

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

FILED

MAY 22 2018

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

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

 Plaintiff,)

v.)

DAVID L. GRAHAM, M.D,)
LICENSE NO. 20601,)

 Defendant.)

Case No. 14-03-4937

ORDER DENYING MOTION TO MODIFY TERMS OF VSJ

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on May 10, 2018, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and the rules of the Board.

Joseph L. Ashbaker, Assistant Attorney General appeared on behalf of Plaintiff, and David L. Graham, M.D. (“Defendant”), appeared in person, and through counsel Elizabeth Sharrock of Pierce Couch Hendrickson Baysinger & Green, LLP, (collectively, the “Parties”). Dr. Robert Westcott, Medical Director at the Oklahoma Health Professional Program (OHPP) appeared.

The Board having considered representations of counsel and testimony of Defendant, and being fully apprised of the premises, makes the following findings of fact, conclusion of law and orders:

Findings of Fact

1. In Oklahoma, Defendant holds medical license no. 20601, issued April 22, 1998.
2. On May 23, 2014, a Complaint and Citation were filed against Defendant.
3. Defendant filed an Answer on June 26, 2014.
4. On January 15, 2015, an Order Accepting Voluntary Submittal to Jurisdiction (“VSJ”) was filed, including five (5) years’ **PROBATION** with terms and conditions.
5. On April 20, 2018, Dr. Graham’s Motion to Modify Terms of VSJ was filed.

6. Plaintiff's Objection to Defendant's Motion to Modify Terms of VSJ, was filed on April 27, 2018.
7. At the May 10, 2018 Board meeting, Ms. Sharrock argued that Defendant is the only dermatologist in the area of his practice. Ms. Sharrock reviewed Defendant's practice and advised he has a large patient base that need his service.
8. AAG Ashbaker advised the Board regarding Defendant's history with a former patient and stated the VSJ is a negotiated agreement between the Parties, settling this case and protecting the public. AAG Ashbaker further advised that Defendant is not the only dermatologist in his practice area and extraordinary circumstances do not exist to modify the VSJ.
9. The Board ruled that Dr. Graham's Motion to Modify Terms of VSJ is denied.

Conclusions of Law

10. The Board has jurisdiction over the subject matter and 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. 59 O.S. § 480 *et seq.* and Okla. Admin. Code § 435:5-1-1 *et seq.*
11. Notice was given as required by law and the rules of the Board. 75 O.S. § 309(A); 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 3-3-6.
12. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice medicine in the State of Oklahoma for unprofessional conduct. 59 O.S. §§ 503, 513(A)(1). The Board's action is authorized by 59 O.S. §§ 509.1(A), (3), (4), (6), (8), Okla. Admin. Code § 435:5-1-3.
13. The Board is authorized to accept voluntary submittals to jurisdiction mutually agreed-to by parties to a disciplinary action to resolve the action without need for a hearing. 75 O.S. 2011, § 309(E); Okla. Admin. Code § 435:5-1-5.1.

Orders

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

1. Dr. Graham's Motion to Modify Terms of VSJ is **DENIED**.
2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
3. A copy of this Order shall be provided to Defendant as soon as it is processed.

Dated this 22nd day of May, 2018.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 23rd day of May, 2018, a true and correct copy of this Order was transmitted as specified, postage prepaid, to the following:

U.S. Certified Mail

David L. Graham, M.D.
307 E. Danforth Road, Suite 154
Edmond, Oklahoma 73034-4487

Defendant

U.S. First Class Mail

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