

FILED DATE - JUN 29 2018

Department of Health

By: *Amber Green*
Deputy Agency ClerkSTATE OF FLORIDA
DEPARTMENT OF HEALTH

In Re: Emergency Restriction of the License of
Florence R. Fruehan, D.O.
License Number OS 5359
Case Number 2018-13516

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Celeste Philip, M.D., M.P.H., State Surgeon General, ORDERS the emergency restriction of the license of Florence R. Fruehan, D.O., (Dr. Fruehan) to practice osteopathic medicine in the State of Florida. Dr. Fruehan holds license number OS 5359. His address of record is 9 Pine Cone Dr., Suite 102, Palm Coast, Florida 32137. The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Fruehan's license to practice as an osteopathic physician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of osteopathic medicine pursuant to Chapters 20, 456 and 459, Florida Statutes (2017). Section 456.073(8), Florida Statutes (2017), authorizes the State Surgeon General to summarily restrict Dr. Fruehan's license to practice as an osteopathic physician in the state of Florida, in accordance with Section 120.60(6), Florida Statutes (2017).

2. At all times material to this Order, Dr. Fruehan was licensed as an osteopathic physician in the State of Florida, pursuant to Chapter 459, Florida Statutes, having been issued license number OS 5359.

3. Over the course of approximately two years, Patient J.M., a 54-year-old female suffering from epilepsy, presented to Dr. Fruehan at Palm Coast Urgent Care (PCUC) located in Palm Coast, Florida.

4. On May 24, 2018, Patient J.M. presented to Dr. Fruehan at PCUC to obtain a medication refill.

5. After the appointment, Dr. Fruehan provided Patient J.M. with a prescription for a six-month supply of phenobarbital.¹

6. As Dr. Fruehan walked Patient J.M. to the front desk to check out, he asked Patient J.M. how long she had been married.

7. Patient J.M. informed Dr. Fruehan she was a widow.

8. Dr. Fruehan advised Patient J.M. she was due for a mammogram. Patient J.M. asked Dr. Fruehan to provide her obstetrician/gynecologist recommendations.

¹ Phenobarbital is commonly prescribed to provide sedation or to treat seizures. According to Section 893.03(4), Florida Statutes, phenobarbital is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of phenobarbital may lead to limited physical or psychological dependence relative to the substances in Schedule III.

9. Dr. Fruehan asked Patient J.M. to follow him into the room next to the front desk. Patient J.M. believed she was entering an office for Dr. Fruehan to provide her with obstetrician/gynecologist recommendations.

10. Dr. Fruehan led Patient J.M. into an examination room.

11. In the examination room, Dr. Fruehan groped Patient J.M.'s breasts through her blouse and bra.

12. After Dr. Fruehan grabbed Patient J.M.'s breasts, he told her that he was sorry her husband died, and left the examination room.

13. On May 25, 2018, Patient J.M. reported Dr. Fruehan's conduct to the Flagler County Sheriff's Office.

14. Osteopathic physicians are entrusted by the public to provide treatment to patients in a manner that is safe and to protect their patients from harm. Dr. Fruehan violated the trust that Patient J.M. placed in him by committing an egregious act of sexual misconduct. Patient J.M. presented to Dr. Fruehan to obtain a medication refill, a situation that all of Dr. Fruehan's female patients will likely encounter during their course of treatment. Dr. Fruehan's conduct was so brazen and with such a wanton disregard for the laws and rules regulating the practice of osteopathic medicine, that any female patient that presents to Dr. Fruehan for any purpose, is in danger of harm within the confines of the examination room. Dr. Fruehan's conduct is of a nature that is likely to

continue as long as he continues to treat female patients without supervision.

15. Based on Dr. Fruehan's violation of the public trust and his egregious commission of sexual misconduct, there are no less-restrictive means other than the terms outlined in this Order that will adequately protect the public.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2017), and Chapter 459, Florida Statutes (2017).

2. Section 120.60(6), Florida Statutes (2017), authorizes the Department to restrict an osteopathic physician's license if the Department finds that the osteopathic physician presents an immediate, serious danger to the public health, safety, or welfare.

3. Section 459.015(1)(l), Florida Statutes (2017), authorizes discipline, including restriction, against an osteopathic physician for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving, free, full, and informed consent to sexual activity with his or her physician.

4. Dr. Fruehan violated Section 459.015(1)(I), Florida Statutes (2017), by engaging or attempting to engage Patient J.M. in sexual activity by touching her breasts.

5. Section 120.60(6), Florida Statutes (2017), authorizes the State Surgeon General to summarily restrict an osteopathic physician's license upon a finding that the medical doctor presents an immediate, serious danger to the public health, safety, or welfare.

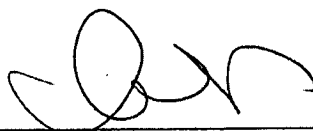
6. Dr. Fruehan's continued unrestricted practice as an osteopathic physician constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida, and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2017), it is **ORDERED THAT:**

1. The license of Florence R. Fruehan, D.O., to practice as an osteopathic physician, license number OS 5359, is immediately restricted to prohibit Florence R. Fruehan, D.O. from treating and interacting with female patients without a healthcare professional holding a clear and active license with the Florida Department of Health physically present at all times when Dr. Fruehan is interacting with female patients.

2. A proceeding seeking formal discipline of the license of Florence R. Fruehan, D.O. to practice osteopathic medicine in the State of Florida will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2017).

DONE and ORDERED this 29 day of June, 2018.



A Celeste Phillip, M.D., M.P.H.
Surgeon General and Secretary

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes (2017), this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of this Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.