

BEFORE THE ARKANSAS STATE MEDICAL BOARD

**IN THE MATTER OF:
DAVID DIFFINE, M.D.**

EMERGENCY ORDER OF SUSPENSION AND NOTICE OF HEARING

Pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 17-95-409, Ark. Code Ann. § 17-95-410, and Board Regulation 1(2), the Arkansas State Medical Board (“ASMB”) issues the following Emergency Order and Notice of Hearing charging David Diffine, M.D., with alleged violations of the Medical Practices Act and Board Regulations, more specifically:

1. Board Rule 1(2)(b), that is, the Board has received information indicating the public health, safety, and welfare requires emergency action.

2. Ark. Code Ann. § 17-95-409(a)(2)(P), in violating a rule of the Arkansas State Medical Board, specifically, Board Regulation 2.7, that is, “A licensed physician/physician assistant engaging in sexual contact, sexual relations or romantic relationship with a patient concurrent with the physician/physician assistant-patient relationship...”

3. Ark. Code Ann. § 17-95-409(a)(2)(P), in violating a rule of the Arkansas State Medical Board, specifically, Board Regulation 32, that is, “a licensed physician utilizing words or acts which sexually harass co-workers or employees or patients within the clinic or hospital setting.”

ALLEGATIONS

1. David Diffine, M.D., is a licensed physician in the State of Arkansas under the provisions of the Medical Practices Act.

2. The Board has received information indicating the public health, safety, and welfare requires Board action.

3. On or about July 17, 2024, the Board received a complaint that Dr. Diffine engaged in sexual contact with his staff, who are also his patients, and sexually harassed these same individuals. The complaint was accompanied by a video of the sexual conduct and harassment. The video is from a security camera inside the medical clinic.

4. Specifically, the video shows, among other things, Dr. Diffine performing a sexual act with a staff member while other staff members were present and watching. The video also shows Dr. Diffine walking throughout the clinic naked.

5. Dr. Bradley Diner of the Arkansas Medical Foundation viewed the video footage contained with the complaint and noted that,

“The perverse behavior leads to concerns about a sexual compulsive disorder or paraphilia which may in fact cross boundaries with his delivery of medical care. Simply, the interaction with his office staff suggest an entanglement in his medical practice. Given these additional concerns, I would recommend that he have a more formal professional evaluation for safety to practice.”

6. Pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-211(c), upon an affirmative vote of the majority of the Arkansas State Medical Board, the Board finds that the acts of David Diffine, M.D., as described above, exhibit an ongoing danger to the public in his continued practice of medicine. Therefore, the license to practice medicine in the State of Arkansas of David Diffine, M.D., is suspended on an emergency basis, pending a disciplinary hearing in this matter, or further orders of this Board.

APPLICABLE LAW AND REGULATIONS

1. According to Board Regulation 1(2)(A), the Board holds hearings on licensees pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann., § 25-15-208, upon

receipt of information, and following an investigation, indicating possible violations of its statutes and rules.

2. According to Board Regulation 1(2)(B), “If the Board receives information indicating that the public health, safety, or welfare requires emergency action, the Board may suspend a person's license pending proceedings for revocation or other action. An emergency order of suspension will be issued informing the licensee of the facts or conduct warranting the suspension, and the date, time, and place of the hearing. This emergency order shall contain a copy of this and any other pertinent rule.”

3. Pursuant to Ark. Code Ann. § 17-95-409(a)(1), the Board may revoke an existing license or impose penalties outlined in Ark. Code Ann. § 17-95-410 if a license holder has committed any offenses defined in this statute as unprofessional conduct.

4. Pursuant to Ark. Code Ann. § 17-95-409(2)(G), unprofessional conduct includes, “grossly negligent or ignorant malpractice.”

5. Pursuant to Ark. Code Ann. § 17-95-409(2)(P), the Board may revoke an existing license or impose penalties outlined in Ark. Code Ann. § 17-95-410, *et seq.*, if a license holder has violated any rule of the Arkansas State Medical Board.

6. Pursuant to Rule 32 (E), it is an ethical violation if “A licensed physician utilizing words or acts which sexually harass co-workers or employees or patients within the clinic or hospital setting.”

7. Pursuant to Rule 2.7, “A licensed physician/physician assistant engaging in sexual contact, sexual relations or romantic relationship with a patient concurrent with the physician/physician assistant-patient relationship; or a licensed physician/physician assistant engaging in the same conduct with a former patient, if the physician/physician assistant uses or

exploits trust, knowledge, emotions or influences derived from the previous professional relationship, shows a lack of fidelity of professional duties, thus exhibiting gross negligence and ignorant malpractice. A patient's consent to, initiation of, or participation in sexual relationship or conduct with a physician/physician assistant does not change the nature of the conduct nor the prohibition.

WHEREFORE, IT IS CONSIDERED, ORDERED, AND ADJUDGED by the Arkansas State Medical Board that a hearing should be conducted to determine whether David Diffine, M.D., has violated the Medical Practices Act as alleged above; and, if it is found that he has, in fact, violated the Medical Practices Act, then the Board should determine whether the license of David Diffine, M.D., to practice medicine in the State of Arkansas, should be revoked or suspended, or whether other sanctions should be given as punishment pursuant to the authority granted the Board pursuant to Ark. Code Ann. § 17-95-410.

Said hearing will be conducted at 4:00 p.m. on the 6 day of December 2024, at the meeting of the Arkansas State Medical Board, 1401 West Capitol Avenue, Suite 340, Little Rock, Arkansas 72201.

David Diffine, M.D., is hereby advised that he may be represented by counsel at the hearing, and that he will be given the opportunity to examine all of the evidence offered to the Board, to cross-examine witnesses, and to offer evidence and witnesses on his own behalf.

David Diffine, M.D., is further advised that any additional records and/or exhibits that he as a Respondent wishes to present to the Board at his hearing MUST be provided to the Board no later than 20 days prior to the hearing date. Failure to do so may result in the Board's refusal to allow the information or documentation to be presented by the Respondent.

IT IS SO ORDERED.

ARKANSAS STATE MEDICAL BOARD

A handwritten signature in black ink, appearing to be 'E. Gardner', written over a horizontal line.

Edward Gardner, M.D., Chairman

Date: 10/14/2024