IN THE MATTER OF	*	**BEFORE THE**
JAMES H. FRENCH, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D26643	*	**Case Number: 2011-0065**

* *

CONSENT ORDER

BACKGROUND

The Maryland Board of Physicians (the "Maryland Board") received information that James H. French, M.D., (the "Respondent") (D.O.B.03/25/1946), License Number D26643, was disciplined by the Virginia Board of Medicine (the "Virginia Board") for failing to meet appropriate standards of care and failing to keep adequate records. In an Order effective February 16, 2010, the Virginia Medical Board disciplined the Respondent by reprimand.

Based on the above referenced Virginia Board sanction, the Maryland Board has grounds to charge the Respondent with violating the following provisions of the Maryland Medical Practice Act (the "Act"), under H. O. § 14-404(a):

> (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
>
> > (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veteran's Administration for an act that would be grounds for disciplinary action under this section,

The Maryland Board has determined that the acts for which the Respondent was disciplined in Virginia would be grounds for disciplinary action under H.O. § 14-404(a). The grounds for disciplinary action under H.O. § 14-404(a) are as follows:

> (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital or any other location in this state.
>
> (40) Fails to keep adequate medical records as determined by appropriate peer review.

Based on the action taken by the Virginia Board, the Respondent agrees to enter into this Consent Order with the Maryland Board of Physicians, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order of reciprocal action.

I. FINDINGS OF FACT

The Board finds the following:

1. At all times relevant to these charges, the Respondent was a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about July 8, 1981.
2. The Respondent's primary area of practice is Plastic Surgery.
3. The Respondent was disciplined by the Virginia Board for removing a mass from the back of Patient A's head in July 2004, and in September 2004 the Respondent excised the same area in the back of Patient A's head and removed tissue. During both of these procedures the Respondent discarded the tissue removed from Patient A's head without submitting it to a laboratory for testing.
4. The Respondent failed to obtain written informed consent from Patient A for the procedures that he performed in July 2004 and September 2004.

5. The Respondent admits to not keeping records of treatment for Patient A in July 2004 and September 2004.

6. By Order dated February 16, 2010 the Virginia Board of Medical Examiners reprimanded the Respondent and within six (6) months of the Order, the Respondent shall be required to show evidence of completing twelve (12) hours of Board–approved continuing medical education ("CME") in the subject of medical recordkeeping. Said CME shall be completed through face- to- face, interactive sessions (i.e. no home study, journal or Internet courses).

A copy of the Virginia Board Order is attached hereto.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Maryland Board concludes as a matter of law that the disciplinary action taken by the Virginia Board against the Respondent was for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(22) and (40) had those offenses been committed in this state.

III. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of October, 2010, by a majority of the quorum of the Board considering this case:

ORDERED that the Respondent's license to practice medicine in the State of Maryland be and is hereby **REPRIMANDED;** and be it further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 et seq. (2004 Repl. vol.).

10/13/10
Date

John T. Papavasiliou
Deputy Director
Maryland Board of Physicians

CONSENT

I, James H. French, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Fact and Conclusions of Law, and I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and

terms of this Consent Order. I voluntarily sign this Consent Order, and understand its meaning and effect.

9/23/10
Date

James H. French, M.D.
Respondent

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 23rd day of September, 2010, before me, the subscriber, a Notary Public for the State and City/County aforesaid, personally appeared James H. French, M.D., and made oath in due form of law that the execution of the foregoing Consent Agreement was his/her voluntary act and deed.

AS WITNESSETH my hand and my notarial seal.

Notary Public

MY COMMISSION EXPIRES: 9/30/2013

VIRGINIA:

BEFORE THE BOARD OF MEDICINE

IN RE: JAMES HAROLD FRENCH, M.D.
License No.: 0101-037948

AMENDED ORDER

In accordance with Sections 54.1-2400(10), 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), an informal conference was held with James Harold French, M.D., on January 7, 2010, in Henrico, Virginia. Members of the Virginia Board of Medicine ("Board") serving on the Special Conference Committee ("Committee") were: Jane Piness, M.D., Chairman; Karen Ransone, M.D., and Wayne Reynolds, D.O. Dr. French appeared personally and was not represented by legal counsel. Emily Field, Adjudication Specialist, was present as a representative for the Administrative Proceedings Division of the Department of Health Professions. The purpose of the informal conference was to inquire into allegations that Dr. French may have violated certain laws governing the practice of medicine in the Commonwealth of Virginia, as set forth in a Notice of Informal Conference dated November 30, 2009.

