

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

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

Plaintiff,)

vs.)

Case No. 93-10-1560

MALCOLM G. ROBINSON, M.D.,)
Medical License No. 9063,)

Defendant.)

ORDER

This matter comes before the Oklahoma State Board of Medical Licensure and Supervision on the 22nd and ~~23rd~~ days of August, 1996, for trial on the merits of the allegations set forth in the Third Amended Complaint filed in the above-styled action. The plaintiff appears by and through its attorney, Daniel J. Gamino. The defendant appears in person and by and through his attorney, Jim T. Priest.

NOW, on this 23rd day of August, 1996, the Board, having heard the testimony, having reviewed exhibits admitted into evidence and being fully advised in the premises, finds that there exists clear and convincing evidence to support various allegations set forth in the Third Amended Complaint. Specifically, the Board finds clear and convincing evidence to support the following:

1. That Malcolm G. Robinson, M.D., holding Oklahoma Medical License No. 9063, is in violation of the Oklahoma Medical Practice Act, 59 O.S. Supp. 1995, §509, Paragraph Nos. 11 and 18, to wit:

"11. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs."

"18. Engaging in nonconsensual physical conduct with a patient which is sexual in nature, or in any verbal behavior which is seductive or sexually demeaning to a patient."

2. That the defendant, Malcolm G. Robinson, M.D., is in violation of the following rules and regulations promulgated by the Board, specifically Rule 435:10-7-4 (11), (23) and (27), to wit:

"(11) Conduct likely to deceive, defraud, or harm the public."

"(23) Commission of any act of sexual abuse, misconduct, or exploitation related or unrelated to the licensee's practice of medicine and surgery."

"(27) Violating any state or federal law or regulation relating to controlled substances."

3. That during 1993, the defendant, Malcolm G. Robinson, M.D., failed to maintain complete and accurate records in his office of the purchase and disposal of controlled dangerous substances.

4. That during 1991 through and including 1995, the defendant, Malcolm G. Robinson, M.D., a gastroenterologist, did perform multiple pelvic, vaginal fiberoptic examinations and breast examinations on female gastroenterology patients without medical need, and in some cases, without patient consent.

5. That the defendant, Malcolm G. Robinson, did maintain a pattern and practice of examinations of certain female patients that was unprofessional, to wit:

- a. Defendant, Malcolm G. Robinson, M.D., performed multiple breast, pelvic and vaginal examinations on patients without medical need and symptomatology.
- b. Defendant, Malcolm G. Robinson, M.D. performed vaginal scopes and vaginal photography on patients without informed patient consent.
- c. Defendant Malcolm G. Robinson's actions are unprofessional and raise issues as to the defendant's prurient interest in performing these examinations without medical necessity in that:
 1. Medical records do not show necessity for multiple breast, pelvic and fiberoptic vaginal exams.
 2. Multiple breast exams, pelvic exams and vaginal fiber optic exams were not required by any drug studies conducted by the defendant.
 3. It is not recorded in literature that gastroenterologists do vaginal fiber optic exams.

6. That some of the multiple breast exams, pelvic and vaginal exams of female patients that occurred on or after September 1, 1993, constitute nonconsensual physical conduct with a patient which is sexual in nature.

7. That by the acts and omissions set forth above, the defendant, Malcolm G. Robinson, M.D., is perpetuating significant harm to the public health, safety and welfare.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that defendant, Malcolm G. Robinson's medical license, i.e., Medical License No. 9063, issued by the Oklahoma State Board of Medical Licensure and Supervision, be and is hereby suspended for a period of sixty (60) days; said suspension to begin on August 24, 1996, and continue through and including October 23, 1996. During the said period of

suspension, defendant Malcolm G. Robinson is not allowed to practice medicine or surgery in the State of Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon conclusion of the aforesaid term of suspension, the defendant, Malcolm G. Robinson, M.D., be placed on probation under the supervision of this Board for a period of five (5) years from the date of reinstatement.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as a term and condition of the defendant's suspension and probation, the defendant submit himself to evaluation and treatment, if indicated, by Dr. Richard Irons of Topeka, Kansas; that a written report from Dr. Irons regarding this examination of the defendant and treatment, if any, be submitted to the Board prior to expiration of the term of suspension; that the defendant immediately cease from conducting breast and/or vaginal examinations without a chaperone; that the defendant amend his consent forms to show specifically to what the patient would be consenting, and that the defendant orally and in writing inform his patients regarding the use of the colonoscope for any purpose other than that for which it was designed, i.e., examination of the colon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in addition to those terms of probation set forth above, the defendant be and is hereby placed on additional standard terms of probation, excluding those probationary terms pertaining to drug testing. The specific additional terms of probation are as follows:

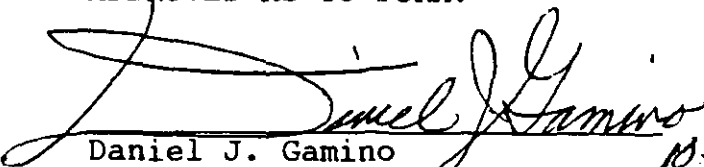
a) Malcolm G. Robinson will conduct his practice in compliance with the Oklahoma Medical Practice Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Malcolm G. Robinson until clarification of interpretation is received by Doctor Malcolm G. Robinson from the Board.

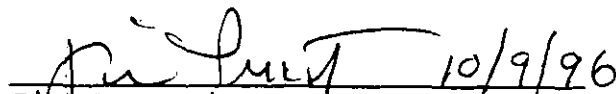
b) During the period of probation, Malcolm G. Robinson will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege, a copy of this Board Order providing sanctions imposed by the Board.

c) During the period of probation, Malcolm G. Robinson will keep the Board informed of his current address.


Secretary of the Board

APPROVED AS TO FORM:


Daniel J. Gamino
Attorney for the Plaintiff 10-9-96


Jim T. Preest
Attorney for Defendant 10/9/96

CERTIFICATE OF MAILING

This is to certify that on this 15 day of October, 1996,
a true and correct copy of this order was mailed, postage prepaid
to:

Malcolm Robinson, M.D.
711 Stanton Young Blvd
Suite 501
Oklahoma City, OK 73104

Jim Priest, Attorney
Bancfirst Bldg, Suite 800
101 N. Broadway
Oklahoma City, OK 73102