State Board of Madicines E/O-Box 2019 Harrisburg: P.A. 17:105-2649 717-783-1400 of 7:17-787-230

July 10, 2006

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- 12. Fee in the amount of \$35.00 made payable to the "Commonwealth of Pennsylvanja."
 Check of money order must be drawn on a US bank. NOTE: A processing fee of the ck of money order returned unitald by your \$20,00 will be charged for any check or money order returned unitald by your bank, regardless of the reason for non-payment.
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DELAWARE, A LETTER HAS BEEN RECEIVED FROM NEW YORK.

- X 14: <u>BOTH</u> The National Practitioner Data Bunk <u>AND</u> the Fleatilipeare integrity and process of the Property of the Property
- APPLICATIONS NOT COMPLETED WITHIN SIX MONTHS
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From ST MECICING Co-modified Control

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CME

CME PUMPORTANT " RENEWAL DISGREPANCY NOTICE

Door Licenses

Thank you tan processing your license renewal ain our colline rendam system

Based un the answer(a) you provided to one or more of the questions on the renewal application. You are inquired to submit documentation heldre the legise incord can be inherred. You his results to seria the Obsert the appropriate descrimentation regarding that answer as annicated below.

lf you have more than one discrepency, you will receive more then one automated email message Each discrepancy will be addressed in a soparate amail message

> Places be advised that your license WILL NOT he renewed will such time as the information and to work to be included being are received.

You snawared: "No" to the question of meeting the continuing education requirement. Your license cannot be renewed until you have met the requirement

IF YOU ANSWERED THIS QUESTION IN ERROR, PLEASE PROVIDE A WRITTEN STATEMENT TO THE BOARD INDICATING THAT THIS QUESTION WAS ANSWERED IN ERROR

IF YOU HAVE NOT MET THE CASE REQUIREMENTS FOR THIS RENEWAL PERIOD, YOU CANNOT RENEW YOUR LICENSE. WHEN YOU HAVE MET THE CASE REQUIREMENTS, PLEASE CONTACT THE BOARD FOR A REACTIVATION APPLICATION

If you are exempt for one of the following wasons, please check the appropriate exemption below and return to the Board Office.

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Hold an Active Retired License

To assist with expaditing the processing your renewal, please include a copy of this email with all documents that you retain to the Board. Se sure to PRIMT your name and license number below:

Lowi

MD 431 024

License No

State Board of Medicine

PO Box 2649

Hamsburg PA-17105

] glephone :: 7.17.783 (1400 ov.7.17.787.238.)

statiedicine@state pa via ែកម្ Wan Sila www dos state partistment

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REPhysician license

information, including attachments, is prohibited. If you are not an intended recipient, please destroy the attachments, and reply to sender

- Original Morcoco

From

Servi: Ermay, Decomber 12, 2008 1-1 APM

TO: ST, MEDICINE

Subject: Physician accuse

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Eric Schaft, MD-

The weather's deling colder but the moves are gellost botter. Get the Movieticae Toolbile and see Movietone's holiday movie guide today. Tecember 14 Hay

State Okard of Medicine PO Box 2649 Harrisburg, PA 17195

To Whom It May Concern

RECLING SCHOOL AND PARPHASICION LICENSE MIDITALICAL IN PRECLATIONAL

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Sincerely

myLicense Renewal Question Responses

License Number: MD431024

Name: ERIC ALAN SCHAFF

Online Submission Date :

