

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-17-2229-S -MQA
FILED DATE DEC 13 2017
Department of Health
By Amber Greene
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2016-00093
LICENSE NO.: ME0113147

MICHAEL DAVID RIGGENBACH, 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. Pursuant to Section 456.073(9)(c), Florida Statutes, the complainant in this matter was present and testified at the hearing. 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:

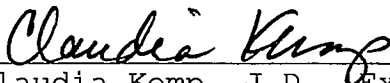
The costs set forth in Paragraph 3 of the Stipulated
Disposition shall be set at \$5,722.46.

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 12th day of December,
2017.

BOARD OF MEDICINE



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 MICHAEL
DAVID RIGGENBACH, M.D., 25 W. Crystal Lake Street, Suite 200,
Orlando, Florida 32806; to Jon Pellett, Esquire, 12724 Gran Bay
Parkway, Suite 401, Jacksonville, Florida 32258; 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 13th day of
December, 2017.

Amber Greene

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2016-00093

MICHAEL DAVID RIGGENBACH, M.D.,

Respondent.

SETTLEMENT AGREEMENT

Michael David Riggenbach, 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 113147.
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, might constitute violations of chapter 458, Florida Statutes.

3. The parties agree that the Stipulated Disposition in this case is fair, appropriate and acceptable.

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 ***Three Thousand Dollars (\$3000.00)*** 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 FORTY FIVE (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 currently ***Four Thousand Six Hundred Seventy Dollars and Forty Cents (\$4,670.40), but shall not exceed Six Thousand Six Hundred Seventy Dollars and Forty Cents (\$6,670.40).*** 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 FORTY FIVE (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. **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. The Probation Committee may, in full satisfaction of this requirement, accept Respondent's documentation of completion of the risk management course so long as the hours were completed within the two (2) year period immediately prior to the date of filing of the Final Order.

5. **Lecture/Seminar** – Within six (6) months following the filing date of a Final Order, Respondent shall present a one (1) hour lecture/seminar on Wrong Site Surgeries to medical staff at an approved medical facility. Respondent shall submit a written plan to the Board's Probation Committee for approval prior to performance of said lecture/seminar. Within six months of the date of filing of the Final Order, Respondent shall obtain a letter from the Risk Manager of the approved medical facility indicating that

the lecture/seminar has been completed and submit such letter to the Board's Probation Committee. The Probation Committee may, in full satisfaction of this requirement, accept Respondent's documentation of completion of the lecture at an acceptable facility so long as the lecture was given within the one (1) year period immediately prior to the date of filing of the Final Order.

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 fifteen (15) days of any changes of said addresses and shall also comply with all statutory requirements related to practitioner profile and licensure renewal updates.

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. Prior to the Board meeting at which this Agreement is presented, 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 next page.]



SIGNED this 3rd day of October, 2017.

[Signature]
Michael David Riggerbach, M.D.,

STATE OF FLORIDA
COUNTY OF Orange

BEFORE ME personally appeared Michael D. Riggerbach, M.D. whose identity is known to me or who produced _____ (type of identification) and who, under oath, acknowledges that his signature appears above.

SWORN TO and subscribed before me this 3rd day of October, 2017.



[Signature]
NOTARY PUBLIC

My Commission Expires: October 16, 2018

APPROVED this 3rd day of October, 2017.

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

[Signature]
By: Maciej Lewandowski
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2016-00093

MICHAEL DAVID RIGGENBACH, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, the Florida Department of Health, (hereinafter "Petitioner"), files this Administrative Complaint before the Board of Medicine (hereinafter the "Board"), against Respondent, Michael David Riggenschach, M.D. (hereinafter "Respondent"), and in support thereof alleges:

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

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 113147.

3. Respondent's address of record is 25 W Crystal Lake Street, Ste. 200, Orlando, Florida 32806.

4. On or about May 16, 2014, Patient G.E. presented to Orlando Orthopedic Outpatient Surgery Center ("the Center") with a left hand work-related injury.

5. During the visit, Respondent properly diagnosed Patient G.E. with the flexor pollicis longus (FPL) tendon laceration of her left thumb.

6. The FPL tendon laceration was confirmed by the MRI scan performed on Patient G.E., on or about July 3, 2014.

7. On or about August 7, 2014, during the follow up visit, Respondent wrongly documented Patient G.E.'s injury as an extensor pollicis longus (EPL) tendon laceration in Patient G.E.'s medical records.

8. Consequently, on or about September 10, 2014, Patient G.E. presented to Respondent at the Center, for an EPL tendon surgery (the wrong site, and/or medically unnecessary procedure) of her left thumb.

9. During the EPL tendon surgery, Respondent realized that the FPL tendon laceration repair should have been performed on Patient G.E. instead.

10. On or about October 20, 2014, Respondent performed the FPL tendon laceration repair on Patient G.E.'s left thumb.

11. Section 456.072(1)(bb), Florida Statutes (2014), provides that performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition is grounds for disciplinary action by the Board of Medicine. It also provides that performing or attempting to perform health care services includes the preparation of the patient.

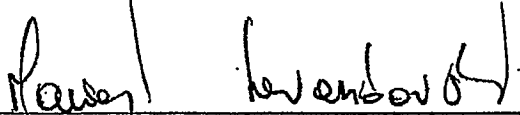
12. On or about September 10, 2014, Respondent violated Section 456.072(1)(bb), Florida Statutes (2014), by attempting to perform, or performing, a wrong-site procedure, a wrong procedure, a procedure that is medically unnecessary and/or a procedure unrelated to Patient G.E.'s diagnosis or medical condition, when he attempted to perform, or performed, the EPL tendon surgery on Patient G.E.'s left thumb.

13. Based on the foregoing, Respondent has violated Section 456.072(1)(bb), Florida Statutes (2014).

WHEREFORE, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: 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 19 day of September, 2017.

Celeste Phillip, MD, MPH
Interim State Surgeon General,
State of Florida


Maciej Lewandowski
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0115515
(850) 245-4640 ext. 8146 Phone
(850) 245-4684 FAX
Maciej.Lewandowski@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Amber Greene
DATE SEP 19 2017

ML/sdw
PCP: September 15, 2017
PCP Members: Robert London, M.D., Mr. Donald Mullins

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.