

**STATE OF VERMONT
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

In re Timothy J. Wright, D.O.

}

Docket No. OS03-0401

DEFAULT ORDER

The Board of Osteopathic Physicians and Surgeons (Board) held a default hearing in the above-referenced matter on September 5, 2001, at the Office of the Secretary of State, 26 Terrace Street, Montpelier, Vermont. Board Hearing Panel Members Paul Donovan, D.O. (Chair), William Cove, D.O., John Peterson, D.O., and Emma Pudvah participated in the decision. Assistant Attorney General William H. Ahlers appeared for the State. Respondent Wright was not present and was not represented by counsel.

Findings of Fact

1. The Board hereby takes official notice of the case file in this matter.
2. On May 16, 2001, the Office of Professional Regulation (Office) mailed a copy of the specification of charges to Respondent Timothy J. Wright, D.O. (respondent) via certified mail, return receipt requested. The charges were mailed to respondent's last address known to the Office, which was the address entered in the Office licensing software program.
3. Enclosed with the charges was a cover letter from the Director of the Office, informing respondent that "[i]f you fail to answer the charges within 20 days, disciplinary action may be taken against your license by means of a default order."
4. On May 28, 2001, the Office received the certified letter marked by the U.S. Postal Service, "Not deliverable as addressed."
5. Respondent did not file an answer to the charges.
6. On May 31, 2001, the Office mailed a notice of hearing for default judgment to respondent at his last known address, via certified mail, return receipt requested. This mailing was also returned undelivered and unopened to the Office by the U.S. Postal Service.
7. Under Board Rule 2.3.3, an osteopathic physician is responsible for notifying the Board immediately of any change of name or address.
8. Based upon the State's presentation and matters officially noticed, the Board finds respondent in default. The allegations contained in the State's specification of charges dated May 11, 2001 (copy attached), are therefore treated as the facts upon which the Board's order is based.

Conclusions of Law

On behalf of the Board, the Office made reasonable attempts to notify respondent of the charges against him, as indicated by records in the Board's file. Because respondent failed to answer the charges, the State's factual allegations are treated as proved. Pursuant to 3 V.S.A. § 809(d) (informal disposition of contested case by default), the Board therefore concludes that respondent has engaged in the unprofessional conduct alleged in the State's specification of charges.

The State recommended permanent revocation of respondent's license. The Board declines to adopt the recommendation of permanent revocation, because Board Rule 2.2.2 (license reinstatement after disciplinary action) allows an osteopathic physician who has been disciplined by the Board to petition for license reinstatement if the physician has been rehabilitated. However, 26 V.S.A. § 1843(e) does authorize the Board to impose terms and conditions on reinstatement. Therefore, the Board will not entertain a petition for reinstatement prior to the expiration of five years from the date of entry of this order, as set forth below.

Order

On the basis of the Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED by the Board of Osteopathic Physicians and Surgeons of the State of Vermont that:

1. The license of Timothy J. Wright, D.O., is REVOKED.
2. The Board will not entertain a petition for license reinstatement prior to the expiration of five years from the date of entry of this order.
3. Pursuant to 3 V.S.A. § 129(a)(7) and 131(c)(2)(C), this document is a public record and may be provided to other licensing authorities.
4. This order takes effect as of the date of entry shown below.

Appeal Rights

This is a final administrative determination. A party (the State or respondent) may appeal by filing a written notice of appeal with the Director of the Office of Professional Regulation, Office of the Secretary of State, within 30 days of the effective date (the date of entry shown below) of this order.

Dated: September 18, 2001

BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS

By: Paul Donovan D.O.
Paul Donovan, D.O.
Hearing Panel Chair

Date of Entry: 9/21/01

**STATE OF VERMONT
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

In re:	)	
Timothy Wright	)	Docket No. OS03-0401
License No. 32-0448	)	