Renewal Question	Response
Are you submitting a name change with this renewal?	
Are you licensed in another licensing jurisdiction in this profession (any status)?	Υ
Since your last renewal, has a licensing jurisdiction taken any disciplinary action against you?	·N
Since your last renewal, have you been convicted of a crime?	N
Since your last renewal, have you withdrawn an application for licensure in another licensing juristiction?	N
Have you met your current CE requirements?	Υ
Since your last renewal, have your provider privileges been terminated by any medical assistance agency for cause?	N
Since your last renewal, have you had practice privileges denied, revoked or restricted in a hospital or health care facility?	N
Since your last renewal, have you had your DEA registration denied, revoked or restricted?	N
Since your last renewal, have you been arrested for criminal homicide, aggravated assault, sexual offenses or drug offenses in any state, territory or country?	N
Do you maintain current medical professional liability insurance in the Commonwealth?	- Y
Medical Renewal - Since your last renewal, have you been the subject of a civil malpractice law suit?	N

Online Submission Date:

10/8/2008 8:20:16AM

Renewal Question	Respons	
Are you submitting a name change with this renewal?		
Are you licensed in another licensing jurisdiction in this profession (any status)?		
Since your last renewal, has a licensing jurisdiction taken any disciplinary action against you?	N	
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Have you met your current CE requirements?	N	
Since your last renewal, have your provider privileges been terminated by any medical assistance agency for cause?	N	
Since your last renewal, have you had practice privileges denied, revoked or restricted in a hospital or health care facility?	N	
Since your last renewal, have you had your DEA registration denied, revoked or restricted?	N	
Since your last renewal, have you been arrested for criminal homicide, aggravated assault, sexual offenses or drug offenses in any state, territory or country?	N	
Do you maintain current medical professional liability insurance in the Commonwealth?	N	
Medical Renewal - Since your last renewal, have you been the subject of a civil malpractice law suit?	N	

PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE STATE BOARD OF MEDICINE

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Department of State

In the Matter of the

Application for License to

Practice Medicine and Surgery of

Docket No. 1691-49-06

File No. 06-49-08677

Eric Alan Schaff, M.D.

Petitioner

COP7

Final Order Adopting Hearing Examiner's Adjudication and Order

AND NOW, this Did day of March, 2007, the State Board of Medicine (Board), having reviewed the entire record of this case established before the hearing examiner adopts the Adjudication and Order of the hearing examiner as the Final Adjudication and Order in this case. A copy of the Adjudication and Order is attached as Attachment A.

This order shall take effect immediately.

BY ORDER:

STATE BOARD OF MEDICINE

Charles D. Hummer, Jr., M.D., Chairman

Respondent's Address:

Eric A. Schaff, M.D. 801 Harvard Avenue Swarthmore, PA 19081

Prosecuting Attorney:

Robert B. Armour, Esquire

P.O. Box 2649

Harrisburg, PA 17105-2649

Board Counsel:

Sabina I. Howell, Esquire

Date of Mailing:

March 1, 2007

PROTHONOTARY

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COMMONWEALTH OF PENNSYLVANIA Department of State DEPARTMENT OF STATE STATE BOARD OF MEDICINE

In the Matter of the Application for License to Practice Medicine and Surgery of Erick Alan Schaff, M.D., Petitioner

Docket no. 1691-49-06 File no. 06-49-08677

PROPOSED ADJUDICATION AND ORDER

Joyce McKeever Hearing Examiner

Department of State P.O. Box 2649 Harrisburg, PA 17105-2649 (717) 772-2686

2.12-07

HISTORY

This matter arises on an appeal by Eric Alan Schaff, M.D. (Petitioner) of the provisional denial of his application for a license to practice medicine and surgery in the Commonwealth on September 29, 2006, by the State Board of Medicine (Board). The Board's provisional denial of license was based upon sections 22 and 41 of the Medical Practice Act of 1985 (Act), Act of December 20, 1985, P.L. 457, as amended, (Act), 63 P.S. §§ 422.22 and 422.41, which authorizes the Board to refuse to issue a license when an applicant has failed to demonstrate the qualifications or standards for a license. More specifically, Petitioner's application documents indicated that in 2004, he had allegedly altered records on six abortions that he had performed and had to surrender his clinical privileges in 2005. Further, in 2005, the New York State Board for Professional Medical Conduct imposed a censure and reprimand against Petitioner's license to practice medicine and surgery, as well as a \$5,000.00 fine for professional misconduct and failure to maintain adequate medical records.

On October 6, 2006, Petitioner submitted a timely appeal of the determination and requested a hearing. An Order delegating this case to the office of hearing examiners was filed on October 13, 2006, and a hearing was originally scheduled for November 16, 2006, but due to scheduling conflicts with the Petitioner was rescheduled and held on January 9, 2007. Robert B. Armour was present on behalf of the Commonwealth. Petitioner appeared at the hearing pro se. At the hearing, the parties waived the filing of post-hearing briefs and the evidentiary record in this matter closed on January 11, 2007, with the filing of the transcript.

At the conclusion of the hearing, the hearing examiner advised the parties that a written decision would be entered recommending that the Board grant the Petitioner a license to practice medicine in this Commonwealth.

FINDINGS OF FACT

- 1. On June 9, 2006, Petitioner submitted to the Board an application for a license to practice medicine and surgery in the Commonwealth. (Board records)
- 2. Petitioner's last known address of record is 801 Harvard Avenue, Swarthmore, Pennsylvania, 19081. (N.T. 19)
- 3. Petitioner currently holds active unrestricted licenses to practice medicine in New York and in Delaware. (N.T. 25)
- 4. Petitioner received his medical degree from the Hahnemann Medical University in 1976; he completed his pediatric internship and residency at the University of Rochester. (Petitioner's Exhibit 1, N.T. 8)
- 5. Following the completion of his training, he became licensed in New York in 1977. (Petitioner's Exhibit 1)
- 6. Among his professional achievements, Petitioner was on the faculty in the Department of Family Medicine at the University of Rochester from 1980 to 2005 and was a professor of family medicine, of pediatrics, of obstetrics and gynecology and of the School of Nursing at the University of Rochester. (Petitioner's Exhibit 1)
- 7. Petitioner was the Chair of the National Abortion Federation for the years 2002 and 2004; in the National Medical Committee was the Chair of Specialized Gynecology Committee, Planned Parenthood Federation of America from 1997 to 2002; and was on the Advisory Board of Reproductive Health Initiative, American Women's Medical Association from 1999 to 2005. (Petitioner's Exhibit 1)
- Petitioner is currently a member of the American Academy of Pediatrics; member of the Rochester Academy of Medicine Pediatric Society; on the Advisory Board of the NYC

Reproductive Health Access Project; is a founding member of the Society of Family Planning; and is a member of the Medical Society of Delaware. (Petitioner's Exhibit 1)

- 9. While on the faculty in the Department of Family Medicine at the University of Rochester in 2000, Petitioner started a non-profit private faculty practice in the community hospital called Highland Hospital. (N.T. 13)
- 10. The purpose of the faculty practice was to do abortion training, abortion research, and abortion service. (N.T. 13)
- In 2004, there were five patients that came in for procedures who were having a difficult time and were terribly stressed and Petitioner thought that giving them IV moderate sedation would help them. (N.T. 14-15)
- Due to some increasing concerns about the use of IV moderate sedation in the early 2000's, Highland Hospital no longer viewed the use of IV moderate sedation as acceptable practice however, Petitioner's faculty practice did not yet fall under the hospital's guidelines because it was a private practice. (N.T.13-15)
- 13. In 2004, a new chair in Petitioner's department decided that Petitioner's private faculty practice ought to come under Highland Hospital and its rules and regulations, which Petitioner thought was reasonable. (N.T. 15)
- 14. Petitioner realized that when the faculty practice came under the rules and regulations of the hospital, the use of IV moderate sedation would no longer be acceptable. (N.T. 15)
- 15. Petitioner then was informed that the Joint Commission of Hospital Accreditation (JCHA) was coming at the end of the year in 2004. (N.T. 15)
 - 16. Petitioner was informed that the hospital did not want any citations and that if any

particular clinic was going to cause the hospital to receive a citation, the hospital would close that clinic. (N.T.16)

