

**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, )

MAR 10 2005

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

Case No. 02-10-2566

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

Defendant. )

**VOLUNTARY SUBMITTAL TO JURISDICTION**

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 for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Ajay Bhargava, M.D., Oklahoma License No. 15053, who appears in person and through counsel, Linda G. Scoggins, offer this Agreement effective March 10, 2005 for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

***AGREEMENT AND ACKNOWLEDGEMENT BY DEFENDANT***

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to certain of the allegations in the Complaint and Citation filed herein on June 9, 2004, and further acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Ajay Bhargava, M.D., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and this Agreement has been reviewed and discussed with him and his legal counsel.

## ***PARTIES' AGREEMENT AND STIPULATIONS***

Plaintiff, Defendant, and the Board staff stipulate and agree as follows:

### ***Findings of Fact***

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, M.D., holds Oklahoma license no. 15053.
3. Beginning March 1987 and continuing through November 2003, a period of more than sixteen (16) years, Defendant's privileges were "suspended" at Southwestern Medical Center on approximately twenty-eight (28) separate occasions based upon medical records delinquencies. Many of the "suspensions" occurred over ten (10) years ago. The "suspensions" were not reportable and were not considered an adverse action as Defendant could not request a hearing.
4. Beginning July 1989 and continuing through February 2000, a period of nearly eleven (11) years, Defendant's privileges were "suspended" at Comanche County Memorial Hospital on approximately fourteen (14) separate occasions based upon medical records delinquencies. Many of the "suspensions" occurred over ten (10) years ago. The "suspensions" were not reportable and were not considered an adverse action as Defendant could not request a hearing.
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 questions: "Have you been denied privileges or received discipline by any hospital or other professional medical organizations" 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 for medical record delinquencies. Defendant did not believe that this question included any "suspension" for medical record delinquencies.
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 during this period of time for medical record

delinquencies. Defendant did not believe that this question included any "suspension" for medical record delinquencies.

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. After her death, Patient PJK's surviving spouse sued Defendant for medical negligence. Defendant contends that all of his care and treatment provided to the patient was within the standard of care. The case was subsequently settled without the admission of any negligence or guilt.

9. 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. Defendant states that this was an inadvertent action and was not intentional.

10. Upon learning of this incident, Southwestern Medical Center conducted an investigation. On or about February 3, 2004, the Medical Executive Committee adopted a recommendation that a Letter of Guidance be issued to Defendant and that he be required to have a hospital-employed female chaperone with him while visiting all patients in the hospital, not just female patients.

11. 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.

12. On or about March 2, 2004, the Medical Executive Committee at Southwestern Medical Center determined that the 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. This suspension did not have to be reported to the National Practitioner Data Bank because it was for less than thirty-one (31) days. Defendant believes that the error rate is incorrect, has appealed the suspension, and the final outcome has not been determined. Southwestern Medical Center has continued to monitor Defendant's chart documentation and has taken no further action.

13. Due to Board staff concerns, Defendant underwent a neuropsychological evaluation on February 14 and February 23, 2005 by a Board approved mental health professional. The psychologist found that, from a neuropsychological and psychological perspective, Defendant is able to perform his duties as a physician.

14. With regard to the medical charting practices of which Defendant was suspended for thirty (30) days from Southwestern Medical Center, Defendant is guilty of unprofessional conduct as follows:

- A. 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(13) and OAC 435:10-7-4-(39).
- B. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

#### *Conclusions of Law*

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. With regard to the medical charting practices of which Defendant was suspended for thirty (30) days from Southwestern Medical Center, Defendant, Ajay Bhargava, Oklahoma License No. 15053 is guilty of unprofessional conduct as stated below:

- A. 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(13) and OAC 435:10-7-4-(39).
- B. Engaged in the improper management of medical records in violation of OAC 435:10-7-4(36).

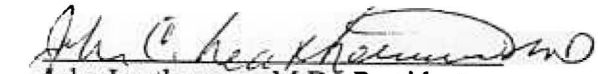
#### *Order*

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:


1. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be issued a PUBLIC LETTER OF CONCERN.
2. Defendant shall undergo a neuropsychological evaluation by a medical professional satisfactory to the Board. The Defendant has completed this requirement.
3. Defendant shall pay an ADMINISTRATIVE FEE in the amount of \$10,000.00, which shall be paid within ten (10) days from the date of this Voluntary Submittal to Jurisdiction.
4. Within one (1) year of the date of this Voluntary Submittal to Jurisdiction, Defendant shall complete a minimum of six (6) hours of continuing medical education on medical record maintenance and charting approved in advance by the Board Secretary, which may include online or home study courses or seminars. Defendant shall provide to the Board Secretary proof of completion of said seminar(s).


5. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs.

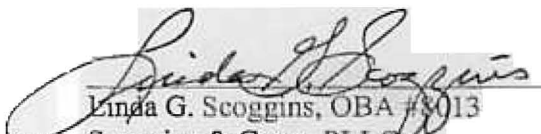
Dated this 10 day of March 2005.

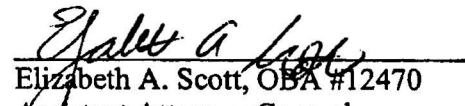
  
John Leatherman, M.D., President  
Oklahoma State Board of  
Medical Licensure and Supervision

**AGREED AND APPROVED:**

  
Ajay Bhargava, M.D.  
License No. 15053

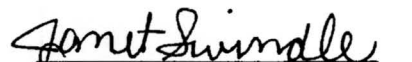
  
Gerald C. Zumwalt, M.D., Secretary  
Oklahoma State Board of Medical  
Licensure and Supervision

  
Linda G. Scoggins, OBA #13013  
Scoggins & Cross, PLLC  
204 N. Robinson, Suite 3100  
Oklahoma City, OK 73102

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

**CERTIFICATE OF SERVICE**

On the 11th day of March, 2005, a true and correct copy of this order was mailed, postage prepaid, to Linda Scoggins, 204 N. Robinson Suite 3100, Oklahoma City, OK 73102

  
Janet Swindle, Secretary

# Board of Medical Licensure & Supervision State of Oklahoma

5104 N. Francis Ave., Suite C  
Oklahoma City, Oklahoma 73118-6087



P.O. Box 18256  
Oklahoma City, Oklahoma 73154-0256

April 15, 2005

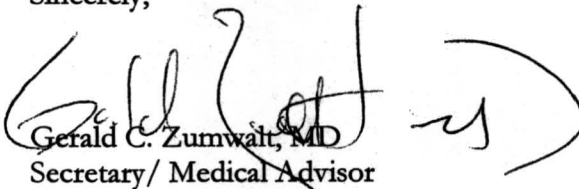
Ajay Bhargava, MD  
4302 SW Lee Boulevard  
Lawton, OK 73505

Dear Dr. Bhargava:

On March 10, 2005 the Oklahoma State Board of Medical Licensure and Supervision instructed me to issue a public Letter of Concern to you.

The Board is concerned as to your responsibility as a hospital staff member and treating physician. They expect a more professional level of record keeping.

Sincerely,

  
Gerald C. Zumwalt, MD  
Secretary/ Medical Advisor

GCZ:kp

cc: Linda Scoggins