

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,)

JUN - 5 2003

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 02-10-2569

ROGER LEE PICKETT, M.D.,)
LICENSE NO. 8166,)

Defendant.)

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, Roger Lee Pickett, M.D., 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, Roger Lee Pickett, M.D., holds Oklahoma license no. 8166.

3. In or around November 2000, Patient GWB was seen by Defendant with a complaint of back pain. Patient GWB was accompanied by four (4) other individuals on his visit to Defendant's office, including Patient JWB, a 31 year old male who arranged the visit, and Patient MWB, a 21 year old male, as discussed below. The only examination conducted by Defendant was the placing of his hands on Patient GWB's lower back. Patient GWB did not provide any patient history. Defendant then gave Patient GWB a prescription for one-hundred fifty (150) Hydrocodone 10 mg. tablets. At this same time, Defendant also gave each of the other four (4) individuals prescriptions for one-hundred fifty (150) Hydrocodone 10 mg. tablets each. Defendant did not conduct any examination on the remaining four (4) individuals at this time. Patient GWB never saw Defendant again after this initial visit. Defendant's chart on this patient reveals that he failed to perform a sufficient physical examination on this patient prior to prescribing the controlled dangerous drugs, obtained no x-rays or other tests, and did not establish a legitimate medical need for the medications.

4. Subsequent to November 2000 and continuing through August 22, 2002, Defendant continued to write or call in prescriptions for Patient GWB without his consent or knowledge. Said prescriptions were not for the use or treatment of Patient GWB but were instead for the personal use of Patient JWB, with whom it is believed Defendant was having a sexual relationship. Upon information and belief, Patient JWB picked up the prescriptions issued by Defendant to Patient GWB, all with Defendant's knowledge and consent. When Patient GWB learned that Defendant was writing or calling in prescriptions in his name, he contacted Defendant and asked him to stop. However, Defendant continued to write or call in prescriptions in Patient GWB's name for the use of Patient JWB. Said prescriptions consist of at least thirty (30) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 4200 dosage units.

5. In or around 2001, Patient RKB, a female, met Patient JWB. Patient JWB advised her that he could get her "free" Hydrocodone. Patient JWB brought Patient RKB a patient history form from Defendant's office and asked her to fill it out, which she did. Over the next two (2) years, Defendant issued at least fourteen (14) prescriptions for Hydrocodone, a Schedule III controlled dangerous substance, for 1920 dosage units. These prescriptions were issued in Patient RKB's name, but were picked up and filled by Patient JWB, all without Patient RKB's knowledge or consent. Defendant has never conducted a physical examination of Patient RKB, as she has met him only in the reception area of his office. Defendant's chart on this patient reveals that he failed to perform a sufficient physical examination on this patient prior to prescribing the controlled dangerous drugs, and did not establish a legitimate medical need for the medications.

6. In or around April 2001, Patient DWB was seen by Defendant with a complaint of migraine headaches. At the initial visit, Defendant took blood for testing and interviewed Patient DWB. Defendant then gave Patient DWB a prescription for one-hundred fifty (150) Hydrocodone 10 mg. Defendant continued to prescribe one-hundred fifty (150) Hydrocodone tablets to Defendant on approximately a monthly basis through at least September 2002. During this same period of time, Defendant wrote or called in prescriptions for Patient DWB without his consent or knowledge. Said prescriptions were not for the use or treatment of Patient DWB but were instead for the personal use of Patient JWB, with whom it is believed Defendant was having a sexual relationship. Upon information and belief, Patient JWB picked up the prescriptions issued by Defendant to Patient DWB at the K-Mart Pharmacy in south Oklahoma City, all with Defendant's knowledge and consent. Said prescriptions consist of at least eleven (11) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 1650 dosage units.