- 17. Petitioner realized that his faculty practice's use of IV moderate sedation was no longer acceptable practice in the hospital and so he changed the five medical records of the patients who had come in previously to state that they had received intramuscular sedation instead of IV moderate sedation. (N.T.16)
- 18. Petitioner changed the medical records because he believed at the time that they would cause the hospital to receive citations. (N.T. 16)
- 19. The IV moderate sedations that were given in 2004 were done openly and under good care. (N.T. 17)
- 20. The change in the medical records was discovered because Petitioner was involved with teaching and training the residents and during training the residents must write down the number of procedures completed and someone realized that Petitioner had signed off on IV moderate sedations on some of the resident's cards. (N.T. 17)
- 21. After an Administrator approached Petitioner about the discrepancy between the cards and the medical records, Petitioner worked with the hospital's attorney and corrected all of the medical records that he had altered. (N.T. 17, 24)
- 22. In June of 2005, Petitioner's 5-year position was coming up for reappointment at the University of Rochester but due to his embarrassment over the incident with the medical records, Petitioner decided to leave at the end of his tenure. (N.T. 17)
- 23. Petitioner then took it upon himself to call the Office of Professional Misconduct of the New York State Board for Professional Medical Conduct to report his misconduct concerning the medical records. (N.T. 17)



- 24. On August 22, 2005, the New York State Board for Professional Medical Conduct adopted a Consent Agreement entered into by Petitioner which imposed a censure and reprimand against Petitioner's license to practice medicine and surgery, as well as a \$5,000.00 fine for professional misconduct and failure to maintain adequate medical records. (Board Records)
- 25. Petitioner has paid the fine and does not have any restrictions on his New York license to practice medicine and surgery. (N.T. 18)
- 26. Petitioner was issued his license to practice medicine and surgery in Delaware without restriction even after being made aware of the disciplinary action in New York. (N.T. 25)
- 27. Other than the 2005 action in New York, no other disciplinary action has been taken against Petitioner's license. (N.T. 18, Board Records)\
- 28. Petitioner is currently a clinical assistant professor of family medicine at the University of Buffalo; a consultant for Planned Parenthood of Niagara County, Niagara Falls, NY; is a consultant with Buffalo Women Services, Buffalo, NY; and is the Medical Director at Planned Parenthood of Delaware, Wilmington, DE. (Petitioner's Exhibit 1)
- 29. Petitioner applied for a license in Pennsylvania because he works for Planned Parenthood Federation of America which has affiliates in Pennsylvania. Petitioner is aware that at times these affiliates in Pennsylvania are in need of medical doctors and he would like to be available to cover that need. (N.T. 20-21)
- Applicant was served with all pleadings, orders and notices filed of record in this matter, and attended the hearing held on January 9, 2007. (Docket No. 1691-49-06)

CONCLUSIONS OF LAW

- 1. The Board has jurisdiction in this matter. (Findings of Fact, No. 1)
- 2. Applicant has been afforded reasonable notice and an opportunity to be heard in this proceeding. (Findings of Fact, No. 30)
- 3. Applicant is subject to refusal, revocation, suspension or other corrective measures under the Act at 63 P.S. §§422.22 and 422.41, the provisions of which authorize the Board to refuse to issue a license when the applicant is guilty of immoral or unprofessional conduct. (Findings of Fact, Nos. 4-29)

DISCUSSION

In denying the instant application, the Board cited the Medical Practice Act at 63 P.S. §§422.22 and 422.41, which provide in pertinent part as follows:

