

FILED DATE - *NOV 09 2022*

Department of Health

By *[Signature]*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2018-21426

2015-09610

LICENSE NO.: ME0045587

MARVIN SPONAUGLE, 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 October 7, 2022, in Tampa, 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 full advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which Respondent was given 7 days to accept. By email dated November 1, 2022, counsel for Respondent accepted the Board's Counter Settlement Agreement. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$26,410.80. Said costs shall be paid within one (1) year from the date the Final Order is filed. The costs shall be paid by money order or cashier's check.

2. Respondent's monitor must be **BOARD CERTIFIED** in Internal Medicine or Family Practice, and have training and experience in Integrative Medicine.

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 amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

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

DONE AND ORDERED this 8th day of November, 2022.

BOARD OF MEDICINE

Paul A. Vazquez

Paul A. Vazquez, J.D., Executive Director
For David A. Diamond, 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: Marvin Sponaugle, M.D., 300 State Street East, Unit 222, Oldsmar, FL 34677 and Bruce Lamb, Esq., 401 East Jackson Street, Ste. 2500, Tampa, FL 33602; by email to: Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 9 day of November, 2022.

Elizabeth Eubanks
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Amey Parvathy*

DATE OCT 24 2022

DEPARTMENT OF HEALTH,

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MARVIN SPONAUGLE, M.D.,

Respondent.

ORDER

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1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$26,410.80. Said costs shall be

paid within one (1) year from the date the Final Order is filed.
The costs shall be paid by money order or cashier's check.

2. Respondent's monitor must be BOARD CERTIFIED in Internal Medicine or Family Practice, and have training and experience in Integrative Medicine.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted is rejected and Respondent shall have 7 days from the date this Order is filed to accept the Board's Counter Settlement Agreement. Acceptance of said Counter Settlement Agreement shall be made in writing to: Edward A. Tellechea, Chief Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; or emailed to Ed.Tellechea@myfloridalegal.com.

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

DONE AND ORDERED this 18th day of October,
2022.

BOARD OF MEDICINE

Paul A. Vazquez

Paul A. Vazquez, J.D., Executive Director
For David A. Diamond, 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: Marvin Sponaugle, M.D., 300 State Street East, Unit 222, Oldsmar, FL 34677 and Bruce Lamp, Esq., 401 East Jackson Street, Ste. 2500, Tampa, FL 33602; by email to: Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 24th day of October, 2022.



Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2015-09610

DOH Case No. 2018-21426

MARVIN L SPONAUGLE, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Petitioner, Department of Health ("Department"), and Respondent, Marvin L Sponaugle, pursuant to section 120.57(4), Florida Statutes, offer this Settlement Agreement ("Agreement") and agree to the entry of a Final Order of the Board of Medicine ("Board") incorporating this Agreement as disposition of this matter, in lieu of any other administrative proceedings.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 45587.

2. The Department charged Respondent with two Administrative Complaints that were filed and properly served upon Respondent alleging violations of Chapter 456 and/or 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaints are attached hereto as Exhibit A and Exhibit B.

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

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in their capacity as a licensed physician, they are 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 Complaints, if proven, would constitute violations of Chapter 456 and/or 458, Florida Statutes.
3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Reprimand** – The Board shall issue a Reprimand against Respondent's license.
2. **Fine** – The Board shall impose an administrative fine of *Fifteen Thousand Dollars (\$15,000.00)* against Respondent's license which Respondent shall pay to:

Payments – DOH Compliance Management Unit
Bin C-76
P.O. Box 6320
Tallahassee, FL 32314-6320

All fines shall be paid by cashier's check or money order. Payments must be made within thirty (30) days of the date of filing of the Final Order accepting this Agreement. 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.**

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 *Twenty-Four Thousand Four Hundred Ninety-One Dollars and Forty-One Cents (\$24,491.41), but shall not exceed Twenty-Six Thousand Four Hundred Ninety-One Dollars and Forty-One Cents (\$26,491.41)*. Respondent shall pay such Department costs to:

Payments – DOH Compliance Management Unit
 Bin C-76
 P.O. Box 6320
 Tallahassee, FL 32314-6320

All costs shall be paid by cashier's check or money order. Payments must be made within thirty (30) days of the date of filing of the Final Order accepting this Agreement. 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.**

4. **Laws, Rules, and Ethics Course** – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in laws, rules, and ethics 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 recognizing and treating infectious diseases within one (1) year from the date the Final Order is filed.

6. Continuing Medical Education – Respondent shall document completion of Five (5) hours of Continuing Medical Education (CME) in recognizing and treating pancreatitis within one (1) year from the date the Final Order is filed.

