

FILED
November 19, 2008
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

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

IN THE MATTER OF THE LICENSE OF :
LEE J. FRANKEL, D.P.M. :
License No. MD-001221 :
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

Administrative Action
CONSENT ORDER OF
REINSTATEMENT OF
LICENSURE WITH
RESTRICTIONS

This matter was opened to the State Board of Medical Examiners ("Board") upon receipt of a request for reinstatement of the license of Lee J. Frankel, D.P.M. On October 22, 1999, the Board filed a Final Order revoking respondent's license after he plead guilty to one count of attempted theft. During the plea colloquy, Dr. Frankel admitted that he prepared false pre-operative reports for services never performed and billed insurance carriers for services not rendered.

On August 22, 2007 Dr. Frankel appeared pro se before a Committee of the Board to discuss his petition for reinstatement of his license to practice podiatric medicine and surgery in the State of New Jersey and his compliance with the requirements of the Final

CERTIFIED TRUE COPY

Order. Respondent testified that he complied with all of the terms of the Final Order and submitted documentation certifying that he completed the required ethics course, an assessment of his performance at the course, copies of CME credits, a certificate that he completed a course in infectious diseases, proof of payment of civil penalties and a copy of his C.V. The Board requested that respondent undergo an assessment of his clinical skills because he had been out of practice for eight years.

The Board reviewed the assessment report, dated July 10, 2008 prepared by Robert Eckles, DPM, MPH, Dean, Graduate and Clinical Medical Education of New York College of Podiatric Medicine who presented the respondent with clinical scenarios and asked respondent to "virtually" manage a patient and to record his findings and recommendations. Dr. Eckles report concluded that "there is no clinical or academic barrier to Dr. Frankel's reinstatement as a licensed podiatrist" but recommended that if respondent's license is reinstated that he be required to complete additional CME hours. The report further noted that the evaluation was not a practical or psychomotor assessment and therefore did not determine the respondent's competence to perform surgery.

Respondent agreeing to the terms of this Order and the Board finding that respondent has satisfied the requirements of the October 22, 1999 Final Order and the Board's request for an

assessment, and that the within disposition is adequately protective of the public health, safety and welfare;

IT IS, therefore, on this 10 day of November, 2008,

ORDERED THAT:

1. Respondent's license to practice podiatric medicine is reinstated upon fulfillment of all application requirements, including the payment of all fees, with the following restrictions for a minimum of one (1) year following the filing of the within Consent Order:

a. Respondent shall only be permitted to practice in a supervised practice with a pre-approved podiatric Board licensee reviewing all of his patient charts. Any costs for supervision shall be paid by respondent.

b. Respondent's office surgical practice shall be limited to digital soft tissue and osseous procedures (limited to the area distal to the metatarsophalangeal joints i.e. toes), excluding hallux valgus repair.

c. Respondent may perform hallux valgus (bunionectomies) and surgical procedures proximal to the metatarsophalangeal joints solely in a hospital or surgi-center under the supervision of a podiatric licensee pre-approved by the Board. After respondent successfully performs a minimum of ten (10) bunion surgeries in a hospital or surgi-center, respondent may petition for reduction in this restriction upon submission by the pre-approved Board licensee

of an evaluation of respondent's surgical skills. The evaluation shall include a description of the surgeries performed by respondent and an appraisal of respondent's surgical and record keeping skills. The Board will review the evaluation and may require respondent's appearance before determining whether to remove restrictions and allow respondent to perform procedures in a hospital or surgi-center without supervision. The burden shall be upon respondent to demonstrate he is fit and competent to do so.

d. The pre-approved Board licensee shall submit quarterly reports directly to the Board for a minimum of one (1) year. The first report shall be due ninety (90) days after respondent's commencement of employment as a podiatrist in the State of New Jersey. The reports shall include a description of the cases treated by respondent, the number of cases reviewed and performed, an evaluation of respondent's treatment and record keeping and whether each pre-operative evaluation met the surgical criteria. The pre-approved Board licensee shall sign a certification stating that the pre-approved Board licensee has read the within Consent Order. The pre-approved Board licensee shall immediately (within 24 hours) notify the Board of any improprieties and/or deviations from the standard of care in respondent's practice. Respondent waives any claim to privilege or confidentiality that he may have concerning the above described reports and disclosures by the pre-approved Board licensee.

e. Respondent shall ensure that the Board receives quarterly reports from the pre-approved Board licensee.

2. During the period when respondent's license is restricted respondent shall immediately notify the Board in writing of the name of each practice location and address and the name of each hospital or surgi-center in which he has privileges. Respondent shall immediately notify the Board in writing of any changes in the location of his practice.

3. The Board may, at its discretion, take any and all steps necessary to monitor respondent's status, condition or professional performance, including but not limited to unannounced, random inspections to assure compliance with the within Order. Respondent must cooperate in providing releases, permitting unrestricted access to records and other information, to the extent permitted by law, from any employer, medical facility or institution with which he is affiliated or at which he practices.

4. After a minimum of one (1) year of supervised practice under this Order, respondent may apply for removal of all restrictions on his license. Respondent shall appear before a Committee of the Board prior to the removal of any of the restrictions set forth in the within Consent Order, if so requested by the Board. The burden shall be on respondent to demonstrate compliance with the within Consent Order, and that he is fit and competent to practice without such restriction(s).

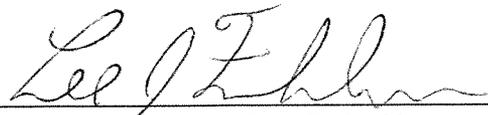
5. Respondent shall obey all the laws of the State of New Jersey, the United States and their political subdivisions as well as all regulations, rules or laws pertaining to the practice of podiatric medicine and surgery in this State of any other State.

6. During the period when respondent's license is restricted, respondent hereby consents to the entry of an Order of automatic suspension of license without notice, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that respondent has failed to comply with paragraphs 1, 2, 3 and 5 of this Consent Order without the prior written consent of the Board. Respondent may petition the Board on five (5) days notice for a hearing limited to the sole issue of whether he deviated from the terms of the Consent Order.


NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____
Paul C. Mendelowitz, M.D.
Board 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.



Lee J. Frankel, D.P.M.