

November 19, 2015

Eric Dover, M.D.
1615 Cloverleaf Road
Lake Oswego, OR 97034

Re: Nicole A. Krishnaswami	CAO File No. 1501630
Kathleen Haley	CAO File No. 1001512
Warren G. Foote	CAO File No. 1001513
<i>Eric Dover, M.D., Complainant</i>	

Dear Dr. Dover:

We have received your correspondence regarding Warren Foote, Kathleen Haley and Nicole Krishnaswami regarding their alleged misconduct stemming from an investigation by the Oregon Medical Board (OMB).

The Client Assistance Office (CAO) is responsible for reviewing concerns regarding Oregon lawyers. Under Bar Rule of Procedure 2.5 and as resources permit, CAO determines the manner and extent of review required to determine whether there is sufficient evidence to support a reasonable belief that misconduct may have occurred warranting a referral to Disciplinary Counsel's Office. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon.

You originally complained about the conduct of Mr. Foote and Ms. Haley on August 24, 2010 in connection with the same underlying matter. In response to your complaint, we asked for additional information on certain issues. Because we did not receive a response, we dismissed your complaint and closed that matter on October 15, 2010.

Your recent correspondence restates some of the same issues that you had raised earlier. You alleged that Mr. Foote and Ms. Haley withheld records from you in the underlying matter. As we noted in our September 1, 2010 letter, this is potentially an issue for the Oregon State Bar (Bar). However, we need more information to determine whether this conduct implicates the Oregon Rules of Professional Conduct (RPC). RPC 3.4 prohibits an attorney from knowingly and unlawfully obstructing another party's access to evidence. However, the rule does not prohibit an attorney from objecting to the production of evidence or refusing to disclose it with reasonable grounds for refusal. Please explain on what basis you believe that Mr. Foote and Ms. Haley knowingly and unlawfully withheld evidence. Was there a hearing or other proceeding at which this issue was considered? If so, did the decision maker issue a ruling that corroborates your allegations against Mr. Foote and Ms. Haley?

As in your earlier complaint, you alleged that Mr. Foote and Ms. Haley lied during these proceedings. These allegations may also implicate our professional conduct rules. That said, the rules

Eric Dover, M.D.

Page 2

do not prohibit disagreements regarding facts. If you have additional information that shows that Mr. Foote and Ms. Haley knew that certain evidence was false and that they knew that the evidence was false at the time that it was presented, please provide that information to our office.

You have speculated that Mr. Foote advised witnesses to perjure themselves. However, without more evidence to support your speculation, we will not ask Mr. Foote to respond to those allegations.

You also alleged that Mr. Foote engaged in ex parte contact with the administrative law judge (ALJ) presiding over the matter. Please provide us with whatever authority you relied upon to conclude that Mr. Foote had engaged in unethical conduct by engaging in this communication with the administrative law judge.

You also made general allegations about Ms. Haley and Ms. Krishnaswami based upon their alleged involvement in all of these matters. However, without more specific allegations supported by some corroborating evidence, we will not proceed to inquire of Ms. Haley and Ms. Krishnaswami in connection with those issues.

Finally, it is important to note that the Bar cannot weigh in or resolve legal disputes between parties. Your concerns regarding alleged hearsay and the qualifications of an expert relied upon during the underlying matter appear to be beyond the authority of the CAO and appear to be issues that should have been addressed in the underlying matter. Similarly, as noted in our September 1, 2012 letter, the treatment of other physicians investigated by the OMB and your allegations of conspiracy among these attorneys appears to be beyond the scope of our review.

Please note that all material submitted by the parties is public record and both parties will receive copies. If we do not receive the additional information by December 10, 2015, we will take no further action on this matter and close our file.

Sincerely,



Stacy R. Owen
Assistant General Counsel
Ext. 351

SRO/kng

cc w/attach: Warren Foote, Attorney at Law
Kathleen Haley, Attorney at Law
Nicole Krishnaswami, Attorney at Law

E-mail submissions to: cao@osbar.org Use subject line: SRO 1501630