

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

FILED

JUL 07 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 09-12-3897

**ORDER GRANTING MOTION TO TERMINATE PROBATION AND
TO ENTER INTO AGREEMENT FOR LICENSURE**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision ("Board") on May 4, 2017, at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105.

At the May 4, 2017 Board meeting, Gary Ricks, Compliance Coordinator for the Board appeared for the Plaintiff. Defendant appeared in person, *pro se*.

The Board, having considered testimony presented and being fully apprised of the premises, makes the following findings of fact, conclusions of law and orders:

Findings of Fact

1. Defendant currently holds Oklahoma medical license number 23655.
2. Defendant is currently practicing under terms of an Order Accepting Voluntary Submittal to Jurisdiction with terms of probation, filed September 12, 2013.
3. On May 2, 2017, Gary Ricks moved to terminate probation and enter into an agreement.
4. At the May 4, 2017 Board meeting, Ricks testified that termination of Defendant's probation would allow additional monitoring by the Oklahoma Health Professionals Program.

Conclusions of Law

1. 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.O. 2011, § 513(A)(1). This authority is quasi-

judicial. 59 O.S. 2011, § 503. The Board's action is authorized by 59 O.S. 2011, §§ 509.1(A)(3),(4).

2. The Board concluded that Defendant presented sufficient evidence and good cause to support the termination of probation to enter into an agreement.

Orders

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

1. Defendant's Order Accepting Voluntary Submittal to Jurisdiction filed September 12, 2013 is terminated.
2. A license is hereby issued pursuant to the Agreement for Licensure After Voluntary Submittal to Jurisdiction executed May 4, 2017.

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 7th day of July, 2017.



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 7th day of July, 2017, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail
Abolghasem Rezaei, M.D.
421 W. Gore Blvd.
Lawton, Oklahoma 73505-6336
Defendant, pro se



Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-501A

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

June 30, 2017

Dear Dr. Billy H. Stout, M.D., Board Secretary:

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 pursuant to a consent agreement with respect to Medical Doctor Licensee 23655, case number 09-12-3897. The proposed action is to terminate probation of the license and issue a license under terms of agreement.

On December 21, 2012, the licensee entered into a consent agreement not to practice and was ordered to complete a substance abuse assessment by January 31, 2013. On January 4, 2013, the licensee completed the assessment and all testing was negative. On January 10, 2013, the licensee entered into a consent agreement permitting the licensee to return to practice under certain terms and conditions during the pendency and resolution of the investigation and complaint. On June 14, 2013, a complaint was filed alleging the licensee maintained a locked medication cabinet stocked with CDS medications to which unlicensed staff, including the medical clinic receptionist, had access to keys permitting unrestricted access to CDS medications by unlicensed staff. On September 12, 2013, the licensee entered into a consent agreement resulting from multiple complaints, including but not limited to (1) inappropriate prescribing of CDS medications; (2) testing positive for Oxycodone; (3) failure to properly account for or maintain appropriate log of use of CDS; (4) requesting patients return their unused portions of prescription medications to the licensee; (5) ingesting sample packets and patient's unused portions of prescription medications for personal use; (6) accepting returned prescription medication including CDS from one patient and using on another patient; (7) leaving pre-signed prescriptions for clinic staff; and (8) being arrested for alleged domestic abuse and assault and battery. The licensee received two years' probation and was subject to certain terms under the agreement. On March 30, 2017, the licensee voluntarily joined the Oklahoma Health Professional Program.

At the May 4, 2017 hearing, it was determined that probation would have been completed, but the licensee moved out of the State of Oklahoma causing the probation to be "tolled" and, once un-tolled, it would expire in a few months. On June 27, 2017, an Agreement for Licensure After Voluntary Submittal for Jurisdiction was filed that included the following terms requiring the licensee to: (1) comply with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act; (2) furnish a copy of the agreement to all states in which the licensee is licensed or applies for licensure, and any facility employing or offering staff privileges to the licensee; (3) keep the Board informed of current address; (4) pay all associated costs; (5) submit to random blood, hair follicle, and bodily fluid

testing; (6) refrain from taking any medication not authorized by a treating physician treating the licensee for a legitimate medical need; (7) refrain from prescribing, administering, or dispensing any medications for personal use; (8) not ingest any prohibited substances including alcohol; (9) be available for personal appearances before the Board; (10) timely submit any required reports and forms; (11) authorize release of medical and psychiatric records and authority to discuss the licensee's case with treating physicians; (12) refrain from authorizing any supervised personnel to initiate an order for CDS to be issued; (13) restrict practice to family medicine practice only and will not engage in the practice of pain management; (14) only prescribe CDS for acute situations only and not to exceed a period of three months for any patient; (15) sign a five year contract with the Oklahoma Health Professionals Program and abide by all recommendations; (16) be seen by a psychiatrist, approved by the Board in advance, within the first six months of practice for an assessment and provide assessment to Board for review and recommendations; and (17) follow all recommendations of the psychiatrist with any modifications to be pre-approved by the Board. The agreement is not considered disciplinary action.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480–518.1, authorizes the Board to promulgate rules to enforce the provisions of the Act. 59 O.S.2011, § 489. The Board has the authority to approve applicants who “ha[ve] fully complied with all applicable licensure requirements of this act, [are] of good moral character, and [have] produced satisfactory evidence to the Board of the ability of the applicant to practice medicine and surgery with reasonable skill and safety” and to “establish rules authorizing the . . . issuance of licenses under terms of agreement.” 59 O.S.2011, §§ 492.1; 493.3(D). The Board may enter into such an agreement when circumstances or conditions of an applicant raise questions as to the fitness or ability of the applicant to practice medicine and surgery with reasonable skill and safety or questions as to prior actions of the applicant in this or any other jurisdiction which would constitute a violation of the Act. OAC 435:10-4-11(2). Under Board rules, a consent agreement is not considered disciplinary action. OAC 435:10-4-11(b)(6). The action enforces requirements to ensure the highest level of professional conduct from medical doctors. Here, the licensee succeeded in completing the terms of probation. Accordingly, the Board may reasonably believe that terminating probation and issuing a license under agreement are adequate to protect patient safety.

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 protect public health and ensure patient welfare by upholding minimum standards of professionalism among physicians.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



SHELLY PERKINS
ASSISTANT ATTORNEY GENERAL

RECEIVED

JUL 5 2017

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION