

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,)
)
Plaintiff,)
)
v.)
)
RAKESH PRASAD, M.D.,)
LICENSE NO. 19543,)
)
Defendant.)

SEP 27 2001

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 01-04-2315

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, Rakesh Prasad, M.D., Oklahoma license no. 19543, who appears in person and with his attorney, Tom Riesen, proffer this Agreement 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 Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on April 26, 2001, and 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, Rakesh Prasad, 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 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, Rakesh Prasad, M.D., holds Oklahoma license no. 19543 in the State of Oklahoma.

3. On or about March 26, 2001, Defendant instructed employee MBK of his practice group to call in a telephone prescription for Sonata, a Schedule IV controlled dangerous substance, in the name of employee LFK. The prescription was for ninety (90) pills with three (3) refills. Defendant admits that the drugs were not intended for the use of employee LFK but were instead intended for Defendant's own personal use.

4. Employee LFK attempted to pick up the drugs at the request of Defendant, but was unable to do so because she did not have enough money. Defendant then instructed employee MBK to call in another prescription in the name of another employee, but employee MBK refused to do so. Employee MBK then attempted to pick up the drugs at the request of Defendant, but the pharmacy refused to allow her to do so on the belief that the prescription was not valid.

5. Defendant subsequently learned that the pharmacy was refusing to allow either employee LFK or employee MBK to pick up the drugs. Defendant then met privately with employee LFK and asked her to lie for him and say that she wanted the prescription for herself but had changed her mind. During this meeting with the Defendant, employee LFK felt intimidated and uncomfortable, based upon statements made to her by the Defendant. Defendant then approached employee MBK and asked her to lie for him by saying that she had made a mistake and called in the prescription in the wrong name. However, within a ten (10) to fifteen (15) minute period, Defendant then advised employee MBK that he would take full responsibility for his actions and there was no need for her to lie. The Defendant apologized to employee MBK. The Defendant has also provided a written apology to employee LFK and gave his apology to his Human Resources Department.

6. Defendant is guilty of unprofessional conduct in that he:
 - A. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).
 - 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. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).
 - E. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).
 - F. 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(12).
 - G. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-407.
 - H. Committed an act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).
 - I. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).
 - J. Used a false, fraudulent or deceptive statement in a document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

K. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-407, and OAC 475:30-1-3.

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, Rakesh Prasad, Oklahoma medical license 19543, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

A. Procured, aided or abetted a criminal operation in violation of 59 O.S. §509(1).

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. Purchased or prescribed a regulated substance in Schedules I through V for the physician's personal use in violation of OAC 435:10-7-4(5).

E. Prescribed, sold, administered, distributed, ordered or gave a drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself in violation of OAC 435:10-7-4(26).

F. 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(12).

G. Confessed to a crime involving a violation of the anti-narcotic laws of the federal government or the laws of this state in violation of 59 O.S. §509(8) and 63 O.S. §2-407.

H. Committed an act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine in violation of 59 O.S. §509(10).

I. Prescribed a controlled substance without medical need in accordance with published standards in violation of 59 O.S. §509(17) and OAC 435:10-7-4(2) and (6).

J. Used a false, fraudulent or deceptive statement in a document connected with the practice of medicine and surgery in violation of OAC 435:10-7-4(19).

K. Violated a state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27), 63 O.S. §2-407, and OAC 475:30-1-3.

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, Rakesh Prasad, M.D., holding Oklahoma License No. 19543, is hereby placed on **PROBATION** for a period of five (5) years beginning September 27, 2001 under the following terms and conditions:

A. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Oklahoma State Board of Medical Licensure and Supervision.

B. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed by the Oklahoma State Board of Medical Licensure and Supervision.

C. Defendant will not prescribe, administer or dispense any medications for personal use or for that of any family member.

D. Defendant will submit for analysis biological fluid specimens including, but not limited to, blood and urine, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.

