

ROBERT J. DEL TUFO
ATTORNEY GENERAL OF NEW JERSEY

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FILED

December 31, 1991

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
PAUL R. SCOLLO :
TO PRACTICE PODIATRY :
IN THE STATE OF NEW JERSEY :

Administrative Action
CONSENT ORDER

This matter was opened to the State Board of Medical Examiners ("Board") upon receipt of information from the office of the United States Attorney regarding an ongoing investigation in which respondent was implicated. Subsequently, as a result of cooperation among the U.S. Attorney's office, the Attorney General and counsel for respondent, the Board was apprised of respondent's indictment and plea of nolo contendere.

According to all of the information available, in 1988 and 1989 the U. S. Attorney conducted an extensive investigation of a medical testing entity known as Brill-Cor, Medical Diagnostic Services or MDS (hereinafter MDS). In the course of that investigation, medical

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practitioners (primarily chiropractors and podiatrists) who employed the services of MDS were also investigated. As a result of that investigation, the U.S. Attorney was prepared to file charges against a large number of New Jersey and Pennsylvania medical practitioners who employed MDS to perform vascular testing on their patients. The basis for those charges was the government's allegation that MDS paid medical practitioners a per-patient kickback of approximately fifty dollars for laboratory testing it performed on each practitioner's patients and billed to Medicare. The U.S. Attorney also alleged that all of the practitioners who used MDS were aware that although Medicare was routinely billed for the performance of segmental plethysmography for each patient tested, the test actually performed was photoelectric plethysmography for which Medicare reimbursement was not available. It was also alleged that MDS regularly performed and billed Medicare for a full battery of tests when only one test had been requested and that the results of all tests performed were reported to the medical practitioners.

The U.S. Attorney's investigation revealed that respondent was the recipient of approximately \$1,000 dollars in payments arising from tests performed on twenty of his patients in 1983. All of these patients were residents at either Greenbriar Rest Home or Newton Rest Home. It was the government's position that these fees constituted patient referral fees received by respondent in violation of 42 U.S.C., section 1320a-7b which prohibits the knowing receipt of any remuneration in return for referring an individual for Medicare-reimbursed services. It was respondent's position that the monies received were the reasonable rental fee for the use of examination

rooms in his private office. In June, 1988 the government offered to release respondent from civil liability for accepting MDS fees if he submitted a sworn affidavit describing the nature of the payments he received from MDS, i.e. rent.

In August, 1988 respondent submitted a sworn affidavit to the United States Attorney's Office for the Eastern District of Pennsylvania, in which he stated:

I understood and believed in good faith that monies received by me from MDS were paid to me as rent to compensate me for the use of my sole examination/treatment room, and that the sums paid me represented a reasonable market rent for the space provided and the time used.

In fact, as respondent was aware, the tests performed by MDS were not performed in respondent's office. Therefore, respondent was subsequently indicted by a Federal Grand Jury sitting in Pennsylvania on a single count of false swearing in that he submitted an affidavit that falsely asserted that the MDS payments were rental fees for the use of his office space.

On April 3, 1991 respondent entered a plea of nolo contendere to the charge of false swearing. On July 17, 1991 he was sentenced to a 14 month probationary term, 200 hours of community service and \$1200 dollars in restitution.

Respondent being desirous of resolving this matter without the need for formal proceedings and the Board having determined that the within resolution is adequately protective of the public interest and respondent having admitted that the monies received from MDS were not, in actuality, legitimate rental fees,

IT IS THEREFORE on this 31st day of December, 1991

ORDERED:

1. Respondent Paul R. Scollo is hereby admonished for his failure to exercise sound medical and professional judgment in establishing and maintaining a relationship with and accepting fees from MDS.
2. Respondent Paul R. Scollo is hereby reprimanded for the act of false swearing that gave rise to his indictment and subsequent plea of nolo contendere in Federal District Court.
3. Respondent Paul R. Scollo shall, within one year of the entry date of the within Order, enroll in and successfully complete a course in medical ethics satisfactory to the Board.
4. Respondent Paul R. Scollo shall pay a penalty of \$2,500 dollars.

STATE BOARD OF MEDICAL EXAMINERS

By: Sanford Lewis, M.D.
Sanford Lewis, M.D.
President

I have read and understood the contents of this Order and agree to be bound by its terms.

Paul R. Scollo, D.P.M.
Paul R. Scollo, D.P.M.

Consented to as to form and entry

Peter W. Gilbreth, Esq.
Peter Gilbreth, Esq.