SPECIFICATION OF CHARGES

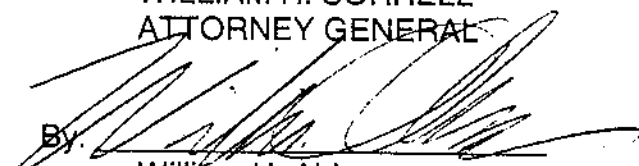
1. The Board of Osteopathic Physicians and Surgeons has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed pursuant to: 3 V.S.A. §§129, 129a; 26 V.S.A. §§1792, 1842 and 1843; the Board's and the Office of Professional Regulation's Administrative Rules.
2. Respondent Timothy Wright, of DeSoto, Texas, is an Osteopathic Physician, holding license no. 32-0448, issued by the State of Vermont, which was originally issued on about August 20, 1996 and lapsed on about September 30, 1998.
3. Respondent was previously licensed in the State of Texas, as a Doctor of Osteopathy, by virtue of a medical license from the Texas State Board of Medical Examiners, originally issued in 1992 and revoked on about December 7, 2000.
4. Pursuant to a Findings of Fact, Conclusions of Law and Order passed and approved by the Texas State Board of Medical Examiners on about December 7, 2000 (Docket No. 503-99-1654, attached and fully incorporated herein);
 - a. In 1993 and 1994, Respondent had repeated sexual contacts with O.S., his eleven year old stepdaughter. (Finding 4).
 - b. Respondent committed dishonorable or unprofessional conduct within the meaning of §3.08(4) of the Texas Medical Practices Act (later Tex. Occ. Code Ann. §164.052) (Conclusion 5).
5. The act(s), omission(s) and/or circumstance(s) described above, constitute unprofessional conduct pursuant to, and also violate: 3 V.S.A. § 129a(a)(3) (Failing to comply with the provisions of federal or state statutes or rules governing the practice of the profession) and 3 V.S.A. § 129(a)(7) (...a board may exercise the following powers:...Discipline any licensee or refuse to license any person who has had a license revoked, suspended, limited or conditioned by a licensing agency in another jurisdiction for an offense which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct.)

WHEREFORE, the license of Timothy Wright should be revoked, suspended or otherwise disciplined.

Dated this 11th day of May, 2001 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

William H. Ahlers
Assistant Attorney General

Office of the
ATTORNEY
GENERAL
9 State Street
Montpelier, VT
05609

DOCKET NO. 503-99-1654

TEXAS BOARD OF
MEDICAL EXAMINERS

VS.

TIMOTHY JOHN WRIGHT, D O.

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§

BEFORE THE TEXAS STATE

STATE BOARD OF

MEDICAL EXAMINERS

FINAL ORDER OF THE BOARD

During open meeting at Austin, Texas, the Texas State Board of Medical Examiners finds that after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge who made and filed a proposal for decision containing the Administrative Law Judge's findings of fact and conclusions of law. The proposal for decision was properly served on all parties and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Texas State Board of Medical Examiners, after review and due consideration of the proposal for decision, and exceptions and replies filed, if any, adopts the following findings of fact and conclusions of law of the Administrative Law Judge. All proposed findings of fact and conclusions of law not specifically adopted herein are hereby denied.

FINDINGS OF FACT

1. Timothy Wright (Respondent) is a doctor of osteopathy who received his medical license from the Texas State Board of Medical Examiners (Board) in 1992.
2. Respondent practices emergency room medicine.
3. Pursuant to notice of hearing, Respondent appeared and was represented by counsel at the hearing in this matter held May 2-5, 2000.
4. In 1993 and 1994, Respondent had repeated sexual contacts with O.S., his eleven year old stepdaughter.
5. At the time of his sexual contacts with O.S., Respondent was a married adult male with two natural children.

6. Respondent's sexual contacts with O.S. did not occur in connection with Respondent's practice of medicine.
7. Other than his sexual contacts with O.S., there are no known complaints against Respondent regarding either his pedophilia or his medical practice.
8. Pedophilia is the desire on the part of an adult to have sexual contacts with prepubescent children, generally those under the age of thirteen.
9. Pedophilia is a mental condition that may or may not have associated conduct.
10. By virtue of his sexual contacts with O.S., Respondent is a pedophile.
11. Respondent is a situational pedophile, meaning that he is not primarily sexually aroused by children but rather used a child as a substitute for adult sexual companionship.
12. Pedophilic acts always have a victim.
13. The impact of pedophilic conduct on the pedophile's victim can be catastrophic.
14. Pedophilic acts are difficult to detect because the pedophiles rarely self-report such conduct and the victims may not know how to complain.
15. The recidivism rates for pedophiles are difficult to determine for the reasons set out in Finding of Fact No. 14.
16. Based on the best available statistical data, pedophilic recidivism rates vary according to certain factors, including whether the pedophile: had prior offenses; was over twenty-five years old; had a female victim; and was related to the victim.
17. Based on two accepted psychological tests for sex offender recidivism rates, Respondent's chance of committing further pedophilic acts is around seven-to-ten percent over a five-to-ten year period.
18. The recidivism rates for pedophiles tends to increase over time.
19. Respondent received an unknown amount and type of psychological counseling for his pedophilia.
20. During Respondent's therapy, the counselor who treated Respondent's pedophilia was not a certified sex offender treatment provider.

21. The recommended treatment protocol for pedophiles is completion of a certified sex offender treatment program, which includes individual and group psychotherapy, conducted by a certified sex offender treatment provider.
22. Respondent's pedophilic conduct was caused in part by his immaturity and emotional isolation.
23. Respondent's current emotional status is unknown.
24. Completing the recommended sex offender treatment program will enhance Respondent's ability to control his pedophilia and avoid further pedophilic acts.
25. Respondent is not known to have committed any pedophilic acts since 1994.
26. Respondent's pedophilia is not known to have affected his ability to practice medicine with reasonable skill and safety to his patients.
27. As an emergency room physician, Respondent may have unsupervised contact with children.
28. "Dishonorable" means lacking in honor, shameful, or disgraceful.
29. Pedophilic acts are culturally and legally unacceptable in this country and are dishonorable.
30. Unprofessional conduct includes conduct that violates technical or ethical standards of a profession.
31. Physicians have an ethical duty to be trustworthy.
32. To the extent his misconduct with O.S. affected Respondent's trustworthiness, it is unprofessional.
33. Whether or not they occur in connection with the practice of medicine, pedophilic acts by a physician undermine the public's confidence in the medical profession.
34. Allowing a diagnosed pedophile to practice medicine without having received the recommended sex offender treatment and without knowing his current emotional and psychological status undermines public confidence in the integrity of the medical profession.
35. Respondent's pedophilic acts were very serious offenses but were limited to one period of time with one minor, his stepdaughter.
36. Respondent needs to pay for sex offender treatment and a psychiatric evaluation.

37. Imposing an administrative penalty on Respondent was not shown to deter future violations or correct the consequences of his past misconduct.

CONCLUSIONS OF LAW

1. The Board of Medical Examiners has jurisdiction over this matter pursuant to Texas Medical Practices Act (Act), TEX. REV. CIV. STAT. ANN. ART. 4495B, §§ 4.01, 4.12 (now TEX. OCC. CODE ANN. § 164.001).
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue this proposal for decision pursuant to § 4.05 of the Act (now TEX. OCC. CODE ANN. § 164.007) and TEX. GOV'T CODE ANN. ch. 2003.
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. The hearing was conducted according to the requirements of the Administrative Procedure Act; the rules of the State Office of Administrative Hearing; and the rules of the Board of Medical Examiners.
5. Based on Findings of Fact Nos. 4, 8, 10, and 28-32, Respondent committed dishonorable or unprofessional conduct within the meaning of § 3.08(4) of the Act (now TEX. OCC. CODE ANN. § 164.052).
6. The amount of an administrative penalty may not exceed \$5,000 per violation and shall be based on: the seriousness of the violation (based on the nature, circumstances, extent, and gravity of any prohibited act and the hazard or potential hazard created to the health, safety, or economic welfare of the public); the economic harm to property or the environment caused by the violation; the history of previous violations; the amount necessary to deter a future violation; efforts to correct the violation; and any other matter justice may require. TEX. OCC. CODE ANN. § 165.003 (formerly TEX. REV. CIV. STAT. ANN. art. 4495b, §§ 4.125(b) and (c)).
7. The Board may suspend, revoke, or probate the suspension of a medical license and may require a licensee to obtain care, counseling, or treatment. The Act at §§ 4.01, 4.12 (now TEX. OCC. CODE ANN. § 164.001).

8. Based on Findings of Fact Nos. 11-34 and Conclusions of Law No. 1-7, the Board should revoke Respondent's license.

The Board modified the ALJ's proposed finding of fact No. 8 that stated "Based on Findings of Fact Nos. 11-34 and Conclusions of Law No. 1-7, the Board should suspend Respondent's license until such time as the Board has an opportunity to evaluate Respondent's current emotional and psychological status based on Respondent's psychiatric evaluation by a Board-approved mental health provider and Respondent's successful completion of a sex offender treatment program certified by the State of Texas, after which the Board should consider probating the license suspension." The Board made the change since a suspension alone is an insufficient remedy to protect the public. It has been determined that the Respondent is a pedophile with a likelihood of recidivism that will increase over time. Additionally, the seriousness of Respondent's dishonorable and unprofessional conduct warrants a severe penalty.

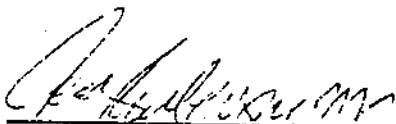
9. Based on Findings of Fact Nos. 35-37 and Conclusion of Law No. 6, the Board should not impose and administrative penalty.

ORDER

It is therefore ORDERED based on the above Findings of Fact and Conclusions of Law, that Respondent's Texas Medical license is hereby REVOKED from the date of the signing of this Order by the presiding officer of the Board.

Passed and approved at the regular meeting of the Texas State Board of Medical Examiners at Austin, Texas, on the 12th day of December, 2000.

TEXAS STATE BOARD OF MEDICAL EXAMINERS



Lee Anderson, M.D.

President, Texas State Board of Medical Examiners