

**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.)
)
 ARDESHIR FAGHIH NIA, M.D.,)
 LICENSE NO. 24784,)
)
 Defendant.)

FILED
 MAR 11 2016
 OKLAHOMA STATE BOARD OF
 MEDICAL LICENSURE & SUPERVISION

Case No. 12-01-4464

ORDER DENYING MOTION TO MODIFY TERMS OF PROBATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on January 14, 2016, 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.

Ardeshir Faghieh Nia, M.D. (“Defendant”), holding Oklahoma medical license no. 24784, appeared in person, *pro se*. Dr. Robert Westcott, Medical Director at the Oklahoma Health Professional Program (OHPP) appeared.

Gary Ricks, Compliance Coordinator appeared on behalf of the State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision.

The Board *en banc* heard testimony, presentation of the Compliance Coordinator, reviewed the exhibits presented, and being fully apprised of the premises, finds and orders as follows:

Findings of Fact

1. Defendant currently holds medical license no. 24784.
2. On April 15, 2013, a Complaint and Citation, Case No. 12-01-4464, were filed by the Board against Dr. Nia for allegations of unprofessional conduct including the inability to practice medicine with reasonable skill and safety.
3. On March 6, 2014, at the regular hearing of the Board, Dr. Nia appeared in person and was represented by David A. Russell of Rodolf and Todd. AAG Matthew Stangle, appeared on behalf of the Board. A voluntary submittal to jurisdiction under terms of three (3) years’ probation was offered by Defendant and accepted by the Board. An Order Accepting

Voluntary Submittal to Jurisdiction was filed on March 6, 2014, listing Standard and Specific Terms of Probation.

4. November 23, 2015, Defendant submitted a motion for modification of his probation, to terminate the probation. The motion was set for hearing on January 14, 2016.
5. On January 14, 2016, after hearing testimonies of Defendant and Dr. Westcott, and recommendations of the Compliance Coordinator, the Board concluded that Defendant's motion to modify his probation was DENIED.

Conclusions of Law

1. The Board *en banc* has jurisdiction over the subject matter herein pursuant to 59 O.S. § 480 *et seq.* Notice was given as required by law and the rules of the Board.
2. 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 Title 59 Okla. Stat. § 480 *et seq.*
3. The Board is authorized to suspend, revoke 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. Supp. 2014, § 503. 59 O.S. 2011, §§ 509.1(A)(3), and (4). This authority is *quasi-judicial* 59 O.S. 2011, § 513(A)(1).
4. Defendant did not present sufficient evidence to justify the termination of his probation.

Orders

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

1. The Motion to Modify Terms of Probation of **ARDESHIR FAGHIH NIA, M.D.** is hereby **DENIED**.
2. All of the terms of the Order Accepting Voluntary Submittal to Jurisdiction filed March 6, 2014 for Defendant, shall remain unchanged and in full force and effect.
3. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
4. A copy of this written order shall be sent to Defendant as soon as it is processed.
5. **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 11th day of March, 2016.



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

Certificate of Mailing

This is to certify that on the 14th day of March, 2016, a true and correct copy of this Order was sent by U.S. first-class mail, postage prepaid, to the following:

Ardeshir F. Nia, M.D.
1211 E. Lincoln Road
Idabel, Oklahoma 74745



Nancy Thiemann, Legal Secretary



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-129A

FILED
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MEDICAL LICENSURE & SUPERVISION

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

March 7, 2016

Dear Board Secretary Stout:

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 with respect to a motion by licensee 24784 to vacate the licensee's disciplinary probation. The licensee was initially disciplined for demonstrating competence issues, making inappropriate sexual advances toward co-workers, and falsifying a renewal application; the discipline included three years of probation. The terms of probation included obtaining ongoing therapy, being involved in the Oklahoma Health Professionals Program, and participating in additional education. The licensee has largely cooperated with probation for around two years and argued that the existence of the discipline was harming the licensee's practice. The proposed action is to deny the motion.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480-518.1, authorizes the Board to discipline licensees for "unprofessional conduct," 59 O.S.Supp.2015, § 503. Unprofessional conduct includes the "inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, . . . or as a result of any mental or physical condition." 59 O.S.2011, § 509(15). The Board has also clarified that "misrepresentation in applying for or procuring . . . periodic reregistration of a medical license," "any act of sexual abuse, misconduct, or exploitation," and "predatory sexual behavior" qualify as unprofessional conduct. OAC 435:10-7-4(8), (23), (45). The Board may reasonably believe that, given the lack of new information, the original term of probation should stand notwithstanding the licensee's apparent satisfaction of its terms for around two years.

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.

A handwritten signature in blue ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA