

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

FILED

SEP 19 2008

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

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 08-01-3448

BRIAN KEITH RICH, M.D.,)
LICENSE NO. 24887)

Defendant.)

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 18, 2008, 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 through counsel, David Ogle.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, 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.* 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, Brian Keith Rich, M.D, holds Oklahoma medical license no. 24887 and practices in emergency rooms in the Oklahoma City area.

3. On or about January 31, 2006, Defendant submitted his application for an Oklahoma medical license. In response to the question "Have you ever been the subject of disciplinary action by a hospital, clinic, residency program or professional school?", Defendant answered "Yes". In his attached written explanation, Defendant stated that he was disciplined during medical school at Ross University during his fourth year when he submitted evaluations to be completed by his preceptors. He explained that he mistakenly completed the evaluations from his preceptors rather than allowing them to complete the evaluations. He further explained that the situation was resolved when Ross University allowed him to transfer to another medical school.

4. Based upon these explanations by Defendant, Board staff requested an explanation from Ross University. According to the university, Defendant submitted to Ross a clerkship evaluation allegedly signed by a clinical faculty member at the University of Texas, Southwestern Medical Center. Ross later learned that the evaluation was not in fact signed by the clinical faculty member whose purported signature appeared on the evaluation, but was instead signed by Defendant. Based upon this incident, Defendant was dismissed from Ross University. Defendant notified the university that he was appealing the dismissal, then withdrew his appeal and transferred to the Central America Health Sciences University, Belize Medical College in Belize, Central America. His final status with Ross University was "withdrew while appeal pending".

5. As part of his initial application for licensure, Defendant additionally stated in his attached written explanation that he had been disciplined during his second year of residency at Louisiana State University Health Sciences Center ("LSU-HSC"). Defendant stated that he overslept one morning and was "not honest with my program director as to where I was." As a result of this incident, Defendant was forced to serve a year of probation and repeat his second year of residency.

6. Based upon this explanation, Board staff requested an explanation from LSU-HSC. According to the university, Defendant falsified a history and physical exam on a patient scheduled for an outpatient endoscopy. He copied the exam done by another physician and signed his name in an attempt to cover up his absence. Based upon this incident, Defendant repeated his second year of residency on probation.

7. On or about May 11, 2006, Defendant appeared before the Board on his licensure application. After consideration of the documents submitted and Defendant's explanations, the Board issued Defendant a full medical license.

8. On or about November 28, 2007, Defendant was working at the Integris Canadian Valley Regional Medical Center in Yukon, Oklahoma in the emergency department. This was the first and only time Defendant worked at this facility. Hospital video surveillance tapes reflect that when Defendant entered the hospital, he was not wearing or carrying any jacket or coat. The video additionally shows a nurse, Marcie Everett, entering the hospital a short time later wearing a red medi-flight jacket with a value of approximately \$450.00. The video later shows Defendant entering the break room, then approximately two (2) minutes later, Defendant is seen exiting the

hospital with the medi-flight jacket belonging to Ms. Everett turned inside out, rolled up, and under his arm.

9. When Ms. Everett learned her jacket was missing, she contacted hospital security personnel, who then reviewed the videotapes showing Defendant leaving with her jacket. Dr. Moore of Canadian Valley Hospital called Defendant the day after the incident, at which time Defendant denied stealing the jacket and told him the coat he carried out with him was a coat he had brought into the hospital. Robby Frantz, M.D. then called Defendant and asked to meet with him regarding this incident. Defendant refused to meet with him or any other hospital staff. Dr. Frantz additionally gave Defendant multiple opportunities to return the jacket, but Defendant refused. Defendant has not returned to work at this facility since this incident.

10. Canadian Valley Hospital turned over the video tapes to the Yukon Police Department for its investigation of this theft by Defendant.

11. On or about February 6, 2008, Board Investigator Steve Washbourne contacted Defendant and asked him to meet with him. When asked if he had stolen the jacket, Defendant initially lied to the Board investigator. He made up different stories on how he did not steal the jacket, or how he may have inadvertently taken it.

12. When Board investigators confronted Defendant with the indisputable video evidence, he finally admitted he had been lying to the hospital and Board investigators and that he had in fact stolen the jacket. Board investigators asked him if he still had the jacket, to which he admitted that he did. Board investigators asked him to retrieve the jacket and bring it back to the Board offices immediately, which he did. The jacket remains in the Board investigator's possession at this time.

13. On or about February 26, 2008, Defendant was arrested for Domestic Abuse/Assault & Battery. According to the police report, Defendant pushed and scratched his wife, then grabbed her by her throat. At this time, Defendant was arrested and booked into jail at the Oklahoma County Detention Center.

14. Between March 17, 2008 and March 20, 2008, Defendant submitted to an assessment at the Santé Center for Healing. When specifically asked if he had ever been arrested or convicted for any misdemeanor or felony offense, Defendant answered "No."

15. On or about April 14, 2008, 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 arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?"

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

16. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Confessed to a crime involving violation of the laws of this state in violation of 59 O.S. §509(7).
- B. Engaged in 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. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- D. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).
- E. 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).
- F. 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).

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. Confessed to a crime involving violation of the laws of this state in violation of 59 O.S. §509(7).
- B. Engaged in 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. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).
- D. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).
- F. 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).
- F. 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).


3. The Board further found that the Defendant's license should be **REVOKED** based upon any or all of the violations of the unprofessional conduct provisions of 59 Okla. Stat. §509(7) and (8), and OAC 435:10-7-4 (8), (11), (19), (37) and (38).

Order

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

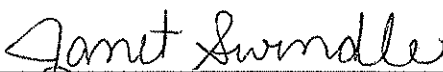
1. The license of Defendant, Brian Keith Rich, M.D., Oklahoma license no. 24887, is hereby **REVOKED** as of the date of this hearing, September 18, 2008.
2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
3. Defendant's revoked license shall not be reinstated unless Defendant has reimbursed the Board for all taxed costs and expenses incurred by the State of Oklahoma.

Dated this 19 day of September, 2008.


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

CERTIFICATE OF SERVICE

I certify that on the 19 day of September, 2008, I mailed, via first class mail, postage pre-paid, a true and correct copy of this pleading to J. David Ogle, Ogle & Welch, P.C., 117 Park Avenue, Third Floor, Oklahoma City, OK 73102 and to Brian Keith Rich, 1109 WB Meyer, Edmond, OK 73025.



Janet Swindle