

**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.)
)
 DAVID G. CALENZANI, M.D.,)
 LICENSE NO. MD 14817,)
)
 Defendant.)

FILED

JUL 30 2020

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 18-06-5633

**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 David G. Calenzani, M.D. ("Defendant"), Oklahoma medical license no. 14817, who appears in person, and through counsel Gary A. Rife of Rife Law Office (collectively, the "Parties"), and 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 to the allegations herein contained 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"). 59 O.S. § 480, *et seq.*

Defendant, David G. Calenzani, 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 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

BOARD *[Signature]*

DGC *[Signature]*

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 medical license no. 14817, originally issued June 30, 1984.
2. This case was initiated as result of complaints about the treatment practices of Defendant, in prescribing.
3. A subpoena was served for seven patient records from Defendant's office, and the records were sent to Heather Hall, M.D. for expert review. Dr. Hall found the following chart documentation was insufficient regarding safety assessments, red flags, justification behind the treatment and prescribing, performance of diagnostic studies or alternate therapies, urine drug screens, pill counts or documentation of pain management contracts.
4. On December 12, 2019, a Verified Complaint ("2019 Complaint") and Citation were each filed by the Board. Hearing was set for March 5, 2020. Defendant was served on December 17, 2019, a Return of Service was prepared by Lawrence 'Larry' Carter, Board Investigator, and filed December 17, 2020.
5. On January 9, 2019, an Answer to Complaint was filed by Gary Rife of Rife Law Office as counsel for Defendant.
6. Orders of Continuance with Notice of Hearing were filed on February 11, 2020, April 7, 2020, and June 1, 2020. Hearing is currently set for July 30, 2020.

Conclusions of Law

7. 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.* and Okla. Admin. Code §§ 435:5-1-1 *et seq.*
8. 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.
9. The Board is authorized to suspend, revoke or order any other appropriate conditions against the license of any physician or surgeon holding a license to practice medicine in

BOARD 

DGC 

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.

10. 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.
11. Based on the foregoing, Defendant is guilty of unprofessional conduct as follows:
 - a. The violation, or attempted violation, direct or indirect, of any of the provisions of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, either as a principal, accessory or accomplice. 59 O.S. § 509(13); Okla. Admin. Code § 435:10-7-4(39).
 - b. Failure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment of the patient. 59 O.S. § 509(18).
 - c. Improper management of medical records. Okla. Admin. Code § 435:10-7-4(36).

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. **DAVID G. CALENZANI, M.D.** shall comply with all of the following terms and conditions:

Specific Terms:

- a. Dr. Calenzani will close his practice on or before December 31, 2020 and at that time he will fully retire from the practice of medicine.
- b. On or before January 31, 2021, Dr. Calenzani may apply for Physician Emeritus (fully retired) status without the right to reapply for active status. In the event his application is denied, he will immediately surrender his license. Okla. Admin. Code § 435:10-7-6.
- c. Dr. Britta Ostermeyer will serve as Practice Monitor for the purpose of assisting Dr. Calenzani in safely closing down Defendant's medical practice, and Defendant agrees to follow all of her recommendations. Dr. Ostermeyer will serve as Practice Monitor until Dr. Calenzani closes his medical practice or until December 31, 2020, whichever occurs first.

BOARD *SGM*

DGC *DGC*

- d. If for any reason, Dr. Ostermeyer can no longer serve as Practice Monitor, Defendant must immediately notify the Board Secretary and the Board Compliance Coordinator, and the Board Secretary will immediately appoint a replacement Practice Monitor.
- e. Upon written notification by Dr. Ostermeyer (or any substitute Practice Monitor), that Defendant has failed to comply with the monitoring protocols set forth by the Practice Monitor, Defendant's license shall be immediately suspended.
- f. Defendant shall ensure that monthly reports/evaluations of Dr. Ostermeyer are submitted to the Board Secretary and the Board's Compliance Coordinator.
- g. Defendant shall be responsible for all monitoring costs.

Standard Terms:

- h. Defendant shall conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision 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. 59 O.S. § 480, et seq.
- i. Defendant will keep the Board informed of his current address.
- j. Defendant will keep current payment of all assessments 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.
- k. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any bankruptcy proceeding.
- l. Upon request, Defendant shall make himself available for one or more personal appearances before the Board or its authorized designee.
- m. Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or authorized designee.
- n. Failure to meet any of the terms of this Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.
- o. The Parties, the Board or its designee, or the Defendant may file a motion for a Board hearing and possible new Board order.

BOARD 

DGC 

Certificate of Service

This is to certify that on the 30th day of July, 2020, a true and correct copy of this Order was transmitted as indicated, postage prepaid, to the following:

U.S. Certified Mail

David G. Calenzani, M.D.
4200 West Memorial Road #804
Oklahoma City, Oklahoma 73120-9326
drdavidcalenzani@gmail.com

Defendant

E-Mail

Joseph L. Ashbaker, OBA 19395
Assistant Attorney General
STATE OF OKLAHOMA
OFFICE OF ATTORNEY GENERAL
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105
(405) 521-3921
(405) 521-6246 facsimile
joe.ashbaker@oag.ok.gov
Attorney for Plaintiff,
Oklahoma State Board of Medical
Licensure and Supervision

U.S. Certified Mail, and E-Mail

Gary A. Rife, OBA 07576
RIFE LAW OFFICE
301 East Eufaula Street
Norman, Oklahoma 73069
(405) 329-6600
(405) 329-6634
garife@garyrifelaw.com
Attorney for Defendant,
David G. Calenzani, M.D.



Nancy Thiemann, Legal Assistant

BOARD 

DGC 