

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, )

SEP 30 1998

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

v. )

CASE NO. 97-07-1914

JOHN T. FORSYTHE, M.D., )  
MEDICAL LICENSE NO. 7562 )

Defendant. )

**ORDER OF REVOCATION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on September 24, 1998, 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.

Susan Moebius Henderson, Assistant Attorney General, appeared for the Plaintiff. Defendant appeared neither in person nor by attorney. Defendant's attorney, Curtis A. Parks, submitted to the Board a sworn statement from Defendant stating that he pleaded no contest to the charges filed against him.

The Board *en banc* heard testimony and arguments of counsel, reviewed the exhibits admitted and the plea of Defendant, and after being fully advised in the premises, found 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.*
2. 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.
3. Defendant, John T. Forsythe, M.D., holds Oklahoma license no. 7562.

4. On August 31, 1998, an emergency suspension hearing was held on the last four counts of the First Amended Complaint. In lieu of presenting evidence and arguments at the emergency hearing, Defendant agreed to an emergency suspension pending a full hearing of all charges before the entire Board in September.

5. Until August 12, 1998 Defendant was registered to dispense controlled substances at 3606 N. Cincinnati, Tulsa, Oklahoma, 74106 under his DEA number BF2976516 and his OBN number 1-9680.

6. In December 1996, Defendant moved his practice to 2733 S. Harvard, Tulsa, Oklahoma. Defendant did not change his registered location for controlled drugs with the DEA and OBN as required by 63 Okla. Stat. §2-302 and ignored repeated advice from the Board investigator to change his registered location so that he could lawfully administer, dispense or store controlled drugs at his current practice location on South Harvard.

7. Defendant furnished to an OBN agent on May 7, 1997 two small, 1 ml. vials of Demerol, 50 mg/ml (Schedule C-II), which had been stored in an unlocked drawer in a patient examination area of Defendant's clinic located at 2733 S. Harvard, Tulsa, Oklahoma.

8. On October 7, 1997 Complainant and an OBN agent inspected Defendant's controlled drugs at Defendant's clinic located at 2733 S. Harvard, Tulsa, OK and discovered again that Defendant illegally was in possession of drug samples for Lortab (C-III) and Lortab Elixir (C-III).

9. Defendant requested in writing and received samples of controlled substances from UCB Pharma in April, May and June 1997 at the Westview Clinic located at 3606 Cincinnati, Tulsa, Oklahoma, which is the practice location Defendant had registered with DEA and OBN. The samples received by Defendant are as follows:

Date	Drug	Qty in Sample	Sample Total	Schedule
4-1-97	Duratuss HD Elixir	1 oz. bottles	12 bottles	C-III
4-1-97	Lortab 7.5 mg.	30 tabs	60 tabs	C-III
4-1-97	Lortab Elixir	1 oz. bottles	12 bottles	C-III
4-1-97	Lortab 10 mg.	20 tabs	100 tabs	C-III
5-6-97	Lortab Elixir	1 oz. bottles	6 bottles	C-III
5-6-97	Lortab 10 mg.	20 tabs	20 tabs	C-III
6-17-97	Lortab 7.5 mg.	30 tabs	150 tabs	C-III
6-17-97	Lortab Elixir	1 oz. bottles	30 bottles	C-III
6-17-97	Lortab 10 mg.	20 tabs	100 tabs	C-III

10. Defendant ordered controlled drug samples delivered to the Westview Clinic even though he did not see any patients at the Westview Clinic but only read radiographs there for a few hours per week. Defendant did not maintain any dispensing or inventory records for the

samples as required by law. The administrator at Westview Clinic was unaware that Defendant received any drug shipments there.

11. Defendant engaged in unprofessional conduct in that he:

- A. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 Okla. Stat. §509(11).
- B. Violated state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) in violation of 63 Okla. Stat. §2-302 and §2-307.

12. Defendant illegally supplied patient GM, an addict, with controlled substances by writing one or more prescriptions in the name of Kelli, GM's wife. Kelli has never been to Defendant's office and has never been examined or treated by him. Kelli did not receive any of the drugs prescribed by Defendant for her and has never signed any medical releases or other paperwork for Defendant, including any insurance documents.

13. Defendant's patient chart in the name of Ms. Rosanna Walling Baker of Salina, Oklahoma, shows that Defendant saw her on February 29, 1996 for "pelvic pain" and prescribed her Lorcet (Schedule C-III) for it. Mrs. Baker never saw Defendant as a patient, never experienced the "pelvic pain" noted by Defendant in the chart, never received a prescription for Lorcet (Schedule C-III) as stated in the chart and did not provide the personal information about herself that is reflected in the patient chart issued in her name. Defendant used Mrs. Baker's false chart as a cover to illegally prescribe controlled substances in violation of 63 Okla. Stat. §2-401. Mrs. Baker's brother has admitted obtaining controlled drug prescriptions from Defendant.

14. Defendant wrote prescriptions in the name of Jennifer Clymer, a sister of RH, who obtained controlled drugs from Defendant even though Ms. Clymer never saw Defendant as a patient and never received a prescription written by him.

15. On May 7, 1997, Defendant was served with subpoenas for patient records and for controlled substance dispensing records, administration records and invoices or other records pertaining to the purchase or disposition of controlled dangerous substances. On that day, Defendant was unable to produce eight of the 26 patient charts requested by the subpoena. These charts were requested by investigators from the Board and from OBN for possible excessive or improper prescribing based on pharmacy records reviewed. The charts missing on May 7, 1997 included five (5) patients with the same family name - two of one family name and three of another.

16. On October 7, 1997, Complainant delivered another subpoena duces tecum to Defendant for patient charts under investigation for possible excessive or improper prescribing. Defendant was unable to produce 14 of the 25 requested charts although he was able to furnish 2

of the patient charts that were missing the previous May. More than half of the missing charts (8 out of 14) were for patients with the same family name.

17. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
  - C. Written false or fictitious prescriptions for any drugs or narcotics declared by the laws of this State to be controlled or narcotic drugs in violation of 59 Okla. Stat. §509 (12).
  - D. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
  - E. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509(17) and OAC 435:10-7-4 (2) and (6).
  - F. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
  - G. Used a 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).
  - H. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).
  - I. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27) in violation of 63 Okla. Stat. §2-401 and §2-404.

18. On May 15, 1998, a Tulsa police officer observed Defendant being paid \$100.00 in cash from an unidentified older white female for writing a Lortab (hydrocodone, C-III) prescription to SL, whom Defendant did not appear to know. Prior to writing the prescription, Defendant did not examine SL and did not review any medical chart.

19. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
- B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
- C. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
- D. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
- E. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
- F. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27).
- G. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

20. Defendant also supplied Patient FV with Lortab (hydrocodone, C-III) prescriptions on an average of one prescription every 7-10 days from April 1996 to September 1997. Patient FV paid \$75.00 in cash to Defendant each time Patient FV saw Defendant and received a prescription for Lortab (hydrocodone, C-III) . Defendant generally did not conduct a physical examination of Patient FV.

21. Patient FV, who is addicted to Lortab (hydrocodone, C-III), tried to kick his Lortab (hydrocodone, C-III) habit around September of 1997. During that time, Defendant wrote him prescriptions for Tylenol with Codeine (C-III) and Soma (carisoprodol, C-IV). Defendant

was aware of Patient FV's addiction and occasionally talked to Patient FV about his overuse. Despite having knowledge of the addiction, Defendant continued to write Lortab (hydrocodone, C-III) prescriptions for Patient FV.

22. In December 1997, Patient FV again sought Lortab (hydrocodone, C-III) from Defendant. Defendant then began prescribing Norco (C-III), a form of Lortab (hydrocodone, C-III) with reduced amounts of acetaminophen. Defendant's charge for Norco prescriptions was again \$75.00 per visit.

23. Defendant continued to prescribe Lortab (hydrocodone, C-III) for FV, a known addict, since being served with the original complaint and citation in this cause.

24. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
- B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10)
- C. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
- D. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
- E. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
- F. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27) in violation of 63 Okla. Stat. §2-401.
- G. Prescribed, sold, administered, distributed, ordered, or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).

- H. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

25. In 1996 RH began participating in a scheme with GH and Defendant to buy controlled drugs for cash. At first RH bought Lortab (hydrocodone, C-III) from GH for \$5.00 per pill. Later RH filled out patient information sheets from Defendant's office using RH's and his wife's names so that GH could present them to Defendant and obtain additional Lortab (hydrocodone, C-III) prescriptions from Defendant for \$100 per prescription. RH sometimes accompanied GH to Defendant's office while the prescriptions were being issued by Defendant. At GH's request on approximately ten separate occasions, RH filled prescriptions written by Defendant using RH and his wife's names. RH then would return the pills to GH, who would pay RH five to ten pills for his participation in the scheme.

26. Defendant's medical chart on RH was limited to a patient information sheet. Defendant had no other medical documentation or information in RH's chart which would indicate that Defendant ever examined RH or prescribed controlled substances after establishing a valid physician-patient relationship or medical need. However, pharmacy records indicate that Defendant wrote at least 39 prescriptions to RH for Lortab (hydrocodone, C-III) or Lorcet 10mg (C-III) during the nine month period from September 1996 to June 1997. Each prescription contained, on average, 83 pills.

27. Jessica, wife of RH, never filled out any patient information forms for Defendant's use. She never was examined or treated by Defendant. Defendant had no patient record on Jessica other than the patient information sheet fraudulently prepared in her name. Jessica never received prescriptions or drugs from Defendant even though Defendant wrote six prescriptions for Lortab and/or Lorcet 10mg. (both C-III) using her name during the three month period from December 1996 to February 1997.

28. RH's mother was involved in the scheme. She initially learned about Defendant from GH who was selling her Lortab (hydrocodone, C-III) at \$5.00 per pill. For a while she bought Lortab (hydrocodone, C-III) from GH without ever seeing Defendant as a patient although she knew her son and GH were using her patient information to get Defendant to write prescriptions in her name. From November 1996 to July 1997, Defendant wrote 12 Lortab (hydrocodone, C-III) or Lorcet (C-III) prescriptions for RH's mother without having examined her or having first established a valid physician-patient relationship.

29. On or about July 3, 1997, RH's mother began obtaining Lortab (hydrocodone, C-III) directly from Defendant. Instead of paying GH \$5.00 per pill, RH's mother paid Defendant \$100.00 in cash for each prescription. From July 3 to July 11, 1997, RH's mother saw Defendant three or four times. Defendant did not actually examine her on these visits.

30. RH's mother saw Defendant only three or four times before her son RH told her that GH was unhappy that she had gone directly to Defendant to obtain Lortab (hydrocodone, C-

III) instead of continuing to use GH as her supplier. About that same time, Defendant advised her that he would no longer write prescriptions for her. Because RH's mother had the cash ready to pay for Defendant's prescriptions, RH's mother believed that Defendant's decision not to continue to write prescriptions for her was to protect or perpetuate his drug scheme with GH.

31. Defendant engaged in unprofessional conduct in that he:
  - A. Procured, aided or abetted a criminal operation in violation of 59 Okla. Stat. §509 (1).
  - B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - C. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
  - D. Written false or factitious prescriptions for any drugs or narcotics declared by the laws of the state to be controlled or narcotic drugs in violation of 59 Okla. Stat. §509 (12).
  - E. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
  - F. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
  - G. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
  - H. Used a false, fraudulent or deceptive statement in any document connected with the practice medicine and surgery in violation of OAC 435:435:10-7-4 (19).
  - I. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27) and 63 Okla. Stat. §2-408 and §2-401.



- J. Prescribed, sold, administered, distributed, ordered, or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).
- K. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

32. Defendant fraudulently submitted insurance claims to, and was paid on one or more claims by, Blue Cross and Blue Shield of Oklahoma on behalf of Kelli, Patient GM's wife, for six office visits occurring on January 23, 1997, February 17, 1997, March 12, 1997, March 29, 1997, April 16, 1997 and May 5, 1997. These claims were false for the reasons that Kelli never was Defendant's patient and these office visits never occurred. Kelli never signed any medical releases or insurance forms for Defendant.

33. The three or four times RH's mother saw Defendant as a patient, she always paid Defendant \$100.00 cash at the time of her office visit. Despite having been paid by RH's mother, Defendant filed claims with Custom Care, RH's mother's insurance carrier, for these same office visits. Custom Care paid one or more of these claims.

34. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
- B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10)
- C. Used a false, fraudulent or deceptive statement in any document connected with the practice medicine and surgery in violation of OAC 435:435:10-7-4 (19).
- D. Obtained a fee by fraud, deceit or misrepresentation, including fees from Medicare, Medicaid, or insurance in violation of OAC 435:10-7-4 (28).
- E. Directly or indirectly received a fee, commission, rebate or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4 (30).

F. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

35. MF was a former patient of Defendant who became addicted to Lortab (hydrocodone, C-III) and Xanax (alprazolam, C-IV) while she was his patient.

36. Defendant paid, and offered to pay, for medical treatment or services rendered on MF's behalf by other providers.

37. On one office visit, MF received an injection from Defendant, who told her to lie down on a hot pack. MF passed out and remembers awaking four hours later with her pants down.

38. Defendant harassed MF with phone calls, followed her to work and while she was shopping, and parked outside her house to watch her despite having been told by MF and MF's husband to leave MF alone. Defendant made business appointments at MF's place of business using assumed names so that he could see her. When he has spoken with her, Defendant repeatedly has asked her if she needed money or anything else from him. On one occasion Defendant asked her if she needed Xanax (C-IV) for her nerves. Defendant told MF repeatedly that he loved her and on several occasions offered her money and other compensation to live with him. MF refused.

39. On January 10, 1998 Defendant brought to MF's workplace an unlabeled amber prescription bottle containing nine Xanax (C-IV) pills for MF's use. MF did not request the Xanax. Nor did she ask Defendant to drop by her place of work. MF had Defendant leave the bottle so that she could submit the bottle and its contents to a Board investigator as evidence.

40. On September 23, 1997, a Board investigator and an OBN agent went to Defendant's clinic to further investigate the harassment allegations against Defendant made to them that day by MF and her husband. The agents found Defendant extremely agitated. He stated that he had to leave to get to the house of a patient named "M" (i.e., MF) and that her husband had "violated a protective order and had spent the night with her." Defendant's stated understanding of MF's relationship with her husband was wholly inconsistent with the facts presented to the agents earlier that day in interviews with MF and her husband.

41. On October 7, 1997, Defendant reported to a Board investigator that he had discharged MF as a patient.

42. On May 5, 1998, Defendant was arrested and charged in the Tulsa County District Court for the State of Oklahoma with stalking MF and with reckless driving based on an altercation occurring April 13, 1998.

43. On April 13, 1998, Defendant drove his vehicle by MF's home to "see how she was doing" and wound up following MF in her car when she left her house. At one point,

Defendant rammed the rear of MF car with his vehicle. When MF exited her car, Defendant drove his vehicle into MF's person, causing his vehicle to collide with MF's left hip.

44. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - B. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 Okla. Stat. §509 (18).
  - C. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
  - D. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).
  - E. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).

45. Prior to service of the original Complaint on June 19, 1998, Defendant lived at his clinic on South Harvard in Tulsa where he provided hydro-therapy for patients using a large whirlpool tub at his clinic. The whirlpool tub was located in what appeared to be the personal bathroom of the Defendant as evidenced by the presence of Defendant's personal grooming materials. The bathroom was accessible only through Defendant's bedroom.

46. Defendant engaged in unprofessional conduct in that he failed to provide a proper setting for examination or other treatment of his patients in violation of OAC 435:10-7-4 (41).

47. On several occasions when Defendant prescribed controlled drugs for MF, a female patient, he would ask MF to pose for him while he took her picture. During this time Defendant also showed MF photographs of nude and partially nude women. MF recalled that she allowed Defendant to take her picture on one occasion at his clinic located at 2733 S. Harvard, Tulsa, Oklahoma. MF believed that Defendant kept a hidden video camera in his bedroom at the clinic and may have taken additional photographs or video tape of her while she was impaired.

48. 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 Okla. Stat. §509(9) and OAC 435:10-7-4 (11).

B. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

C. Abused his position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

D. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).

49. Defendant also supplied Xanax (alprazolam, C-IV) and Lortab (hydrocodone, C-III) to a female, JM, who was introduced to Defendant by a man, FA. JM and FA agreed that FA would pay for JM's first two visits to get controlled drug prescriptions from Defendant and that JM would work out subsequent payment arrangements with Defendant. FA told JM that she could trade sex with Defendant for controlled drug prescriptions and that he had arranged for other women to see Defendant for that purpose.

50. Defendant offered to let JM trade sex with him for the prescriptions he wrote her, but JM declined. Instead, she paid Defendant \$75 per prescription, which typically was for forty (40) 10 mg. pills of Lortab (hydrocodone, C-III) and/or sixty (60) tablets of Xanax (alprazolam, C-IV). JM would visit Defendant two or three times per week for prescriptions. If she was short on money, Defendant would let her "charge" the prescriptions.

51. In or about April 1998, JM received a controlled drug prescription for Xanax (alprazolam, C-IV) from Defendant with the understanding that she would not have to pay him for it if she would return to his clinic after having the prescription filled and would give half of it to him. JM has observed Defendant ingest Xanax (alprazolam, C-IV) while in his office after retrieving pills from his jacket pocket, desk drawer or the living area of his clinic.

52. While at Defendant's clinic, Defendant has shown JM photographs of naked women which appeared to have been taken at Defendant's clinic/residence. Defendant told JM that he took the photographs.

53. 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).

- B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
- C. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
- D. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
- E. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
- F. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
- G. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27).
- H. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).
- I. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).
- J. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 Okla. Stat. §509 (18).

54. A search of Defendant's clinic on August 12, 1998 revealed at least two suggestive or lewd pictures of women who were either scantily clad or in suggestive poses. Defendant, who identified the women by name, kept patient charts on the women in the pictures. Law enforcement personnel also discovered electronic wiring consistent with audio and/or video equipment use throughout the clinic, including above the Jacuzzi in Defendant's bathroom where Defendant stated he performed hydro-therapy.

55. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - B. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).
  - C. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 Okla. Stat. §509 (18).
  - D. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).
  - E. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

56. Defendant supplied ER with controlled substances, Xanax (alprazolam, C-IV) and Lortab (hydrocodone, C-III) , in exchange for cash. ER began seeing Defendant approximately two years ago to obtain prescriptions after being told that she could buy prescriptions from him for cash without being asked too many questions or having to undergo an examination. In the past two years, Defendant never took ER's blood pressure, pulse or temperature and never physically examined her.

57. On ER's first visit, Defendant instructed her not to put her correct address on her patient information sheet.

58. ER took her grandmother to see Defendant approximately four times, and her grandmother received controlled drug prescriptions, usually Lortab (hydrocodone, C-III). Defendant never examined ER's grandmother but wrote prescriptions in her name and gave them to ER to deliver to ER's grandmother.

59. While at his clinic, Defendant personally handed ER controlled drugs such as Xanax (alprazolam, C-IV) and Fiorinal #3 (C-III, containing codeine) taken from his own pill bottle and instructed his receptionist to give some of her pills to ER. The receptionist would hand the pills to Defendant who would then hand the pills to ER.

60. 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
  - C. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 Okla. Stat. §509(11).
  - D. Written false or factitious prescriptions for any drugs or narcotics declared by the laws of the state to be controlled or narcotic drugs in violation of 59 Okla. Stat. §509 (12).
  - E. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
  - F. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509 (17) and OAC 435:10-7-4 (2) and (6).
  - G. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
  - H. Used a 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).
  - I. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27) in violation of 63 Okla. Stat. §2-401.
  - J. Prescribed, sold, administered, distributed, ordered, or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).

- K. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).

61. ER had hot packs placed on her back several times during appointments with Defendant. Each time she was instructed to disrobe to the waist. Defendant would adjust and re-adjust the hot packs and would brush his fingers along the sides of ER's breasts. On other occasions while ER was in the clinic, Defendant groped ER's breasts and/or butt.

62. Defendant asked ER out on dates, telephoned her at home seeking dates, offered her prescriptions in exchange for sex and repeatedly made vulgar and graphic sexual remarks and suggestions to her. He also offered to let her use the Jacuzzi tub at his clinic and invited her into his living quarters at the clinic to drink wine. On at least two occasions, he exposed his genitals to her while ER was at the clinic to buy prescriptions.

63. ER went to Defendant's clinic several times with another woman who also bought prescriptions from Defendant and on at least one occasion ER observed Defendant and the other woman engaging in sexual activities.

64. Defendant has shown ER Polaroid and 35 mm photographs of "half naked" women which appear to have been taken in Defendant's living quarters at his clinic. These photographs were shown to ER while she was at the clinic to buy controlled drug prescriptions.

65. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
- B. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 Okla. Stat. §509 (18).
- C. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).
- D. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).



E. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).

66. On or about June 24, 1998 ER, in cooperation with law enforcement authorities, introduced a Tom Bell to Defendant for the purpose of making purchases of controlled drug prescriptions. Mr. Bell was a Wagoner County Deputy working undercover at the time. Deputy Bell witnessed ER pay Defendant \$75 from law enforcement funds to purchase a prescription for 60 Xanax (alprazolam, C-IV). Deputy Bell further witnessed Defendant and ER fabricating an address for the prescription, with Defendant suggesting a false town for ER. Defendant cautioned ER not to fill the prescription at Wal-Mart or Walgreen pharmacies. Defendant did not perform an examination of ER prior to issuing the prescription.

67. During the June 24, 1998 undercover transaction, Defendant advised Deputy Bell that he could not write Deputy Bell a prescription for Lortab (hydrocodone, C-III) that day because Defendant was under investigation by the Board and the "State Narcotics" [OBN] for writing Lortab (hydrocodone, C-III) prescriptions and there was "tremendous heat" on him. Defendant suggested that Deputy Bell share ER's prescription.

68. On or about July 2, 1998, ER participated in another undercover buy of controlled drugs from Defendant when she purchased 60 Xanax (alprazolam, C-IV) and 40 Lortab (hydrocodone, C-III) for \$75 each using law enforcement funds. Defendant wrote the Lortab prescription in the name of ER's grandmother, who was not present. Deputy Bell again accompanied ER on the purchase but was not allowed in Defendant's back office during the actual buy.

69. At the same time ER bought the prescriptions from Defendant on July 2, 1998, ER asked Defendant to give her a Xanax (alprazolam, C-IV). Defendant called his receptionist into the room and asked her to give Defendant a couple of her Xanax. Defendant kept one for himself and placed the other one directly in ER's mouth after refusing to place it in her hand.

70. Also on or about July 2, 1998 Deputy Bell overheard conversations between two women waiting to see Defendant and between Defendant and his receptionist that reinforced Deputy Bell's belief that Defendant was in the business of selling controlled drug prescriptions for cash.

71. On or about July 14, 1998 ER returned to Defendant's office with Deputy Bell and Reserve Deputy Clay. Reserve Deputy Clay used the alias of "Joann Rock" for this undercover transaction. Defendant again sold ER two prescriptions for \$75 each, one for 60 Xanax (alprazolam, C-IV) and the other for 60 Lortab (hydrocodone, C-III). Defendant sold Deputy Bell a prescription of 24 phentermine (C-IV) for \$75 but told Deputy Bell that he needed to find another drug because he was too thin for phentermine. Defendant sold Reserve Deputy Clay "Joann Rock" a prescription for 60 Xanax (alprazolam, C-IV) for \$75. Defendant told them to come back on July 22, 1998 because the "store would be open." He also suggested that they make a movie together.

72. Defendant did not exam Deputy Bell prior to writing him a prescription and at any time thereafter. Defendant asked Deputy Bell to weigh himself. Deputy Bell's chart noted the weight Deputy Bell gave to Defendant and also stated a blood pressure reading along with other notations to make it appear that Defendant performed a physical examination on Deputy Bell when, in fact, he did not.

73. Defendant followed Reserve Deputy Clay into the kitchen of the clinic and grabbed her around the waist. He told her that he wanted her to meet him that night and suggested that she should because he wrote prescriptions for her.

74. On or about July 22, 1998 ER and Deputies Bell and Clay returned to Defendant's office for another undercover purchase. Defendant sold again sold ER two prescriptions for \$75 each, one for 60 Xanax (alprazolam, C-IV) and the other for 60 Lortab (hydrocodone, C-III) . Defendant sold Deputy Bell a "double script" of 80 Lortab (hydrocodone, C-III) for \$150 and gave him a "free" prescription of 30 phentermine (C-IV) because Defendant forgot to put the refill on the last prescription. Deputy Bell arranged to pick up more prescriptions from Defendant the following week. Defendant again sold Reserve Deputy Clay "Joann Rock" a prescription for 60 Xanax (alprazolam, C-IV) for \$75. The funds expended for the undercover buys were DEA official funds and the serial numbers of the bills were pre-recorded.

75. On this visit by Reserve Deputy Clay to Defendant, Defendant was angry at her because she did not meet him after her July 14, 1998 visit. Defendant advised Deputy Reserve Clay to go home, take her Xanax with some wine and relax. Reserve Deputy Clay also overheard Defendant say on this visit that he was going to write as many prescriptions as possible before he lost his privileges.

76. On or about July 29, 1998 Deputy Bell returned to Defendant's office to pick up the controlled drug prescriptions left by Defendant with his receptionist. Defendant had pre-arranged with Deputy Bell to leave these prescriptions with Defendant's receptionist for Deputy Bell to pick up while Defendant was out of town. Defendant instructed Deputy Bell to pay Defendant's receptionist for the prescriptions. Defendant Bell picked up and paid for a total of six prescriptions, two each for ER, Deputy Bell and Reserve Deputy Clay "Joann Rock". All three received prescriptions for 60 Xanax (alprazolam, C-IV) and 40 Lortab (hydrocodone, C-III) . Deputy Bell paid Defendant's receptionist \$75 cash for each prescription. A total of \$450 in DEA official funds was paid to Defendant's receptionist on July 29, 1998. The prescriptions were dated July 24, 1998, and Defendant's receptionist explained to Deputy Bell that Defendant could not write any more prescriptions for Lortab (hydrocodone, C-III) and other Schedule III drugs after July 24, 1998 as a result of his agreement with the Board to postpone his disciplinary hearing until September but that Defendant could still write Schedule IV prescriptions (i.e. alprazolam).

77. After Defendant met Reserve Deputy Clay "Joann Rock" on July 14, 1998, he called ER at home, on at least one occasion, to ask that ER push Reserve Deputy Clay "Joann Rock" into "dating" him.

78. Defendant engaged in 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 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
  - B. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
  - C. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 Okla. Stat. §509(11).
  - D. Written false or fictitious prescriptions for any drugs or narcotics declared by the laws of this State to be controlled or narcotic drugs in violation of 59 Okla. Stat. §509 (12).
  - E. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 Okla. Stat. §509 (13).
  - F. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509(17) and OAC 435:10-7-4 (2) and (6).
  - G. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
  - H. Used a 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).
  - I. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).
  - J. Violated state or federal law or regulation in relation to controlled substances in violation of OAC 435:10-7-4 (27) in violation of 63 Okla. Stat. §2-401 and §2-404.

- K. Prescribed, sold, administered, distributed, ordered, or gave a controlled substance for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4 (24).
- L. Prescribed, sold, administered distributed, ordered or gave a controlled substance to himself in violation of OAC 435:10-7-4 (26).

79. On September 23, 1998 Defendant notified the Board under oath that he would not contest the foregoing allegations made against him.

### *Conclusions of Law*

1. The Board has jurisdiction and authority over the Defendant and subject matter herein, and notice has been given in all respects in accordance with applicable law.

2. The legal effect of a "no contest" plea is the same as that of a plea of guilty except that it may not be used against the defendant in subsequent criminal or civil proceedings. 22 Okla. Stat. §513 and 12 Okla. Stat. §2410.

3. Defendant, John T. Forsythe, Oklahoma medical license 7562, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- A. Procured, aided or abetted a criminal operation in violation of 59 Okla. Stat. §509 (1).
- B. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 Okla. Stat. § 509 (9) and OAC 435:10-7-4 (11).
- C. Committed an act which is a violation of the criminal laws of the state when such act is connected with the physician's practice of medicine in violation of 59 Okla. Stat. §509 (10).
- D. Failed to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs in violation of 59 Okla. Stat. §509(11).
- E. Written false or fictitious prescriptions for any drugs or narcotics declared by the laws of this State to be controlled or narcotic drugs in violation of 59 Okla. Stat. §509 (12).
- F. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid

physician patient relationship in violation of 59 Okla. Stat. §509 (13).

- G. Prescribed, dispensed or administered controlled substances or narcotic drugs without medical need in accordance with published standards in violation of 59 Okla. Stat. §509(17) and OAC 435:10-7-4 (2) and (6).
- H. Engaged in physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient in violation of 59 Okla. Stat. §509 (18).
- I. Indiscriminately or excessively prescribed, dispensed or administered controlled or narcotic drugs in violation of OAC 435:10-7-4 (1).
- J. Used a 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).
- K. Committed an act of sexual abuse, misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).
- L. Prescribed, sold, administered, distributed, ordered, or gave a controlled substance for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4 (24).
- M. Prescribed, sold, administered, distributed, ordered or gave to a habitue or addict or any person previously drug dependent, any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug in violation of OAC 435:10-7-4 (25).
- O. Prescribed, sold, administered distributed, ordered or gave a controlled substance to himself in violation of OAC 435:10-7-4 (26).
- P. Violated state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27) in violation of 63 Okla. Stat. §§2-302, 2-307, 2-401 and 2-404, 2-408.

- Q. Obtained a fee by fraud, deceit or misrepresentation, including fees from Medicare, Medicaid, or insurance in violation of OAC 435:10-7-4 (28).
- R. Directly or indirectly received a fee, commission, rebate or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4 (30).
- S. Failed to provide a proper setting for examination or other treatment of his patients in violation of OAC 435:10-7-4 (41).
- T. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4 (44).
- V. Prescribed, sold, administered distributed, ordered or gave a controlled substance to himself in violation of OAC 435:10-7-4 (26).
- W. Engaged in predatory sexual behavior in violation of OAC 435:10-7-4 (45).

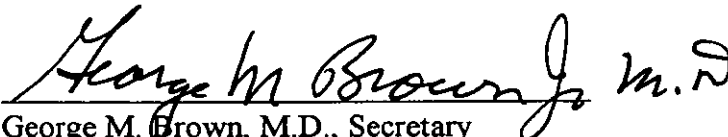
4. Under 59 Okla. Stat. §509.1, the Board may revoke the license of a physician found guilty of unprofessional conduct.

*Order*

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

1. Oklahoma medical license no. 7562, held by John T. Forsythe, M.D., is hereby **REVOKED**.
2. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

Dated this 30<sup>th</sup> day of September, 1998.

  
George M. Brown, M.D., Secretary  
Oklahoma State Board of  
Medical Licensure and Supervision

Approved to Form:

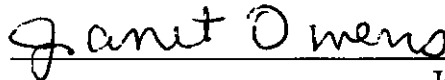


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Attorney for the Oklahoma State Board of  
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CERTIFICATE OF SERVICE

On the 30 day of Sept, 1998, a true and correct copy of this order was mailed, postage prepaid, to Defendant, John T. Forsythe, 2733 S. Harvard, Tulsa, Oklahoma and to Curtis A. Parks, 1736 S. Carson, Tulsa, OK 74119



Janet Owens

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