Subsequently, Dr. French requested that Finding of Fact #2 be modified to accurately reflect the evidence presented in the case. Dr. French's request was approved, thus this Amended Order was entered by the Board to reflect the modification to this finding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now, having properly considered the evidence and statements presented, the Committee makes the following Findings of Fact and Conclusions of Law:

1. James Harold French, M.D., was issued license number 0101-037948 by the Board to practice medicine and surgery in the Commonwealth of Virginia on April 4, 1985. Said license is currently active and will expire on March 31, 2010, unless renewed or otherwise restricted.

2. Dr. French violated Sections 54.1-2915.A(3) and (13) of the Code, in that in July, 2004, he removed a mass from the back of Patient A's head and discarded it without submitting it to a laboratory for testing. Approximately ten (10) days later, Dr. French removed the stitches from Patient A's head, and she expressed concern that the mass had grown back. Dr. French stated that it was swelling from the surgery, and took no further action. In September, 2004, Patient A presented to Dr. French again, stating that the mass had grown back, and he excised it a second time. Dr. French again discarded the tissue without submitting it for laboratory testing. Dr. French removed the stitches approximately ten (10) days later. In October, 2004, Patient A arranged to have another physician perform a biopsy on the area. The pathology report concluded that the growth was malignant, and represented an aggressive form of cancer.

3. Dr. French violated Section 54.1-2915.A(13) of the Code in that by his own admission, he kept no records of his treatment of Patient A in July, 2004 and September, 2004.

4. During the informal conference, Dr. French admitted that he failed to obtain a written informed consent from Patient A for the procedures that he performed on her in July, 2004, and September, 2004. However, when he took her to the hospital for a wide excision in October 2004, all appropriate patient consent forms were completed. Dr. French

stated that it is his usual practice to obtain written informed consent from all patients on whom he performs a procedure.

5. Dr. French stated during the informal conference that he saw no reason to send Patient A's specimen for pathology because "the index of suspicion was zero." Dr. French stated that during his 35 years of practice, he has seen thousands of similar lesions and the chance of it being a cancerous lesion never entered his mind. Further, Dr. French felt that the characteristics of Patient A's lesion, as he was removing it each time, pointed to it being benign.

6. The Committee noted that prior to the 2004 procedures, Dr. French had treated Patient A in his office and had diagnosed a basal cell carcinoma. He referred her to another surgeon for treament.

7. Dr. French stated that since the events involving Patient A took place, he has changed his practice. Specifically, he will not take patients to the office on the weekends and will not perform a procedure without obtaining written informed consent or creating treatment records.

8. Dr. French stated that without question, the situation involving Patient A was the "worst thing" that has happened to him in all his years of practice. Patient A was a close friend and neighbor, with whom he and his wife socialized on a regular basis.

ORDER

WHEREFORE, based on the above Findings of Fact and Conclusions of Law, it is hereby ORDERED that James Harold French, M.D., be, and hereby is, issued a REPRIMAND, and that his license be subject to the following TERMS and CONDITIONS:

1. Within six (6) months of entry of this Order, Dr. French shall submit a certificate or other evidence acceptable to the Board, verifying that he has completed twelve (12) hours of Board-approved continuing medical education ("CME") in the subject of medical recordkeeping. Said CME shall be completed through face-to-face, interactive sessions (i.e. no home study, journal, or Internet courses) and approved in advance of registration by the Executive Director of the Board. Any CME hours obtained through compliance with this term shall not be used toward compliance with the Board's continuing education requirements for license renewal.

2. Upon receipt of evidence that Dr. French has complied with the requirements of this Order, the Committee authorizes the Executive Director of the Board to close this matter without further proceedings or refer it to a Special Conference Committee for a determination.

Violation of this Order may constitute grounds for suspension or revocation of Dr. French's license. In the event that Dr. French violates this Order, an administrative proceeding may be convened to determine whether such action is warranted.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Pursuant to Section 54.1-2400(10) of the Code, Dr. French may, not later than 5:00 p.m., on February 16, 2010, notify William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that he desires a formal administrative hearing before the Board. Upon the filing with the

Executive Director of a request for the hearing, this Order shall be vacated.

Therefore, this Order shall become final on February 16, 2010, unless a request for a formal administrative hearing is received as described above.

FOR THE BOARD

FOR William L. Harp, M.D.
Executive Director
Virginia Board of Medicine

ENTERED: 1/25/2010
Nunc Pro Tunc: January 11, 2010