STATE OF OHIO
THE STATE MEDICAL BOARD

SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

I, Frederick James Payne, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, Frederick James Payne, M.D., state I currently possess active licenses to practice medicine and surgery only in the states of Ohio and North Dakota (a restricted license as provided in the below North Dakota Medical Board Order, dated December 29, 2003).

I, Frederick James Payne, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License No. 35-057794, to the State Medical Board of Ohio [Board], thereby relinquishing all rights to practice medicine and surgery in Ohio.

The surrender shall be effective upon acceptance of this Surrender of Certificate to Practice Medicine and Surgery by the Secretary and Supervising Member of the Board.

I understand that as a result of the surrender herein that I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice medicine and surgery License No. 35-057794 or issuance of any other certificate pursuant to Chapters 4730., 4731., 4760. or 4762., Ohio Revised Code, on or after the date of signing this Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I, Frederick James Payne, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

I, Frederick James Payne, M.D., agree to provide my social security number to the Board for such purposes, and hereby authorize the Board to utilize that number in conjunction with that reporting.

I, Frederick James, Payne, M.D., stipulate and agree that I am taking the action described herein in lieu of formal disciplinary proceedings pursuant to Section 4731.22(B)(22), Ohio Revised Code, to wit: Kentucky Board of Medical Licensure Order Denying License, filed January 17, 2003, and Section 4731.22(B)(22), Ohio Revised Code, to wit: North Dakota

Board of Medical Examiners Order dated December 29, 2003. Copies of the Kentucky Board Order Denying License and North Dakota Board Order are attached hereto and incorporated herein.

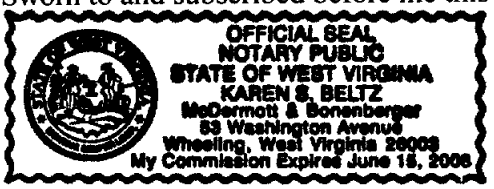
Signed this 24th day of MAY 2004

Frederick James Payne MD
Frederick James Payne, M.D.

Witness

Witness

Sworn to and subscribed before me this 24th day of May, 2004
(month)



Karen S. Beltz
Notary Public

SEAL **(This form must be either witnessed OR notarized)**

Accepted by the State Medical Board of Ohio:

Lance A. Talmage, M.D.
Secretary

Raymond J. Albert
Supervising Member

5-26-04
Date

5/26/04
Date

Enclosures

FILED OF RECORD
JAN 17 2003
K.B.M.L.

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. D-205

IN RE: THE APPLICATION FOR LICENSE TO PRACTICE MEDICINE BY ENDORSEMENT FILED BY FREDERIC JAMES PAYNE, M.D., 1419 LEXINGTON ROAD, RICHMOND, KENTUCKY 40478

ORDER DENYING LICENSE

At its December 16, 2002 meeting, the Kentucky Board of Medical Licensure (hereafter "the Board") considered an Application for License to Practice Medicine by Endorsement filed by Frederic James Payne, M.D. ("the applicant"). In addition to the application, the Board reviewed a summary memorandum by the licensing coordinator; a September 27, 1991 letter from the West Virginia Board of Medicine; National Data Bank Reports dated June 26, 2000, July 6, 1994, September 23, 2002, July 8, 1997, January 5, 1996, May 6, 1999, June 11, 1993, April 13, 2001, September 9, 1999, September 18, 1997, January 17,1996, July 24, 1997, February 24, 1992, July 28, 1997, July 28, 1997, July 20, 2001, and May 19, 2000; and the applicant's written accounts of his treatment of patients A - K.

Having considered all of this information and being sufficiently advised, the Board FINDS AS FACT:

1. The applicant answered "yes" to Question 3, which asked, "Have you ever had any license, certificate, registration or other privilege as a health care professional denied, revoked, suspended, probated, restricted or limited, or subjected to any other disciplinary action, by a State

medical/osteopathic licensing board, or Federal, or International authority?"

2. The applicant answered "yes" to Question 13, which asked, "In the past ten (10) years have you had to pay a judgment in a malpractice action or other civil action against your medical practice or are any malpractice or other civil actions against your medical practice presently pending in any court?"

3. In 1993, the applicant settled a malpractice action for $280,000; this action involved allegations by a 54-year old female that she suffered spinal cord compression following an anterior discectomy with acrylic fusion;

4. In 1994, the applicant settled a malpractice action for $650,000; this action involved allegations by a 42-year old male that he suffered a brachial plexus injury from traction during anterior cervical fusion surgery;

5. In 1995, the applicant settled a malpractice action for $300,000; this action involved allegations by a 40-year old female that she suffered pain and weakness in both arms following corrective spine surgery to replace acrylic discs with bone and to remove the infected hardware;

6. In 1995, the applicant settled a malpractice action for $125,000; this action involved allegations by a 37-year old female that she had difficulty in moving and sitting, burning and pinching, numbness in her left leg and incontinence following an improper performance of surgery and failure to diagnose L3/4 herniation;

7. In 1995, the applicant settled a malpractice action for $35, 000; this action involved allegations by a 30-year old male that he suffered recurrent cervical

radiculopathy for five years following C6-7 anterior discectomy with acrylic stabilization;

