

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: James I. Okoh, M.D.)
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)

Docket No. MPS 75-0609

STIPULATION AND CONSENT ORDER

NOW COME James I. Okoh, M.D. (“Respondent”) and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and agree and stipulate as follows:

1. James I. Okoh, M.D., Respondent, a radiologist employed with Virtual Radiologic Consultants, holds Vermont Medical License No. 042-0011654, issued by the Vermont Board of Medical Practice.
2. Jurisdiction rests in the Vermont Board of Medical Practice (the “Board”) pursuant to 26 V.S.A. §§ 1353 and 1354.

I. Background

3. An investigation against Respondent was opened by the Board on or about June 29, 2009 as a result of a Final Order by the State of Florida Board of Medicine. This Order accepted a settlement agreement between Dr. James Okoh and the State of Florida’s Department of Health. In that Order, the Florida Board of Medicine imposed an administrative fine of \$5,000, a letter of concern, 25 hours of community service, continued medical education in Risk Management, reimbursement to the Florida Board for administrative costs and present a lecture on wrong site surgeries. (See Attachment A Final Order, Settlement Order)
4. The State of Florida’s Department of Health (“DOH”) filed an Administrative Complaint against Respondent on February 17, 2009. In that Complaint the Florida DOH

alleged that the “Respondent performed a wrong-site procedure on Patient M.M. by inserting a chest tube into the right hemithorax when consent was obtained to insert a chest tube into the left hemithorax. (See Attachment B Administrative Complaint)

5. In the Settlement Agreement, Respondent admitted that the facts alleged in the Administrative Complaint, if proven would constitute violations of Chapter 458, of the Florida Statutes.

II. PUBLIC REPRIMAND.

6. Consistent with his continuing cooperation with the Board in its investigation of this matter, Respondent does not contest the facts set forth above in paragraphs 3 through 5 above, and agrees that the Board of Medical Practice may adopt and enter paragraphs 3 through 5 as uncontested findings of fact in this matter.

7. Respondent admits that his actions, as generally set forth in paragraphs 3 through 5 above, constitute a violation of 26 V.S.A. §§ 1354 (22) and 31 (B) (2). Respondent agrees that the Board of Medical Practice may adopt and enter as its findings and conclusions this paragraph, paragraphs 3 through 5, and Paragraph 6, above.

8. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges that he has had advice of counsel regarding the matter before the Board and advice of counsel in reviewing this Stipulation and Consent Order. He agrees and understands that, by executing this document, he is waiving any right to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with the evidence against him, to cross-examine adverse witnesses, and to offer evidence of his own to contest the State’s charges. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, & 814.

9. No provision of this consent order shall constitute an admission by Dr. Okoh for any purpose other than for this and any other proceedings before the Vermont Board of Medical Practice, and shall not be admissible against Dr. Okoh in any proceeding outside this Board's proceedings.

10. The parties to this Stipulation and Consent Order agree that appropriate disciplinary action against Respondent shall consist of the following:

11. Respondent shall be publicly **REPRIMANDED** by the Vermont Board of Medical Practice for the conduct set forth above.

12. No specification of charges has been filed by the State in this matter. Respondent has not previously been the subject of disciplinary action by the Vermont Board of Medical Practice.

13. Respondent agrees that he has read and carefully considered all terms and conditions herein and agrees to accept and be bound by these while licensed to practice medicine in the State of Vermont or elsewhere and to be bound by these until such time in the future as he may be expressly relieved of these conditions, in writing, by the Vermont Board of Medical Practice.

14. Respondent agrees that he shall provide a complete copy of this Stipulation and Consent Order to any and all licensed practitioners with whom he is associated in practice, to any prospective employer, and to any State medical board or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application, so long as this agreement remains in effect.

IV. Other Terms and Conditions as to Implementation.

15. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and shall be reported to the National Practitioner Data Bank and the Federation of State Medical Boards and may be reported to other licensing authorities and/or entities.

16. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order that Respondent be publicly **REPRIMANDED** by the Vermont Board of Medical Practice for the unprofessional conduct set forth herein.

17. Consistent with his continuing cooperation with the Board, Respondent agrees that, if the State were to satisfy its burden at hearing as to the allegations, a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. § 1354. In the interest of resolving this matter expeditiously and continuing his full cooperation in this matter, Respondent agrees to enter into this Stipulation, in lieu of the State filing formal charges. Respondent acknowledges that his acceptance of this Stipulation is appropriate and in the best interest of all parties.

Dated at Montpelier, Vermont, this 16 day of November, 2009.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

by: Margaret O. Vincent
MARGARET O. VINCENT
Assistant Attorney General

Dated at _____, Vermont, this 7th day of November, 2009.

James Okoh

JAMES I. OKOH
Respondent

FOREGOING, AS TO JAMES I. OKOH, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

John Smith, M.D.

Peter A. King MD PhD

James I. Okoh

Peter Phamblat, M.D.

David A. Jones

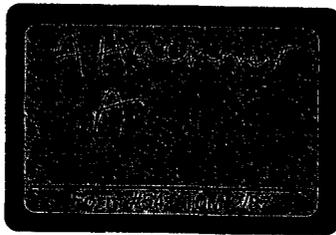
David A. Jones

David W. Cairns MD

Will Brown, MD

DATED: December 2, 2009

ENTERED AND EFFECTIVE: December 2, 2009



Final Order No. DOH-09-1102-5-MOA
FILED DATE - 6/22/09
Department of Health

STATE OF FLORIDA
BOARD OF MEDICINE

By: Lilla Muhammad
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2008-19882

LICENSE NO.: ME0081552

JAMES I. OKOH, 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 June 5, 2009, in Fort Lauderdale, 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 \$1,331.56.

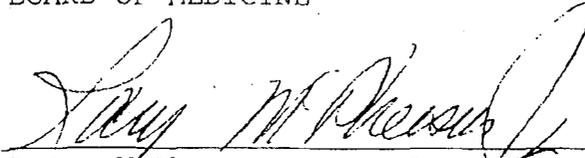
(18)

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.

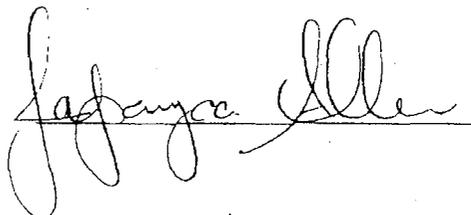
DONE AND ORDERED this 19 day of JUNE, 2009.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
For Fred Bearison, 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 JAMES I. OKOH, M.D., 11995 Singletree Lane, Suite 500, Eden Prairie, MN 55344; to Bruce D. Lamb, Esquire, Ruden, McCloskey, 2700 Suntrust Financial Centre, 401 East Jackson Street, Tampa, Florida 33602; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 22 day of June, 2009.



Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FRANCHISE REGULATION
LEGAL

2009 MAR -2 AM 9:55

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2008-19882

JAMES I. OKOH, M.D.,

RESPONDENT.

SETTLEMENT AGREEMENT

James I. Okoh, 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 81552.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with 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. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

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, as alleged in the Administrative Complaint.

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

STIPULATED DISPOSITION

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of **\$5,000** against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All

finances shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by 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 TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and prosecution of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes but shall not exceed **\$1,938.07**. Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the Final Order in this cause. Any

post-Board costs, such as the costs associated with probation, are not included in this agreement.

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 TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Community Service** - Respondent shall perform twenty-five (25) hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of

community service requirements shall be filed with the Board as required by the Probation Committee.

5. **Continuing Medical Education – "Risk Management"**

Respondent shall complete five (5) hours of Continuing Medical Education in "Risk Management" within one (1) year of the date of filing of the Final Order. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). However, the Board has approved five (5) hours of risk management continuing education for attending the first day of a full Board of Medicine meeting.

6. **Lecture/Seminar** – During the next six (6) months following the filing date of a Final Order in this case, Respondent shall present a one (1) hour lecture/seminar on Wrong Site Surgeries. The lecture/seminar shall be presented to medical staff at an approved medical facility. Respondent shall submit a written plan to the Board for approval prior to performance of said lecture/seminar. Respondent shall also provide written documentation to the Board that said lecture/seminar has been completed within six months of the date of filing of the Final Order in this case. Said documentation shall consist of a letter from the Risk Manager of the approved medical facility indicating that the lecture/seminar has been completed.

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. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **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 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.

5. **Violation of terms considered** - 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.

6. **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.

7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same 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.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of 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.

9. **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.

SIGNED this 27th day of February, 2009.

James Okoh

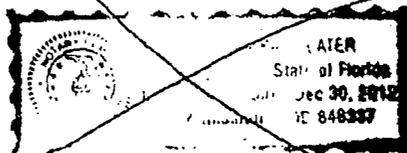
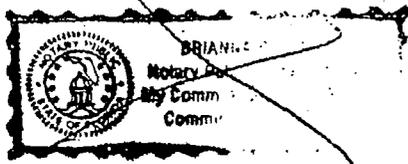
James I. Okoh, M.D.

Before me, personally appeared James Kemejuna Okoh, whose identity is known to me by State Issued Drivers License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 27th day of February, 2009.

[Signature]
NOTARY PUBLIC

My Commission Expires: December 30, 2012



APPROVED this 7th day of April, 2009.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health

By: 
Thomas J. Morton
Assistant General Counsel
Department of Health

TJM