

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

FILED

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

JUN - 9 2004

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

vs.)

CASE NO. 02-10-2566

AJAY BHARGAVA, M.D.,)
LICENSE NO. 15053)

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, Ajay Bhargava, 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, Ajay Bhargava, holds Oklahoma license no. 15053 and currently practices at Southwestern Medical Center and Comanche County Memorial Hospital in Lawton, Oklahoma.

3. Beginning March 1987 and continuing through November 2003, Defendant's privileges were suspended at Southwestern Medical Center on twenty-eight (28) separate occasions based upon medical records delinquencies.

4. Beginning July 1989 and continuing through February 2000, Defendant's privileges were suspended at Comanche County Memorial Hospital on fourteen (14) separate occasions based upon medical records delinquencies.

5. On or about February 13, 1995, Defendant performed a cervical biopsy on a patient at Southwestern Medical Center. However, the patient had not consented to such a

procedure and Defendant did not have privileges to perform the procedure. Defendant was counseled against such further actions.

6. On or about November 10, 1997, December 1, 1999, December 8, 2000, and November 14, 2001, Defendant applied for renewal of his Oklahoma medical license. On each of these Applications for Licensure, Defendant was asked the following question: "Have you been denied privileges, lost privileges or received discipline by any hospital or other professional medical organization" since the last renewal? In response to each of these questions, Defendant answered "NO". Defendant had previously been suspended by both Comanche County Memorial Hospital and Southwestern Medical Center during these time periods.

7. On or about November 5, 2003, Defendant applied for renewal of his Oklahoma medical license. On his Application for Licensure, Defendant was asked the following question: "Have you ever been denied or had removed or suspended hospital staff privileges" since the last renewal? In response to this question, the Defendant answered "NO". Defendant had previously been suspended by Southwestern Medical Center on numerous occasions.

8. On or about January 14, 2002, Defendant performed a procedure on Patient PJK for abdominal pain. Subsequent to the procedure, the patient deteriorated and died on January 17, 2002. A review of patient records reveals that the Defendant failed to perform an adequate examination when Patient PJK was admitted, and that he failed to follow-up with her care after the procedure. After complications from the procedure were detected, the nursing staff attempted to contact Defendant by repeatedly calling him and paging him. However, he failed to return to the hospital for twenty-eight (28) hours. Defendant additionally failed to timely order proper tests, and when they were finally ordered, he failed to timely act upon the test results.

9. After her death, Patient PJK's surviving spouse sued Defendant for medical negligence. The case was subsequently settled for \$900,000.00.

10. On or about September 25, 2003, Defendant was scheduled to perform a colonoscopy on Patient HAK at Southwestern Medical Center. He placed the scope in the patient's vagina rather than her rectum, and took two (2) pictures of it. He then told the nurse that the picture was of the patient's cervix. Defendant only had consent to perform the colonoscopy. The nurse told Defendant to remove the scope from the patient's vagina since he did not have consent for that procedure. The nurse reported the incident to her superiors.

11. Upon learning of this incident, Southwestern Medical Center conducted an investigation and concluded that Defendant's action in placing the scope in the vagina rather than the rectum was intentional. On or about February 3, 2004, the Ad Hoc Committee recommended that a Letter of Reprimand be placed in Defendant's file and that he be required to have a hospital-employed female chaperone with him while visiting patients in the hospital. The Medical Executive Committee subsequently adopted the recommendation of the Ad Hoc Committee.

12. In late 2003, Southwestern Medical Center became concerned with the accuracy of Defendant's medical records. Upon an initial review of his records, the Ad Hoc Committee found numerous discrepancies with an error rate of 33%. On or about February 3, 2004, the Committee recommended that a Letter of Concern be placed in Defendant's file and that his records be reviewed on a monthly basis. If his error rate exceeded 10%, the matter would be referred back to the Medical Executive Committee. The Medical Executive Committee adopted the recommendation of the Ad Hoc Committee.

13. On or about March 2, 2004, the Medical Executive Committee at Southwestern Medical Center determined that error rate for Defendant's charts for the month of February 2004 was 58%. Accordingly, the Committee voted to summarily suspend him for thirty (30) days effective March 11, 2004.

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

A. Engaged in gross or repeated negligence in the practice of medicine and surgery in violation of OAC 435:10-7-4(15).

B. Engaged in dishonorable or immoral 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).

C. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, or agreement of the Board in violation of 59 O.S. §509(14) and OAC 435:10-7-4(39),

D. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of 59 O.S. §509(16) and OAC 435:10-7-4(40).

E. Is physically or mentally unable to practice medicine and surgery with reasonable skill and safety in violation of OAC 435:10-7-4(17).

F. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

G. 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).

H. Engaged in fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic reregistration of a medical license in violation of OAC 435:10-7-4(8).

I. Was subject to any adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4(34).

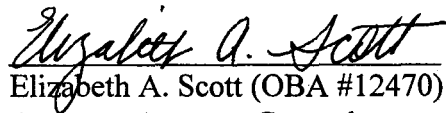
J. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

15. These allegations raise serious concerns about Defendant's ability to practice as a physician and surgeon in the State of Oklahoma with reasonable skill and safety.

WHEREFORE, plaintiff 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, the assessment of costs and fees incurred in this action, and any other appropriate action with respect to Defendant's license to practice as a physician and surgeon in the State of Oklahoma.

Dated this 7th day of June, 2004 at 2:00 p.m.

Respectfully submitted,



Elizabeth A. Scott (OBA #12470)

Assistant Attorney General

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Attorney for State ex rel.

Oklahoma Board of Medical Licensure and
Supervision