), and OAC 435:10-7-4 (11), (26), (39) and (40).

Order

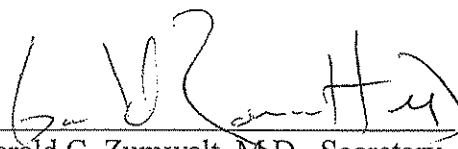
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The license of Defendant, Mark Edward Rigney, M.D., Oklahoma license no. 22078, is hereby **SUSPENDED INDEFINITELY** beginning January 29, 2009 and continuing for a minimum of **SIX (6) MONTHS** after which time Defendant may appear before the Board to seek reinstatement of his license. At that time, Defendant shall advise the Board of any potential employment and his activities during his suspension. If the Board agrees to reinstate Defendant's medical license, probationary terms will be set at that time.

2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

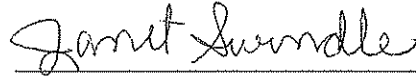
3. Defendant's suspended license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs.

Dated this 6 day of February, 2009.


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

CERTIFICATE OF SERVICE

I certify that on the 10 day of February, 2009, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order of Suspension to Mark Rigney, 1922 Glenbrook Meadows, Garland, TX 75040.



Janet Swindle