

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

STATE OF OKLAHOMA, *ex rel.* )  
OKLAHOMA STATE BOARD )  
OF MEDICAL LICENSURE )  
AND SUPERVISION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
AMAR NATH BHANDARY, M.D., )  
LICENSE NO. MD 19783, )  
 )  
Defendant. )

Case No. 12-03-4512

**FILED**  
NOV 17 2016  
OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

**ORDER DENYING APPLICATION TO REINSTATE  
OKLAHOMA MEDICAL LICENSE**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (“Board”) on September 22, 2016, at the office of the Board, 101N.E. 51<sup>st</sup> Street, Oklahoma City, Oklahoma 73105, pursuant to notice given as required by law and the rules of the Board.

Amar Nath Bhandary, M.D., (“Defendant”) appeared in person and through counsel, Daniel J. Gamino of Daniel J. Gamino and Associates, P.C.

Joseph L. Ashbaker and Jason T. Seay, Assistant Attorneys General, appeared on behalf of the State of Oklahoma (“State”).

The Board considered testimony, arguments of counsel, exhibits admitted into evidence and being fully apprised of the premises, makes the following findings of fact, conclusions of law and orders.”

**Findings of Fact**

1. On March 27, 2012, Dr. Bhandary voluntarily executed an Agreement Not to Practice (“ANTP”) with the Board. The ANTP was to remain in effect until the investigation by the Board was completed, any other proceedings resolved or he was released by the Board Secretary.
2. Defendant pled guilty on May 28, 2013 to health care fraud, a felony under 18 USC § 1347, in Case No. CR-2012-77-HE, U.S. District Court, W.D. Oklahoma. Defendant was sentenced on October 25, 2013 and was released from prison on November 20, 2015.

3. A Complaint and Citation were filed on July 14, 2013 and a hearing was set on the Board's September 12, 2013 agenda.
4. On August 30, 2013, an Order of Continuance was filed setting the hearing on the Complaint for the November 7, 2013 Board meeting.
5. On November 7, 2013, the Board **REVOKED** Defendant's medical license. A Final Order of Revocation was filed on November 15, 2013.
6. On February 26, 2016, Defendant filed an Application to Reinstate Oklahoma Medical License ("Application to Reinstate").
7. At the May 12, 2016 meeting, the Board **DENIED** the Application to Reinstate based upon the standard of clear and convincing evidence.
8. On May 18, 2016, the State filed a Motion to Reconsider for the Board to rule on the Application to Reinstate based upon the standard of preponderance of the evidence. State's Motion was set for hearing at the June 23, 2016 Board meeting.
9. Defendant filed a Response to State's Motion to Reconsider on June 10, 2016 and requested that he Board grant oral argument by legal counsel.
10. At the June 23, 2016 meeting, the Board **GRANTED** State's Motion to Reconsider and set the hearing on the July 14, 2016 agenda. The Order Granting State's Motion to Reconsider and Setting of Oral Arguments was filed on June 30, 2016.
11. On July 5, 2016, an Addendum to Defendant's Response to State's Motion to Reconsider was filed.
12. On July 11, 2016 Defendant's Motion to Continue Hearing of July 14, 2016 was filed.
13. At the July 14, 2016 meeting, the Board **GRANTED** Defendant's Motion to Continue and set the hearing on the September 22, 2016 agenda.
14. On August 8, 2016, Defendant's First Discovery requests were filed. The State responded by letter dated August 10, 2015.
15. On August 18, 2016, Defendant filed a Motion to Compel Responses to Discovery ("Motion to Compel"). State's Response to Motion to Compel was filed on August 25, 2016.
16. On September 13, 2016, Defendant filed an Emergency Motion to Bifurcate ("Motion to Bifurcate"). Plaintiff's Response Opposing the Motion to Bifurcate was filed on September 15, 2016.
17. At the September 22, 2016 Board meeting, Defendant's Motion to Compel, Defendant's Motion to Bifurcate and Defendant's Application to Reinstate were each addressed.

### Conclusions of Law

1. The Board has jurisdiction over the subject matter and 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. 59 O.S. 2011, § 480 *et seq.* Okla. Admin. Code §§ 435:10-4-1, 435:10-4-2.
2. Notice was given as required by law and the rules of the Board. 59 O.S. 2011, § 504 and Okla. Admin. Code §§ 435:3-3-5, 435:3-3-6.
3. The Board may require satisfactory evidence of professional competence and good moral character of applicants requesting reinstatement of any license issued by the Board. 59 O.S. 2011, §§ 492.1, 495h.
4. The Board concluded, by a preponderance of the evidence, that the application for reinstatement of the medical license of Amar Nath Bhandary, M.D. should be denied.

### Orders

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

1. Defendant's Emergency Motion to Bifurcate is **MOOT**.
2. Defendant's Motion to Compel Responses to Discovery is **DENIED**.
3. The Application to Reinstate Oklahoma Medical License of **AMAR NATH BHANDARY, M.D.**, is hereby **DENIED**.
4. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.
5. A copy of this Order shall be provided to Defendant as soon as it is processed.
6. **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 17<sup>th</sup> day of November, 2016.


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

**Certificate of Service**

This is to certify that on the 18<sup>th</sup> day of November, 2016, a true and correct copy of this Order was transmitted as specified, postage prepaid, to the following:

*U.S. Certified Mail*  
Amar Nath Bhandary, M.D.  
Big Cypress Drive  
Edmond, Oklahoma 73013  
***Defendant***

*U.S. First-Class Mail*  
Daniel J. Gamino  
DANIEL J. GAMINO & ASSOCIATES, P.C.  
Jamestown Office Park, North Building  
3035 N.W. 63<sup>rd</sup> Street, Suite 214  
Oklahoma City, Oklahoma 73116  
Telephone: (405) 840-3741  
Facsimile: (405) 840-3744  
dgamino@coxinet.net  
***Attorney for Defendant,***  
***Amar Nath Bhandary, M.D.***

  
\_\_\_\_\_  
Nancy Thiemann, Legal Secretary



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

**NOV 17 2016**

**OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION**

ATTORNEY GENERAL OPINION  
2016-652A

Billy Stout, Board Secretary  
State Board of Medical Licensure and  
Supervision  
101 N.E. 51st Street  
Oklahoma City, Oklahoma 73105

November 10, 2016

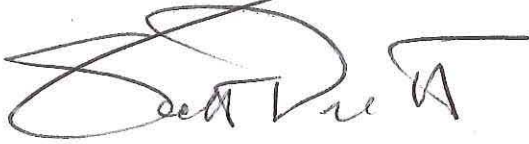
Dear Board Secretary Stout:

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 in Board case 12-03-4512. The proposed action is to deny the applicant's request to reinstate the license based on lack of evidence that the applicant is competent to practice or is of good moral character. The applicant's license was revoked in 2013 after the applicant pled guilty to felony health care fraud in violation of 18 U.S.C. §1347 (2012). At the time of the 2013 revocation, the Board also considered evidence that the applicant lost hospital privileges in 2001 for failing to timely complete charts and that the applicant was convicted of domestic abuse/assault and battery in 2000 and subsequently failed to report the conviction in a license renewal application.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480-518.1, requires the Board to revoke a physician's license upon conviction of a felony involving moral turpitude, 59 O.S.2011, § 513(A)(3). A physician whose license has been revoked may file an application to reinstate the license and the Board may grant or deny such application in its discretion. 59 O.S.2011, § 508.2(A), (C). "No person shall be licensed to practice medicine and surgery in this state except upon a finding by the Board that such person . . . is of good moral character" and has produced satisfactory evidence to the Board of the ability to practice medicine and surgery with reasonable skill and safety." 59 O.S.2011, § 492.1(B). Here, the applicant failed to meet these statutory requirements. Accordingly, the Board may reasonably believe that the application to reinstate the license should be denied.

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 ensuring that only qualified individuals hold licenses to practice medicine and surgery in this state.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a horizontal line extending to the right.

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA