

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,)
)
Plaintiff,)
)
v.)
)
FRÉDERICK WILLIAM SCHACHT, JR., M.D.,)
LICENSE NO. 8473;)
)
Defendant.)

NOV 12 1998

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 98-06-1998

VOLUNTARY SUBMITTAL TO JURISDICTION

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Susan Moebius Henderson, Assistant Attorney General for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Frederick W. Schacht, Jr., M.D., Oklahoma license no. 8473, who appears in person without counsel, proffer this Agreement for acceptance by the Board *en banc* pursuant to Section 435:5-1-5.1 of the Oklahoma Administrative Code ("OAC").

AGREEMENT AND ACKNOWLEDGMENT BY DEFENDANT

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on July 2, 1998 and acknowledges that hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act").

Defendant, Frederick W. Schacht, Jr., M.D., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein and has consulted his legal counsel in the State of Colorado concerning entry of this Agreement.

PARTIES' AGREEMENT AND STIPULATIONS

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

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. Defendant, Frederick W. Schacht, Jr., M.D., holds Oklahoma license no. 8473 in the State of Oklahoma.

3. On July 17, 1997, the Board of Medical Examiners for the State of Colorado placed Defendant's Colorado medical license on probation for a period of five (5) years after reviewing the underlying facts of a malpractice settlement entered into by Defendant. Defendant was also ordered to have his practice, and particularly his gynecological care and surgery practice, evaluated by the Colorado Personalized Education for Physicians ("CPEP") and to comply with any educational requirements ordered or recommend by CPEP. Defendant was further required to have his practice monitored by another physician nominated by Defendant.

4. The underlying facts of the case upon which Defendant's disciplinary action was based revealed that Defendant had engaged in unprofessional conduct as defined in the State of Colorado by committing two or more acts which failed to meet generally accepted standards of medical practice in the treatment of one patient. Defendant failed to obtain an appropriate consultation and medical clearance prior to performing surgery on a patient who had severe alcoholic liver disease, which remained undiagnosed at the time of surgery, and failed to document the patient's heavy alcohol use in either his office chart or preoperative history and physical.

5. On September 18, 1997 the Colorado Board suspended Defendant's license for failure to comply with the July 17, 1997 order. The suspension was to begin September 26, 1997 and continue in effect until Defendant nominated a practice monitor as required in the July 17, 1997 order. Based on evidence of compliance presented at a special meeting of the Colorado Board, Defendant's license was reinstated September 23, 1997 prior to the actual effective date of the suspension.

6. On March 19, 1998 the Colorado Board took further action against Defendant after learning that his privileges had been limited by the McKee Medical Center in Loveland, Colorado. The March 19, 1998 Colorado Board order prohibits Defendant from performing surgery or obstetrics in the future. The prohibition does not apply to his current obstetrical patients during the course of their current pregnancies and the first week of their postpartum care. The Colorado Board order prohibits Defendant from taking any new obstetrical patients. Effective February 28, 1999, the order entirely bars Defendant from performing any act requiring a license issued by the Colorado Board.

7. Except as expressly noted in paragraph 5 above, the orders of the Colorado Board are still effective and have not been terminated or modified in any respect.

8. Defendant is guilty of unprofessional conduct in that he:

- A. Has been the subject of disciplinary action in another state or jurisdiction based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4 (31).
- B. Has been the subject of an adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action in violation of OAC 435:10-7-4 (34).
- C. Has engaged in conduct likely to harm the public in violation of OAC 435:10-7-4 (11).

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, Frederick W. Schacht, Jr., M.D., Oklahoma medical license 8743, is guilty of the unprofessional conduct set forth below based on the foregoing facts:

- A. Has been the subject of disciplinary action in another state or jurisdiction based upon acts of conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this section in violation of OAC 435:10-7-4 (31).
- B. Has been the subject of an adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action in violation of OAC 435:10-7-4 (34).
- C. Has engaged in conduct likely to harm the public in violation of OAC 435:10-7-4 (11).

Order

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

1. The Board *en banc* hereby adopts the agreement of the parties in this Voluntary Submittal to Jurisdiction.

2. Pursuant to the parties' voluntary agreement and submittal to jurisdiction, Frederick W. Schacht, Jr., M.D., holding Oklahoma License No. 8473, is hereby placed on PROBATION for a period of five (5) years, under the following terms and conditions:

A. Defendant will comply with all probationary terms, including without limitation, those of education and monitoring, described in that certain Stipulation and Final Agency Order entered July 17, 1997 by the State Board of Medical Examiners for the State of Colorado, in The Matter of The Disciplinary Proceeding Regarding The License To Practice Medicine In The State of Colorado Of Frederick W. Schacht, Jr., M.D., [Colorado] License No. 15735.

B. Defendant will comply with all probationary terms set forth in that certain Second Stipulation and Final Agency Order entered March 19, 1998 in The Matter of The Disciplinary Proceeding Regarding The License To Practice Medicine In The State of Colorado Of Frederick W. Schacht, Jr., M.D., [Colorado] License No. 15735.

C. Up to and including Defendant's date of retirement, February 28, 1999, Defendant may continue the practice of medicine except that he may not perform surgery or obstetrics in Oklahoma unless as part of the continuing care and treatment for his "current obstetrical patients" as specifically identified by the Colorado State Board of Medical Examiners in its March 19, 1998 Second Stipulation and Final Agency Order. On his "current obstetrical patients", Defendant may perform obstetrics and surgery for the course of their current pregnancies and for a period of one week postpartum. Thereafter Defendant may not perform surgery or obstetrics on these patients but may continue to see them as part of his office practice only.

D. After February 28, 1999, Defendant shall perform no act requiring a license issued by the Board. Upon successful completion of the CPEP learning plan, Defendant may petition the Colorado Board to return to practice in a limited capacity such as at a clinic or office practice setting.

E. Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Oklahoma State Board of Medical Licensure and Supervision. Any question of interpretation regarding said Act shall be submitted in writing to the Board and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board.

F. Defendant will furnish to each and every state in which he holds licensure or applies for licensure and hospitals, clinics or other institutions in which he holds or anticipates holding any form of staff privilege or employment, a copy of the Board Order stipulating sanctions imposed.

G. Defendant will not supervise allied health professionals.

H. Defendant will give written notice to the Oklahoma State Board of Medical Licensure and Supervision of his current address within ten (10) days of any change.

I. Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case.

J. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

K. Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.

6. The probationary period is hereby TOLLED until such time as Defendant begins practicing in the State of Oklahoma, or in any federal or Native American facility located within the borders of the State of Oklahoma. Except for the terms and conditions of probation set forth in paragraph 5 of this order, no other term, condition or requirement contained in this order shall be tolled or otherwise affected by the tolling of Defendant's probation but shall remain in full force and effect until modified or terminated by the Board for as long as Defendant holds a medical license in Oklahoma.

7. Should Defendant desire to establish active medical practice or consultation privileges within the State of Oklahoma, or in any federal or Native American facility located within the borders of the State of Oklahoma, Defendant shall first notify the Board in writing of his intentions and personally appear before the Board *en banc* for a review of these matters and his present state of medical training and competence prior to establishing practice.

8. Failure to meet any of the terms of this Order will be grounds for the Board to initiate additional proceedings to suspend or revoke Defendant's medical license, after additional notice and hearing as required by law.

9. The Board shall retain continuing jurisdiction over this Defendant wherever he may practice for as long as his Oklahoma license remains in effect.

10. Promptly upon receipt of an invoice for such charges, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees, investigation and prosecution costs, and shall keep current all payments for monitoring his compliance with this agreement. Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.

Ratified and ordered September 24, 1998.




Eric E. Frische, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision

AGREED AND APPROVED:



Frederick W. Schacht, Jr., M.D.
Defendant



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

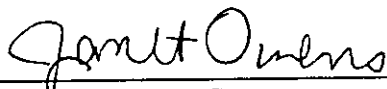


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Attorney for the Oklahoma State Board
of Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 16th of ^{November} ~~October~~ 1998, a true and correct copy of this order was mailed, postage prepaid to:

Frederick William Schacht, Jr., M.D.
1907 N. Boise Ave.
Loveland, CO 80538-4221



Janet L. Owens, Secretary