

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

630 Camp Street, New Orleans, LA 70130
General Correspondence Address: Post Office Box 30250, New Orleans, LA 70190-0250
www.lsbme.org



Telephone: (504) 568-6820
FAX: (504) 568-8893
Writer's Direct Dial:

Ext. _____

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IN THE MATTER OF: :
FRANCIS M. CAPALONGAN, M.D. :
(Certificate No. 06108R), :
Respondent. :
: :
-----X

Inv. No.
00-I-012
**STIPULATION AND
AGREEMENT FOR
VOLUNTARY SURRENDER
OF MEDICAL LICENSE**

This *Stipulation and Agreement* is made by Francis M. Capalongan, M.D. ("Dr. Capalongan"), a physician licensed to practice medicine in the state of Louisiana, with and in favor of the Louisiana State Board of Medical Examiners (the "Board").

1. *Acknowledgment and Stipulations.* Dr. Capalongan hereby acknowledges, stipulates and agrees that:

(a) The above-entitled proceeding was docketed for investigation by the Board following receipt of apparently reliable information indicating that Dr. Capalongan, currently 50 years of age and engaged in the practice of medicine in and around Monroe, Louisiana, was arrested and charged with four (4) counts of distribution of a Schedule III controlled substance, in violation of La. Rev. Stat. § 40:968, after a search warrant was executed at his home by the Louisiana State Police on January 8, 2000. Eventually as a result of a criminal investigation, a federal grand jury seated in the Western District of Louisiana, Monroe Division, returned a thirteen-count Superseding Indictment against Dr. Capalongan charging him with one (1) count of Drug Conspiracy (not in the usual course of professional practice and not for legitimate medical purposes), in violation of Title 21, United States Code Section 846, a felony under the laws of the United States of America, ten (10) counts of Distributing or Dispensing a Controlled Substance (not in the usual course of professional practice and not for legitimate medical purposes), in violation of Title 21, United States Code Section 841(a)(1) and Title 18, United States Code Section 2, a

felony under the laws of the United States of America, one (1) count of Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of Title 18, United States Code Section 924(c), a felony under the laws of the United States of America, and one (1) count of Possession of a Unregistered Shortened Shotgun, in violation of Title 26, United States Code Sections 5841, 5861(d) and 5871, a felony under the laws of the United States of America. On May 11, 2001, pursuant to a written Plea Agreement with the federal prosecutors, a Bill of Information was filled against Dr. Capalongan charging him with one count of Distributing or Dispensing a Controlled Substance, namely hydrocodone, a Schedule III controlled substance, with the brand name Lortab 10-650, in violation of Title 21, United States Code Section 841(a)(1) and Title 18, United States Code Section 2, to which he plead guilty. In exchange for this plea of guilty, the Government will dismiss the Superceding Indictment pending against him after he is sentenced by the Court. Also as a condition of the Plea Agreement, Dr. Capalongan has agreed to surrender any and all licenses to practice medicine in the United States, as well as his controlled substance handling and/or dispensing privileges from all state and federal agencies. Furthermore, Dr. Capalongan is to provide proof of such surrender to the U.S. Attorney's Office and the U.S. Probation Office at least two weeks before his sentencing. His sentencing is scheduled for October 9, 2001.¹

(b) Investigation of the captioned matter was assigned to the Medical Consultant/Director of Investigations for the Board, whose review and analysis has confirmed to his satisfaction that just cause exists for recommending that a formal Administrative Complaint be filed charging Dr. Capalongan with violations of the Louisiana Medical Practice Act, La. Rev. Stat. §§ 37:1285A(1), (6), (13) and (15).²

¹ *United States of America versus Francis M. Capalongan*, United States District Court, Western District of Louisiana, Monroe Division, Criminal No. 00-30045-01/02.

² La. Rev. Stat. § 37:1285A(1) provides that the Board may take action against the license of a physician as the result of '[C]onviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana or of the United States.' La. Rev. Stat. § 37:1285A(6) provides that the Board may take action against the license of a physician as the result of '[P]rescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner.' La. Rev. Stat. § 37:1285A(13) provides that the Board may take action against the license of a physician as the result of '[U]nprofessional conduct.' La. Rev. Stat. § 37:1285A(15) provides that the Board may take action against

(c) Pursuant to the Louisiana Medical Practice Act and the Louisiana Administrative Procedure Act, Dr. Capalongan would be entitled, prior to final disciplinary action against his medical license, to have notice of the allegations and charges asserted against him, and to administrative adjudication of such charges, pursuant to La. Rev. Stat. §§ 49:955-958. At such hearing, Dr. Capalongan would be entitled to be represented by legal counsel, to have those charges proved against him by evidence, to appear and confront adverse witnesses, to call witnesses and present evidence on his own behalf in defense or in mitigation of the charges made, to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. Rev. Stat. §§ 49:955-965 and to have any further hearing, as well as his rights to appeal the action of the Board or any other right to which he may be afforded by the Louisiana Administrative Procedure Act, La. Rev. Stat. § 49:951, *et seq.*, or otherwise.

2. ***Voluntary Surrender of License.*** Notwithstanding his right to notice of formal charges, administrative hearing and a decision thereon, as provided by La. Rev. Stat. § 49:955, in recognition of the stipulations set forth herein-above toward final disposition of the investigation now pending in this matter and in lieu of the institution and prosecution of formal administrative proceedings, Dr. Capalongan, nonetheless, acknowledges the substantial accuracy of the information received by the Investigating Officer in his investigation and he hereby waives his right to notice of charges and formal adjudication and voluntarily surrenders to the Board, for cancellation, his license to practice medicine in the state of Louisiana, as evidenced by Certificate No. 06108R. By his subscription hereto, Dr. Capalongan also hereby authorizes the Investigating Officer designated by the Board with respect hereto and/or his legal counsel assisting him in that capacity, to present this Stipulation and Agreement for Voluntary Surrender of Medical License to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation, and he waives any objection to such disclosures, under La. Rev. Stat. § 49:960.

the license of a physician as the result of '[I]mmoral conduct in exercising the privileges provided for by license or permit issued under this Part.'

3. ***Effect of Voluntary Surrender of License.*** Dr. Capalongan acknowledges, stipulates and agrees that the voluntary surrender of his medical license effected hereby in the presence of an administrative investigation shall have, and shall be deemed by the Board to have, the same effect as if the Board had entered an order of revocation upon the conclusion of formal administrative proceedings. Dr. Capalongan further acknowledges, stipulates and agrees that as a result of the voluntary surrender of his medical license effected hereby, he shall not have any right or entitlement to reinstatement or renewal of his license to practice medicine in the state of Louisiana nor shall he hereafter be entitled to apply for or otherwise attempt to obtain any original, reinstated or renewal license to practice medicine in the state of Louisiana. However, this provision does not prohibit Dr. Capalongan from ever applying to the Board for a license to practice medicine in the state of Louisiana. In the event that Dr. Capalongan ever applies for or otherwise attempts to obtain any original, reinstated or renewal license to practice medicine in the state of Louisiana, the Board, in its sole discretion and without a hearing, may choose or not choose to consider such a request and/or may elect or not elect to grant or deny such a request. Furthermore, in the event that the Board should ever grant or issue to him a medical license, Dr. Capalongan hereby consents to, agrees with and acquiesces in the imposition of any terms, conditions or restrictions, as well as the length and nature thereof, which the Board, in its sole discretion and without a hearing, may deem necessary or appropriate to impose thereon. Dr. Capalongan further waives any right to which he may be entitled by law or otherwise to contest his agreement to, or the force and effect of, this document in any court or other forum relating to the matters referred to herein.

4. ***Surrender of Controlled Substances Privileges.*** As of the effective date of this Stipulation, Dr. Capalongan shall not prescribe, dispense or administer any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 C.F.R. §1308, La. Rev. Stat. §40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of such regulations and statutes. Within thirty (30) days of the execution of this stipulation, Dr. Capalongan shall, if he has not already done so, surrender for cancellation to the issuing authorities, any and all state and federal registrations authorizing Dr. Capalongan to prescribe, dispense, or administer any controlled substance.

5. ***Termination of Proceedings.*** By the voluntary surrender of his medical license, and the attendant dismissal of the investigation occasioned hereby, Dr. Capalongan, moreover, acknowledges, stipulates and agrees that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act or to which otherwise may be afforded to him by law, to contest his agreement to or the force and effect of this document in any court or other forum.

6. ***Advice of Counsel.*** Dr. Capalongan acknowledges that he has sought and obtained the advice and guidance of legal counsel with respect to this Stipulation and that his counsel has explained to his satisfaction all of the terms, conditions, restrictions and limitations contained herein.

7. ***Public Record.*** Dr. Capalongan further acknowledges, stipulates and agrees that this Stipulation and Agreement for Voluntary Surrender of Medical License shall be and shall be deemed to be a public record.

8. ***Effective Date.*** This Stipulation and Agreement for Voluntary Surrender of Medical License shall take effect on September 25, 2001.

STATE OF LOUISIANA

PARISH OF ORLEANS

**STIPULATION, ACKNOWLEDGMENT
AND AGREEMENT**

Having been duly advised by my legal counsel as to the meaning, scope and effect of the foregoing Stipulation and Agreement for Voluntary Surrender of Medical License or having waived such advices,

I, Francis M. Capalongan, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Stipulation and Agreement for Voluntary Surrender of Medical License by the Louisiana State Board Of Medical Examiners, this 25th day of September, 2001.

Francis Capalongan
Francis M. Capalongan, M.D.

WITNESSES:

M King
Signature

Maureen King

Typed Name

400 Poydras Street
Address

M. Bastoe
Signature

Marsha Bastoe

Typed Name

400 Poydras Street
Address

Sworn to and subscribed before me at New Orleans, Louisiana
this 25th day of September, 2001 in the presence of the two stated witnesses.

Miss G. B. Boudier
Notary Public

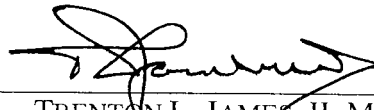
My commission expires at death

ACCEPTANCE

CONSIDERING THE ABOVE AND FOREGOING, the Stipulation and Agreement for Voluntary Surrender of Medical License is hereby **APPROVED AND ACCEPTED** by the Louisiana State Board of Medical Examiners, this 24th day of October, 2001, **effective** on the 25th day of September, 2001.

**LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS**

By: _____



TRENTON L. JAMES, II, M.D.
PRESIDENT