

**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.)
)
MEDHAT S.F. MICHAEL, M.D.,)
LICENSE NO. MD 23746,)
)
Defendant.)

Case No. 11-11-4441

FILED

SEP 12 2018

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

**ORDER DENYING DEFENDANT'S
MOTION TO MODIFY VOLUNTARY SUBMITTAL TO JURISDICTION**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision ("Board") on July 26, 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 Medhat S.F. Michael, M.D. ("Defendant"), appeared in person, *pro se* (collectively, the "Parties").

The following exhibit was presented by Defendant for evidence, under Plaintiffs' objection, which was sustained and excluded from consideration but was admitted for Record purposes only:

Movant's Exhibit 1: Agreement with Board, dated July 3, 2012

The following witness was sworn and testified: Defendant

The following witnesses were sworn and stipulations were agreed upon by the Parties regarding their testimony: Dr. Douglas Cox, Mrs. Angela Michael. The Stipulations were stated in the Record.

The Board *en banc*, after hearing the Parties' evidence and arguments, and being fully advised of the premises, makes the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. In Oklahoma, Defendant previously held medical license no. 23746, issued December 6, 2004.
2. In November 2011, Defendant was charged with four counts of felony sexual battery in Oklahoma County District Court, Case No. CF-2011-6559.
3. On June 4, 2012, a Complaint was filed by the Board against Defendant for significant allegations of predatory sexual behavior towards patients and staff, obstructing the Board's investigation of him, falsifying medical records, prescribing controlled dangerous substances ("CDS") to his spouse, and fraudulent licensure renewal. The sexual misconduct was perpetrated against ten (10) patients and seven (7) employees.
4. Defendant's attorneys met with Board prosecutor and Oklahoma County District Attorneys regarding Defendant's case on February 6, 2014. In that meeting, it was made clear that the criminal charges would only be dropped against Defendant if Defendant *first* agreed to relinquish his medical license and never reapply for licensure in Oklahoma.
5. Defendant executed a Voluntary Surrender to Jurisdiction (hereinafter, VSJ), which he signed with the assistance of counsel, and delivered the same to the Board prosecutor. This VSJ was presented to the Board at the March 6, 2014 Board hearing and the Board accepted it. On March 6, 2014, an Order Accepting VSJ was filed.
6. October 19, 2015, Defendant filed a Motion for Declaratory Ruling and Motion to Vacate Order Accepting Voluntary Surrender to Jurisdiction. A Board Order denying Defendant's motion was filed January 5, 2016, and Attorney General Opinion 2015-183a was issued in support thereof.
7. On July 7, 2016 Defendant filed a Motion to Set Hearing on the Merits. This Motion was denied on August 8, 2016. An Order Upon Dr. Michael's Motion to Set a Hearing on the Merits was filed August 11, 2016.
8. Defendant filed an appeal with the Oklahoma Supreme Court on January 8, 2016, Case No. 114,608. The Oklahoma Court of Civil Appeals ("COCA") heard and denied the appeal on August 23, 2016. During the appeal Defendant requested 2 stays of enforcement of the Board Order during the appeal. Both were denied. Defendant requested reconsideration of the COCA decision, which was denied.
9. On October 16, 2017, Defendant then filed a Petition for Certiorari with the Oklahoma Supreme Court, and on November 30, 2017 an Application for Expungement of any mention of criminal charges from the appellate record. Both were denied on January 29, 2018.
10. Defendant filed a Petition for Rehearing with the Oklahoma Supreme Court on February 15, 2018. The Oklahoma Supreme Court denied Defendant's Petition for Rehearing on March 5, 2018.

11. The Oklahoma Supreme Court issued its Mandate affirming the Board's decision to deny Defendant's declaratory ruling Motion to Vacate the 2014 Order on March 28, 2018.
12. On June 4, 2018, Defendant filed a Motion to Modify Voluntary Submittal to Jurisdiction. Hearing was set for July 26, 2018.
13. On June 15, 2018, Plaintiff's Objection to Defendant's Motion to Modify Voluntary Submittal to Jurisdiction was filed.
14. Defendant filed a Reply to Plaintiff's Objection to Defendant's Motion to Modify Voluntary Submittal to Jurisdiction, on July 24, 2018.
15. When considering Defendant's Motion at the July 26, 2018 Board meeting, Defendant advised the Board he is seeking the opportunity to assure the Board he is capable once again to provide medical services as a practitioner for Oklahoma. Defendant discussed his education, dedication to patients, history and status.
16. Defendant offered an agreement dated July 2012, which was objected to by Plaintiff. Trial Advisor Margo stated Plaintiff's objection is sustained and such agreement would not be admitted for consideration by the Board. The agreement is marked as Movant's Exhibit 1 for purposes of the Record only.
17. Defendant distributed his Reply to Plaintiff's Objection to Defendant's Motion to Modify Voluntary Submittal to Jurisdiction, which was filed July 24, 2018 two days prior ("Defendant's Reply"). Plaintiff had no objection.
18. Defendant called the following witnesses, and the Parties stipulated as follows:
 - a. Dr. Douglas Cox appeared to testify in support of Defendant. The Parties stipulated the testimony of Dr. Cox would be in support of Defendant's good character.
 - b. Angela Michael appeared to testify in support of her husband of 15 years. The Parties stipulated that the testimony of Mrs. Michael's would be in support of Defendant as a changed man that deserves a second chance, and she would quickly recognize any issue with Defendant and Defendant's good character.
19. Arguments were made by both Parties.
20. The Board decided that Defendant's Motion to Modify the VSJ is denied.
21. Any conclusion of law below which is more properly characterized as a finding of fact is hereby incorporated as a finding of fact.

Conclusions of Law

22. 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.*, 59 O.S. 492 *et seq.*; Okla. Admin. Code §§ 435:5-1-1 *et seq.*, 435:10-4-2.

23. Notice was provided as required by law and the rules of the Board. 75 O.S. § 309; 59 O.S. § 504; Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.
24. The Board is authorized to suspend, revoke with or without the right to reapply 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)(1); Okla. Admin. Code § 435:5-1-3.
25. 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.
26. In any case in which a person whose license or certificate has been suspended or revoked is considered by the Board for reinstatement, it shall be the burden of that person to show compliance with all terms and conditions imposed by the Board in the disciplinary action. The Board may deny reinstatement to any such person who does not satisfy the Board of compliance with any Board requirement or condition imposed by the Board in disciplinary action or may approve reinstatement without restriction or may approve reinstatement with terms of probation or restrictions as deemed necessary to protect the health, safety and well-being of the public. Okla. Admin. Code § 435:5-1-6(c).
27. An applicant for reinstatement after suspension, revocation or surrender in lieu of prosecution pursuant to 59 O.S. § 503 shall meet all application requirements in effect at the time reinstatement is requested, be of good moral character and have reimbursed the Board for taxed costs or worked out a repayment plan satisfactory to the Board. In addition, the Board may require the applicant to meet the continuing medical education (C.M.E.) requirements. Okla. Admin. Code § 435:5-1-6.1.


Orders

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

1. The **Motion to Modify Voluntary Submittal to Jurisdiction**, filed June 4, 2018 by **MEDHAT S.F. MICHAEL** is **DENIED**.
2. A copy of this Order shall be provided to Defendant as soon as it is processed.

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 12th day of SEPTEMBER, 2018.



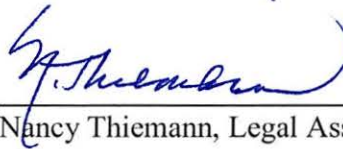
Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Service

This is to certify that on the 13th day of September, 2018, a true and correct copy of this Order was transmitted as specified, postage prepaid, to the following:

U.S. Certified Mail

Medhat S.F. Michael, M.D.
P.O. Box 720911
Oklahoma City, OK 73172-0911
Medmike30@yahoo.com
Defendant/Movant, pro se



Nancy Thiemann, Legal Assistant



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-374A

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

September 11, 2018

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

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Medical Licensure and Supervision intends to take in case 11-11-4441. The licensee was previously disciplined by the Board for criminal charges of sexual predation upon both patients and employees. At that time, the Board and the licensee agreed upon an Order Accepting Voluntary Surrender to Jurisdiction under which the licensee surrendered his license and agreed to never reapply for licensure in this state. Prosecutors agreed that after this Order, all criminal charges would be dropped. The licensee has now filed a motion to modify that order to allow him to reapply for licensure. The Board proposes to deny the motion.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act authorizes the Board to suspend or revoke a license and order other appropriate sanctions against a licensee for unprofessional conduct, which includes “[d]ishonorable or immoral conduct which is likely to deceive, defraud, or harm the public” and “[c]ommission of any act of sexual abuse, misconduct, or exploitation.” 59 O.S.Supp.2017, §§ 503, 509(8); OAC 435:10-7-4(23). The Board may reasonably believe that the proposed action is necessary to deter future violations and to protect the public.

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’s policy of protecting the health, safety, and welfare of the citizens of Oklahoma.

Handwritten signature of Mike Hunter in black ink.

MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA

Handwritten signature of Amanda Otis in black ink.

AMANDA OTIS
ASSISTANT ATTORNEY GENERAL

RECEIVED

SEP 12 2018

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION