

1 **NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**

2 In the Matter of:

) CASE NO. AD 0907068

3 SOHRAB SHAFINIA, D.O.,
4 LICENSE NO. 947,

**NV STATE BOARD OF
OSTEOPATHIC MEDICINE**

AUG 18 2009

5 Respondent.

FILED

6 **ADMINISTRATIVE COMPLAINT**

7 Pursuant to the provisions of Chapters 633 of the Nevada Revised Statutes and the
8 Nevada Administrative Code, and by virtue of the authority vested therein, Investigative Board
9 Member C. DEAN MILNE, D.O. ("IBM Milne"), of the Nevada State Board of Osteopathic
10 Medicine, having a reasonable basis to believe that SOHRAB SHAFINIA, D.O., hereinafter
11 referred to as "Respondent" or "Dr. Shafinia," has violated the provisions of NRS and NAC
12 chapters 633, hereby issues a formal Complaint, stating the Investigative Board Member's
13 charges and allegations, as follows:

14 **Jurisdiction/General Allegations**

15 1. That Respondent is licensed in active status to practice medicine in the State of
16 Nevada, and at all times alleged herein, was so licensed by the Board of Osteopathic
17 Medicine of the State of Nevada pursuant to the provisions of Chapter 633 of the Nevada
18 Revised Statutes.

19 2. That NRS 633.511 provides that unprofessional conduct is grounds for the
20 initiation of disciplinary proceedings. Other grounds/conduct, warranting the initiation of
21 disciplinary action, as set forth in that statute include, but are not limited to, the following: a
22 conviction/violation of any federal or state law regulating the possession, distribution or use of
23 any controlled substance or any dangerous drug as defined in NRS chapter 454; as well as a
24 felony conviction relating to the practice of osteopathic medicine; any offense involving moral
25 turpitude; the suspension of the license to practice osteopathic medicine by any other
26 jurisdiction; and professional incompetence.

27 3. That NRS 633.131(1) defines "Unprofessional conduct" as follows:

28 (f) Engaging in any:

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1 (1) Professional conduct which is intended to deceive or
2 which the board by regulation has determined is unethical;

3 (2) Medical practice harmful to the public or any conduct
4 detrimental to the public health, safety or morals which does
5 not constitute gross or repeated malpractice or professional
6 incompetence.

7 (g) Administering, dispensing or prescribing any controlled
8 substance or any dangerous drug as defined in chapter 454
9 of NRS, otherwise than in the course of legitimate
10 professional practice or as authorized by law.

11 (m) Failure of a licensee to maintain timely, legible, accurate
12 and complete medical records relating to the diagnosis,
13 treatment and care of a patient.

14 4. That NAC 633.350 states that a licensee engages in "unethical conduct" if he:

15 (5) Fails to generate or create medical records relating to the
16 diagnosis, treatment and care of a patient.

17 (6) Prescribes a controlled substance in a manner or an amount
18 that the board determines is excessive.

19 (9) Engages in any other conduct that the Board determines
20 constitutes unfitness to practice osteopathic medicine.

21 5. That NRS 633.151 states that the "purpose of licensing osteopathic physicians
22 and physician assistants is to protect the public health and safety and the general welfare of
23 the people of [the State of Nevada]. Any license issued pursuant to this chapter is a
24 revocable privilege, and a holder of such a license does not acquire thereby any vested
25 right."

26 6. That NRS 633.651 states:

27 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by
28 order take one or more of the following actions:

a. Place the person on probation for a specified period or until further
order of the Board.

b. Administer to the person a public reprimand.

c. Limit the practice of the person to, or by the exclusion of, one or more
specified branches of osteopathic medicine.

d. Suspend the license of the person to practice osteopathic medicine
for a specified period or until further order of the Board.

e. Revoke the license of the person to practice osteopathic medicine.

The order of the Board may contain such other terms, provisions or conditions as the

- 1 Board deems proper and which are not inconsistent with law.
2 2. The Board shall not administer a private reprimand.
3 3. An order that imposes discipline and the findings of fact and conclusions of
4 law supporting that order are public records.

5 **COUNT ONE**
6 **(Unprofessional Conduct)**

7 7. The allegations and representations found in Paragraphs 1 through 6, inclusive,
8 of this Complaint are incorporated herein by this reference as though such allegations were
9 more fully set forth herein.

10 8. On or about February 26, 2009, a Federal "Indictment" was filed by the United
11 States of America against Dr. Shafinia, Richard Riozzi, Stuart Stein, Randall McDaniel, and
12 Gerald Richards, in Case No. 2:09-cr-20039 for the Eastern District of Michigan, Southern
13 Division. The Indictment alleges that Dr. Shafinia, along with the other named Defendants,
14 "knowingly, intentionally and unlawfully combine[d], conspire[d], confederate[d] and
15 agree[d] to commit an offense against the United States, that is to possess with the intent of
16 distributing and to distribute, outside the course of professional practice and for no legitimate
17 medical purpose, quantities of Schedule II, III and IV controlled substances, including but not
18 limited to the Schedule II drug OxyContin (oxycodone), the Schedule III drug Lorcet and
19 Lortab (apap/hydrocodone bitartrate), and the Schedule IV drug Xanax (benzodiazaphine).
20 These and other similar illegal controlled substance distributions too numerous to list were
21 accomplished by the issuance and filling of prescriptions." Indictment, Page 1-2. Because
22 of the frequency and the number of prescriptions for the three types of drugs mentioned
23 above, the Indictment alleges that they "came to be known at [the SafeScript Pharmacy] as
24 the 'Shafinia Cocktail.'" Indictment, Page 3.

25 9. The Indictment further alleges that, during October 2005 through May 2007, Dr.
26 Shafinia "prescribed approximately 301,994 dosage units of OxyContin/Oxycodone HCL;
27 343,489 dosage units of apap/hydrocodone bitartrate and 231,029 dosage units of
28 Benzodiazaphines." Indictment, Page 3. The Indictment alleges twenty-eight (28) counts

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against Dr. Shafinia.

10. Dr. Shafinia has engaged in unprofessional conduct by engaging in (a) a medical practice that is harmful to the public as well as “detrimental to the public health, safety or morals” and (b) “administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in [NRS chapter 454], othe[r] than in the course of legitimate professional practice or as authorized by law.”

11. Dr. Shafinia has engaged in unprofessional conduct by his failure to maintain accurate and complete medical records regarding his diagnosis, treatment, and care of any alleged patient identified in the criminal Indictment.

12. By engaging in the unprofessional conduct identified in this Count, discipline is warranted pursuant to NRS 633.511(1) and such discipline is set forth in NRS 633.651.

COUNT TWO
(Unethical Conduct)

13. The allegations and representations found in Paragraphs 1 through 12, inclusive, of this Complaint are incorporated herein by this reference as though such allegations were more fully set forth herein.

14. Pursuant to NAC 633.350, a licensee engages in unethical conduct by prescribing controlled substances in a manner or in an amount that is excessive, as well as failing to generate and create medical records related to the treatment of his patients, and engages in other conduct that the Board determines is an unfitness to practice.

15. Dr. Shafinia has engaged in unethical conduct by prescribing controlled substances in a manner and amount that is excessive.

16. Dr. Shafinia has engaged in unethical conduct by failing to create medical records pertaining to the alleged patients mentioned in the indictment.

17. Dr. Shafinia has engaged in unethical conduct by meeting certain individuals in

1 various places, including but not limited to parking lots and restaurants in the Oakland
2 County, Michigan area for purposes of writing prescriptions for controlled substances, in
3 exchange for cash payments, without conducting the proper examinations. Such indicates
4 an unfitness to practice osteopathic medicine in the State of Nevada.

5 18. By engaging in the unethical conduct identified in this Count, discipline is
6 warranted pursuant to NRS 633.511(1) and such discipline is set forth in NRS 633.651.

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8 **COUNT THREE**
9 **(Discipline in another State/Failure to Report)**

10 19. The allegations and representations found in Paragraphs 1 through 18,
11 inclusive, of this Complaint are incorporated herein by this reference as though such
12 allegations were more fully set forth herein.

13 20. On or about September 16, 2008, an administrative complaint was filed against
14 Dr. Shafinia by the State of Michigan, Department of Community Health, Bureau of Health
15 Professions ("Michigan Administrative Complaint"). The complaint alleges, among other
16 charges, that Dr. Shafinia prescribed controlled substances in exchange for cash to various
17 patients he had not examined beginning on or about March 9, 2008, including the writing of
18 prescriptions for OxyContin to 289 patients he did not personally examine or evaluate.
19 The administrative complaint further alleges that Dr. Shafinia sold prescriptions for
20 OxyContin and Lorcet to an undercover agent for the Federal Drug Enforcement
21 Administration ("DEA") without obtaining a medical history, without performing a physical
22 examination, and without establishing a legitimate medical reason for the prescriptions. The
23 administrative complaint further alleged that the DEA searched Dr. Shafinia's residence and
24 found empty medical files and that Dr. Shafinia "admitted to DEA agents that he planned to
25 fabricate medical records to make the prescriptions appear legitimate. Subsequently, [Dr.
26 Shafinia] surrendered his DEA license." Page 2, Michigan's Administrative Complaint.
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21. The Michigan Administrative Complaint further stated that Dr. Shafinia “admitted selling prescriptions for OxyContin, Vicodin, and Xanax in exchange for cash to patients that he had not evaluated” and “admitted to prescribing Suboxone without a DEA registration.” Michigan Administrative Complaint, Pages 2-3.

22. Dr. Shafinia and the State of Michigan, Department of Community Health, Bureau of Health Professions, Board of Osteopathic Medicine & Surgery Disciplinary Subcommittee, entered into a “Consent Order & Stipulation” in January 2009. That “Consent Order & Stipulation” states that Dr. Shafinia “admitted . . . that the facts alleged in the [Michigan Administrative] Complaint are true and constitute violations of the Public Health Code” and that the “allegations of fact and law set forth in the [Michigan Administrative] Complaint are true and constitute violations of section 16221(a), 16221(b)(1), 16221(b)(vi), and 16221(c)(iv) of the Public Health Code. . . .” Consent Order & Stipulation, Pages 1-2. Dr. Shafinia’s license to practice osteopathic medicine and surgery in Michigan was suspended for “a minimum period of six months and one day, commencing on the effective date” of the Order, namely, February 5, 2009. Consent Order & Stipulation, Page 2.

23. On December 29, 2008, Dr. Shafinia submitted his license renewal application to this Nevada Board for the calendar year 2009. A question on the renewal application was: had the licensee seeking renewal, in the prior year been investigated for, charged with, or convicted of any violation of a statute, rule or regulation governing the practice of osteopathic medicine. Dr. Shafinia answered “no” although the State of Michigan had already begun its investigation of Dr. Shafinia including conducting two interviews during July and August, 2008, during which Dr. Shafinia admitted to committing illegal activities, and the filing of the Michigan Administrative Complaint against him on September 16, 2008.

24. NRS 633.131(1) defines “unprofessional conduct” as including “willfully making a false . . . statement . . . in applying for a license to practice osteopathic medicine or in

1 applying for renewal of a license to practice osteopathic medicine.”

2 25. NRS 633.527(1)(d) requires osteopathic physicians to report within 45 days
3 “any sanctions imposed against the osteopathic physician that are reportable to the National
4 Practitioner Data Bank.” Dr. Shafinia failed to notify this Board of the suspension and such
5 is a reportable event to the National Practitioner Data Bank and the Board has authority to
6 assess a fine of not more than \$5,000 per violation of NRS 633.527. The assessment of a
7 fine in the amount of \$10,000 is warranted in this matter pursuant to NRS 633.527.

8 26. By engaging in the unprofessional conduct identified in this Count, discipline is
9 warranted pursuant to NRS 633.511(1) and such discipline is set forth in NRS 633.651.

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11 **COUNT FOUR**
12 **(Fees & Costs Due to the Nevada Board)**

13 27. The allegations and representations found in Paragraphs 1 through 26,
14 inclusive, of this Complaint are incorporated herein by this reference as though such
15 allegations were more fully set forth herein.

16 28. NRS 622.400(1) states that a “regulatory body [such as this Board] may recover
17 from a person reasonable attorney’s fees and costs that are incurred by the regulatory body
18 as part of its investigative, administrative and disciplinary proceedings against the person if
19 the regulatory body” either enters a final order or enters into a settlement agreement.

20 29. Based upon the above-cited statutory authority, fees and costs incurred by the
21 Board in its investigation of this matter are warranted.

22 30. Based upon Dr. Shafinia's violation of various provisions of NRS chapter 633,
23 the Board is entitled to reimbursement of its fees and costs incurred in the investigation of
24 this matter in the amount of \$5,000.00.

25
26 **PRAYER**

27 WHEREFORE, the Investigative Member, C. Dean Milne, D.O., of the Board of
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Osteopathic Medicine prays as follows:

1. That the Nevada State Board of Osteopathic Medicine appoint a hearing officer in this matter and that such hearing officer conduct a hearing on this Complaint as provided by statute;

2. That, pursuant to NRS 633.651, Respondent, SOHRAB SHAFINIA, D.O., be publicly reprimanded and/or the license of Respondent, SOHRAB SHAFINIA, D.O., be revoked, suspended, limited to a specified branch of osteopathic medicine, or placed on probation with conditions and terms as the Nevada State Board of Osteopathic Medicine may deem just and proper and which are not inconsistent with law;

3. That Respondent, SOHRAB SHAFINIA, D.O., be ordered to pay all reasonable investigative fees incurred by the Board and attorney's fees and costs incurred during the investigation as well as all Board investigative and attorneys' fees and costs incurred during the administrative and disciplinary proceedings;

4. That the Board enter an order fining Dr. Shafinia the sum of \$10,000 for his violation of NRS 633.527; and

5. That the Board order such other and further relief as it deems appropriate under the circumstance against SOHRAB SHAFINIA, D.O.

DATED this 18 day of August, 2009.

NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By: C. Dean Milne, D.O.

C. Dean Milne, D.O., Investigating
Member of the Nevada Board of
Osteopathic Medicine

Submitted by:
NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By: Dianna Hegeduis

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