

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO.: 2017-00849**

**THOMAS L. FRANCAVILLA, M.D.,**

**Respondent.**

---

**ADMINISTRATIVE COMPLAINT**

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Thomas L. Francavilla, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of Medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed medical doctor within the state of Florida, having been issued license number ME 119140.

3. Respondent's address of record is 275 Bayshore Blvd, Unit 802, Tampa, Florida 33606.

4. Respondent is board certified in neurological surgery.

5. On or about December 9, 2015, Patient B.M. presented to Respondent at the Laser Spine Institute with complaints of lower back pain and bilateral lower leg pain.

6. Respondent reviewed a previous MRI result for Patient B.M., which indicated that Patient B.M. had a lumbarized sacrum<sup>1</sup>, foraminal stenosis at L5-S1 bilaterally, and L4-5 facet hypertrophy.

7. Respondent also reviewed previous nerve root block results, which indicated 20% relief at L5 and 80% relief when performed at L4-5.

8. Respondent recommended that Patient B.M. undergo a right laminotomy and foraminotomy at the L4-5 level.

9. On or about December 11, 2015, Patient B.M. returned for the recommended procedure.

10. On or about December 11, 2015, Respondent performed a right laminotomy and foraminotomy on Patient B.M. at what he thought was the L4-5 he previously identified at the December 9, 2015 visit.

11. Respondent relied on intraoperative imaging to find the operative level.

---

<sup>1</sup> Lumbarized sacrum is an anomaly wherein the sacral vertebrae have the appearance of lumbar vertebrae.

12. Due to Patient B.M.'s vertebral anatomy, on December 11, 2015, Respondent actually performed the procedure one level below the level he previously identified at the December 9, 2015 visit.

13. The level Respondent performed the procedure was the incorrect site and was not the site Respondent identified as the operative level at the December 9, 2015 visit.

14. On February 24, 2016, Respondent performed a second right laminotomy and foraminotomy on Patient B.M., this time at the correct site, which was one level above the surgery he performed on December 11, 2015, and the same level he identified at the December 9, 2015 visit.

15. Section 456.072(1)(bb), Florida Statutes (2015), subjects a licensee to discipline for performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

16. Respondent performed a wrong-site procedure, a wrong procedure, or an unauthorized procedure by performing a right laminotomy

foraminotomy on or about December 11, 2015, at a level below the intended level as identified at the December 9, 2015 visit.

17. Based on the foregoing, Respondent violated Section 456.072(1)(bb), Florida Statutes (2015).

WHEREFORE, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

*[Signature appears on the following page.]*

SIGNED this 11<sup>th</sup> day of July, 2017.

Celeste Philip, MD, MPH  
Surgeon General and Secretary



Chad Dunn  
Assistant General Counsel  
Florida Bar No. 111963  
DOH-Prosecution Services Unit  
4052 Bald Cypress Way-Bin C-65  
Tallahassee, Florida 32399-3265  
(850) 245-4640, Ext. 8224  
(850) 245-4684 fax  
E-Mail: [chad.dunn@flhealth.gov](mailto:chad.dunn@flhealth.gov)

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Amber Greene  
DATE JUL 11 2017

CD/ln

PCP Date: July 7, 2017

PCP Members: Fuad Ashkar, M.D., James Orr, Jr., M.D., & Nicholas Romanello

## **NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.**

**A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.**

**Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.**

## **NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.**