

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

STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE AND
SUPERVISION,

Plaintiff,

DAVID D. ROSE, M.D.
Medical License No. 7472

CASE NO. 90-09-111

Defendant

FINAL ORDER

This cause came on for hearing before the Oklahoma Board of Medical_Licensure and Supervision on February 1, 1991, at the office_of the Oklahoma State Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Charles A. Milor, Colbert, Colbert & Milor, Attorney at Law, Ardmore, Oklahoma, appeared for the Defendant.

The Board of Medical Licensure and Supervision en banc heard the oral argument of counsel, reviewed exhibits, and being fully advised in the premises, the Board of Medical Licensure and Supervision finds as follows:

FINDINGS OF FACT

1. That Defendant, David D. Rose, M.D., holds Oklahoma Medical License No. 7472.

2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.

3. That from June 1, 1990, through October 31, 1990, Defendant wrote approximately 411 prescriptions for 25,720 dosage units of controlled dangerous substances, plus 12 prescriptions in other forms totaling 1,560 units.

4. That a prescription survey conducted in reference to certain schedule drugs reveals that patient J.P. received approximately six prescriptions for 600 dosage units of controlled dangerous substances from July 11, 1990, to September 4, 1990, for an average of 10.71 dosage units per day.

5. That the survey reveals that patient R.B. received approximately five prescriptions for 600 dosage units of controlled dangerous substances from June 7, 1990, to October 5, 1990, for an average of 4.96 dosage units per day.

6. That the survey reveals that patient D.T. received approximately 10 prescriptions for 720 dosage units of controlled dangerous substances from June 5, 1990, to October 10, 1990, for an average of 5.63 dosage units per day.

7. That the survey reveals that patient R.B. received approximately 15 prescriptions for 1,160 dosage units of controlled dangerous substances from June 16, 1990, to October 30, 1990, for an average of 8.47 dosage units per day.

8. That the survey reveals that patient D.H. received approximately 10 prescriptions for 950 dosage units of controlled dangerous substances from June 29, 1990, to October 19, 1990, for an average of 8.41 dosage units per day.

9. That all of the above, in addition to other patient records, reveal that Defendant prescribed controlled dangerous substances in excess of the amount considered for the medical need presented.

CONCLUSIONS OF LAW

1. That David D. Rose, M.D., holding Oklahoma Medical License No. 13875, is in violation of the Oklahoma Medical Practice Act, 59 O.S. 1981, Sec. 509, Paragraph 17, to-wit:

"17. Prescribing, dispensing or administering of controlled substances or narcotic drugs in excess of the amount considered good medical practice, or prescribing, dispensing or administering controlled substances or narcotic drugs without medical need in accordance with published standards."

2. That David D. Rose, M.D., is in violation of the Rules and Regulations promulgated by this Board, specifically Section X, Rules 1A, 1B, and 1F, to-wit:

"Rule 1A: Indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs."

"Rule 1B: Prescribing, dispensing or administering of controlled or narcotic drugs in excess of the amount considered good medical practice."

"Rule 1F: Dispensing, prescribing or administering a controlled substance or narcotic drug without medical need."

ORDER

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

1. That the Defendant, David D. Rose, M.D., holding Oklahoma Medical License No. 7472, should be and is hereby FORMALLY REPRIMANDED for unprofessional conduct in prescribing controlled dangerous substances.

2. That as a condition of his reprimand Defendant shall, for the next 12 months, follow the conditions set forth below:

(a) During the 12-month period Defendant may prescribe controlled dangerous substances only on serially-numbered, duplicate prescription pads and shall make the copies available to Investigators of the Oklahoma State Board of Medical Licensure and Supervision at their request.

(b) During the 12-month period Defendant will furnish to the office of the Oklahoma State Board of Medical Licensure and Supervision all current legal addresses and any change of address in writing.

- (c) During the 12-month period Defendant shall appear before the Board or a designated member thereof whenever requested to do so.
- d) During the 12-month period Defendant will submit to the Investigation Division of the Oklahoma State Board of Medical Licensure and Supervision any required reports and forms on a timely and prompt basis.
- (e) Pursuant to Section 26, H.B. 1478, 1987 Legislature, Defendant shall promptly pay within 30 days of receipt of invoice from the Investigation Division of the Board the costs of investigation and prosecution of this case, unless the Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- (f) During the 12-month period Defendant shall notify any hospital where he holds staff privileges, or clinic, or group where he practices, of the terms and conditions of this Final Order and supply a copy thereof.
- (g) That violation of any of the terms and conditions of this Order shall be grounds for additional charges to be presented to the Board after notice to the Defendant.

3. That the Board shall review Defendant's compliance with this Order at the end of the 12 months and that the jurisdiction of the Board in this individual proceeding will continue in this matter until the aforesaid terms are modified or withdrawn by the Oklahoma State Board of Medical Licensure and Supervision, either on their own motion or on the motion of the Defendant.

DATED this 14th day of February, 1991.

G. C. Zumwalt, M.D.
 GERALD C. ZUMWALT, M.D., Secretary
 State Board of Medical Licensure
 and Supervision

APPROVED AS TO FORM:
Daniel J. Gamino
 DANIEL J. GAMINO OBA #3227
 Daniel J. Gamino & Associates, P.C.
 3315 NW 63
 Oklahoma City, OK 73116
 (405) 840-3741
 ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 15 day of February, 1991, to:

CHARLES A. MILOR
 Colbert, Colbert & Milor
 200 Stanley Street
 P.O. Box 2169
 Ardmore, OK 73402

Janet L. Owens