E. Defendant will take no medication except that which is authorized by a physician treating him for a legitimate medical need. Defendant has the affirmative duty to inform any and every doctor treating him of this Board Order immediately upon initiation or continuation of treatment.

F. Defendant has the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

G. Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses involving substance abuse.

H. Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Consultant or other Board designee to obtain copies of medical records and authorize the Compliance Consultant or other Board designee to discuss Defendant's case with the Defendant's treating physicians and/or any physicians holding Defendant's records.

I. Defendant will enter and continue treatment under a board certified psychiatrist not currently under probation with this Board approved in writing in advance by the Board Secretary. Defendant's treatment shall include not less than two (2) visits per month with the approved psychiatrist for the first six (6) months of his probation and not less than one (1) visit per month thereafter until he is discharged by said psychiatrist. Defendant shall submit

quarterly written reports from his psychiatrist to the Board Secretary for his review. Defendant shall authorize in writing the release of any and all records of this treatment to the Board or its designee.

J. Defendant will immediately obtain a mentor or supervisor approved in advance by the Board Secretary, and shall provide quarterly reports from his mentor or supervisor to the Board Secretary regarding Defendant's practice, including any concerns or complaints expressed by staff or patients.

K. Defendant will keep the Oklahoma State Board of Medical Licensure and Supervision informed of his current address.

L. Defendant will not supervise allied health professionals that require surveillance of a licensed physician.

M. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Consultant or designee.

N. Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of his case.

O. Until such time as all indebtedness to the Oklahoma State Board of Medical Licensure and Supervision has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

P. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

Q. Defendant will promptly notify the Board or its designee of any slip, relapse, entry or re-entry into an inpatient rehabilitation, assessment, or evaluation program and shall provide to the Board or its designee written authorization for any and all records associated with said treatment, assessment or evaluation. Defendant acknowledges and agrees that the Board may use such information against Defendant in any future disciplinary proceedings.

R. Defendant will comply with all recommendations of Rush Behavioral Health Center.

S. Failure to meet any of the terms of your Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify your

license after due notice and hearing.

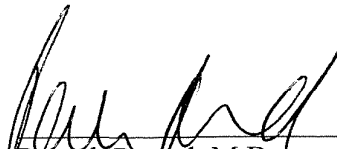
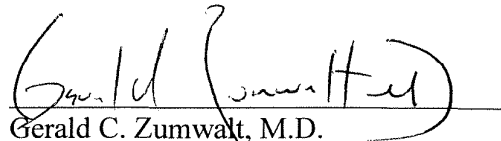
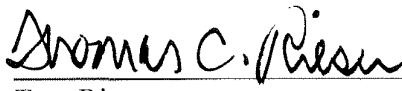
4. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and investigation costs, and shall keep current all payments for monitoring his compliance with this agreement.

Dated this 27 day of September, 2001.



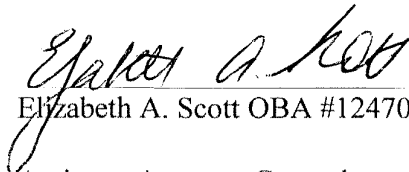
John Alexander, M.D., President
Oklahoma State Board of
Medical Licensure and Supervision

AGREED AND APPROVED:


Rakesh Prasad, M.D.
License No. 19543
Gerald C. Zumwalt, M.D.
Secretary & Medical Advisor
Oklahoma State Board of
Medical Licensure and Supervision
Tom Riesen

5101 N. Classen Blvd.
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Oklahoma City, OK 73118

Attorney for the Defendant


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 the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

I certify that on the 28 day of September, 2001, I mailed via first class mail, postage prepaid, a true and correct copy of the Voluntary Submittal to Jurisdiction to Rakesh Prasad, MD, 3433 NW 56 #400, Oklahoma City, Ok 73112 and Tom Riesen, Attorney, 5101 N. Classen Blvd. Suite 404, Oklahoma City, Ok 73118


Janet Owens, Secretary