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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 **MATTHEW J. DELUCA, M.D.** **License No. MA44133** TO ENGAGE IN THE PRACTICE OF MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	Administrative Action **CONSENT ORDER**

This matter came to the attention of the New Jersey State Board of Medical Examiners ("the Board") upon receipt of a complaint by patient R.G. that Matthew J. DeLuca, M.D., had charged him for a visit but had not performed any services.

Dr. DeLuca appeared before the Preliminary Evaluation Committee ("the Committee") of the Board on October 27, 1999 with counsel, Richard A. Walsh, of the firm Clemente, Dickson & Mueller, P.A. Dr. DeLuca was asked whether he recalled receiving a letter from the Board in 1990 regarding his need for proper documentation

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and communication with patients. Initially Dr. DeLuca did not recall such letter, but remembered receiving it after having an opportunity to review it.

Dr. DeLuca testified regarding his care of five patients: R.G., M.B., R.B., M.S. and M.B. Regarding patient R.G., whom he first saw in 1993 about four weeks after R.G. had been in a motor vehicle accident, Dr. DeLuca testified that he had diagnosed R.G. as having post-traumatic headaches, acute cervical and lumbar sprain and possible radiculopathy, evidenced by cervical spine and neck tenderness to palpation and complaints of head injury and headaches. Dr. DeLuca nonetheless found that R.G. had no limitation of movement. Dr. DeLuca acknowledged that he had not taken R.G.'s blood pressure or checked his pulse as part of a complete physical. In response to questioning by the Board regarding the need for various diagnostic tests in light of the presence of only subjective findings from the complete neurological exam he had performed and billed for, Dr. DeLuca testified as follows. With respect to the MRI, he ordered such test to evaluate the patient's complaints of neck and back pain, the results revealing a small disc herniation at T11-12 and diffuse disc bulges at several levels in the spine. Additionally, because of the patient's complaints of head injury and headaches, he ordered

evoked-response tests to determine whether the patient's visuals and/or auditory system was affected, as can sometimes be the case in closed head injuries. Finally, he ordered the EMG and nerve conduction studies because of the patient's continued complaints of neck and back pain over one month after the accident. When asked about R.G.'s last visit, the one about which R.G. complained to the Board, Dr. DeLuca testified that he examined R.G. when he came to his office to drop off his medical records not because of any new symptoms of pain experienced by R.G., but to refresh his own memory for possible court testimony and to evaluate R.G.'s present condition as it had been nearly three years since he had last treated R.G. Dr. DeLuca charged R.G. $100 for a complete examination after trying and failing to obtain insurance information from him. R.G. refused to pay for the visit.

Regarding patient M.B., whom he saw in 1995, Dr. DeLuca testified that he had performed EMGs and nerve conduction studies because M.B. complained of pain from the neck into the right shoulder and received no relief from Medrol and the cervical collar he had prescribed. He billed "99244" for a level-4 examination, as he thought at the time that he was compliant with the current coding guidelines. He added that now, that same exam would be a

level 3 or 4, and assured the Committee that he is compliant with present standards.

Respecting patient R.B., whom he also saw in 1995, Dr. DeLuca agreed with the Committee that his progress notes did not: indicate the abnormal result of the MRI R.B. had undergone, revealing an incidental pineal cyst; did not indicate his impression of it; and did not indicate that he had reviewed the report. However, Dr. DeLuca testified that he was sure he had reviewed the results of the MRI report and had discussed them with the patient even though he had not documented doing so. Dr. DeLuca testified that he was not concerned by the recorded large size of the cyst in the MRI report as he knew such was a typographical error. Dr. DeLuca acknowledged that he should have nevertheless noted this typographical error in his notes. Dr. DeLuca also testified that he had not documented his review of a 1996 MRI indicating a cord indentation, but added that he had prescribed Medrol, a collar, and reduced lifting. He considered that appropriate treatment in light of R.B.'s "many associated symptoms." He agreed with the Committee that cord indentations can be serious and acknowledged that he should have documented that he did not consider this indentation serious.

As to patient M.S. whom he saw in consultation on January 30, 1996, one year after she had sustained injuries in a motor vehicle accident, Dr. DeLuca testified that he ordered an MRI because of the patient's persistent complaints of pain and spasm. He stated that the previous MRI performed in April 1995 had revealed atrophy of the thoracic spine. While the patient's chart contained copies of the previous MRI reports, along with a copy of the medical necessity letter he had written to M.S.'s insurance carrier stating his basis for ordering a follow-up MRI one year later with the results thereof, Dr. DeLuca acknowledged that he should have separately noted in his progress notes the findings of an arachnoid cyst or of intradural adhesions not revealed in the previous MRI.

Regarding patient M.B., Dr. DeLuca stated that he had first seen him in 1995 when M.B. was suffering from headaches and neck and back pain. He ordered an MRI to rule out C-7 root disease, and prescribed Medrol, Motrin, and cervical traction. Dr. DeLuca testified that approximately five months later, he saw M.B. again and again billed for a level-4 examination. He did not record a detailed physical exam. Dr. DeLuca agreed that a detailed visit consists of doing a physical examination and documenting it

and that the visit did not meet the standards for a level-4 exam even then.

The full Board considered this matter on December 8, 1999 and found Dr. DeLuca's conduct reprehensible as he had received prior notice from the Board regarding his inadequate clinical notes and his need to better communicate with his patients.

It appearing that Dr. DeLuca wishes to resolve this matter amicably, without the necessity of a formal hearing, and the Board finding that the public health, safety and welfare are served and protected by the entry of this Order, and for other good cause shown,

It is on this 20th day of ~~November~~ December, 2000,

ORDERED THAT:

1. Dr. DeLuca is hereby reprimanded for (a) his failure in 1993-1996 to comply with the Board's previous directive in 1990, regarding its review of his care of a patient in 1989, that he maintain adequate clinical notes and communicate more effectively with his patients, and (b) his failure in 1993-1996 to document in the patient record: (i) the need for particular diagnostic tests performed on his patients, (ii) the use to be made of the results, (iii) discussion with his patients of the medical conditions disclosed in test results that were potentially harmful

patients, and (iv) an adequate basis for the amount billed for his services, in violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:35-6.5 and thus N.J.S.A. 45:1-21(h).

2. Dr. DeLuca shall attend and satisfactorily complete at his own expense a recordkeeping course approved by the Board within three months following his signing of this Order. Proof of such completion shall be provided to the Board within ten (10) days of the completion of the course.

3. Dr. DeLuca shall pay a civil penalty in the amount of $2,500. Such penalty shall be paid by certified check or money order, made payable to the State of New Jersey and submitted to the Board within ten (10) days from the date of Dr. DeLuca's signing this Order.

4. Dr. DeLuca is assessed costs for the investigation of this matter in the amount of $999.51. Such costs shall be made by certified check or money order made payable to the State of New Jersey and submitted to the Board within ten (10) days from the

date of Dr. DeLuca's signing of this Order.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____
Gregory Rokosz, D.O., J.D.
President

I have read and understood the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

_____
Matthew J. DeLuca, M.D.

Consented as to form and entry.

_____
Jonathan D. Clemente, Esq.
Clemente, Mueller & Tobia, P.A.