

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

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

Plaintiff,)

)
)
)
ASHRAF R. MIHANNI, M.D.,)
LICENSE NO. 16578,)

)
Defendant.)

FILED

MAY - 5 2005

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 02-01-2461

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 Ashraf R. Mihanni, M.D., Oklahoma License No. 16578, who appears in person and through counsel, Linda G. Scoggins, offer this Agreement effective May 5, 2005 for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Agreement, Defendant pleads guilty to certain of the allegations in the Complaint and Citation filed herein on February 7, 2005, 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, Ashraf R. Mihanni, 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 Agreement. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that 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, Ashraf R. Mihanni, M.D., holds Oklahoma license no. 16578 and is currently employed at Comanche County Memorial Hospital.

3. On or about August 4, 2003, Defendant entered into a Stipulation and Agreed Order with the Oklahoma State Bureau of Narcotics and Dangerous Drugs ("OBNDD"). The Stipulation and Agreed Order indicated that on or about April 23, 2002, Defendant admitted that he:

- a) issued five (5) prescriptions for controlled dangerous substances ("CDS") to BH prior to performing a physical exam or establishing a legitimate need;
- b) issued nine (9) prescriptions for CDS to LE even though Defendant had no patient file for LE;
- c) issued eight (8) prescriptions for CDS to GE without performing a physical exam or creating a patient file for GE; and
- d) issued two (2) prescriptions for CDS to BE without performing a physical exam or creating a patient file for BE.

4. Defendant and the OBNDD agreed that Defendant's OBNDD registration should be granted subject to the following conditions:

- a) for a period of six (6) months, said period having begun June 1, 2003 and ending November 30, 2003, Defendant shall make duplicates of all prescriptions for CDS and have them readily available for inspection by OBNDD agents;
- b) Defendant specifically agrees that any violation of any of the conditions of this Stipulation and Agreed Order as specified above will be grounds for disciplinary action by the Oklahoma Bureau of Narcotics and Dangerous Drugs; and
- c) Defendant agrees to pay, in advance, an administrative fee of Ten Thousand Dollars (\$10,000.00) payable to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. This agreement is conditioned upon payment in full of said amount.

Defendant has complied with all conditions imposed by the OBNDD Stipulation and Agreed Order set forth above.

5. Defendant voluntarily agrees to notify and obtain approval from the Board Secretary prior to a change in employment from a hospital-based practice or to another hospital-based practice within the next (2) years from the effective date of this Agreement. Defendant also voluntarily agrees that, if warranted by a change in practice circumstances during the next two (2) years, the Board Secretary reserves the right to impose terms of probation as he deems appropriate.

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

- 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 OAC 435:10-7-4(39).
- b) Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509(18).
- c) Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).
- d) Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- e) Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).

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. Defendant, Ashraf R. Mihanni, M.D., Oklahoma license no. 16578, is guilty of the unprofessional conduct set forth 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 OAC 435:10-7-4(39).
- b) Failed to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient in violation of 59 O.S. §509(18).

- c) Wrote a false or fictitious prescription for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs in violation of 59 O.S. §509(11).
- d) Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).
- e) Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).

Order

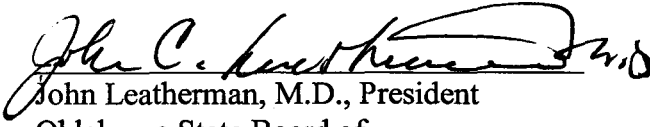
IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.
2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Defendant shall be hereby **REPRIMANDED**.


FURTHER, in lieu of a restriction being placed on Defendant's license, the Board accepts Defendant's voluntary agreement to notify and obtain approval from the Board Secretary prior to a change in employment from a hospital-based practice or to another hospital-based practice within the next (2) years from the effective date of this Agreement. Defendant also voluntarily agrees that, if warranted by a change in practice circumstances during the next two (2) years, the Board Secretary reserves the right to impose terms of probation as he deems appropriate.

3. 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.

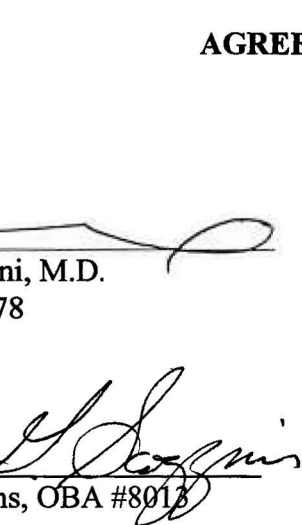
Dated this 5th day of May, 2005.


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

AGREED AND APPROVED:


Ashraf R. Mihanni, M.D.
License No. 16578

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


Linda G. Scoggins, OBA #8013
Scoggins & Cross
3100 City Place Building
204 N. Robinson
Oklahoma City, OK 73102

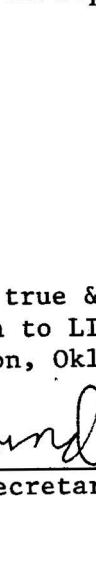
Elizabeth A. Scott, OBA #12470
Assistant Attorney General
State of Oklahoma
5104 N. Francis, Suite C
Oklahoma City, OK 73118
405/848-6841

Attorney for Defendant,
Ashraf R. Mihanni, M.D.

Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 6th day of May, 2005, I mailed a true & correct copy of the Order accepting Voluntary Submittal to Jurisdiction to Linda Scoggins Scoggins & Cross, 3100 City Pl Building, 204 N. Robinson, Oklahoma City Ok 73102.


Janet Swindle, Secretary