- § 422.22. Licenses and certificates; general qualification.
- (a) Types of licenses and certificates.-The Board may grant the following licenses and certificates:
 - (1) License without restriction.
 - (2) Interim limited license.
 - (3) Graduate license.
 - (4) Institutional license.
 - (5) Temporary license.
 - (6) Extraterritorial license.
 - (7) Midwife license.
 - (8) Physician assistant certificate.
 - (b) Qualifications. The board shall not issue a license or certificate to an applicant unless the applicant establishes with evidence, verified by an affidavit or affirmation of the applicant, that the applicant is of legal age, is of good moral character and is not addicted to the intemperate use of alcohol or the habitual use of narcotics or other habit-forming drugs and that the applicant has completed the educational requirements prescribed by the board and otherwise satisfies the qualifications for the license or certificate contained in or authorized by this act.
 - (c) Refusal.-The board may refuse to issue a license or certificate to an applicant based upon a ground for such action contained in section 41.
 - (d) Limitation.-The board shall not refuse to issue a license or certificate to an applicant unless the applicant has been afforded the procedural protections required by this act.

§ 422.41. Reasons for refusal, revocation, suspension or other corrective actions against a licensee or certificate holder

The board shall have authority to impose disciplinary or corrective measures on a board-regulated practitioner for any or all of the following reasons:

* * *

(8) Being guilty of immoral or unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality standard of the profession.

As indicated in its provisional denial, the Board is concerned with the fact that Petitioner's application documents indicated that in 2004, he had allegedly altered records on six abortions that he had performed and had to surrender his clinical privileges in 2005. Further, in 2005, the New York State Board for Professional Medical Conduct imposed a censure and reprimand against Petitioner's license to practice medicine and surgery, as well as a \$5,000.00 fine for professional misconduct and failure to maintain adequate medical records.

The evidence in this case consists solely of that which was presented by the Petitioner either directly to the Board as part of his original application or to the hearing examiner at the hearing. Relevant to this matter, the documents included in Petitioner's application to the Board are the Consent Agreement and the Consent Order issued by the New York State Board of Professional Misconduct on August 22, 2005, a Summary of Reported Actions from the Federation of State Medical Boards of the United States, Inc., and the Adverse Action Report issued by the National Practitioner Data Bank (NPDB)/Health Care Integrity and Protection Data Bank (HIPDP) indicating that Petitioner voluntarily disclosed that he changed medical references to administration of IV sedation.

Petitioner is 56 years old and has been practicing medicine and surgery for 29 years. He was a 1976 graduate of Hahnemann Medical University and he completed his pediatric internship and residency at the University of Rochester. Petitioner became licensed to practice medicine and surgery in New York in 1977.

Petitioner was on the faculty in the Department of Family Medicine at the University of Rochester rom 1980 until 2005. From 2000 until 2005, Petitioner was a professor of family medicine, pediatrics, obstetrics and gynecology, and of the School of Nursing at the University. In 2000, while on the faculty in the Department of Family Medicine at the University of Rochester, Petitioner started a non-profit private faculty practice in the community hospital called Highland Hospital. The purpose of the faculty practice was to do abortion training, abortion research, and abortion service.

In 2004, there were five patients, not six, that came in for procedures but were having a difficult time and were terribly stressed. Petitioner thought that giving the patients IV moderate sedation would help them. At the time, Highland Hospital no longer viewed the use of IV moderate sedation as acceptable practice but Petitioner's faculty practice did not fall under the hospital's guidelines because it was a private practice. Also in 2004, a new chair in Petitioner's department decided that his private faculty practice ought to be more a part of Highland Hospital rather than a private clinic. Petitioner realized that when the faculty practice came under the rules and regulations of the hospital, the use of IV moderate sedation would not longer be acceptable.

Petitioner was informed that at the end of the year in 2004, the Joint Commission of Hospital Accreditation (JCHA) would be coming to Highland Hospital. It was also known that the hospital did not want any citations and he was told that if any particular clinic would cause the hospital to receive a citation it would be closed. Petitioner began to worry that the five cases where IV moderate sedation had already been used at his faculty practice would cause the hospital to receive a citation. Out of his concern for receiving a citation, Petitioner changed the medical records of the five patients who had received IV sedation to state that they had received intramuscular sedation.