7. Risk Management CME – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in risk management within one (1) year from the date the Final Oder is filed.

8. Probation Language – Effective on the date of the filing of the Final Order, Respondent shall be placed on probation for a period of two (2) years subject to the following terms and conditions:

(a) Respondent's Required Appearance Before Probation Committee – Respondent shall appear before the Probationer's Committee at the ~~first~~ meeting after said probation commences, at the ~~last~~ meeting of the Probationer's Committee preceding termination of probation, quarterly, and at such other times requested by the Committee. Respondent shall be noticed by Board staff of the date, time, and place of the Board's Probationer's Committee where at Respondent's appearance is required. **Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of probation and shall subject Respondent to disciplinary action.**

(b) Indirect Supervision – Respondent shall not practice except under the indirect supervision of a BOARD-CERTIFIED physician (hereinafter "Monitor") fully licensed under Chapter 458 to be approved by the Board's Probation Committee. Indirect supervision does not require that the Monitor practice on the same premises as Respondent. However, the Monitor shall practice within a reasonable geographic

proximity to Respondent, which shall be within 40 miles unless otherwise provided by the Board, and shall be readily available for consultation. The Monitor shall be Board Certified, and actively engaged, in Family Medicine or Internal Medicine unless otherwise provided by the Board. Respondent shall allow the Monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the Monitor to perform the duties set forth below.

(c) Temporary Approval of Monitor/Supervisor – The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's Monitor/Supervisor. To obtain temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this Agreement is considered by the Board. **Once a Final Order adopting the Agreement is filed, Respondent shall not practice medicine without an approved Monitor/Supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

(d) Formal Approval of Monitor/Supervisor – Prior to the consideration of the Monitor/Supervisor by the Probation Committee, Respondent shall provide a copy of the Administrative Complaint and Final Order in this case to the Monitor/Supervisor. Respondent shall submit a copy of the proposed Monitor/Supervisor's current curriculum vita and a description of their current practice to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent shall ensure that the Monitor/Supervisor is present with Respondent at Respondent's first appearance before the Probation Committee, and at such other times as directed by the

Committee. **It shall be Respondent's responsibility to ensure the appearance of the Monitor/Supervisor as directed. If the approved Monitor/Supervisor fails to appear as directed by the Probation Committee, Respondent shall immediately cease practicing medicine until such time as the approved Monitor/Supervisor or alternate approved monitor appears before the Probation Committee.**

(e) Change in Monitor/Supervisor – In the event that the Monitor/Supervisor is unable or unwilling to fulfill the responsibilities of a Monitor/Supervisor as described above, Respondent shall Immediately advise the Probation Committee of this fact and submit the name of a temporary Monitor/Supervisor for consideration. **Respondent shall not practice pending approval of the temporary Monitor/Supervisor by the Chairman of the Probation Committee.** Furthermore, Respondent shall make arrangements with their temporary Monitor/Supervisor to appear before the Probation Committee at its next regularly scheduled meeting. Respondent shall only practice under the auspices of the temporary Monitor/Supervisor (after approval by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the formal approval of Respondent's new Monitor/Supervisor shall be addressed.

(f) Alternate Monitor – In view of the need for ongoing and continuous monitoring or supervision, Respondent shall also submit the curriculum vitae and name of an alternate supervising/monitoring physician who shall be approved by Probation Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the same duties and responsibilities as specified for Respondent's

monitoring/supervising physician during those periods of time which Respondent's monitoring/supervising physician is temporarily unable to provide supervision. Prior to practicing under the indirect supervision of the alternate monitoring physician or the direct supervision of the alternate supervising physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the supervision of the alternate monitoring/supervising physician. Respondent shall not practice unless Respondent is under the supervision of either the approved supervising/monitoring physician or the approved alternate.

(g) Responsibilities of the Monitor/Supervisor – The Monitor/Supervisor shall:

- (1) Review 50 percent of Respondent's active patient records at least once every month for the purpose of ascertaining whether diagnoses and treatment plans conform to the professional medical standard of care. The Monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and shall select the records to be reviewed.
- (2) Review all of Respondent's patient records for patients treated for infectious diseases with glutathione. In this regard, Respondent shall maintain a log documenting all such patients.
- (3) Maintain contact with Respondent on a frequency of at least once per month. In the event that Respondent does not timely contact the

Monitor, the Monitor shall immediately report this fact in writing to the Probation Committee.

(4) Submit reports to the Probation Committee on a tri-annual basis, in affidavit form, which shall include:

- a. A brief statement of why Respondent is on probation;
- b. A description of Respondent's practice (type and composition);
- c. A statement addressing Respondent's compliance with the terms of probation;
- d. A brief description of the Monitor/Supervisor's relationship with Respondent;
- e. A statement advising the Probation Committee of any problems that have arisen; and
- f. A summary of the dates the Monitor/Supervisor went to Respondent's office, the number of records reviewed, the overall quality of the records reviewed, and the dates Respondent contacted the Monitor/Supervisor.

(5) Report immediately to the Board any violations by Respondent of Chapters 456 or 458, Florida Statutes, and the rules promulgated thereto.

(h) Reporting by Respondent – Respondent shall submit tri-annual reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- (1) A brief statement of why Respondent is on probation;
- (2) A description of practice location;
- (3) A description of current practice (type and composition);
- (4) A brief statement of compliance with probationary terms;

- (5) A description of the relationship with the Monitor/Supervisor;
- (6) A statement advising the Board of any problems that have arisen;
and
- (7) A statement addressing compliance with any restrictions or requirements imposed.

(i) Tolling Provisions – In the event Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of medicine in the State of Florida, then certain provisions of the requirements in the Final Order adopting this Agreement shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida. **Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of Florida.** Unless otherwise set forth in the Final Order, **the following requirements and only the following requirements** shall be tolled until Respondent returns to active practice:

- (1) The time period of probation shall be tolled;
- (2) The provisions regarding supervision whether direct or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.

(j) Supervision of Physician Assistants and/or Anesthesiologist Assistants – Respondent is required to notify, in writing, any physician assistant and/or anesthesiologist assistant whom the Probationer supervises, of Respondent's

probationary status. A copy of said written notification(s) shall be submitted to the Board's Compliance Officer within ten (10) days of the filing of the Final Order.

(k) Active Practice – In the event that Respondent leaves the active practice of medicine for a period of one year or more, Respondent may be required to appear before the Board and demonstrate the ability to practice medicine with reasonable skill and safety to patients prior to resuming the practice of medicine in the State of Florida.

(l) Absence of Alternate Monitor – In the event that Respondent is unable to acquire an approved alternate supervising/monitoring physician, Respondent agrees to immediately cease practicing if the primary supervising/monitoring physician is unable to perform their duties and responsibilities under this agreement.

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

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 presentation of this Agreement to the Board, 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.]

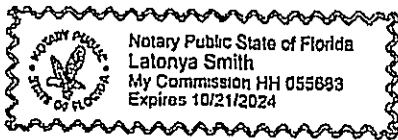
SIGNED this 1st day of JULY, 2022.

Marvin L Sponaugle MD
Marvin L Sponaugle, M.D.

STATE OF FLORIDA
COUNTY OF DADE

BEFORE ME personally appeared Marvin Sponaugle MD whose identity is known to me or who produced FL DRIVERS LICENSE (type of identification) and who, under oath, acknowledges that their signature appears above.

SWORN TO and subscribed before me this 1st day of July, 2022.



[Signature]
NOTARY PUBLIC

My Commission Expires: 10/21/2024

APPROVED this 1st day of July, 2022.

Joseph A. Ladapo, MD, PhD
State Surgeon General

Hunter Pattison

By: Hunter Pattison
Assistant General Counsel
Department of Health

EXHIBIT A

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2018-21426

MARVIN SPONAUGLE, M.D.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint ("Complaint") before the Board of Medicine ("Board") against Respondent Marvin Sponaugle, 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 within the state of Florida, having been issued license number ME 45587.
3. Respondent's address of record is 300 East State Street, Unit 222, Oldsmar, FL 34677.

4. Patient A.B. first presented to Respondent at Sponaugle Wellness Institute ("SWI") on or about August 23, 2016, for treatment of symptoms including fatigue, numbness, brain fog, memory loss, nausea, vomiting, depression, Attention Deficit Hyperactivity Disorder, anxiety, and Postural Orthostatic Tachycardia Syndrome ("POTS").

5. A.B. had been suffering from her symptoms since approximately 2011.

6. J.B., an A.R.N.P. supervised by Respondent, conducted the initial assessment of A.B.

7. Respondent did not perform a physical of A.B. and/or did not document a physical of A.B.

8. Respondent did not conduct a review of A.B.'s medical records and/or did not document a review of A.B.'s previous medical records.

9. Respondent subsequently gave A.B. numerous diagnoses which included industrial toxicity, excessive exposure to black mold, and pancreatitis.

10. Respondent failed to document clear reasoning for the diagnoses he made despite A.B.'s complex symptoms and medical history.

11. Respondent failed to incorporate A.B.'s previous medical records into his diagnoses.

12. Respondent ordered a treatment plan for A.B. following her diagnosis which included infusions of glutathione, phosphatidylcholine, subtherapeutic levels of vancomycin, doxycycline, vitamins, and colonic treatments.

13. Respondent did not document clear reasoning for the treatment plan and how it would treat A.B.'s symptoms.

14. Respondent's progress notes are scattered and vague, fail to incorporate lab data, and do not show an improvement of A.B.'s symptoms.

15. Respondent failed to reevaluate A.B.'s treatment plan or diagnoses despite A.B. not seeing improvement in her symptoms.

16. Respondent failed to document the reasoning behind the continuation of the treatment plan despite the lack of improvement or change in condition of A.B.

17. Respondent received lab test results showing fluctuating pancreatic enzyme levels in A.B.

18. On or about November 17, 2016, A.B. had an amylase level of 18 and a lipase level of 126.

19. On or about November 22, 2016, A.B. had an amylase level of 21, and a lipase level of 15.

20. On or about November 24, 2016, A.B. presented to the emergency room at Mease Countryside Hospital ("MCH") due to severe abdominal pain and other symptoms of pancreatitis.

21. Respondent advised A.B. to leave MCH at that time, asserting that the emergency room physicians would be unable to treat her.

22. On or about November 28, 2016, A.B. presented to SWI with worsening symptoms, including abdominal pain, nausea, and difficulty walking.

23. Respondent failed to refer A.B. to the emergency room despite her worsening symptoms.

24. On or about November 28, 2016, blood samples from A.B. were sent for testing and results returned on or about November 29, 2016, showing that A.B. had an amylase level of 494 and a lipase level of 1,382.

25. On or about November 29, 2016, A.B. was transported to MCH with severe abdominal pain, distended abdomen, and constipation.

26. At MCH, A.B. was diagnosed with severe pancreatitis.

27. Respondent further treated A.B. with glutathione at MCH despite having no treatment privileges at that location.

28. A.B. was treated for severe pancreatitis at MCH but was unable to recover, and she died on or about November 30, 2016.

29. The autopsy report for A.B. lists her cause of death as complications of acute hemorrhagic pancreatitis.

COUNT I

30. Petitioner re-alleges and incorporates by reference Paragraphs one (1) through twenty-nine (29), as if fully set forth herein.

31. Section 458.331(1)(t), Florida Statutes (2015-2016), subjects a doctor to discipline for committing medical malpractice as defined in Section 456.50. Section 456.50, Florida Statutes (2015-2016), defines medical malpractice 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.

32. Level of care, skill, and treatment recognized in general law related to health care licensure means the standard of care specified in Section 766.102. Section 766.102(1), Florida Statutes (2015-2016), defines the standard of care to mean "[t]he 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."

33. At all times material to this complaint the prevailing standard of care required that Respondent:

- a. Reevaluate the treatment plan for A.B. as her symptoms failed to improve while under Respondent's care; and/or
- b. Refer A.B. to the emergency room when her condition deteriorated with worsening symptoms; and/or
- c. Refrain from treating A.B. at a hospital wherein he had no treatment privileges.

34. Respondent failed to meet the prevailing professional standard of care regarding the treatment of patient A.B. in one or more of the following ways:

- a. By failing to adjust the treatment plan for A.B. as her symptoms failed to improve while under Respondent's care; and/or
- b. By failing to refer A.B. to the emergency room when her condition deteriorated with worsening symptoms; and/or
- c. By treating A.B. at a hospital wherein he had no treatment privileges.

35. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2015-2016), by committing medical malpractice.

COUNT II

36. Petitioner re-alleges and incorporates by reference Paragraphs one (1) through twenty-nine (29), as if fully set forth herein.

37. Section 458.331(1)(m), Florida Statutes (2015-2016), provides that failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and 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 administers; and reports of consultations and hospitalizations constitutes grounds for disciplinary action by the Board of Medicine.

38. Respondent failed to maintain legible medical records justifying the course of treatment of patient A.B. in one or more of the following ways:

- a. By failing to document a physical exam for A.B.; and/or
- b. By failing to document a review of A.B.'s previous medical records; and/or
- c. By failing to document adequate reasoning behind the diagnoses for A.B.; and/or

- d. By failing to document adequate reasoning behind the treatment plan for A.B.; and/or
- e. By failing to document why the treatment plan is continued despite the lack of improvement in A.B.'s symptoms.