7. In or around July 2000, Patient JTB was seen by Defendant with a complaint of headaches. Defendant gave Patient JTB two (2) prescriptions for non-controlled medications at that time. Patient JTB never saw Defendant again after that first visit. Beginning July 14, 2000 and continuing through at least April 29, 2002, Defendant wrote or called in prescriptions for Patient JTB without his knowledge or consent. Patient JTB asked Defendant to stop issuing prescriptions in his name, yet Defendant refused to stop. Said prescriptions were not for the use or treatment of Patient JTB but were instead for the personal use of Patient JWB, with whom it is

believed Defendant was having a sexual relationship. Upon information and belief, Patient JWB picked up the prescriptions issued by Defendant to Patient JTB at the K-Mart Pharmacy in south Oklahoma City and the Wal-Mart in Norman, Oklahoma and Moore, Oklahoma, all with Defendant's knowledge and consent. Said prescriptions consist of at least thirty-one (31) prescriptions for Hydrocodone, a Schedule III controlled dangerous drug, for 4450 dosage units. Defendant's chart on this patient reveals that he failed to perform a sufficient physical examination on this patient prior to prescribing the controlled dangerous drugs, and did not establish a legitimate medical need for the medications.

8. In or around January 1998, Patient JWB was seen by Defendant with a complaint of back pain. According to Defendant's billing records, Patient JWB was last seen by Defendant as a patient on March 10, 1999. However, Defendant continued to prescribe controlled dangerous substances to him through at least September 2002 for alleged tooth ache. Said prescriptions were in Patient JWB's name, as well in the name of other alleged patients, including his mother, Patient FWB, his father, Patient AWB, his wife, Patient KWB, his cousin, Patient MCWB, his cousin Patient JWB2, his uncle, Patient BWB, and his friends and acquaintances, Patient KAB, Patient LJB, Patient GPB, Patient RRB, Patient ATB, Patient FTB, Patient KWB, Patient DWB, Patient JMW, and Patient CWB. During this period of time, Defendant wrote or called in prescriptions in these persons' names without their knowledge or consent. Said prescriptions were not for the use or treatment of these persons, but were instead for the personal use of Patient JWB, with whom it is believed Defendant was having a sexual relationship. Upon information and belief, Patient JWB picked up the prescriptions issued by Defendant to these persons at the K-Mart Pharmacy in south Oklahoma City and at various pharmacies in the Norman and Moore area, all with Defendant's knowledge and consent. In some instances, he gave some of the drugs to the patients and kept some for himself. In other instances, he kept all of the drugs for himself. According to Defendant's patient charts and pharmacy records, said prescriptions consist of at least four-hundred fifty-eight (458) prescriptions for Hydrocodone, Diazepam, Oxycodone, Propoxyphene, Alprazolam, Soma and Tussionex, for 60,798 dosage units. Defendant's charts on these patients reveal that he failed to perform a sufficient physical examination prior to prescribing the controlled dangerous drugs, that he did not order or conduct appropriate tests, and that he did not establish a legitimate medical need for the medications. In most instances, the patients were neither seen nor billed during the time prescriptions were being written or called in in their names.

9. Defendant is guilty of unprofessional conduct in that he:

A. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. §509(9) and OAC 435:10-7-4(11).

B. Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509(19).

- C. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
- D. Prescribed a drug without sufficient examination and establishment of a valid physician patient relationship in violation of 59 O.S. §509(13).
- E. Engaged in practice or behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
- F. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
- G. Indiscriminate or excessive prescribing of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- H. Committed gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).
- I. Committed any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
- J. Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(12).
- K. Violated, or attempted to violate, directly or indirectly, any of the provisions of this act, either as a principal, accessory or accomplice in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39).
- L. 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 O.S. §509(18).
- M. 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).
- N. Committed any 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).

O. Prescribed, sold, administered, distributed, ordered, or gave any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug for other than medically accepted therapeutic purposes in violation of OAC 435:10-7-4(24).

P. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

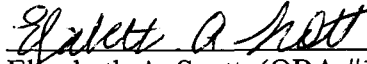
Q. Abused the physician's position of trust by coercion, manipulation or fraudulent representation in the doctor-patient relationship in violation of OAC 435:10-7-4(44).

Conclusion

WHEREFORE, the Plaintiff respectfully 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 suspension or revocation and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Dated this 5th day of June, 2003 at 4:00 p.m.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118

Attorney for the Plaintiff