

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-17-2210-5 - MQA

FILED DATE - DEC 11 2017
Department of Health
By: Bogal Sanders
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2016-27450
LICENSE NO.: ME0044112

STEPHEN WAYNE THOMPSON, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on December 1, 2017, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$4,538.39.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 11th day of December, 2017.

BOARD OF MEDICINE

Claudia Kemp

Claudia Kemp, J.D., Executive Director
For Magdalena Averhoff, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to STEPHEN WAYNE THOMPSON, M.D., 1890 SW Health Parkway, Suite 204, Naples, Florida 34109; to Brittany A. Perez, Esquire, Wicker, Smith, et al., 9128 Strada Place, Suite 10200, Naples, Florida 34108; by email to Allison Dudley, Assistant General Counsel, Department of Health, at Allison.Dudley@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General, at

Ed.Tellechea@myfloridalegal.com this 11th day of

December, 2017.

Brygel Sanders

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

Case Number 2016-27450

STEPHEN WAYNE THOMPSON, M.D.,

Respondent.

SETTLEMENT AGREEMENT

Stephen Wayne Thompson, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 44112.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 458, Florida

Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Letter of Concern** – The Board shall issue a Letter of Concern against Respondent's license.

2. **Fine** - The Board shall impose an administrative fine of ***Seven Thousand Five Hundred Dollars (\$7,500.00)*** against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of

any fine imposed by the Board must be approved in advance by the Probation Committee of the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. Reimbursement of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is *Three Thousand Seven Hundred Eighty-Six Dollars and Eighteen Cents (\$3,786.18)*, *but shall not exceed Five Thousand Seven Hundred Eighty-Six Dollars and Eighteen Cents (\$5,786.18)*. Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320,

Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any change in the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

4. **Records Course** - Within one year of the date of filing of the Final Order, Respondent shall complete the course "Quality Medical Record Keeping for Health Care Professionals" sponsored by the Florida Medical Association, or a Board-approved equivalent, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee.

5. **Continuing Medical Education – "Risk Management"** – Respondent shall complete this requirement and document such completion within one (1) year of

the date of filing of the Final Order. **Respondent shall satisfy this requirement in one of the two following ways:**

(a) Respondent shall complete five (5) hours of CME in "Risk Management" after first obtaining written advance approval from the Board's Probation Committee of such proposed course, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee; or

(b) Respondent shall complete (5) five hours of CME in risk management by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine. In order to receive such credit, Respondent must sign in with the Executive Director of the Board before the meeting day begins, Respondent must remain in continuous attendance during the full day or eight (8) hours of disciplinary hearings, whichever is more, and Respondent must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. Respondent may not receive CME credit in risk management for attending the disciplinary hearings portion of a Board meeting unless the Respondent is attending the disciplinary hearings portion for the **sole** purpose of obtaining the CME credit in risk management. In other words, Respondent may not receive such credit if appearing at the Board meeting for any other purpose, such as pending action against Respondent's medical license.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** - Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses.

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner profile and licensure renewal updates. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and

other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. **No Preclusion Of Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. **Waiver Of Attorney's Fees And Costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of Further Procedural Steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

[Signatures appear on the following page.]


SIGNED this 30th day of September, 2017.

Stephen Wayne Thompson M.D.
Stephen Wayne Thompson, M.D.

STATE OF FLORIDA
COUNTY OF Collier

BEFORE ME personally appeared Stephen Thompson, whose identity is known to me or who produced FL Drivers License (type of identification) and who, under oath, acknowledges that his signature appears above.

SWORN TO and subscribed before me this 30 day of September, 2017.

 HEATHER MARIE LEBERT
MY COMMISSION # GG 047120
EXPIRES November 14, 2020
Bonds Trust, Budget, Notary Services

Heather Marie Lebert
NOTARY PUBLIC

My Commission Expires: 11/14/2020

APPROVED this 2nd day of October, 2017.

Celeste Phillip, MD, MPH
State Surgeon General & Secretary
State of Florida

By: Ross D. Vickers
Ross D. Vickers, Esq.
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NUMBER 2016-27450

STEPHEN WAYNE THOMPSON, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, hereby files this Administrative Complaint before the Board of Medicine against Respondent, Stephen Wayne Thompson, M.D., and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes; chapter 456, Florida Statutes; and chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician in the state of Florida, having been issued license number ME 44112.

3. Respondent's address of record is 1890 Southwest Health Parkway, Suite 204, Naples, Florida 34109.

4. Respondent is board certified in Obstetrics and Gynecology by the American Board of Obstetrics and Gynecology.

5. On or about February 24, 2014, Patient K.T., a then thirty-six (36) year-old female, presented to Respondent at Naples OB-GYN in Naples, Florida, for fatigue, breast tenderness, and absence of menstruation.

6. At the aforementioned visit, Respondent diagnosed Patient K.T. with amenorrhea and sent her to have blood work.

7. On or about February 25, 2014, Patient K.T. was notified of her positive pregnancy test.

8. On or about March 10, 2014; March 17, 2014; March 24, 2014; April 24, 2014; August 7, 2014; and September 25, 2015, Respondent ordered obstetrical ultrasounds and/or sonograms of Patient K.T.

9. On or about April 23, 2014, and August 20, 2014, Patient K.T. presented to Respondent with thick vaginal fluid and bloody discharge and/or morning sickness, nausea, chills, fever, and back pain.

10. On or about May 23, 2014; June 20, 2014; July 16, 2014; August 15, 2014; September 12, 2014; October 13, 2014; October 20, 2014; October 27, 2014, Patient K.T. presented to Respondent for follow-up visits.

11. On or about November 2, 2014, Patient K.T gave birth to her son, Patient J.T., who was born with a neural tube defect¹ called spina bifida/myelomeningocele.

12. Respondent failed to observe on imaging studies, and follow-up on, known indicators that Patient J.T. may have had a neural tube defect, or alternatively, did not create, keep, or maintain adequate legible documentation of observing on imaging studies, and following-up on, known indicators that Patient J.T. may have had a neural tube defect.

13. Respondent failed to order a maternal serum alpha-fetoprotein (MSAFP) test,² or alternatively, did not create, keep, or maintain adequate legible documentation of ordering a MSAFP test.

14. Respondent failed to order an anatomical survey sonogram, or alternatively, did not create, keep, or maintain adequate legible documentation of ordering an anatomical survey sonogram.

15. At all times material to the complaint, the prevailing standard of care required Respondent to do one or more of the following:

¹Neural tube defect - A major birth defect caused by abnormal development of the neural tube, the structure that is present during embryonic life that gives rise to the central nervous system.

²MSAFP test - A routine screening test conducted between the fourteenth (14th) and twenty-second (22nd) weeks of pregnancy to examine the level of alpha-fetoprotein in the mother's blood during pregnancy. The presence of abnormal results indicates a need for further testing to determine whether the fetus has a neural tube defect, among other things.

- a. Observe on one or more imaging studies, and follow-up on, known indicators that Patient J.T. may have had a neural tube defect; and/or
- b. Order a MSAFP test; and/or
- c. Order an anatomical survey sonogram.

COUNT ONE

16. Petitioner re-alleges and incorporates paragraphs one (1) through fifteen (15) as if fully set forth herein.

17. Section 458.331(1)(t)1., Florida Statutes (2013-2014), subjects a physician to discipline for committing medical malpractice as defined in section 456.50, Florida Statutes (2013-2014). "Medical malpractice" is defined by section 456.50(1)(g), Florida Statutes (2013-2014), as "the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure." Section 456.50(1)(e), Florida Statutes (2013-2014), provides that the "level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care that is specified in section 766.102(1), Florida Statutes (2013-2014), which states as follows:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

18. Section 458.331(1)(t)1., Florida Statutes (2013-2014), directs the Board of Medicine to give "great weight" to this provision of Section 766.102, Florida Statutes (2013-2014).

19. Respondent failed to meet the prevailing standard of care in his treatment of Patients K.T. and/or J.T. in one or more of the following ways:

- a. By failing to observe on one or more imaging studies, and follow-up on, known indicators that Patient J.T. may have had a neural tube defect; and/or
- b. By failing to order a MSAFP test; and/or
- c. By failing to order an anatomical survey sonogram.

20. Based on the foregoing, Respondent has violated section 458.331(1)(t)1., Florida Statutes (2013-2014), by committing medical malpractice.

COUNT TWO

21. Petitioner realleges and incorporates paragraphs one (1) through fifteen (15) as if fully set forth herein.

22. Section 458.331(1)(m), Florida Statutes (2013-2014), subjects a licensee to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

23. Section 458.331(1)(nn), Florida Statutes (2013-2014), subjects a licensee to discipline for violating any provision of chapter 458 or chapter 456, or any rules adopted pursuant thereto.

24. Rule 64B8-9.003, Florida Administrative Code, provides:

(2) A licensed physician shall maintain patient medical records in English, in a legible manner and with sufficient detail to clearly demonstrate why the course of treatment was undertaken.

(3) The medical record shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient.

25. In the alternative to the allegations set forth in subsections (a) through (c) of paragraph nineteen (19) above, Respondent failed to create,

keep, or maintain records that justified the course of treatment of Patients K.T. and/or J.T. in one or more of the following ways:

- a. By failing to create, keep, or maintain adequate, legible, documentation of observing on one or more imaging studies, and following-up on, known indicators that Patient J.T. may have had a neural tube defect; and/or
- b. By failing to create, keep, or maintain adequate, legible documentation of ordering a MSAFP test; and/or
- c. By failing to create, keep, or maintain adequate, legible documentation of ordering an anatomical survey sonogram.

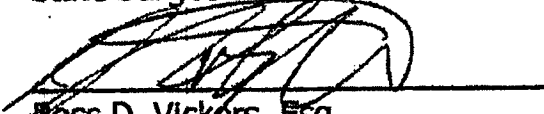
26. Based on the foregoing, Respondent violated section 458.331(1)(m), Florida Statutes (2013-2014); and/or section 458.331(1)(nn), Florida Statutes (2013-2014), by violating Rule 64B8-9.003, Florida Administrative Code.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees

billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 25th day of August, 2017.

CELESTE PHILIP, MD, MPH
State Surgeon General and Secretary



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Florida Bar Number 121717
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Amy Carraway*

AUG 25 2017

DATE _____

PCP Date: August 25, 2017

PCP Members: Georges El-Bahri, M.D.; Zachariah P. Zachariah, M.D.;
Brigitte Goersch

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.