39. Based on the foregoing Respondent has violated Section 458.331(1)(m), Florida Statutes (2015-2016), by failing to maintain legible medical records justifying the course of treatment of patient A.B.

WHEREFORE, 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.

[Signature Block on Following Page]

SIGNED this 22nd day of October, 2021

Joseph A. Ladapo, MD, PhD
State Surgeon General

Hunter Pattison
Hunter Pattison
Assistant General Counsel
Fla. Bar No. 1011074
Florida Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: 850-558-9899
Facsimile: 850-245-4684
Email: Hunter.Pattison@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Bridget Coates*
DATE: OCT 26 2021

PCP Date: October 22, 2021
PCP Members: Gary Dolin, M.D., Luz M. Pages, M.D, Deborah Gerbert, P.A.

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.

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 any other discipline imposed.

EXHIBIT B

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2015-09610

MARVIN SPONAUGLE, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against Respondent, Marvin Sponaugle, 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 medical doctor within the state of Florida, having been issued license number ME 45587.

3. Respondent's address of record is 300 East State Street, Unit #203, Oldsmar, Florida 34677.

4. At all times material to this Complaint, Respondent treated patients at: Sponaugle Wellness Center ("Sponaugle Wellness"), 300 East State Street, Unit #222, Oldsmar, FL 34677.

5. On or about October 6, 2014, Patient K.F., a then 27-year-old male, presented to Respondent at Sponaugle Wellness, for an initial consultation regarding Patient K.F.'s Lyme disease-like symptoms.

6. Respondent failed to perform a thorough history and physical examination on Patient K.F. at the time of the consultation in order to assess Patient K.F.'s complaints and symptoms.

7. Additionally, Respondent failed to perform a thorough history and physical examination on Patient K.F. at any time subsequent to the consultation that took place on or about October 6, 2014.

8. Respondent failed to order appropriate lab testing, diagnostic imaging and/or other examinations as indicated by Patient K.F.'s presenting symptoms.

9. Respondent failed to make a definitive diagnosis of Patient K.F.'s condition, but nevertheless treated Patient K.F. for his Lyme disease-like symptoms between on or about October 6, 2014, through on or about December 19, 2014, through a combination of infusion therapies, a supplement regimen, and colon cleanses.

10. Respondent failed to refer Patient K.F. to a practitioner qualified to diagnose and treat Patient K.F.'s condition.

11. The prevailing professional standard of care required Respondent to treat Patient K.F. in the following manner:

- a. perform a thorough history and physical examination on Patient K.F. in order to assess Patient K.F.'s complaints and symptoms;
- b. formulate a diagnosis or differential diagnoses for Patient K.F.'s condition;

- c. develop an appropriate treatment plan for Patient K.F.'s diagnosis or differential diagnoses;
- d. treat Patient K.F.'s condition in accordance with an appropriate treatment plan; and/or
- e. refer Patient K.F. to a practitioner qualified to diagnose and treat Patient K.F.'s condition.

12. Section 458.331(1)(t)(1), Florida Statutes (2014), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Section 456(1)(g), Florida Statutes (2014), states medical malpractice means 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 766.102, Florida Statutes (2014), 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.

13. Respondent fell below the standard of care in his treatment of Patient K.F. in one or more of the following ways:

- a. by failing to perform a thorough history and physical examination on Patient K.F. in order to assess Patient K.F.'s complaints and symptoms;
- b. by failing to formulate a diagnosis and/or differential diagnoses for Patient K.F.'s condition;

- c. by failing to develop an appropriate treatment plan for Patient K.F.'s diagnosis and/or differential diagnoses;
- d. by failing to treat Patient K.F.'s condition in accordance with an appropriate treatment plan; and/or
- e. by failing to refer Patient K.F. to a practitioner qualified to diagnose and treat Patient K.F.'s condition.

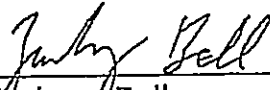
14. Based on the foregoing, Respondent violated Section 458.331(1)(t)(1), Florida Statutes (2014), by committing medical malpractice.

WHEREFORE, 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.

[Signature appears on the following page.]

SIGNED this 19th day of February, 2018.

Celeste Philip, MD, MPH
State Surgeon General



Zachary Bell
Assistant General Counsel
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE FEB 19 2018

ZB

PCP: February 16, 2018.

PCP Members: Fuad Ashkar, M.D.; Magda Averhoff, 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.

Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

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 any other discipline imposed.