

**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.

**GARY MICHAEL KRAMER, M.D.,
LICENSE NO. 22848,**

Defendant.

JUN - 9 2005

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 04-04-2800

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, Gary Michael Kramer, M.D., Oklahoma license no. 22848, 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, Gary Michael Kramer, M.D., holds Oklahoma license no. 22848.
3. On or about April 1, 2002, Defendant submitted his Application for Licensure in the State of Oklahoma. On his application, Defendant was asked the following question:

"Have you ever been named as a defendant in a civil suit (include malpractice)?"

In response to this question, Defendant answered "yes" and attached an explanation reflecting that he had been named as a defendant in the following four (4) separate medical malpractice cases:

- a. Case brought by Kenneth Williams filed in April 1995 in Wyandotte County, Kansas District Court, Case No. 95C1971 settled for \$110,000.00.
- b. Case brought by Rosella Nelson-Morrisroe filed in October 1997 in Wyandotte County, Kansas District Court, Case No. 97C4508 settled for \$130,000.00.
- c. Case brought by Timothy Vaughn filed in Wyandotte County, Kansas District Court, Case No. 97C05231 settled for \$40,066.00.
- d. Case brought by fourteen year old female filed in Finney County, Kansas District Court, Case No. 01C65 settled for \$5,000.00

4. On July 18, 2002, Defendant appeared before the Board on his licensure application. When questioned about lawsuits against him, Defendant testified under oath as follows:

Frische: Doctor, when the times that you've been sued, looks like the first one was for an incident in 1993; when was the last incident, the fourth case, when was the incident actually?

Kramer: I want to say 1999.

Frische: 1999, so in six years four lawsuits.

Kramer: Yes sir.

5. After examining Defendant's application and attachments and hearing the sworn testimony of Defendant, the Board voted to issue Defendant's Oklahoma medical license.

6. Subsequent to the Board's issuance of Defendant's Oklahoma medical license, Board staff learned that Defendant had also been named as a Defendant in the following medical malpractice cases:

- a. Case brought by Fred Robinson filed August 4, 2000 in Finney County, District Court of Kansas, Case No. 00C207. Defendant filed an Answer

on September 13, 2000 and the case was set for Jury Trial on November 18, 2002, with a defense verdict.

- b. Case brought by Marla Romesburg filed April 19, 2000 in Finney County, District Court of Kansas, Case No. 00C85. Defendant filed an Answer on May 11, 2000 and the case was settled for \$150,000.00.

Case brought by Bernetha Dreiling filed April 5, 2000 in Finney County, District Court of Kansas, Case No. 00C72. Defendant filed an Answer on October 30, 2000 and the case was settled on November 1, 2004 for \$88,000.00.

- d. Case brought by Heirs of Karl Giesick filed May 9, 2001 in Finney County, District Court of Kansas, Case No. 01C103. Defendant was served on May 23, 2001 and the case was settled for \$450,000.00.
- e. Case brought by Betsy Glunt filed June 18, 2001 in Finney County, District Court of Kansas, Case No. 01C145. Defendant filed an Answer on October 17, 2001.
- f. Case brought by Charles Fenton filed April 5, 2001 in Finney County, District Court of Kansas, Case No. 01C85. Defendant filed an Answer on April 27, 2001 and the case was settled for \$75,000.00

7. A review of Defendant's Application for Licensure filed April 1, 2002 and the statements he made at his hearing on July 18, 2002 reveals that Defendant failed to disclose any of these six (6) additional malpractice cases in which he had been named as a defendant.

8. On or about May 19, 2003, Defendant submitted his Application for Renewal of Oklahoma License. On his application, Defendant was asked the following question:

"Since the last renewal or initial licensure (whichever is most recent): ...
Have you been named as a defendant in a civil suit (including malpractice)?"

In response to this question, Defendant answered "NO."

9. Court records in the State of Kansas reveal that Defendant was named as a defendant in the following medical malpractice case:

- a. Case brought by Rhonda Anderson filed December 12, 2002 in the United States District Court for the District of Kansas, Case No. 02-2624-JWL. Defendant filed an Answer on February 5, 2003 and the case was settled for \$200,000.00.

10. A review of Defendant's Application for Renewal of Oklahoma License submitted May 19, 2003 reveals that Defendant failed to disclose the medical malpractice case filed by Rhonda Anderson.

11. On or about June 21, 2004, Defendant submitted his Application for Renewal of Oklahoma License. On his application, Defendant was asked the following question:

"Since the last renewal or initial licensure (whichever is most recent): ...
Have you been named as a defendant in a civil suit (including malpractice)?"

In response to this question, Defendant answered "NO."

12. Court records in the State of Kansas reveal that Defendant was named as a defendant in the following medical malpractice cases:

- a. Case brought by Johnanna Borden filed July 2, 2003 in the United States District Court for the District of Kansas, Case No. 03-1227-JTM. Defendant filed an Answer on July 29, 2003. The case was voluntarily dismissed on February 2, 2004.
- b. Case brought by Brenda Kidd filed March 2, 2004 in the United States District Court for the District of Kansas, Case No. 04-1059-MLB. Defendant filed an Answer on March 31, 2004. On March 17, 2005, the case was dismissed and transferred to another district.
- c. Case brought by Donald Phelps, et al. filed August 5, 2003 in the United States District Court for the District of Kansas, Case No. 03-1282-MLB. Defendant filed an Answer on August 26, 2003. The case is still pending.

- d. Case brought by Frederick Berndt filed August 5, 2003 in the United States District Court for the District of Kansas, Case No. 03-1283-JTM. Defendant filed an Answer on August 26, 2003. The case is still pending.
- e. Case brought by Donna Stanton filed March 30, 2004 in the United States District Court for the District of Kansas, Case No. 04-1109-JTM. Defendant was served on April 3, 2004. The case is still pending.
- f. Case brought by Larry Holum filed May 3, 2003 in Finney County, District Court of Kansas, Case No. 03C170. Defendant filed an Answer on June 24, 2003. The case is still pending.

13. A review of Defendant's Application for Renewal of Oklahoma License submitted June 21, 2004 reveals that Defendant failed to disclose any of these six (6) additional medical malpractice cases in which he had been named as a defendant.

14. Title 59 O.S. §508 provides as follows:

"Whenever any license has been procured or obtained by fraud or misrepresentation...it shall be the duty of the State Board of Medical Licensure and Supervision to take appropriate disciplinary action in the same manner as is provided ... for the disciplining of unprofessional conduct."

Section 508 further provides as follows:

"Use of fraudulent information to obtain a license shall be a misdemeanor offense, punishable, upon conviction, by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary for not more than one (1) year, or by both such fine and imprisonment."

- 15 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. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying

for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

- 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 OAC 435:10-7-4(39) and 59 O.S. §509(13).
- D. 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).

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 9th day of June, 2005 at 3:00 p.m.

Respectfully submitted,



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Oklahoma State Board of Medical
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