

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

IN THE MATTER OF THE)
APPLICATION OF)
JEFFREY H. SCHIMANDLE)
FOR REINSTATEMENT OF)
MEDICAL LICENSE NO. 19233,)

Application No. 19233

FILED
OCT 14 2015
OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

**ORDER DENYING APPLICATION FOR
UNRESTRICTED OKLAHOMA MEDICAL LICENSE**

This matter came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision ("Board") on September 24, 2015 at the Board office, 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and rules of the Board.

Jeffrey H. Schimandle, Applicant, appeared in person. Daniel J. Gamino, of Daniel J. Gamino & Associates, P.C. appeared in support of Applicant.

Joseph L. Ashbaker, Assistant Attorney General, appeared on behalf of the State of Oklahoma, *ex rel.* the Oklahoma State Board of Medical Licensure and Supervision.

The Board *en banc* heard testimony, reviewed the exhibits presented, and being fully apprised of the premises, entered the following Findings of Fact, Conclusions of Law, and Orders:

Findings of Fact

1. Applicant previously held medical license no. 19233.
2. On February 28, 2003, Dr. Schimandle's license was revoked. The board has denied Dr. Schimandle's application for reinstatement on June 25, 2004, May 21, 2009, and May 20, 2010 and those Orders are a matter of record.
3. On November 8, 2012, the Board issued an Order Granting Reinstatement of License With Restrictions After Prior Revocation, including:
 - C. "That Dr. Schimandle shall only be allowed surgical privileges upon satisfactory completion of a one-year ACGME approved Spine Surgery Fellowship."
4. On January 16, 2014, Applicant requested that the restriction on his license requiring satisfactory completion of a one-year ACGME approved Spine Surgery Fellowship in order to be allowed surgical privileges be modified. Due to the fact that ACGME does not accredit

fellowships, Applicant asked that he be allowed surgical privileges upon satisfactory completion of a one-year orthopedic fellowship. Applicant's request was GRANTED, modifying paragraph C of the Order Granting Reinstatement of License With Restrictions After Prior Revocation, as follows:

“Dr. Schimandle shall only be allowed surgical privileges upon satisfactory completion of a one-year orthopedic fellowship.”

This condition remains in effective until Applicant appears before the Board to show proof of satisfactory completion of a one-year orthopedic fellowship.

5. On September 24, 2015, Applicant provided information as to his activities since the January 16, 2014 Board hearing, requesting removal of the restrictions on his medical license. Applicant's request for removal of the restrictions on his medical license was DENIED by the Board pending completion of six (6) months of orthopedic fellowship.

Conclusions of Law

1. The Board *en banc* has jurisdiction over the subject matter herein, and notice has been given in all respects as required by law and the rules of the Board.

2. The Applicant failed to meet his burden of proof in showing satisfactory evidence of professional competence. 59 O.S. 2011, § 495h. The Applicant therefore failed to present sufficient evidence that reinstatement is for the best interest of the medical profession and the citizens of this State. 59 O.S. 2011, § 508.2(C).

Orders

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

1. The application for reinstatement of the unrestricted Oklahoma medical license of Applicant **JEFFREY H. SCHIMANDLE** is hereby **DENIED** pending completion of 6 months of orthopedic fellowship.

2. Promptly upon receipt of an invoice, Applicant 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.

3. A copy of this written order shall be sent to Applicant as soon as it is processed.

4. This Order is subject to review and approval by the Oklahoma Attorney General, and this Order shall become final upon completion of the review by the Oklahoma Attorney General unless disapproved, in which case this Order shall be null and void.

Dated this 14th day of October, 2015.



Billy H. Stout, M.D., Board Secretary
OKLAHOMA STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION

Certificate of Mailing

This is to certify that on the 15th day of October, 2015, a true and correct copy of this Order was sent by facsimile and U.S. first-class mail, postage prepaid, to:

Daniel J. Gamino
DANIEL J. GAMINO & ASSOCIATES, P.C.
Jamestown Office Park, North Building
3035 N.W. 63rd Street, Suite 214
Oklahoma City, Oklahoma 73116
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Counsel for Applicant
Jeffrey H. Schimandle



Nancy Thiemann, Legal Secretary

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OCT 09 2015

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE
AND SUPERVISION



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-41A

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

October 6, 2015

FILED

OCT 09 2015

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take regarding licensee 19233. The Board had revoked the license in 2003 and reinstated it in 2012 with restrictions on the ability to perform surgeries pending completion of a year-long fellowship in spinal surgery approved by the Accreditation Council for Graduate Medical Education. In 2014, the Board modified its fellowship requirement to any year-long orthopedic fellowship. Afterwards, the licensee completed around six months of orthopedic fellowship. The licensee requested that restrictions on ability to perform surgeries be removed, claiming that the licensee's six months of experience in programs in France and Japan were sufficient to meet the year-long requirement. The Board intends to deny that request and require another six months of fellowship in line with its original year-long requirement.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2014, §§ 480-519, authorizes the Board to place conditions on a license to practice medicine as part of the remedy in a disciplinary action, 59 O.S.2011, §§ 506(A), 509.1(4), (8). Here, a license was reinstated more than nine years after revocation. A reasonable condition on that reinstatement would be to ensure the licensee's competence to perform skill-intensive surgeries critical to patient health. The Board required a year-long fellowship, and in this action is enforcing that initial requirement to ensure licensee's competence.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma's policy to protect public health and ensure patient welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA