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By: Carla M. Silva
Deputy Attorney General
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FILED

MARCH 11, 2010

**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
OAL Docket No.: BDSME 13085-2009N

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
DONALD FRANK, M.D.	:	FINAL CONSENT ORDER
LICENSE NO. 25MA02551300	:	
	:	
	:	
TO PRACTICE MEDICINE AND SURGERY	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter the "Board") on June 19, 2009, by Order to Show Cause and Verified Administrative Complaint, of Anne Milgram, Attorney General of New Jersey, by Carla M. Silva, Deputy Attorney General, on notice to Respondent, Donald Frank, M.D. (hereinafter "Respondent"), seeking the temporary suspension of the Respondent's license to practice medicine and surgery and for such other relief deemed appropriate, pursuant to the authority

CERTIFIED TRUE COPY

conferred on the Board by N.J.S.A. 45:9-1 et seq. and N.J.S.A. 45:1-14 et seq. and related administrative regulations.

Respondent, with the advice of counsel Susan Karlovich, Esq., James C. Orr, Esq. and Joseph Gorrell, Esq., entered an Interim Consent Order on June 22, 2009. Pursuant to the Interim Consent Order, Respondent agreed to undergo an assessment of his surgical skills by an independent entity, to limit his practice of medicine to being a First Assistant Surgeon to Board-approved physicians at Ambulatory Surgical Centers, and to have each of his patients pre-approved for surgery by said Board-approved physicians. Respondent subsequently filed an Answer to the Verified Complaint on July 20, 2009. The matter was then transferred to the Office of Administrative Law and assigned to the Honorable Judge Monaco, A.L.J., for a hearing scheduled to begin on April 22, 2010.

Respondent's conduct as detailed in the Verified Complaint constitutes violations of N.J.S.A. 45:1-21(c) (providing that disciplinary action may be taken against a licensee who engages in gross malpractice, gross negligence, and/or gross incompetence), 45:1-21(d) (providing that disciplinary action may be taken against a licensee who engages in repeated acts of negligence, malpractice, and/or incompetence), 45:1-21(e) (providing that disciplinary action may be taken against a licensee who engages in professional misconduct), 45:1-21(h) (providing that disciplinary action may be taken against a licensee who violates the Board's record keeping

regulation) and 45:9-6 (providing that a licensee of the Board of Medical Examiners has an on-going duty to demonstrate good moral character).

The parties desiring to resolve this matter without need for further disciplinary proceedings, and the Board being satisfied that the need for such proceedings is obviated by the entry of the within Order, and being further satisfied that good cause exists to support entry of the within Order,

It is on this 11 day of March 2010,

Ordered and Agreed:

1. Respondent Donald Frank's, M.D., license to practice medicine and surgery is hereby suspended for a period of two (2) years. The first six (6) months of said suspension shall be served as an active suspension, with the remaining eighteen (18) months stayed and served as a period of probation conditioned upon Respondent's compliance with the provisions enumerated in this Order. The active period of the suspension is tolled for any length of time that the Respondent practices in another jurisdiction. [Respondent's suspension commenced on January 3, 2010, the date Respondent represented to the Board as having voluntarily stopped the practice of medicine.]

2. Respondent represents that he does not hold active hospital privileges at any hospital and that he will not seek such privileges in the future.

3. Respondent shall hold privileges solely in Ambulatory Surgical Centers made known in advance to the Board.

4. Respondent hereby agrees to permanently limit his surgical activities to functioning as a First Assistant Surgeon in the performance of surgeries by a surgeon approved in advance by the Board. (For these purposes, the Board has approved Dr. David Greifinger and Dr. Louis G. Quartararo).

5. Respondent shall be permitted to participate as First Assistant Surgeon in surgeries on the patients of his practice, if said surgeries are subject to the pre-approval and advice of surgeons approved under this agreement. Respondent may also function as First Assistant for Dr. Greifinger's and Dr. Quartararo's surgical patients and any other surgeon approved in advance by the Board as detailed in Paragraph 4 of this Order.

6. The patient's chart for every surgery in which Respondent participates shall display the signature of the surgeon, and the indication that the surgeon has approved the selection of that patient for surgery and shall specify the planned procedure.

7. Respondent shall not participate in any surgical procedure, in any location, absent the presence of a surgeon approved under the terms of this Order.

8. Both Dr. David Greifinger, and Dr. Louis G. Quartararo (and any other subsequently approved surgeons) shall, by their signature on a copy of this Order, agree to provide quarterly

reports to the Board detailing Respondent's compliance with the terms of this Order for the duration of Respondent's probation. Both agree to immediately report to the Board any non-compliance by Respondent with the terms of this Order or their knowledge of any surgery performed by Respondent absent their presence both during and beyond the period of probation.

9. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of \$5,000.

10. Respondent is hereby assessed the costs to the State in this matter in the amount of \$20,812.18.

11. The civil penalty and investigative costs shall be paid in twenty-four (24) equal monthly installments at the Court Rule rate of interest with the first payment due and owing no later than August 3, 2010 and the remaining installments due every month thereafter. Payments shall be submitted by certified check or money order made payable to the State of New Jersey and shall be forwarded to William V. Roeder, Executive Director, State Board of Medical Examiners at 140 East Front Street, Post Office Box 183, Trenton, New Jersey 08625.

12. Respondent shall attend and successfully complete one Board approved coding and billing course. The course shall be completed within six months of the date of entry of this Order. Respondent shall additionally be responsible to ensure that the course provider submits written confirmation to the Board,

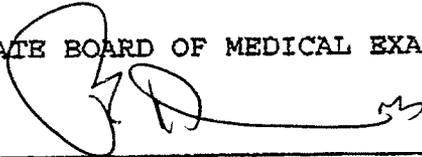
following the course, attesting that Respondent attended and successfully completed said course. "Successful completion" means that Respondent has attended all sessions of the course, fully participated in the course, and received a final evaluation of an unconditional pass. Respondent shall be entirely responsible for any and all costs or expenses relating to the course.

13. Respondent shall comply with the attached "Directives Applicable to Any Medical Board Licensee Who Is Disciplined or Whose Surrender of Licensure Has Been Accepted," which Directives are incorporated herein by reference.

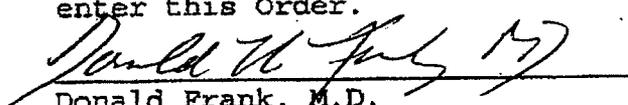
14. Failure to comply with any provision of this Order or remit any and all payments required by this Order will result in the filing of a Certificate of Debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board and/or failure to comply with the terms of probation or license restriction.

15. This Order shall constitute full and final resolution of the Verified Administrative Complaint filed June 19, 2009 and the investigation by the Attorney General into Respondent's billing practices regarding patients C.B. and J.K. The parties hereby stipulate that entry of this Order extinguishes any outstanding complaints against Respondent received by the Board as of the entry of this Order except for the complaint filed by J.A.

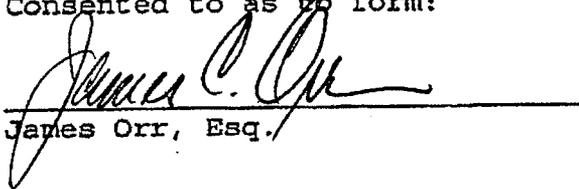
STATE BOARD OF MEDICAL EXAMINERS


By: Paul Mendelowitz, M.D.
Board President

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


Donald Frank, M.D.

Consented to as to form:


James Orr, Esq.

I agree to my role as detailed herein
and understand that my signature on
a copy of this Order constitutes an
agreement with the Board.

David Greifinger, M.D.

Louis G. Quartararo, M.D.

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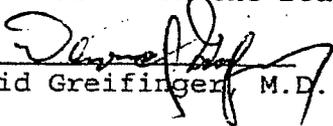
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David Greifinger, M.D.



Louis G. Quartararo, M.D.

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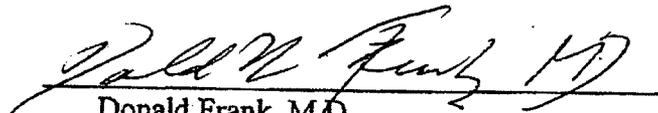
STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
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STATE BOARD OF MEDICAL EXAMINERS

_____ x
IN THE MATTER OF THE SUSPENSION OR : Administrative Action
REVOCAION OF THE LICENSE OF :
DONALD FRANK, M.D. : CERTIFICATION OF
LICENSE NO. 25MA02551300 : DONALD FRANK, M.D.
TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY :

x

Donald Frank, M.D., of full age, certifies as follows:

1. I have not practiced medicine in any capacity, including as a First Assistant Surgeon, since January 1, 2010.
2. I certify that the foregoing statement made by me is true. I am aware that if it is willfully false, I am subject to punishment.


Donald Frank, M.D.

Dated: February , 2010

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the addendum to these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.