

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

STATE OF OKLAHOMA

FILED

STATE OF OKLAHOMA, ex rel,  
OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE AND  
SUPERVISION,

JUN 22 1994

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )  
)

v.

KENNETH FOSTER, M.D. )  
Medical License No. 15885, )  
)  
Defendant. )

CASE NO. 93-12-1566

ORDER GRANTING SPECIAL LICENSE  
EFFECTIVE AT FUTURE DATE

This cause came on for hearing before the Oklahoma Board of Medical Licensure and Supervision on June 16, 1994, at the office of the Oklahoma State Board of Medical Licensure and Supervision, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Daniel J. Gamino, Attorney, appeared for the Plaintiff; and Kenneth Foster, former holder of Oklahoma Medical License No. 15885, Defendant, appeared in person and by and through legal counsel, Kevin J. Walker, Attorney at Law, P.O. Box 1641, Seminole, OK 74868, and Gene Stipe, Attorney at Law, P.O. Box 1368, McAlester, OK 74502.

That the Oklahoma Board of Medical Licensure and Supervision en banc heard testimony, reviewed exhibits and being fully advised in the premises, the Oklahoma Board finds and orders as follows:

FINDINGS OF FACT

1. That Defendant, Kenneth Foster, formerly held Oklahoma Medical License No. 15885.
2. That the Oklahoma Board of Medical Licensure and Supervision en banc has jurisdiction over the subject matter herein and that notice has been given in all respects as required by law and the rules of the Board.
3. That following notice and hearing on March 18, 1994, the Board revoked Defendant's Oklahoma Medical License No. 15885.
4. That the Oklahoma Legislature in May, 1994, did enact the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. Supp. 1994, Sec. 480 et seq. That a portion of that new legislation establishes special licensure wherein the Board may authorize the issuance of conditional, restricted or otherwise circumscribed license as necessary to protect public health, safety and welfare.
5. That evidence indicated that there was a need for the Defendant to provide psychiatric services for the Oklahoma Department of Corrections at the Special Care Unit at the Maximum Security Prison in McAlester, Oklahoma, and to perform evaluations at the Carl Albert Mental Health Center, McAlester, Oklahoma. There was danger that in the event the Department of Corrections did not obtain psychiatric coverage for the Special Care Unit, that program would be lost. And evidence indicated

that if the Defendant was granted special licensure that the program would not be lost.

6. That there has not been presented to the Oklahoma Board either in these proceedings or any prior proceedings regarding this Defendant, any evidence of poor clinical performance or unprofessional conduct by the Defendant during his rendering of medical services for the Oklahoma Department of Corrections.

7. That under these limited circumstances there would be no danger to public health, safety and welfare in the event Defendant was granted special license and limited to rendering medical services at the two geographical locations, Special Care Unit at the Maximum Security Prison, McAlester, Oklahoma, and at the Carl Albert Mental Health Center, McAlester, Oklahoma.

#### CONCLUSIONS OF LAW

1. That the Defendant, formerly holding Oklahoma Medical License No. 15885, may apply for special licensure that may be granted by the Oklahoma Board pursuant to the legal authority of 59 O.S. Supp. 1994, Sec. 493.3 and Sec. 494.4 and rules and regulations promulgated thereunder.

2. That the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S. Supp. 1994, Sec. 480 et seq., will become effective on July 1, 1994. Rules established thereunder were passed on an emergency basis by the Board on June 16, 1994, and will also become effective in the future.

3. That with the enactment of those statutes and the promulgation of emergency rules, the Board may consider the application of Kenneth Foster for special licensure and may take action now to be effective in the future at the earliest time allowed by law.

#### ORDER

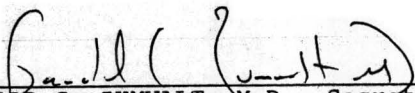
IT IS THEREFORE ORDERED by the Oklahoma Board of Medical Licensure and Supervision as follows:

1. That the application of Kenneth Foster, formerly holding Oklahoma Medical License No. 15885, for special licensure to allow him to provide psychiatric services to the Oklahoma Department of Corrections at the specific locations of the Special Care Unit, Maximum Security Prison, McAlester, Oklahoma, and at the Carl Albert Mental Health Center, McAlester, Oklahoma, should be and the same is hereby GRANTED.

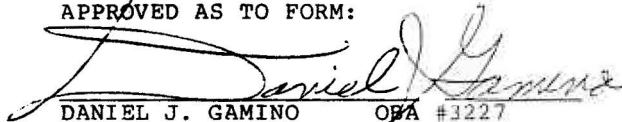
2. That this Order approved in open meeting on June 16, 1994, shall become effective in the future at the earliest time allowed by law.

3. That a copy of this written Order should be sent to the Defendant and/or his legal counsel as soon as it is processed.

DATED this 22 day of June, 1994.

  
GERALD C. ZUMWALT, M.D., Secretary  
State Board of Medical Licensure  
and Supervision

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APPROVED AS TO FORM:



DANIEL J. GAMINO OBA #3227  
Daniel J. Gamino & Associates, P.C.  
3315 NW 63  
Oklahoma City, OK 73116  
(405) 840-3741  
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing instrument was mailed, postage prepaid thereon, this 23 day of June, 1994, to:

KENNETH FOSTER  
c/o Kevin J. Walker  
Attorney at Law  
P.O. Box 1641  
Seminole, OK 74868

KENNETH FOSTER  
c/o Gene Stipe  
Attorney at Law  
P.O. Box 1368  
McAlester, OK 74502

Jamit L Owens