

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2014-12527
LICENSE NO.: ME0088351

CRAIG SCOTT POLINSKY, 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, (daughter of Patient B.O.), 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 \$6,585.00.

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 8th 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 CRAIG
SCOTT POLINSKY, M.D., 1979 West Hillsboro Boulevard, Suite 1,
Deerfield Beach, Florida 33442; to Traci L. Glickman, Esquire,
Wicker, Smith, et al., 515 North Flagler Drive, Suite 1600, West
Palm Beach, Florida 33401; 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.

Bridget Cortes

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2014-12527

CRAIG S. POLINSKY, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Craig S. Polinsky, 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 88351.
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/her capacity as a licensed physician, he/she 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 **Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00)** 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/HER 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 **Five Thousand Seven Hundred Fifty-Six Dollars and Thirty-Six Cents (\$5,756.36), but shall not exceed Seven Thousand Seven Hundred Fifty-Six Dollars and Thirty-Six Cents (\$7,756.36).** 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/HER 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. **Continuing Medical Education** - Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in the treatment of patients with chronic kidney disease within one (1) year from the date the Final Order is filed.

5. **Continuing Medical Education** - Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in the treatment of patients with chronic heart disease within one (1) year from the date the Final Order is filed.

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.]

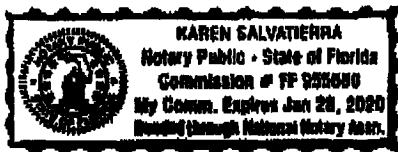
SIGNED this 3rd day of July, 2017.

Craig S. Polinsky
Craig S. Polinsky, M.D.

STATE OF FLORIDA
COUNTY OF Broward

BEFORE ME personally appeared Craig S. Polinsky, whose identity is known to me or who produced FZDL (type of identification) and who, under oath, acknowledges that his/her signature appears above.

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



[Signature]
NOTARY PUBLIC

My Commission Expires: Jan 28, 2020

APPROVED this 15th day of August, 2017.

Celeste Philip, MD, MPH
Surgeon General & Secretary

By: Katelyn R. Levine
Katelyn R. Levine
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2014-12527

CRAIG SCOTT POLINSKY, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Craig Scott Polinsky, M.D., 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; Chapter 456, Florida Statutes; and Chapter 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 88351.
 3. Respondent's address of record is 1979 West Hillsboro Blvd., Suite 1, Deerfield Beach, Florida 33442.
-

4. Respondent is Board Certified by the American Board of Internal Medicine.

5. From In or about 2009 until in or about 2014, Respondent served as Patient B.O.'s primary care physician.

6. In or about 2009, Respondent referred patient B.O. to a cardiologist ("the Cardiologist") for a cardiology evaluation.

7. The results of the 2009 cardiology evaluation revealed that B.O.'s electrocardiogram and stress test were both abnormal.

8. At this time, the Cardiologist recommended that Respondent increase B.O.'s medication as needed in order to get B.O.'s LDL cholesterol below seventy (70).

9. Patient B.O. was evaluated by the Cardiologist again in or about June 2010.

10. Among other things, the June 2010 cardiac evaluation revealed that Patient B.O. had shortness of breath on exertion at times, possibly related to hypertension and subclinical congestive heart failure.

11. On or about July 17, 2013, Patient B.O. underwent lab work, the results of which showed that his glomerular filtration rate ("GFR") was thirty-four (34).

12. On or about July 17, 2013, Respondent staged Patient B.O.'s chronic kidney disease ("CKD") at a stage III/IV.

13. Patient B.O.'s next set of lab work was conducted on or about November 18, 2013, the results of which showed that his GFR was twenty-two (22).

14. On or about November 18, 2013, Respondent wrote in a progress note that Patient B.O.'s CKD was a stage III/IV.

15. Patient B.O. had lab work done again on or about January 13, 2014, the results of which showed that his GFR was twenty-six (26).

16. In a progress note created on or about January 13, 2014, Respondent wrote that Patient B.O.'s CKD was now a stage IV.

17. Despite the dramatic decline in Patient B.O.'s GFR levels indicative of worsening CKD, Respondent did not refer Patient B.O. to a nephrologist.

18. On or about January 13, 2014, Patient B.O. presented to Respondent complaining of left arm pain, numbness radiating to both hands and shortness of breath.

19. Respondent ordered an EKG, chest x-ray and lab work.

20. Respondent's assessment of Patient B.O. at this time was dyspnea on exertion, questionable coronary artery disease, questionable pulmonary issue, and questionable anxiety.

21. Respondent had Patient B.O. return to the office on or about January 14, 2014, for an echocardiogram.

22. After the echocardiogram, Respondent referred B.O. to a different cardiologist ("Cardiologist #2") for a consult.

23. Patient B.O. could not obtain an appointment with Cardiologist #2 until February 3, 2014.

24. Respondent ordered that a stress test be conducted prior to Patient B.O.'s visit with Cardiologist #2, and advised that Patient B.O. bring the results of the stress test to his appointment with Cardiologist #2.

25. The stress test was performed on or about January 23, 2014, the results were abnormal.

26. During Respondent's treatment of Patient B.O., Respondent failed to adequately evaluate the patient's symptoms and recognize Patient B.O.'s worsening coronary artery disease, development of congestive heart failure, and worsening chronic kidney disease.

27. At all times relevant to this Complaint the prevailing professional standard of care dictated that a physician should:

- a. refer a patient to a nephrologist for further evaluation, upon seeing a dramatic decline in the patient's GFR levels; and/or
- b. send a patient to the emergency room for treatment, when the patient presents to the physician exhibiting cardiac symptoms, and has a known history of heart disease.

28. Section 458.331(1)(t)1, Florida Statutes (2013) subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50(1)(g), Florida Statutes. Section 456.50(1)(g), Florida Statutes (2013) states that medical malpractice means the failure to practice medicine in accordance with the level or care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2013), provides that the prevailing standard of care for a given healthcare 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.

29. Based on the foregoing, Respondent committed medical malpractice in violation Section 458.331(1)(t)1, Florida Statutes (2013) in on or more of the following ways:

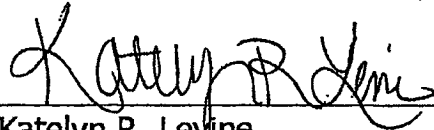
- a. by failing to refer Patient B.O. to a nephrologist after seeing a dramatic decline in Patient B.O.'s GFR levels; and/or

b. by failing to refer Patient B.O. to the emergency room in January 2014 when Patient B.O. presented to Respondent exhibiting cardiac symptoms.

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 1st day of May, 2017.

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



Katelyn R. Levine
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar Number 124413
(P) 850-245-4640, Ext. 8101
(F) 850-245-4684
(E) Katelyn.Levine@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: 

MAY 01 2017
DATE _____

PCP Date: April 28, 2017
PCP Members: Georges E.-Bahri, M.D., Gary N. Dolin, M.D.

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.