

IN THE MATTER OF
SALVATORE DeFRANK, D.P.M.

AGREED ORDER of

REVOCATION

OF LICENSE No. 1638

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BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below came to be considered the allegations against Salvatore DeFrank, DPM. By letter dated October 11, 2004 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. DeFrank of its intent to investigate complaints, concerns or reports filed against him. Dr. DeFrank was duly notified of the allegations against him. Dr. DeFrank has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. DeFrank does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. DeFrank understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. DeFrank, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. DeFrank agrees to this Order for the purpose of resolving this proceeding only. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. DeFrank is licensed as a podiatric physician in the State of Texas (License Number 1638) to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the rules of the Board.
2. Complaints were filed against Dr. DeFrank, and he was provided with notice of the complaints and with an opportunity to respond to the complaints and to show compliance with the law. The complaints allege Dr. DeFrank committed actions constituting drug diversion.
3. Dr. DeFrank prescribed medications that were for non-podiatric medical care.
4. Dr. DeFrank failed to perform due diligence to prevent drug diversion.
5. Dr. DeFrank practiced podiatry that was below the standard of care.
6. Dr. DeFrank, as a podiatrist licensed in the State of Texas, must comply with the provisions of the Podiatric Medical Practice Act of Texas, the Board Rules and Board Orders.

CONCLUSIONS OF LAW

1. Dr. DeFrank is required to follow the provisions of the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et seq., and the associated Rules of the Board, 22 Tex. Administrative Code § 371.1, et seq..
2. Texas Occupations Code, §202.253(a)(5) provides that, “the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.”
3. Texas Occupations Code, §202.501(a) provides that, “the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board.”
4. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
5. 22 Texas Administrative Code, §376.1(a)(1) provides that, “any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine.”
6. The Findings Of Fact numbers 1 through 5 establish that Dr. DeFrank violated: *Texas Occupations Code, §202.253(a)(16)* in that he failed: to practice podiatry in an acceptable manner consistent with public health and welfare.
7. The Findings Of Fact numbers 1 through 5 establish that Dr. DeFrank violated: *22 Texas Administrative Code §375.2(a)*, which provides: “The health and safety of patients shall be the first consideration of the podiatric physician. The principal objective of the podiatric medical profession is to render service to humanity. A podiatric physician shall continually strive to improve his medical knowledge and skill for the benefit of his patients and colleagues. The podiatric physician shall administer to patients in a professional manner and to the best of his ability. Secrets and personal information entrusted to him shall be held inviolate unless disclosure is necessary to protect the welfare of the individual or the community. A podiatric physician shall be temperate in all things in recognition that his knowledge and skill are essential to public health, welfare, and human life.”
7. The Findings Of Fact numbers 1 through 5 establish that Dr. DeFrank violated: *Texas Occupations Code, §202.253(a)(5)* in that he: directly or indirectly violated or attempted to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice.

VOLUNTARY ORDER

1. Dr. DeFrank has voluntarily surrendered his license, and his license to practice Podiatric Medicine is hereby revoked.
2. Dr. DeFrank shall return to the Board any certificate or other document evidencing licensure, expired or current. Failure to return such documentation

may result in the Board seeking injunctive relief against Dr. DeFrank to prevent him from practicing podiatric medicine as it is defined in *Tex. Occup. Code Ann., §202.001 et seq.*

3. Dr. DeFrank's podiatric practice is to remain closed for the purposes of receiving, diagnosing, treating, or consulting with patients, and Dr. DeFrank may not participate for income in any professional activity that is related to the diagnosis or treatment of a patient. Dr. DeFrank may refer his patients to another practitioner for treatment or consultation during the time that Dr. DeFrank is not licensed, but Dr. DeFrank shall not derive any income from such referrals.
4. Dr. DeFrank may keep his office open for the purposes of arranging referrals, handling mail, processing accounts, billing, and insurance matters, and other similar matters if not directly related to the diagnosis and treatment of patients. Dr. DeFrank shall not represent himself to be a licensed podiatrist and shall not offer and shall not accept to consult with, diagnose or treat a patient.
5. Dr. DeFrank shall permit a Board representative or staff member to periodically enter his place of business and/ or the facility at which she previously maintained an office, announced or unannounced, during the hours of 8:00 a.m. to 5:00 p.m. on any weekday that is not a federal holiday to ensure compliance with this Order.
6. The terms of this **Agreed Order**, if accepted by the Board, become effective upon approval of the Board.
7. If Dr. DeFrank fully complies with the terms of the **Agreed Order**, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.

GENERAL PROVISIONS

1. Effective Date. This **Agreed Order** shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this **Agreed Order** shall be valid unless in writing. No waiver of default of any terms of the **Agreed Order** shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed in accordance with the laws of the State of Texas including

Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act;
and Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.
4. Acknowledgment of Entire Agreement. Dr. DeFrank acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the

parties concerning the subjects it purports to cover, and Dr. DeFrank has

executed this instrument freely and of his own accord.

5. Notice. Any notice to be given under the terms of this **Agreed Order** by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Dr. Salvatore DeFrank, DPM
6100 Ohio Dr.; Ste. # 1824
Plano, TX 75024

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216

6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, SALVATORE DEFRANK, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.

Salvatore DeFrank DPM
Salvatore DeFrank, DPM

01/03/05
Date

IN THE STATE OF TEXAS

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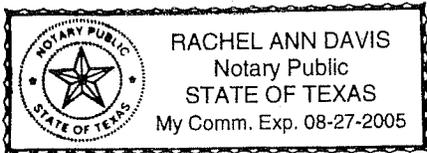
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COUNTY OF Collin

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BEFORE ME, on this day personally appeared Salvatore DeFrank known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 3rd day of Jan, 2005



Rachel Ann Davis
(Printed Name of Notary Public)

Rachel Ann Davis
Notary Public, in and for the State of Texas

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 18th day of FEBRUARY, 2005, after a Board vote.

Bradford W. Glass DPM
Bradford W. Glass, D.P.M.
Board President

Jim Zukowski Ed.D.
Jim Zukowski, Ed.D
Executive Director