

IN AND BEFORE THE OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE AND SUPERVISION

**FILED**

STATE OF OKLAHOMA

NOV 20 2009

STATE OF OKLAHOMA, ex rel,  
OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE AND  
SUPERVISION )

OKLAHOMA STATE BOARD OF  
MEDICAL LICENSURE & SUPERVISION

Plaintiff, )

CASE NO. 08/06/3524

v. )

PAUL CHRISTOPHER FRANCEL  
MEDICAL LICENSE # 19715 )

Defendant. )

COMPLAINT

COMES NOW the Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Randy Sullivan, Special Counsel for the Oklahoma State Board of Medical Licensure and Supervision, and for its Complaint against the Defendant, Paul Christopher Francel, M.D., alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. Defendant, Paul Christopher Francel, M.D holds Oklahoma license no.19715.
3. The Oklahoma State Court Network ("OSCN") lists in excess of thirty (30) medical negligence lawsuits filed In the District Court in and for Oklahoma County from June 9, 2000 to May, 5, 2009, most importantly, seven (7) cases were filed in 2008, and by May 5, 2009, an additional eleven (11) cases had been filed.
4. On December 23, 2008, Dr. Francel entered into a written voluntary agreement not to practice medicine. Dr. Francel agreed to voluntarily cease any and all patient care as of the end of business day, December 24, 2008. Furthermore, Dr. Francel agreed to undergo evaluations conducted by the Professional Renewal Center (PRC) and the Center for Personalized Education for Physicians (CPEP).
5. Dr. Francel underwent an evaluation at the Professional Renewal Center (PRC) from January 5-9, 2009. The team recommended that Dr. Francel participate in a competency evaluation, complete a comprehensive neuropsychological

evaluation, including a comprehensive evaluation of executive functioning, participate in an intensive therapeutic experience to assist him in gaining insight to his professional difficulties, an intensive period of treatment that combined individual and group psychotherapy sessions, medication management, along with psychoeducation, for him to meet regularly with his outpatient providers for support and medication management and to be regularly monitored for his safety.

6. Dr. Francel underwent an assessment at the Center for Personalized Education for Physicians (CPEP) March 9-10, 2009. CPEP also recommended that Dr. Francel undergo a more extensive evaluation involving a comprehensive neuropsychological examination. Areas of demonstrated need included, but were not limited to, judgment, documentation and education recommendations.
7. Dr. Francel has not met the recommendations of demonstrated need set forth by CPEP.
8. On March 20, 2009, Dr. Francel entered into a confidential financial settlement with one (1) patient who alleged to have sustained injuries / damages caused by the negligence of Dr. Francel:

**Age:** 55 year-old female [# 771]

**Procedure:** L5-S1 Anterior Lumbar Interbody Fusion with a Peek Implant and Later a Dorsal Column Spinal Stimulator.

**Allegation:** Dr. Francel failed to recognize a non-union complication following surgery. Patient had repeat surgery.

9. In the month of June, 2009, Dr. Francel entered into confidential financial settlements with fifteen (15) patients / personal representatives of deceased individuals, who alleged to have sustained injuries / damages caused by the negligence of Dr. Francel:

a. **Age:** 48 year-old male [# 416]

**Procedure:** Posterior Lumbar Interbody Fusion and Plating through Transforaminal approach at L3-4, L4-5, L5-S1 using three Peek Cage Implants for structural stabilization and support

**Allegation:** That Dr. Francel negligently performed surgery on the patient without proper indications and without giving patient the option of conservative care. It is also alleged that Dr. Francel did not timely or adequately investigate post op complications resulting in patient having severe unspecified injury

b. **Age:** 71 year-old male [# 429]

**Procedure:** Right Sided Craniotomy and Frontal Temporoparietal Craniotomy with Evacuation of Subdural Hematoma

**Allegation:** That patient was under the care of Dr. Francel from 4/18/05 to 5/28/05 due to injuries patient had suffered from auto accident and that Dr. Francel's care and treatment for patient was negligent resulting in patient's death

- c. **Age:** 55 year-old male [# 409]

**Procedure:** Anterior Lumbar Interbody Fusion and Plating

**Allegation:** That fusion failed as well as hardware resulting in patient requiring an additional surgery to repair. That the complications could not be resolved and he suffers from inability to work due to permanent injuries and pain

- d. **Age:** 27 year-old male [# 379]

**Procedure:** Posterior Lumbar Interbody Fusion of L3-4 on October 31, 2007, Surgical Removal and Replacement of Hardware at L3-4 on May 13, 2008, and Anterior Lumbar Interbody Fusion at L3-4 on November 12, 2008

**Allegation:** That Dr. Francel used the wrong size rods in lumbar fusion surgery which required revision surgeries; That Dr. Francel failed to diagnose properly and that Dr. Francel coerced the patient into the wrong surgery. As a result, it is alleged that patient now suffers permanent injury, continued severe pain, depression and disfigurement

- e. **Age:** 61 year-old male [# 916]

**Procedure:** Posterior Lumbar Interbody Fusion with Plating at L4-5, L5-S1

**Allegation:** Surgery caused increased back pain and tingling

- f. **Age:** 75 year-old male [# 669]

**Procedure:** Deep Brain Stimulator Electrode System Implantation into the Subthalamic Nucleus

**Allegation:** That Dr. Francel did not place electrodes in the appropriate location during the brain stimulation surgery, and as a result, caused patient to have intracranial bleeding requiring additional surgeries to correct the

incorrect placement of original electrodes. Patient now suffers from neurological impairment

