

**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,)
)
v.)
ABOLGHASEM REZAEI, M.D.,)
LICENSE NO. 23655)
)
Defendant.)

FILED

SEP 12 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-12-3897

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Scott Randall Sullivan, Special Prosecutor, 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, Abolghasem Rezaei, M.D., Oklahoma license no. MD 23655 who appears in person and through counsel, Ms. Malinda S. Matlock, offer this Agreement effective September 12, 2013, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* Rule 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on June, 14, 2013, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Abolghasem Rezaei, 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 she fully recognizes his right to appear before the Board for an 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 legal counsel.

Agreements and Stipulations

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

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, Abolghasem Rezaei, M.D., holds Oklahoma medical license no. 23655.
3. Defendant owned a medical clinic and his wife operated an adjacent “spa” clinic at 4645 W. Gore, Lawton, Oklahoma.
4. Defendant is a family practice physician who sees patients seeking medical care in his medical clinic. In this medical clinic, Defendant maintained a locked medication cabinet stocked with Controlled Dangerous Substances (“CDS”) consisting of injectable vials of Demerol, sample packets of Hydrocodone, Lunesta, other CDS and prescription medication. Unlicensed staff, including the medical clinic receptionist, had access to keys of the medication cabinet permitting unrestricted access by unlicensed staff to CDS.

Current Violations

5. On November 5, 2012, a Board Investigator requested Defendant provide a urine drug sample. Prior to providing the sample, Defendant told the Board Investigator that he would test positive for Hydrocodone, that he had taken a sample packet of Hydrocodone from the medical clinic for his personal use the night before. Defendant’s urine drug screen was positive for Oxycodone *not Hydrocodone*. When confronted with this result, Defendant admitted to taking Oxycodone, a medication for which he had no personal prescription, but was from CDS that was returned to Defendant by one of his patients.
6. Defendant did not maintain an appropriate log of the use of CDS, and there was CDS inventory that was not properly accounted for, in violation of OAC 435:10-7-1(2).
7. Defendant admitted to Board Investigators that at Defendant’s request, patients from the medical clinics have returned to Defendant unused portions of prescription medication, including Oxycodone, in addition to other CDS. Defendant has torn off the patient’s identifying name on the prescription bottle, then placed these returned prescription medication with CDS in (a) an unlocked drawer in Defendant’s personal office desk in the medical clinic and (b) in an unlocked drawer in an exam room in the spa clinic. Employees, patients of the medical and spa clinics, and patrons of the spa clinic have access to Defendant’s unlocked desk drawer and the exam room in the spa clinic which contains prescription medication including CDS.

8. Defendant has admitted to Board Investigators that he has taken and ingested for his personal use sample packets of CDS from the locked medication cabinet and in addition, he has taken and ingested his patients' returned prescription medication, including Oxycodone and other CDS for his personal use.
9. Defendant has further admitted to Board Investigators that he has left pre-signed prescriptions for the Licensed Practical Nurse ("LPN") employed at his clinic, who has written refill prescriptions for CDS for patients when Defendant is away from the office.
10. On or about December 7, 2012 Defendant was arrested by Oklahoma Highway Patrol ("OHP") for alleged domestic abuse and assault and battery. Defendant received a 6 month deferment that will be expunged on October 19, 2013.
11. On or about January 9, 2013 Board Investigator received an email from Lawton Police Department concerning an incident on December 28, 2012 wherein Patient DB reported she went to Defendant's office to obtain a refill for cough medication. The Defendant told her he could not write the prescription due to the ongoing Board investigation. As Defendant walked Patient DB out he responded, "It's not f***ing fair, it's not fair. If they take my license I will put a bomb in Comanche Memorial Hospital." He also stated he "hoped the world blew up" and that he hoped "Lawton blew up." He further stated that if his license was revoked, "It would be worse than Bin Laden." Upon questioning by Board Investigator, Defendant admitted making the statements contained herein. The Federal Bureau of Investigation ("FBI") investigated this incident and found Defendant not to be a threat in this regard.

Defendant's Mitigation/Cooperation

12. Defendant voluntarily completed a week long CPEP evaluation in Colorado at his own expense and has followed through on the recommendations from that evaluation.
13. Defendant voluntarily submitted to an evaluation at Palmetto Addiction Recovery Center in January 2013 and was cleared for any addiction issues. He voluntarily submits for monthly drug screens to confirm he is not ingesting any CDS.
14. Defendant voluntarily submitted for a neuropsychological examination and has voluntarily complied with the recommendation to participate therapy with a Lawton psychiatrist and has provided the Board with the psychiatrist's report documenting favorable progress.
15. Defendant voluntarily completed a 21 hour prescribing course with a comprehensive prescribing curriculum at UC Irvine in April 2013 at his own expense.
16. Defendant voluntarily completed a 24 hour standard medical boundary course at UC Irvine in June 2013 at his own expense.

17. Defendant voluntarily continues to participate in the Lawton Residency program under the direction of Heidi L. Malling, M.D.

Conclusions of Law

18. Defendant is guilty of unprofessional conduct in that he violated:

509. Unprofessional Conduct – Definition

The Board has the authority to revoke or take other disciplinary action against a licensee or certificate holder for unprofessional conduct. Pursuant to 59 O.S., 1991, Section 509, “Unprofessional Conduct” shall be considered to include:

- A. Conviction or confession of a crime involving violation of:
 - a. the antinarcotic or prohibition laws and regulations of the federal government,
 - b. the laws of this state, or
 - c. State Board of Health rules as violation of Title 59 O.S. §509 (7).

- B. The commission of any act which is a violation of the criminal laws of any state when such act is connected with the physician's practice of medicine. A complaint, indictment or confession of a criminal violation shall not be necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine shall be unprofessional conduct Title 59 O.S. §509 (9).

- C. Failure to keep complete and accurate records of purchase and disposal of controlled drugs or of narcotic drugs Title 59 O.S. §509 (10).

- D. Aiding or abetting, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state Title 59 O.S. §509 (14).

23. Defendant is guilty of unprofessional conduct in that he violated:

Rule 435:10-7-4: Unprofessional Conduct:

The words "unprofessional conduct" as used in Sections 481 through 514 of this title are hereby declared to include, but shall not be limited to, the following:

- A. Purchasing or prescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substances Act, for the physician's personal use in violation of Rule 435:10-7-4(5) of the Oklahoma Administrative Code.

- B. Dispensing, prescribing or administering a Controlled substance or Narcotic drug without medical need in violation of Rule 435:10-7-4(6) of the Oklahoma Administrative Code.
- C. The delegation of authority to another person for the signing of prescriptions for either controlled or non-controlled drugs, in violation of Rule 435:10-7-4(7) of the Oklahoma Administrative Code, except as provided for in 59 O.S., 519.6(D).
- D. Conduct likely to deceive, defraud, or harm the public in violation of Rule 435:10-7-4(11) of the Oklahoma Administrative Code.
- E. Allowing another person or organization to use a physician's license to practice medicine and surgery in violation of Rule 435:10-7-4(22) of the Oklahoma Administrative Code.
- F. Prescribing, selling, administering, distributing, ordering, or giving any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself. Provided that this paragraph shall not apply to family members outside the second degree of consanguinity or affinity. Provided further that this paragraph shall not apply to medical emergencies when no other medical doctor is available to respond to the emergency in violation of Rule 435:10-7-4(26) of the Oklahoma Administrative Code.
- G. Violating any state or federal law or regulation relating to controlled substances in violation of Rule 435:10-7-4(27) of the Oklahoma Administrative Code. (See Rule 435:10-7-1 (2) of the Oklahoma Administrative Code.)

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. Defendant is hereby placed on **PROBATION** for a period of two (2) years and said probation shall have the following terms:

Standard Terms:

- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order shall be submitted in

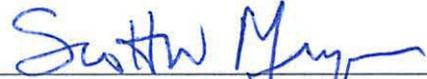
writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board or its designee.

- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- d) Defendant will keep the Board informed of his current address.
- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case unless Defendant affirmatively obtains a deferment of all or part of said fees upon presentation of evidence that is acceptable to the Board Secretary.
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- j) Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify license after due notice and hearing.

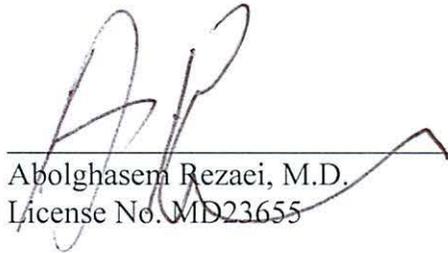
Specific Terms:

- k) Defendant will not authorize any personnel under his supervision to initiate an order for a controlled dangerous substance to be issued.
- l) Defendant will not prescribe, administer or dispense any medications for personal use.
- m) Defendant will continue to submit for analysis biological specimens including, but not limited to, blood, urine and hair follicle, upon request of the Board or its designee, and Defendant will pay for the costs attendant thereto.
- n) Defendant shall have the affirmative duty not to ingest any substance which will cause a biological specimen to test positive for any prohibited substances including, but not limited to, alcohol.
- o) Defendant shall not prescribe any Schedule II or Schedule III controlled dangerous substances during the term of his probation.
- p) Defendant shall continue counseling in accordance with the recommendations of his psychiatrist
- q) Defendant shall continue in the Lawton Residency program in Lawton, Oklahoma under the direction of Heidi L. Malling, M.D. Defendant shall cause the director of the program to prepare, in writing, a quarterly report regarding Defendant's involvement therein to and submit Board Secretary.

Dated this 12th day of September, 2013.



G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



Abolghasem Rezaei, M.D.
License No. MD23655

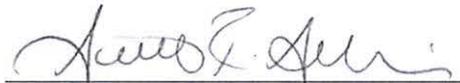


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision



Malinda Matlock, OBA #14108
PIERCE COUCH HENDRICKSON
BAYSINGER & GREEN
1109 North Francis
Oklahoma City, OK 73106

Attorney for Defendant

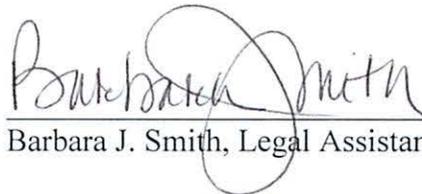


Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of September, 2013, a true and correct copy of this order was sent to Ms. Malinda Matlock via email at mmatlock@piercecouch.com.



Barbara J. Smith, Legal Assistant