

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

STATE OF OKLAHOMA, *ex rel.*)
OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff)
)
v.)
)
RAJESH MALHOTRA, M.D.,)
LICENSE NO. MD 21122,)
)
Defendant.)

FILED

APR 11 2016

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

Case No. 14-06-4980

**ORDER OF DEFAULT JUDGMENT
AND REVOCATION OF LICENSE**

The above numbered and entitled cause came on for hearing at the office of the Oklahoma State Board of Medical Licensure and Supervision (herein, "State" or "Board"), on March 10, 2016, at 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and rules of the Board, the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250-323 and the Oklahoma Open Meetings Act, 25 O.S. §§ 301-314.

Rajesh Malhotra, M.D. ("Defendant"), holding Oklahoma medical license no. 21122, appeared not, nor did he appear through counsel.

Joseph L. Ashbaker, Assistant Attorney General appeared on behalf of the State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision.

The Board *en banc*, after hearing the presentation of AAG Ashbaker, reviewing the prima facie evidence, and being fully apprised of the premises, found that there is clear and convincing evidence to support the following:

Findings of Fact

1. Defendant currently holds Oklahoma medical license no. 21122. Defendant also holds medical licenses in Missouri, Wisconsin, Texas and Minnesota.
2. Defendant's acts and omissions occurred while he practiced as a medical doctor in Missouri.
3. The Complaint and Citation, with a Board hearing date of July 21, 2016, were filed December 7, 2015. On December 29, 2016, Defendant was served with the Complaint,

Citation, Scheduling Order and several procedural documents. Proof of Service by private process server was filed of record on January 11, 2016.

4. Defendant admitted guilt for feloniously violating state and federal antinarcotics laws in connection with the practice of medicine.
5. Defendant was disciplined by the states of Missouri, Wisconsin, Texas and Minnesota medical boards for misconduct, as follows:

- a. MISSOURI: In 2013, Defendant was indicted by a grand jury in the Circuit Court of Scott County, Missouri, and subsequently pled guilty to multiple felony counts related to prescribing CDS [controlled dangerous substances] without a Missouri Bureau of Narcotics and Dangerous Drugs registration or a Drug Enforcement Agency (DEA) registration. Defendant was sentenced to five years of probation.

Defendant also pled guilty to and was convicted of 3rd degree assault on May 28, 2015.

Defendant allowed his license in Missouri to expire, January 31, 2014.

- b. WISCONSIN: On July 20, 2015, the Wisconsin Medical Board considered and authorized a complaint to be prepared charging Defendant with unprofessional conduct. In response to the actions taken by the Wisconsin Medical Board, Defendant executed a permanent surrender of his Wisconsin medical license on or about August 19, 2015.
- c. TEXAS: In the State of Texas, on August 28, 2015, Defendant entered into an Agreed Order of Voluntary Revocation with the Texas Medical Board.
- d. MINNESOTA: On September 4, 2015, the Minnesota Board of Medical Practice issued an Order for Automatic Suspension. The predicate for that suspension was Defendant's plea of guilty to a felony reasonably related to the practice of patient care. Said suspension will remain in effect until such time as Defendant petitions for reinstatement of his medical license and after a hearing before the Minnesota Board.

6. On February 16, 2016, the Board filed a Motion for Default Judgment against Defendant for failure to file an answer to the Complaint. On March 2, 2016, Defendant was served with the Motion for Default Judgment and a Letter Notice of the March 10, 2016 Board hearing. Proof of service by private process server was filed of record on March 18, 2016.
7. Defendant failed to appear in person or through an attorney at the Board hearing on March 10, 2016. Defendant has not contacted the Board or Board's counsel since service of the Motion for Default.

8. The Board *en banc* found the State has proven by clear and convincing evidence that Defendant is in default of this matter for being non-responsive to the Complaint filed December 7, 2015, which was served upon him on December 29, 2015 along with a Letter Notice of hearing. Defendant has also been non-responsive to the Motion for Default Judgment filed February 16, 2016, which was served upon him on March 2, 2016 along with a Default Notice of Hearing.
9. The Board *en banc* further found the State has proven by clear and convincing evidence, based on the prima facie evidence presented by AAG Ashbaker, that Defendant is guilty of unprofessional conduct as stated in the Complaint in paragraph 9 a-d, case no. 14-06-1980 filed December 7, 2015.

Conclusions of Law

1. The Board *en banc* 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, surgeons and other allied health professionals in the State of Oklahoma pursuant to 59 Okla. Stat. § 480 *et seq.* Notice was given as required by law and the rules of the Board.
2. The Board is authorized to suspend, revoke or order any other appropriate sanctions against the license of any physician, surgeon and other allied health professional holding a license to practice medicine in the state of Oklahoma for unprofessional conduct. 59 O.S. Supp. 2014, § 503; 59 O.S. 2011, § 509(5), (7), (8), (9); 59 O.S. 2011, § 509.1(A)(1); and Okla. Admin Code § 435:10-7-4(1), (11), (27), (31). Response required within 20 days after service, 59 O.S. 2014, § 503 and Okla. Admin Code § 435:3-3-8(a). The finding of default is authorized under 75 O.S. 2011, § 309(E) and Okla. Admin. Code §§ 435:3-3-8, 435:3-3-14. This authority is *quasi-judicial* 59 O.S. 2011, § 513(A)(1).
3. The Board *en banc* concluded that the State has met its burden by clear and convincing evidence that Rajesh Malhotra, M.D. has violated the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, as stated in the Complaint in paragraph 9 a-d, case no. 14-06-1980 filed December 7, 2015.

Orders

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

1. The Motion for Default Judgment against Defendant **RAJESH MALHOTRA, M.D.** is **APPROVED**.
2. The health professional license of Defendant **RAJESH MALHOTRA, M.D.**, Oklahoma medical license no. 21122, is hereby **REVOKED**.

3. 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.
4. A copy of this written order shall be sent to Defendant as soon as it is processed.
5. **This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.**

Dated this 11th day of April, 2016.



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 12th day of April, 2016, a true and correct copy of this Order was sent by U.S. first-class mail, postage prepaid, to the following:

Rajesh Malhotra
17001 East Larkspur Lane, Apt. #3
Independence, MO 64055

Defendant *Pro Se*



Nancy Thiemann, Legal Secretary



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

FILED

APR 11 2016

**OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION**

**ATTORNEY GENERAL OPINION
2016-201A**

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

March 31, 2016

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with respect to medical doctor licensee 21122. The proposed action is to enter default judgment revoking the license to practice medicine. The licensee was convicted in Missouri of prescribing controlled dangerous substances without registering with controlled substances authorities. The licensee allowed the Missouri licensee to expire in January 2014 and entered various agreements in Wisconsin and Texas to surrender the license. The Minnesota Board of Medical Practice also suspended the license pending a reinstatement application by the licensee. The Board in Oklahoma issued its complaint in December 2015, and it was served on December 29, 2015. The licensee did not respond to the complaint, nor did the licensee respond after default judgment was sought.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–518.1, authorizes the Board to revoke the licenses of those convicted of felonies or of crimes in other states “connected with the physician’s practice of medicine,” 59 O.S.2011, §§ 509(5), (9), 509.1(A)(1). Further, the Board’s administrative rules require the filing of a “written answer under oath . . . within 20 days after the service” of a citation and complaint. OAC 435:3-3-8(a). Given the licensee’s disregard for the disciplinary process—not even requesting an extension—the Board may reasonably believe that default judgment and its revocation of the license are necessary to prevent the illicit prescription of dangerous substances.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma’s policy to ensure the adequate regulation of dangerous substances.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA