

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

FILED

MAR - 6 2014

**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

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Matthew Stangl, Assistant Attorney General 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 Defendant, Ardeshir Faghieh Nia, M.D., Oklahoma license no. 24784, who appears in person with counsel, offer this Agreement effective March 6, 2014, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 435:5-1-5.1.

AGREEMENT AND ACKNOWLEDGEMENT BY DEFENDANT

By entering into this Order, Defendant voluntarily submits to the Board's jurisdiction in regard to the Complaint and Citation filed herein on December 28, 2012, and further acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Ardeshir Faghieh Nia, 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 he fully recognizes his right to appear before the Board for 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 him and his legal counsel.

ALLEGATIONS IN COMPLAINT

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 Faghieh 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 alleged incidents described below.

5. Dr. Nia engaged in a pattern and practice of acts that constituted an unnecessarily disruptive, hostile environment and argumentative behavior which caused unnecessary disruption, disharmony, and dissention. Such acts by Dr. Nia included, but were 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 Defendant was allegedly removed from staff at Valley View Regional Medical Center in Ada, Oklahoma, for alleged 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: 30-day suspension of clinical privileges based on inadequate skill level,

incompetence and patient abandonment, stating that Defendant was an associate staff physician when a patient was admitted to hospital's ICU for pneumonia and severe COPD. On the fifth day of admission she was in severe respiratory distress and Defendant made the decision not to intubate her. Dr. Nia maintained he could not intubate her. After he left the hospital the patient's condition continued to deteriorate. Defendant failed to respond to multiple pages to his home. The patient was later intubated by an anesthesiologist and survived. 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 January 9, 2012, a family member of Patient EJ filed a complaint with the Board on her behalf stating that EJ who was a 97 year old nursing home patient was brought to the hospital with a swollen tender leg. 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. Dr. Nia denies these allegations.

10. 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".

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

12. 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, 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.

13. 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.

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

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

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

17. 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.

18. Dr. Nia was required to undergo a comprehensive evaluation to determine if a diagnosable mental or physical condition existed and if such condition existed, whether he was fit to practice or there were available treatments that could allow him to improve to the point at which he could return to practice.

19. 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.

20. Defendant entered treatment at the Professional Renewal Center (PRC) December 2, 2013, and was discharged on January 3, 2014.

CHARGES IN COMPLAINT

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

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

B. Was 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 59 Okla. Stat. § 509(15) and OAC section 435:10-7-4(40).

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

D. Engaged in 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 section 435:10-7-4 (8).

FINDINGS OF FACT

22. Defendant, Ardeshir Faghieh Nia, M.D., holds Oklahoma medical license no. 24784.

23. Defendant is the subject of the foregoing Allegations and Charges in a Complaint filed before the Oklahoma State Board of Medical Licensure and Supervision on April 15, 2013.

24. Defendant acknowledges that a hearing before the Board could result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act.

25. Defendant 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 voluntary agreement as set forth in this Voluntary Submittal to Jurisdiction.

CONCLUSIONS OF LAW

26. 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.*

27. The Board *en banc* has jurisdiction over the subject matter herein, and notice has been given in all respects as required by law and the rules of the Board.

28. Pursuant to 59 Okla. Stat. § 509.1(A) and OAC 435:5-1-5.1, the Board has authority to accept the voluntary agreement between the parties as set forth in this Voluntary Submittal to Jurisdiction.

ORDER

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

29. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.

30. Defendant, Ardeshir Faghieh Nia, M.D., Oklahoma license no. 24784, is hereby placed on **PROBATION** for a period three (3) years under the following terms and conditions:

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) Pursuant to 59 Okla. Stat. § 509.1(A)(9), Defendant shall pay all fees of this action including but not limited to any legal fees and costs and probation and monitoring fees, including staff time, salary and travel expense, witness fees and attorney fees.
- f) 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.
- g) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- h) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- i) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.

- j) 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.
- k) 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 licensure after due notice and hearing. Immediately upon learning that a licensee is in violation of a Board-ordered probation, the Executive Director of the Board may summarily suspend the license based on imminent harm to the public and assign a hearing date for the matter to be presented at the next scheduled Board meeting.

Specific Terms:

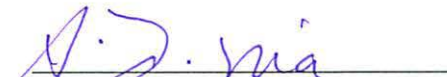

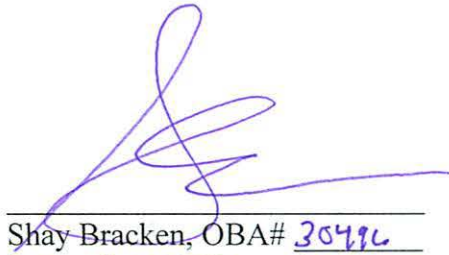
- l) Defendant shall follow all guidelines and recommendations as set forth in the Professional Renewal Center (PRC) Summary of Treatment. Defendant will return on an ongoing basis to PRC as recommended by PRC.
- m) Defendant shall sign a contract with Oklahoma Health Professionals Program (“OHPP”) and follow all recommendations as set forth by them.
- n) Defendant shall participate in regular individual therapy sessions at a frequency and duration deemed appropriate by the therapist. Therapist will make quarterly reports of progress/termination of therapy to the Board Secretary.
- o) Defendant shall participate in ongoing professional development/performance improvement continuing medical education (“CME”) as recommended by PRC and OHPP. Defendant shall provide reports of his CME to the Board Secretary on a semi-annual basis.
- p) Defendant will obtain a primary care physician.
- q) Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses.
- r) A copy of this written order shall be sent to Defendant as soon as it is processed.

Dated this 6th day of March, 2014.



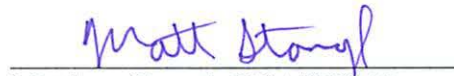
G. David Casper, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

AGREED AND APPROVED:


Ardeshir Faghieh Nia, M.D.
Gerald C. Zumwalt, M.D.
Secretary & Medical Advisor
Oklahoma State Board of Medical
Licensure and Supervision

Shay Bracken, OBA# 30496

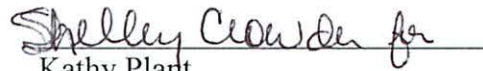

Attorney for Defendant # 12104


Matthew Stangl, OBA#20343
Assistant Attorney General

*Attorney for the Oklahoma State Board
Of Medical Licensure and Supervision*

CERTIFICATE OF MAILING

The undersigned hereby certified that on the 7th day of March, 2014, a true and correct copy of the above and foregoing *Voluntary Submittal to Jurisdiction* was mailed, postage prepaid, to Ardeshir Faghieh Nia, M.D., 1211 E. Lincoln Rd, Idabel, OK, 74745.


Kathy Plant