- g. **Age:** 37 year-old female [# 262]

**Procedure:** Surgical Implantation of Spinal Cord Stimulator on October 19, 2005; Removal of Spinal Cord Stimulator on October 24, 2005 and Laminectomy with Decompression on October 26, 2005

**Allegation:** That Dr. Francel was negligent in the placement of a dorsal spine stimulator and subsequent care resulting in permanent paralysis

- h. **Age:** 69 year-old male [# 361]

**Procedure:** Anterior Cervical Disectomy, Fusion and Plating at C3-4, C4-C5, C5-C6

**Allegation:** That Dr Francel negligently performed neurosurgery on the patient's spine without proper indications and without proper precautions. He further alleges that Dr. Francel did not timely or adequately investigate post op complications

- i. **Age:** 75 year-old male [# 233]

**Procedure:** Deep Brain Stimulator Implantation

**Allegation:** That Dr. Francel did not accurately place electrodes in the appropriate location during deep brain stimulator implantation surgery performed. As a result, patient had intracranial bleeding and became severely incapacitated following surgery

- j. **Age:** [unknown] female [# 586]

**Procedure:** Posterior Lumbar Interbody Fusion, L3-4, L4-5, L5-S1 and later an Implantation of Spinal Cord Stimulator Device

**Allegation:** That patient sustained peripheral nerve damage following lumbar surgery resulting in continued pain management

- k. **Age:** 57 year-old female [# 134]

**Procedure:** L2 to S1 Posterior Laminectomy and Decompression with Placement of Pedicle Screws for Posterior Segmental Instrumentation

**Allegation:** That Dr. Francel negligently and without proper indications performed neurosurgery to the patient's spine and that Dr. Francel failed to timely and adequately investigate post op complications. As a result of allegations, patient continues to suffer from failed back syndrome and requires a morphine pump for continued pain management

- l. **Age:** 37 year-old male [# 926]

**Procedure:** Anterior Cervical Disectomy, Fusion and Plating at C5-6 and C6-7

**Allegation:** That Dr. Francel deviated from the standard of care when he performed surgery on patient resulting in patient sustaining permanent nerve damage to her left arm

- m. **Age:** 50 year-old male [# 670]

**Procedure:** Anterior Lumbar Interbody Fusion and Plating of L3-L4 and L4-L5

**Allegations:** That patient sustained neurological injury due to disc replacement surgery that Dr. Francel performed

- n. **Age:** 52 year-old female [# 539]

**Procedure:** Gamma Knife

**Allegation:** Radiation necrosis of brain tissue and the amount of radiation was too large

- o. **Age:** 16 year-old male [# 166]

**Procedure:** A Posterior Fossa Craniectomy with near Total Resection of Brain Tumor. A Micro Dissection using the Operating Microscope and Microneurosurgical Technique, and Placement of an external Ventricular Drain for Treatment of Hydrocephalus and Monitoring of Intracranial Pressure

**Allegation:** Death

10. On August 31, 2009, an additional confidential financial agreement was satisfied with one (1) minor patient / parent of minor patient, who alleged to have sustained injuries / damages caused by the negligence of Dr. Francel:

**Age:** 7 year-old male [# 129]

**Procedure:** Removal of Brainstem Tumor

**Allegation:** Seven year old male inpatient underwent surgery to remove a brainstem tumor. Removal of the tumor resulted in hydrocephalus and hemorrhage of the left cerebella hemisphere of the brain. His parents alleged lack of informed consent and improper surgery resulted in permanent neurological injury

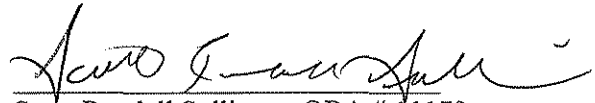
11. On October 15, 2009, Dr. Francel underwent a neuropsychological evaluation. According to the report, Dr. Francel needs to hold re-opening his office based on other conditional matters.
12. Defendant is guilty of unprofessional conduct in that he:
  - A. Engaged in conduct which is likely to deceive, defraud or harm the public in violation of OAC 435:10-7-4(11).
  - B. Representing to a patient that an incurable condition, sickness, disease, or injury can be cured. 435:10-7-4 (13).
  - C. Engaged in gross or repeated negligence in the practice of medicine and surgery. 435:10-7-4.(15).
  - D. Being physically or mentally unable to practice medicine and surgery with reasonable skill and safety. 435:10-7-4.(17).
  - E. Engaged in practice or other behavior that demonstrates an incapacity or incompetence to practice medicine and surgery in violation of OAC 435:10-7-4(18).
  - F. Any adverse judgment, award, or settlement, or award arising from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section. 435:10-7-4.(34).
  - G. Failure to inform the Board of a state of physical or mental health of the licensee or of any other health professional which constitutes or which the licensee suspects constitutes a threat to the public. 435:10-7-4(42).
  - H. Failing to obtain informed consent, based on full and accurate disclosure of risks, before prescribing, dispensing, or administering medical treatment for the therapeutic purpose of relieving pain in accordance with Oklahoma

Administrative Code 435:10-7-11 where use may substantially increase the risk of death. 435:10-7-4(48).

*Conclusion*

**WHEREFORE**, the Plaintiff respectfully requests that the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's medical license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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