The change in the medical records was discovered because Petitioner was involved with teaching and training the residents. During training, the residents must write down the number of procedures completed and Petitioner had signed off on some of the resident's cards that they had completed an IV moderate sedation. After an Administrator from the hospital approached Petitioner about the discrepancy between the cards and the medical records, Petitioner worked with the hospital's attorney and corrected all of the medical records that he had altered. In June of 2005, Petitioner's 5-year position was coming up for reappointment at the University of Rochester but due to his embarrassment over the incident with the medical records, Petitioner decided to leave at the end of his tenure.

Petitioner then took it upon himself to call the Office of Professional Misconduct of the New York State Board for Professional Medical Conduct to report his misconduct concerning the medical records. On August 22, 2005, the New York State Board for Professional Medical Conduct adopted a Consent Agreement entered into by Petitioner which imposed a censure and reprimand against Petitioner's license to practice medicine and surgery, as well as a \$5,000.00 fine (\$1,000 for each altered medical record) for professional misconduct and failure to maintain adequate medical records.

The five IV moderate sedations that were performed by Petitioner and the residents he supervised were done openly and under good care. In retrospect, Petitioner realized that since

the IV sedations were done prior to his faculty practice becoming part of Highland Hospital, the hospital would not have received a citation even if they had been discovered.

Petitioner currently works for Planned Parenthood Federation of America which has affiliates in Pennsylvania. He is aware that at times the affiliates in Pennsylvania are in need of medical doctors. Petitioner wishes to become licensed in Pennsylvania so that he can be available to those affiliates that are in need of medical doctors.

In all relevant respects, Petitioner is an extremely qualified medical doctor. Petitioner was the Chair of the National Abortion Federation for the years of 2002 and 2004. In the National Medical Committee he was the Chair of Specialized Gynecology Committee, Planned Parenthood Federation of America from 1997 until 2002. Petitioner is currently a clinical assistant professor of family medicine at the University of Buffalo; is a consultant for Planned Parenthood of Niagara County, Niagara Falls, NY; is a consultant with Buffalo Women Services, Buffalo, NY; is on the Advisory Board of the NYC Reproductive Health Access Project and is a member of the Medical Society of Delaware. Also, at hearing Petitioner testified that he has traveled to India, Kenya, Krygyzstan, Albania, Macedonia, Vietnam, and the Phillipines to facilitate training in safer abortion practices which he stated are a part of a 12% maternal mortality rate around the world according to the World Health Organization.

Petitioner has paid the fine and does not have any restrictions on his New York license to practice medicine and surgery. With the exception of the 2005 action in New York, no other disciplinary action has been taken against Petitioner's license in any state. Petitioner has also been issued a license to practice medicine and surgery in Delaware without restriction. The Delaware Board was made aware of the disciplinary action in New York.

Accordingly, based upon the foregoing findings of fact, conclusions of law and discussion, the following Order shall issue:

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE STATE BOARD OF MEDICINE

In the Matter of the

Application for a License to

Practice Medicine and Surgery of

Eric A. Schaff, M.D.

Docket no.

ng Examiner

1691-49-06

File no.

06-49-08677

PROPOSED ORDER

NOW, this 12th day of February, 2007, in accordance with the foregoing findings of fact, conclusions of law and discussion, the application of Eric A. Schaff, M.D. for a license to practice medicine and surgery in the Commonwealth of Pennsylvania is GRANTED.

Petitioner:

Eric A. Schaff, M.D.

801 Harvard Avenue

Swarthmore, Pennsylvania, 19081

For the Commonwealth:

Robert B. Armour, Esquire

OFFICE OF GENERAL COUNSEL

P.O. Box 2649

Harrisburg, PA 17105-2649

Date of mailing:

2-12-07