

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

FILED

SEP 14 2023

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

STATE OF OKLAHOMA, *ex rel.*,)
THE OKLAHOMA STATE BOARD)
OF MEDICAL LICENSURE AND)
SUPERVISION,)

Plaintiff,)

vs.)

TOAN CONG NGUYEN, O.T.,)
LICENSE NO. OT 5737,)

Defendant.)

Case No. 23-03-6208

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

The State of Oklahoma, *ex rel.* Oklahoma State Board of Medical Licensure and Supervision (“Board”), by and through the undersigned counsel for the Plaintiff, as represented by the Secretary of the Board, Billy H. Stout, M.D., and the Executive Director of the Board, Lyle Kelsey, along with Toan Cong Nguyen, OT (“Defendant”), Oklahoma Occupational Therapist License No. OT 5737, who appears in person, and by and through counsel William Wells of the Wells Law Firm (collectively, the “Parties”), hereby offer this Order Accepting Voluntary Submittal to Jurisdiction (herein, “Order” or “Agreement”) for acceptance by the Board. Okla. Admin. Code § 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant admits that if Plaintiff were to prove the allegations herein contained, a hearing before the Board could result in some sanction under the Oklahoma Occupational Therapy Practice Act (“Act”). 59 O.S. § 888.1, *et seq.*

Defendant, Toan Cong Nguyen, 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 an 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 may be reviewed and discussed with him by legal counsel prior to execution.

If the Board does not accept this Order, the Parties stipulate that it shall be regarded as null and void. Admissions by Defendant herein, if any, shall not be regarded as evidence against him

in a subsequent disciplinary hearing. Defendant will be free to defend himself and no inferences will be made from his willingness to have this Order accepted by the Board. The Parties stipulate that neither the presentation of this Order nor the Board's consideration of this Order shall be deemed to have unfairly or illegally prejudiced the Board or its individual members and, therefore, shall not be grounds for precluding the Board nor any individual Board member from further participation in proceedings related to the matters set forth herein.

Findings of Fact

The Plaintiff, Defendant, and the Board staff each stipulate and agree as follows:

1. In Oklahoma, Defendant holds Occupational Therapist License No. OT 5737.
2. On January 27, 2023, Defendant was supposed to treat a two (2) year old patient. The patient was heard crying and staff members watched on closed circuit television what transpired. Defendant locked the door and proceeded with "treatment" that was, according to the Clinical Director, "such a poor excuse for therapy that it was not billable."
3. Witnesses observed a sensory box full of small beans given to the patient, who climbed in and began playing. Defendant sat next to the box in a "meditative position" with his eyes closed, not engaging with the child. Then Defendant got up and sat at his desk for approximately fifteen (15) minutes paying no attention to the child who was out of Defendant's view. This unsupervised play and other dangerous lack of supervision occurred which constituted a total lack of therapeutic treatment.

Conclusions of Law

4. 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 Occupational Therapy Assistants in the State of Oklahoma. 59 O.S. §888.14, et seq. and Okla. Admin. Code 435:30-1-10.
5. Notice was provided as required by law and the rules of the Board. 75 O.S. § 309; 59 O.S. § 2041(A); Okla. Admin. Code §§ 435:30-1-11, 435:1-1-4(c), 435:3-3-5, 435:3-3-6.
6. The Board is authorized to suspend, revoke or order any other appropriate conditions against the license of any Occupational Therapy Practitioner holding a license to practice in the State of Oklahoma for unprofessional conduct. 59 O.S. § 888.14(c). and Okla. Admin. Code 435:30-1-10.
7. 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. § 309(E); Okla. Admin. Code § 435:5-1-5.1.
8. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:

- a. Engaging in unprofessional conduct as defined by the rules established by the Board, or violating the Code of Ethics adopted and published by the Board, in violation of 59 O.S. § 888.9(A)(2).
- b. Any conduct which potentially or actually jeopardizes a patient's life, health or safety, in violation of OAC 435:30-1-10(18).
- c. Negligence while in practice of occupational therapy or violating the "Standards of Ethics and Professional Conduct" adopted by the Board, in violation of OAC 435:30-1-10(19).

ORDERS

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

1. The Board hereby adopts the Agreement of the Parties in this *Order Accepting Voluntary Submittal to Jurisdiction*, including the findings of fact and conclusions of law stated herein.
2. **TOAN CONG NGUYEN, OT**, shall have the following limitation placed on his license to practice Occupational Therapy in the State of Oklahoma or utilizing his Oklahoma License: he shall not practice on children under thirteen (13) years of age. This restriction will be for 2 years.

Standard Terms:

- a. Defendant shall conduct his practice in compliance with the Oklahoma Occupational Therapy Practice Act ("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 authorized designee.
- b. Defendant will keep the Board informed of his current address.
- c. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any bankruptcy proceeding.
- d. Upon request, Defendant shall make himself available for one or more personal appearances before the Board or its authorized designee.
- e. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
- f. A copy of this Order shall be provided to Defendant as soon as it is processed.

Dated this 8 day of Sept., 2023.

NIA _____

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

NIA _____

Steven Katsis, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Toan Cong Nguyen

Toan Cong Nguyen, O.T.
License OT 5737
Defendant

NIA _____

Joseph L. Ashbaker, OBA 19395
Assistant Attorney General
STATE OF OKLAHOMA,
OFFICE OF ATTORNEY GENERAL
*Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision*

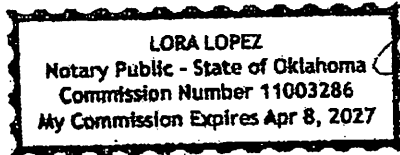
NIA _____

William Wells, OBA# 14578
Wells Law Firm
Court Plaza Building
228 Robert S. Ker Avenue, Suite 220
Oklahoma City, OK 73102
Attorney for Defendant

ACKNOWLEDGMENT


STATE OF OKLAHOMA)
)
COUNTY OF Okla.) ss.

This instrument was acknowledged before me on the 8 day of Sept,
2023, by Toan Cong Nguyen.



Lora Lopez
Notary Public
Commission Expiration: 4/8/27

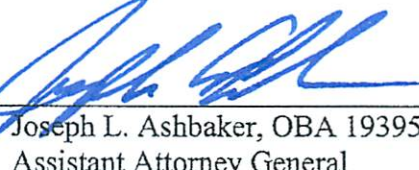
14th - Nov
Dated this 14th day of SEP, 2023.


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


Steven Katsis, M.D., President
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Toan Cong Nguyen, O.T.
License OT 5737
Defendant




Joseph L. Ashbaker, OBA 19395
Assistant Attorney General
STATE OF OKLAHOMA,
OFFICE OF ATTORNEY GENERAL
Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision

William Wells, OBA# 14578
Wells Law Firm
Court Plaza Building
228 Robert S. Ker Avenue, Suite 220
Oklahoma City, OK 73102
Attorney for Defendant

ACKNOWLEDGMENT

STATE OF OKLAHOMA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____,
_____, by Toan Cong Nguyen.

Notary Public
Commission Expiration: _____

Certificate of Service

This is to certify that on the 15th day of September, 2023, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

Toan Cong Nguyen, O.T.
License OT 5737
1324 NW 9th Street
Moore, OK 73170
Defendant

E-Mail

Joseph L. Ashbaker
Assistant Attorney General
STATE OF OK, OFFICE OF ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
joe.ashbaker@oag.ok.gov
***Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision***

U.S. First Class Mail, and E-Mail

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228 Robert S. Ker Avenue, Suite 220
Oklahoma City, OK 73102
billwells@web-law.com
Attorney for Defendant



Shelley Crowder