

NOTIFICATION OF COURT ORDER

On September 8, 2017, an Order was issued in *People of The State of California v. Ismael Silva Jr., M.D.*, Orange County Superior Court, Case No. 17CF0799 by Robert A. Knox, Judge Presiding. Under the Order, as a condition of bail, ISMAEL SILVA, JR., M.D. (Physician's and Surgeon's Certificate Number C40558) is restricted effective September 8, 2017. A copy of the Order is attached.

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*Attorneys for Executive Director of the Medical
Board of California*

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
SEP 08 2017
DAVID H. YAMASAKI, Clerk of the Court
ML
BY: N. RODRIGUEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

**PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff,

v.

ISMAEL SILVA JR., M.D.

Defendant,

**KIMBERLY KIRCHMEYER,
EXECUTIVE DIRECTOR OF THE
MEDICAL BOARD OF CALIFORNIA,
DEPARTMENT OF CONSUMER OF
AFFAIRS.**

Applicant.

Case No. 17CF0799

**STIPULATION FOR RESTRICTION OF
MEDICAL LICENSE; ~~REDACTED~~
ORDER**

[Penal Code, §§ 1270, 1275]

Ismael Silva Jr., M.D. ("Defendant"), Kimberly Kirchmeyer, in her official capacity as the
Executive Director of the Medical Board of California, Department of Consumer Affairs, State of

1 California ("Medical Board"), and the Orange County District Attorney, by and through their
2 respective counsel, hereby stipulate to the following:

3 1. Defendant is a physician and surgeon licensed to practice medicine in the State of
4 California. Defendant's Physician's and Surgeon's Certificate No. C40558 was issued to him
5 September 20, 1982, and will expire on September 30, 2018, unless renewed. He is represented
6 in this proceeding by Benjamin N. Gluck, Esq. and Naeun Rim, Esq.

7 2. The Medical Board is the state agency charged with protecting the public through the
8 licensing and discipline of physicians and surgeons in the State of California. The Medical Board
9 is represented in this proceeding by Xavier Becerra, Attorney General of the State of California,
10 through Deputy Attorney General Tan N. Tran.

11 3. On April 3, 2017, Complaint No. 17CF0799, entitled *People of the State of California*
12 *v. Ismael Silva Jr.*, was filed in the Superior Court of California, County of Orange, by Tony
13 Rackauckas, Orange County District Attorney, through Deputy District Attorney Shaddi
14 Kamiabipour.

15 4. Complaint No. 17CF0799 charges Defendant with ten felony counts of health care
16 fraud, including felony counts of unlawful client or patient referral (also known as capping), in
17 violation of Business and Professions Code section 650; felony counts of illegal referral of
18 clients for compensation in violation of Labor Code section 3215; making false and fraudulent
19 claims in violation of Penal Code section 549, and conspiracy to commit insurance fraud, a
20 felony, in violation of Penal Code section 550, subdivision (a)(6).

21 5. The Medical Board submitted a Notice of Appearance and Recommendation by State
22 Licensing Agency seeking to restrict Defendant's medical license as a condition of his bail or
23 own recognizance release.

24 6. A hearing on the Medical Board's Notice of Appearance and Recommendation by
25 State Licensing Agency was scheduled for August 30, 2017, the Honorable Robert A. Knox
26 presiding. Pursuant to the Court's instructions, the parties have conferred and, through their
27 respective attorneys, have agreed to the issuance of the appended Order by this Court regarding
28 the interim status of Defendant's medical license as follows:

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Defendant hereby agrees that, by order of this Court and as a condition of bail, until completion of this criminal proceeding, up to and including probation, Defendant shall be prohibited from any conduct that violates Labor Code section 139.3, including but not limited to:

- (1) referring a person for clinical laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, outpatient surgery, diagnostic imaging goods or services, or pharmacy goods, whether for treatment or medical-legal purposes, if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral;
- (2) entering into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of Labor Code section 139.3;
- (3) offering, delivering, receiving, or accepting any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for a referred evaluation or consultation; and
- (4) presenting any claim for payment to any individual, third-party payor, or other entity for any goods or services furnished pursuant to a referral prohibited under Labor Code section 139.3.

If the Defendant refers to or seeks consultation from an organization in which the he has a financial interest, the defendant shall disclose this interest to the patient or if the patient is a minor, to the patient's parents or legal guardian in writing at the time of the referral.

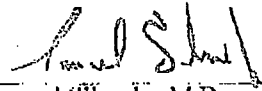
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7. It is agreed that a facsimile or electronic copies of signatures to this Stipulation shall be binding as originals, and that this Stipulation may be signed in counterpart.

IT IS SO STIPULATED.

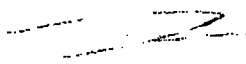
Dated: 9/6/17


Ismael Silva Jr., M.D.
Defendant

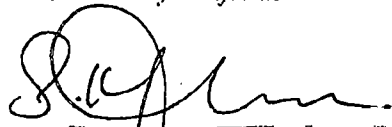
Dated: 9/6/17


Benjamin N. Gluck, Esq.
Naeun Rim, Esq.
Attorney for Defendant

Dated: 9/6/17


XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
TAN N. TRAN
Deputy Attorney General
*Attorneys for Executive Director of the
Medical Board of California*

Dated: 9/7/17


TONY RACKAUCKAS
Orange County District Attorney
SHADDI KAMRABIPOUR
Deputy District Attorney

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~~PROPOSED~~ ORDER

The Court having noted the appearance of Deputy Attorney General Tan N. Tran on behalf of Kimberly Kirchmeyer, in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, State of California, having accepted the stipulation of the parties, and good cause appearing,

IT IS HEREBY ORDERED THAT, by order of this Court until the completion of this criminal proceeding, up to and including probation, Defendant Ismael Silva Jr., M.D. shall be prohibited from any conduct that violates Labor Code section 139.3, including but not limited to:

- (1) referring a person for clinical laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, outpatient surgery, diagnostic imaging goods or services, or pharmacy goods, whether for treatment or medical-legal purposes, if the physician or his or her immediate family has a financial interest with the person or in the entity that receives the referral;
- (2) entering into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of Labor Code section 139.3;
- (3) offering, delivering, receiving, or accepting any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for a referred evaluation or consultation; and
- (4) presenting any claim for payment to any individual, third-party payor, or other entity for any goods or services furnished pursuant to a referral prohibited under

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Labor Code section 139.3.

If the Defendant refers to or seeks consultation from an organization in which the he has a financial interest, the defendant shall disclose this interest to the patient or if the patient is a minor, to the patient's parents or legal guardian in writing at the time of the referral.

IT IS SO ORDERED.

Dated: 9/8/2017



JUDGE OF THE SUPERIOR COURT
STATE OF CALIFORNIA
COUNTY OF ORANGE **Robert A. Knox**