

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

FILED

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

NOV 18 1999

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 99-01-2062

JEFFREY H. SCHIMANDLE, M.D.,)
LICENSE NO. 19233)

Defendant.)

FINAL ORDER OF REVOCATION

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on November 4, 1999, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the plaintiff and defendant appeared in person and through counsel, R. Brown Wallace.

The Board *en banc* after hearing arguments of counsel, reviewing the exhibits admitted and the sworn testimony of witnesses, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board 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 pursuant to 59 Okla. Stat. §480 *et seq.*
2. The Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.
3. Defendant, Jeffrey H. Schimandle, M.D., holds Oklahoma license no. 19233.

4. On June 21, 1988, Defendant's license in the State of Maryland was suspended due to inappropriate handling of Demerol.

5. On August 22, 1988, Defendant entered into a three (3) month consent order whereby he was allowed to continue practicing medicine. During that period of time, Defendant had a positive urine drug screen for Demerol.

6. On November 16, 1988, Defendant's license in the State of Maryland was again suspended due to the positive drug screen.

7. On February 27, 1989, Defendant entered into a three (3) year consent order with the Maryland Medical Board whereby he agreed to random drug screens.

8. In 1992, Defendant moved to Georgia and on November 5, 1992, he entered into a consent order with the Georgia Medical Board wherein he was required to attend AA meetings, outpatient groups and to submit to random drug screens. Under this consent order, he was issued a one (1) year license.

9. On December 15, 1992, the Maryland Medical Board terminated Defendant's probation and his license was reinstated without restriction.

10. In or around November 1993, the Georgia Medical Board elected not to renew Defendant's one (1) year license due to the Defendant's violations of his consent order with the Georgia Medical Board.

11. Defendant subsequently obtained an unrestricted license in the State of Oklahoma.

12. On August 25, 1998, DIW, R.N., was working with Defendant at Hillcrest Health Center in Oklahoma City, Oklahoma. DIW observed Defendant fill a syringe with Demerol that he and another nurse had just removed from the med room at the hospital. DIW then observed Defendant take the syringe into which he had put the Demerol into his right front pocket, and then with his thumb, he brought out another syringe, leaving the syringe filled with Demerol in his right front pocket. He and the nurse then went to the patient's room with the syringe containing the unknown substance.

13. On November 9, 1998, DCW, R.N., was working with Defendant at Hillcrest Health Center when he requested Demerol 150mg for patient CTW. DCW, along with a witness, PPW, removed the Demerol from the Pysix and gave two (2) pre-filled syringes to Defendant, who drew the contents out of the two (2) syringes into a 3cc syringe. DCW discarded the empty syringes into the sharps container and followed Defendant to the patient's room. Prior to entering the patient's room, DCW noticed the plunger of another syringe in Defendant's right front pocket.

14. Upon entering the patient's room, Defendant placed his right hand, which was holding the Demerol filled syringe, into his right front pocket, then removed his hand. Defendant

then reached back into his right front pocket and handed a syringe believed to contain Demerol to DCW to administer to the patient. Defendant then left the room. DCW did not administer the contents of the syringe given to her by Defendant to the patient. DCW waited approximately one (1) minute and then with PPW accompanying her, put the syringe which Defendant had given her to give to the patient in the locked drawer of a medicine cart.

15. DCW reported her actions to BTW, the duty nurse, who took the syringe from the locked medicine cart to the St. Anthony toxicology lab for analysis of the contents. BTW also submitted to the St. Anthony toxicology lab a control syringe containing the contents of two (2) tubes of Demerol 75mg.

16. On November 13, 1998, the St. Anthony toxicology lab reported that the control syringe contained the expected amount of Demerol but that the syringe given by the Defendant to DCW to be administered to the patient contained no Demerol.

17. On November 16, 1998, Hillcrest Health Center suspended Defendant due to repeated inappropriate and unprofessional handling and administration of controlled dangerous substances.

18. On November 20, 1998, St. Anthony Hospital suspended Defendant due to repeated medically questionable handling and administration of Demerol.

19. On November 20, 1998, after learning that St. Anthony Hospital had suspended him, Defendant voluntarily submitted to a drug test.

20. On November 24, 1998, the St. Anthony toxicology lab reported positive levels of Demerol and Dilantin for Defendant's November 20, 1998 drug test.

21. Defendant is guilty of unprofessional conduct in that he is in violation of the Oklahoma Allopathic and Surgical Licensure and Supervision Act, 59 O.S. §509, paragraphs 9 and 16 as follows:

9. Dishonorable or immoral conduct which is likely to deceive, defraud, or harm the public;
16. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

22. Defendant is guilty of unprofessional conduct in that he is in violation of the provisions of the Rules and Regulations of the Oklahoma State Board of Medical Licensure and Supervision, as codified in Title 435, Chapter 10, Subchapter 7, Paragraph 4, Subparagraphs 11, 15, 18 and 40 of the Oklahoma Administrative Code as follows:

- (11) Conduct likely to deceive, defraud, or harm the public.
- (15) Gross or repeated negligence in the practice of medicine and surgery.
- (18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery.
- (40) The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct in that he is in violation of the Oklahoma Allopathic and Surgical Licensure and Supervision Act, 59 O.S. §509, paragraphs 9 and 16 as follows:

- 9. Dishonorable or immoral conduct which is likely to deceive, defraud or harm the public.
- 16. The inability to practice medicine with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition

3. Defendant is guilty of unprofessional conduct in that he is in violation of the provisions of the Rules and Regulations of the Oklahoma State Board of Medical Licensure and Supervision, as codified in Title 435, Chapter 10, Subchapter 7, Paragraph 4, Subparagraphs 11, 15, 18 and 40 of the Oklahoma Administrative Code as follows:

- (11) Conduct likely to deceive, defraud, or harm the public.
- (15) Gross or repeated negligence in the practice of medicine and surgery.

- (18) Practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery.
- (40) The inability to practice medicine and surgery with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

4. The Board further found that the Defendant's license should be revoked based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509(9) and (16) and OAC Title 435:10-7-4(11), (15), (18) and (40).

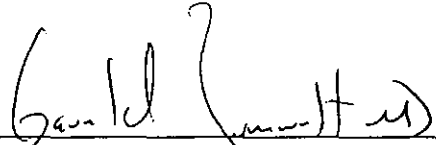
Order

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

1. The license of Defendant, Jeffrey H. Schimandle, M.D., Oklahoma license no. 19233, is hereby **REVOKED** as of the date of this hearing, November 4, 1999.

2. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

Dated this 18 day of November, 1999.


Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of Medical
Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 22 day of November, 1999, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to R. Brown Wallace, Andrews, Davis, et al, 500 W. Main, Oklahoma City, OK 73102.

Janet Owens
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