NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

In the Matter of:

SOHRAB SHAFINIA, D.O.,
LICENSE NO. 947,
Respondent.

CASE NO. AD 0907068

NV STATE BOARD OF OSTEOPATHIC MEDICINE

AUG 18 2009

FILED

ADMINISTRATIVE COMPLAINT

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

Jurisdiction/General Allegations

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

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

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

   (f) Engaging in any:
(1) Professional conduct which is intended to deceive or which the board by regulation has determined is unethical;

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

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

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

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

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

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

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

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

6. That NRS 633.651 states:

1. If the Board finds a person guilty in a disciplinary proceeding, it shall by 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
Board deems proper and which are not inconsistent with law.
2. The Board shall not administer a private reprimand.
3. An order that imposes discipline and the findings of fact and conclusions of
   law supporting that order are public records.

COUNT ONE
(Unprofessional Conduct)

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

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

9. The Indictment further alleges that, during October 2005 through May 2007, Dr.
   Shafinia “prescribed approximately 301,994 dosage units of OxyContin/Oxycodone HCL;
   343,489 dosage units of apap/hydrocodone bitartrate and 231,029 dosage units of
   Benzodiazaphines.” Indictment, Page 3. The Indictment alleges twenty-eight (28) counts
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], other 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
various places, including but not limited to parking lots and restaurants in the Oakland
County, Michigan area for purposes of writing prescriptions for controlled substances, in
exchange for cash payments, without conducting the proper examinations. Such indicates
an unfitness to practice osteopathic medicine in the State of Nevada.

18. By engaging in the unethical 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 THREE
(Discipline in another State/Failure to Report)

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

20. On or about September 16, 2008, an administrative complaint was filed against
Dr. Shafinia by the State of Michigan, Department of Community Health, Bureau of Health
Professions ("Michigan Administrative Complaint"). The complaint alleges, among other
charges, that Dr. Shafinia prescribed controlled substances in exchange for cash to various
patients he had not examined beginning on or about March 9, 2008, including the writing of
prescriptions for OxyContin to 289 patients he did not personally examined or evaluated.
The administrative complaint further alleges that Dr. Shafinia sold prescriptions for
OxyContin and Lorcet to an undercover agent for the Federal Drug Enforcement
Administration ("DEA") without obtaining a medical history, without performing a physical
examination, and without establishing a legitimate medical reason for the prescriptions. The
administrative complaint further alleged that the DEA searched Dr. Shafinia's residence and
found empty medical files and that Dr. Shafinia "admitted to DEA agents that he planned to
fabricate medical records to make the prescriptions appear legitimate. Subsequently, [Dr.
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

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
applying for renewal of a license to practice osteopathic medicine."

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

26. 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 FOUR
(Fees & Costs Due to the Nevada Board)

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

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

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

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

PRAYER

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

Submitted by:
NEVADA STATE BOARD OF
OSTEOPATHIC MEDICINE

By: Dianna Hegeduis, # 5016
Executive Director/Board’s Counsel
2860 E. Flamingo Rd., Suite # D
Las Vegas, Nevada 89121
(702) 732-2147
Attorney for Investigating Board Member