8. In 1997, the applicant settled a malpractice action for $70,000; this action involved allegations by a 46-year old female that she suffered permanent neurological damage to nerve roots after a sponge had been revealed and removed 18 days after her surgery, at which time two abscesses were drained and debrided;
9. In 1997, the applicant settled a malpractice action for $370,000; this action involved allegations by a 40-year old male that he suffered cervical problems after a right arm C7-T1 fusion with acrylic stabilization;
10. In 1999, the applicant settled a malpractice action for $110,000; this action involved allegations by a 28-year old male that the applicant failed to diagnose disc space infection following a L5-S1 discectomy, following injuries from an automobile accident, and this failure to diagnose resulted in permanent disabling injury to his back, spine and nervous system;
11. In 1999, the applicant settled a malpractice action for $200,000; this action involved allegations that the applicant performed surgery on the patient knowing beforehand that the patient was a poor candidate for surgery due to being diagnosed with possible deep vein thrombosis and/or superficial phlebitis;
12. In 2000, the applicant settled a malpractice action for $4,500,000; this action involved allegations by a 70-year old man that he was rendered a quadraplegic by improper surgical procedures;

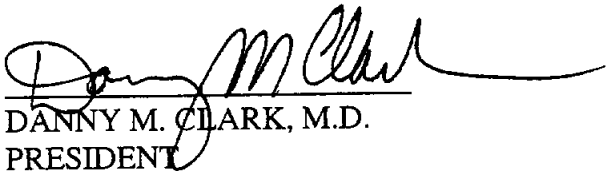
13. In 2002, the applicant settled a malpractice action for $600,000; this action involved allegations by a 73-year old male that he sustained weakness in his right arm following inappropriate multi-level laminectomy with bilateral foraminotomies and root decompression;

14. On May 4, 2000, the applicant voluntarily surrendered his clinical privileges at Ohio Valley Medical Center, Wheeling, West Virginia, while under investigation for clinical competence. During the investigation, the applicant resigned from staff due to his inability to obtain malpractice insurance.

Based upon the foregoing FINDINGS OF FACT, the Board CONCLUDES that the applicant has: a) resigned his hospital privileges under pressure or investigation; and, b) engaged in a serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be malpractice. Accordingly, the Board CONCLUDES there are legal grounds to deny his application for licensure, pursuant to KRS 311.595(21) and 311.595(9), as illustrated by 311.597(3).

Having considered its FINDINGS OF FACT and its CONCLUSIONS OF LAW, and being sufficiently advised, the Board hereby ORDERS that the Application for License to Practice Medicine by Endorsement filed by Frederic James Payne, M.D., is DENIED.

SO ORDERED on this 16th day of January, 2003.



DANNY M. CLARK, M.D.
PRESIDENT

CERTIFICATE OF SERVICE

I certify that the original of this Order Denying Application for License was delivered to Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, KY. 40222 and a copy was mailed, via certified mail return-receipt requested, to Frederic James Payne, M.D., 40 Medical Park, Suite 301, Wheeling, West Virginia 26003 on this 17th day of January, 2003.

C Lloyd Vest

C. Lloyd Vest, II
General Counsel
Kentucky Board of Medical Licensure
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
(502) 429-8046

EFFECTIVE DATE AND APPEAL RIGHTS

This Order Denying License is effective upon filing.

Pursuant to K.R.S. 311.571(7), K.R.S. 311.593(2) and K.R.S. 13B.140, the applicant may obtain judicial review of this Order by filing a Petition for Judicial Review in the Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service, as noted above. Copies of the petition shall be served by the applicant upon the Board and its Assistant General Counsel. The Petition shall include the names and addresses of all parties to the proceedings and the agency involved, a statement of the grounds on which the review is requested, and a copy of this Order.

BEFORE THE BOARD OF MEDICAL EXAMINERS

STATE OF NORTH DAKOTA

North Dakota State Board of Medical Examiners - Investigative Panel A,	)	
Complainant,	)	
vs.	)	ORDER
Frederic James Payne, M.D.,	)	
Respondent.	)	

Based upon the Stipulation dated December 29, 2003, it is the Order of the North Dakota State Board of Medical Examiners that License No. 4385 previously issued to Frederic James Payne, M.D., is hereby restricted by the terms and conditions specified in the Stipulation dated December 29, 2003, and the same shall be incorporated herein in its entirety and shall constitute the further Order of this Board.

Dated this 29th day of December, 2003.

NORTH DAKOTA STATE BOARD
OF MEDICAL EXAMINERS

By: W. C. Elder, M.D.
WILLIAM C. ELDER, M.D.
Chairman

BOARD OF MEDICAL EXAMINERS	)	
	)	
STATE OF NORTH DAKOTA	)	AFFIDAVIT OF MAILING
	)	
	)	

Marijo L. DeMott being first duly sworn, on oath, deposes and says: That she is a citizen of the United States, over the age of 18, and that on the 5 day of January, 2004, this affidavit personally mailed the following:

COMPLAINT dated 10-27-03
STIPULATION dated 12-29-03
ORDER dated 12-29-03

by placing a true copy in a postage paid envelope addressed to the person(s) named below, at the address(s) stated below, and by depositing said envelope with the United States Postal Service at Bismarck, North Dakota to:

Frederic J. Payne, MD
RR #4 Box 119 Cloverfields
Wheeling, WV 26003-9317
(Sent by certified mail)

Landers P. Bonenberger
53 Washington Ave
Wheeling, WV 26003

and that the above document was duly mailed in accordance with the provisions of the North Dakota Rules of Civil Procedure.

Marijo DeMott
MARIJO DEMOTT

Subscribed and sworn to before me this 5th day of January, 2004.

Lynette M. McDonald
Notary Public
Burleigh County, North Dakota
My Commission Expires:

LYNETTE M. MCDONALD
Notary Public
State of North Dakota
My Commission Expires July 31, 2008

BEFORE THE BOARD OF MEDICAL EXAMINERS

STATE OF NORTH DAKOTA

North Dakota State Board of Medical Examiners - Investigative Panel A,	)	
Complainant,	)	
vs.	)	**STIPLATION**
Frederic J. Payne, M.D.,	)	
Respondent.	)	

WHEREAS, Investigative Panel A of the North Dakota State Board of Medical Examiners issued a Complaint seeking to revoke Respondent's license to practice medicine in the State of North Dakota pursuant to N.D.C.C. § 43-17-31 (25); and

WHEREAS, Respondent hereby admits service of the Complaint by receipt of a copy of the same;

WHEREAS, Respondent admits that there is sufficient evidence to support the allegations stated in the Complaint of Investigative Panel A dated October 27, 2003, and that the Board can find against Respondent, and agrees to stipulate to an Order of the Board consistent with this Stipulation. Respondent agrees that the terms of this Stipulation are reasonable and appropriate;

THEREFORE, IT IS HEREBY agreed by and between the parties to this action and the North Dakota State Board of Medical Examiners (hereinafter "the Board"):

1. Respondent hereby waives any procedural irregularity herein and his right to hearing on the Complaint now pending in this action;
2. The Board will enter an order restricting Respondent's license to practice medicine in the State of North Dakota based on the following terms and conditions:

A. Before returning to practice medicine in North Dakota, Respondent will participate in an education assessment to be completed under the direction of the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado. If any courses of study are recommended by CPEP upon completion of the evaluation referred to herein, then Respondent shall complete that coursework within the time periods and at such places as are recommended.

B. Respondent shall execute a medical release form with the Board and copies of reports of said evaluation shall be furnished directly to the North Dakota State Board of Medical Examiners or its authorized agent.

C. Respondent shall carry professional malpractice insurance and furnish proof thereof to the Board.

D. Respondent shall fully comply with the provisions of the North Dakota Medical Practice Act in all respects.

E. In the event Respondent should change his current address to reside or practice in North Dakota, he shall promptly notify the Board in writing of the new location as well as the dates of departure and return.

F. Respondent shall reimburse the Board for all fees and expenses related to the investigation and prosecution of this case, including all expenses resulting from this agreement. This includes all attorney fees and costs through the final disposition of this case. The Board will notify Respondent of any such costs within a reasonable time after the execution of the Order and Respondent shall make payment within thirty (30) days from said notification.

3. Failure to fully comply with the terms, provisions, or conditions specified herein shall constitute a violation by N.D.C.C. 43-17-31(9) and will subject this Respondent to further disciplinary action by the Board.

4. In the event the Board, in its discretion, does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation, and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

5. That this agreement for the disposition of the above-entitled contested case is a matter of public record and the obligations of the Board with respect thereto shall be governed by the laws of North Dakota and current Board policy.

6. That all parties hereto recognize that Board representatives who have engaged in discussions relative to an agreed disposition of this matter can only make recommendations to the North Dakota State Board of Medical Examiners, which recommendation can in no way be considered as binding upon the members of the Board who would ultimately decide the pending contested case, and this agreement is subject to acceptance by the Board.

7. That Respondent understands that he has the right and has been afforded the opportunity to have this agreement reviewed by his attorneys, and that in the event he chooses to execute this document without taking the opportunity to avail himself of this right, such failure shall be deemed to be a waiver of such right.

8. Respondent specifically waives any claim that any disclosures made to the Board for the purposes of the consideration of this agreement have prejudiced his rights to a fair and impartial hearing in the event this agreement is not accepted by the Board and if further proceedings ensue.

9. Respondent further agrees that there have been no inducements, threats or promises made in order to obtain his entry into this agreement.

10. That the parties further agree that all statements contained herein are based upon

the facts known to the Board on the date of execution of this agreement.

Dated this 24th day of December, 2003.

Fredric J. Payne, M.D.

Dated this 29 day of December, 2003.

By: _____

John M. Olson (ID#03053)
Special Assistant Attorney General
115 North 4th Street
P.O. Box 817
Bismarck, ND 58502-0817
Phone: (701) 223-4524
Facsimile: (701) 223-0855
E-mail: *jolson@olsoncichy.com*

Attorney for: North Dakota State Board of Medical Examiners - Investigative Panel A

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