

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

FILED

APR 15 2013

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
Plaintiff,)
v.)
ARDESHIR FAGHIH NIA, M.D.)
LICENSE NO. 24784,)
Defendant.)

Case No. 12-01-4464

COMPLAINT

COMES NOW the 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, and for its Complaint against the Defendant, Ardeshir Faghih Nia, M.D., Oklahoma license no. 24784, alleges and states 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 *Okla. Stat. tit. 59, §480 et seq.*

2. Defendant, Ardeshir Faghih Nia, M.D., holds Oklahoma license no. 24784. He practices internal medicine in Idabel, Oklahoma.

3. The *Oklahoma Administrative Code* section 435:10-7-5, **Determining continued competency of a physician and surgeon** provides as follows:

(a) **Criteria for review.** Any active licensed physician who meets any of the following criteria shall be required to demonstrate his continued competence as a physician and surgeon in the State of Oklahoma. The criteria for review shall include:

* * * *

(3) Physicians who have been the subject of letters of complaint or concern submitted to the Board from persons in the practitioner's sphere of influence.

(b) **Upon meeting criteria.** Any physician meeting any of these criteria may be:
(1) Required to submit to a physical, psychological or psychiatric examination.

4. Upon commencing an investigation in January of 2012 into the practice of Defendant, Board Staff uncovered 49 complaints, which had not previously been brought to the attention of Board Staff but which had been filed against Defendant within the various medical communities and dated as far back as 2005. The complaints received directly by Board Staff were the June 2007, January 2012 and March 2012 incidents described below.

5. Dr. Nia has engaged in a pattern and practice of acts that constitute an unnecessarily disruptive, hostile, argumentative behavior which caused unnecessary disruption, disharmony, and dissention. Such acts by Dr. Nia include, but are not limited to the following:

**PRIOR LETTER OF CONCERN
AND COMPLAINTS**

6. On or about June 6, 2007, an anonymous letter was received notifying the Board that the Defendant was removed from staff at Valley View Regional Medical Center in Ada, Oklahoma, for issues of quality of care; patient abandonment and violent threats toward members of the medical staff.

7. On June 26, 2007, Valley View Regional Hospital, Ada, Oklahoma, took action as follows: revocation of clinical privileges and suspension of clinical privileges based on inadequate skill level, incompetence and patient abandonment. Stating that the Defendant was an associate staff physician when patient was admitted to hospital's ICU for pneumonia and severe COPD. On the fifth day of admission she was in severe respiratory distress the Defendant made the decision not to intubate her. After he left the hospital the patient's condition continued to deteriorate. The Defendant failed to respond to multiple pages to his home. The patient was later intubated by an anesthesiologist and survived. The Defendant's privileges were suspended for thirty (30) days because of the hospital's belief that he abandoned the patient and displayed indifference to the patient for failure to respond to the pages.

8. On or about August 3, 2010, Defendant was arrested and criminally charged in *State of Oklahoma v. Ardeshir Nia*, CM-2010-577, in the District Court of McCurtain County, State of Oklahoma with **Count 1: Resisting an Officer; Count 2: Obstructing an Officer; Count 3: Failure to Yield to Emergency Vehicle; Count 4: Speeding.**

9. On or about November 17, 2010, Defendant submitted his Application for Renewal of Oklahoma License. In response to the question "Have you been arrested for, charged with, or convicted of a felony or misdemeanor other than a traffic violation?" Defendant answered "No".

10. Based upon the answers and information contained on his application for renewal the Defendant's Oklahoma License was renewed.

11. On or about September 27, 2011, in the case styled *State of Oklahoma v. Ardeshir Nia*, CM-2010-577, in the District Court of McCurtain County, State of Oklahoma, the Defendant **pled no contest and was sentenced on Count II: Obstructing an Officer, to a**

ninety (90) day deferred sentence with court costs and fines. The other remaining counts were dismissed.

12. On or about January 9, 2012, a family member of Patient EJ filed a complaint with the Board on her behalf stating that EJ who is a 97 year old nursing home patient was brought to the hospital with a swollen tender leg. The Defendant told the family to take her back to the nursing home because of her age and that she was going to die and didn't need to bother ever coming back to the hospital.

13. On or about March 25, 2012, hospital employee MA stated the Defendant attempted to touch her butt and that she pushed his hand away before he made physical contact. Later in the day she received inappropriate texted messages from the Defendant commenting on her beauty, referring to her as love and bad girl, and wanting to take her out for dinner so they can laugh together and he can enjoy looking at her beautiful face.

14. On or about April 18, 2012, Defendant was issued a **Letter of Concern** with an appearance before the Board Medical Advisor in an attempt to resolve issues regarding quality of care and behavior issues. At that time the Board encouraged the Defendant to get an assessment from a Board approved facility.

15. On or about April 24, 2012, the Defendant told Investigator Lane that he would be going to the Professional Renewal Center "PRC" in Kansas for his assessment.

16. On or about May 2, 2012, the Defendant advised Investigator Lane that he would not go for his assessment unless the Board was willing to pay for it. Defendant than stated he would try to find "a way to come up with the money" to go for an assessment.

17. On or about May 14, 2012 a representative from PRC told Investigator Lane Defendant was scheduled for an assessment beginning on July 15, 2012.

18. On or about July 15, 2012 a representative from PRC told Investigator Lane that Defendant told them he would not be attending an assessment at their facility.

19. Dr. Nia is not fit to practice presently and should undergo a comprehensive evaluation to determine if a diagnosable mental or physical condition exists and if such condition exists, whether there are available treatments that could allow him to improve to the point at which he could return to practice.

20. The *Oklahoma Administrative Code* section 435:10-7-5, **Determining continued competency of a physician and surgeon** provides as follows:

(a) **Criteria for review.** Any active licensed physician who meets any of the following criteria shall be required to demonstrate his continued competence as a physician and surgeon in the State of Oklahoma. The criteria for review shall include:

* * * *

(3) Physicians who have been the subject of letters of complaint or concern submitted to the Board from persons in the practitioner's sphere of influence.

(b) **Upon meeting criteria.** Any physician meeting any of these criteria may be:

(1) Required to submit to a physical, psychological or psychiatric examination.

21. Defendant is guilty of unprofessional conduct in that he:

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of *Okla. Stat. tit. 59, §509(8)* and *Oklahoma Administrative Code* section 435:10-7-4 (11).

B. Is unable to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition in violation of *Okla. Stat. tit. 59, §509(15)* and *Oklahoma Administrative Code* section 435:10-7-4(40).

C. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).

D. Fraud or misrepresentation in applying for or procuring a medical license or in connection with applying for or procuring periodic re-registration of a medical license in violation of OAC 435:10-7-4 (8)

CONCLUSION

WHEREFORE, plaintiff requests that the Board conduct a hearing, and upon proof of legitimate concerns questioning Defendant's mental wellbeing enabling him to practice medicine safely, order Defendant to not practice medicine until he has gone to a Board approved assessment center and has reappeared before the Board and shown he has been compliant with the recommendations of the assessment center. This along with any other appropriate action with respect to Defendant's license to practice as a physician and surgeon in the State of Oklahoma.

Dated this 15th day of April, 2013.

Respectfully submitted,



Scott Randall Sullivan, OBA #11179
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Plaintiff