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APR 13 1994

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

Final Order No. BPR-94-00001991

Date: 4-12-94

FILED BY AGENCY CLERK

Dept. of Business and Professional Regulation  
Sarah Wachman, Agency Clerk

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

vs.

OSCAR KLEIN, M.D.,

Respondent.

DBPR CASE NOS. 89-09833 and  
89-10360  
DCA CASE NO. 92-02526  
LICENSE NO. ME 0038601

By Brandon L. Moore

FINAL ORDER

THIS MATTER was heard by the Board of Medicine pursuant to the Mandate filed on November 19, 1993 in the case of Oscar Klein v. Department of Business and Professional Regulation, Appellate Case No. 92-02526. Upon remand the Board of Medicine amends the penalty set forth in its previous Final Order filed on June 25, 1992. The penalty imposed by the Board of Medicine shall be a term of probation, the duration of which and the appropriate terms of which shall be set upon Respondent's return to the practice of medicine in Florida.

THEREFORE, - IT IS HEREBY ORDERED AND ADJUDGED that Respondent having been found guilty of violating Section 458.331(1)(b), Florida Statutes, shall upon his return to the practice of medicine in Florida have his license placed on PROBATION for a period of time and under such conditions as the Board of Medicine shall determine at that time.

This Final Order takes effect upon filing with the Clerk of the Department of Business and Professional Regulation.

P. L. 20

DONE and ORDERED this 5<sup>th</sup> day April, 1994.

BOARD OF MEDICINE

  
RICHARD JAMES CAVALLARO, M.D.  
VICE-CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THEY PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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 Oscar Klein, M.D. c/o H. Roger Lutz, Esquire, at One Sarasota Tower, Fifth Floor, 2 North Tamiami Trail, Sarasota, Florida 34236 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792 on this \_\_\_\_\_ day of \_\_\_\_\_, 1994.

AMENDED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Oscar Klein, M.D., 503 Manatee Ave., Suite E, Bradenton Beach, FL 34217, and to Roger Lutz, Esq, One Sarasota Tower, Fifth Floor, 2 North Tamiami Tr., Sarasota, FL 34236 and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, 1940 North Monroe St., Tallahassee, FL 32399-0792 at or before 5:00 p.m., this 12th day of April, 1994.

Miriam Harris

FILED

Department of Business and Professional Regulation  
DEPUTY CLERK

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

CLERK *[Signature]*  
DATE 11-29-93

OSCAR KLEIN,

Respondent/Appellant,

v.

CASE NO. 92-02526 (DCA)  
89-09833 (DPR)  
89-10360 (DPR)

DEPARTMENT OF BUSINESS  
AND PROFESSIONAL REGULATION,

Petitioner/Appellee.

MOTION FOR FINAL ORDER  
IN CONFORMANCE WITH THE MANDATE

The Petitioner/Appellee, Department of Business and Professional Regulation, by and through undersigned counsel, files this Motion for Final Order in Accordance with the Mandate and in support thereof would state:

1. Respondent/Appellant, Oscar Klein, is a physician duly licensed by the Board of Medicine.
2. Dr. Klein was originally charged by Administrative Complaint with a violation of section 458.331(1)(b), Florida Statutes, being found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability practice medicine.

3. Specifically, Klein was found guilty of one count of Medicare Fraud in the United States District Court for the Middle District of Florida.

4. An informal hearing pursuant to section 120.57(2) was held, and the Board of Medicine issued a final order filed June 25, 1992, finding Dr. Klein guilty of a violation of section 458.331(1)(b), Florida Statutes.

5. The final order revokes Dr. Klein's license to practice medicine.

6. Dr. Klein filed a timely Notice of Appeal in the Second District Court of Appeal on or about July 9, 1992. The revocation was stayed during the pendency of the appeal.

7. After the filing of briefs and oral argument, the Court filed its Opinion on August 20, 1993, affirming the findings and conclusions of guilt, but reversing the revocation of Dr. Klein's license to practice medicine and remanding to the Board for reconsideration of the penalty. The Court further states that if the facts which form the basis for the penalty continue to be in dispute, Dr. Klein has the right to a formal hearing.

8. The Department moved for rehearing and clarification en banc. The original opinion was clarified by Order of the Court dated October 22, 1993, correcting footnote 1. However, the Court denied, by the same Order, the motion for rehearing and rehearing en banc. (See attached copies of the Mandate, Order and Opinion of the Court.)

WHEREFORE, based on the foregoing, the Department respectfully requests that the Board issue a new final order in accordance with the mandate.

Respectfully submitted,



Kathryn L. Kasprzak  
Assistant General Counsel  
Florida Bar No. 937819  
Department of Business and  
Professional Regulation  
1940 North Monroe Street  
Northwood Center, Suite 60  
Tallahassee, FL 32399-0792  
(904) 488-3140  
SUNCOM 278-3140

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. mail to Rebecca A. Baitty, Esquire, and H. Roger Lutz, Esquire, counsel for Appellant, Lutz, Webb, Bobo and Baitty, P.A., One Sarasota Tower, Fifth Floor, 2 North Tamiami Trail, Sarasota, FL 34236, and by interoffice mail to Larry G. McPherson, Chief Medical Attorney, Division of Regulation-Legal, Department of Business and Professional Regulation, 1940 North Monroe, Tallahassee, FL 32399; and to Allen Grossman, Assistant Attorney General for Board of Medicine, Attorney General's Office, The Capitol, Tallahassee, FL 32399-1050, and to arm Harris, Executive Director, Board of Medicine, 1940 North Monroe Street, Tallahassee, FL 32399, this 29<sup>th</sup> day of November, 1993.



Kathryn L. Kasprzak

FILED

Department of Professional Regulation  
AGENCY CLERK

*J. Wilson*

CLERK

DATE

6-25-92

BOARD OF MEDICINE

DEPARTMENT OF PROFESSIONAL  
REGULATION,

Petitioner,

-vs-

DPR CASE NUMBERS: 89-09833  
89-10360  
LICENSE NUMBER: ME 0038601

OSCAR KLEIN, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the Board of Medicine (Board) pursuant to Section 120.57(2), Florida Statutes, on June 6, 1992, in Tampa, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause. At the hearing, Petitioner was represented by Larry G. McPherson, Jr., Chief Medical Attorney; Respondent was present and testified at the hearing. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.

3. The violations set forth warrant disciplinary action by the Board. THEREFORE,

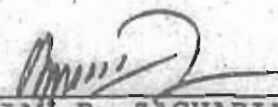
IT IS HEREBY ORDERED AND ADJUDGED:

Respondent's license to practice medicine in the State of Florida is REVOKED.

This order takes effect upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 15<sup>th</sup> day of June, 1992.

BOARD OF MEDICINE

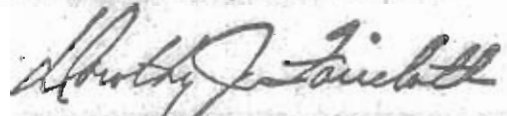
  
ZACHARIAH P. ZACHARIAH, M.D.  
CHAIRMAN

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by certified mail to Oscar Klein, M.D., 401 Manatee Avenue, Holmes Beach, Florida 34217-1920, and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this 25<sup>th</sup> day of June, 1992.

  
Dorothy J. Fairchild





UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA :  
v. : CASE NO. 91-258-CR-T-21(c)  
OSCAR KLEIN :

INFORMATION

The United States Attorney charges:

COUNT ONE

From on or about September 29, 1988 through in or about  
December of 1989,

OSCAR KLEIN,

defendant herein, then having knowledge of the occurrence of an event affecting the initial and continued right of another to receive payment under the Medicare program, namely, the false representation to Medicare that a referring physician examined and ordered testing for patients at Westbay Medical Clinic, Halmes Beach, Florida, did conceal and fail to disclose such event when no such payment was authorized.

In violation of Title 42, United States Code, Section  
1320(a)-7b.

ROBERT W. GENZMAN  
United States Attorney

By: *Monte C. Richardson*  
MONTE C. RICHARDSON  
Assistant United States Attorney

By: *Todd Foster*  
TODD FOSTER  
Assistant United States Attorney  
Chief, Major Crimes Section

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION



UNITED STATES OF AMERICA

v.

OSCAR KLEIN

CASE NO. 91-

Cr-T

PLEA AGREEMENT

Pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure, the United States of America, by Robert W. Genzman, United States Attorney for the Middle District of Florida, and the defendant, Oscar Klein, and his attorney, Joseph H. Ficarrota, have agreed upon the following:

1. With regard to the above-captioned case:
  - (a) Defendant will enter a voluntary plea of guilty to Count One of the Information, charging him with violation of Title 42, United States Code, Sections 1320(a)-7b;
  - (b) Defendant agrees to cooperate fully with the government and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any United States District Court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents and other objects in his possession or control relating to relevant matters, and making himself available for interviews by law enforcement officers. The defendant further agrees the such cooperation may include submission for a polygraph examination. If the cooperation is

completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" pursuant to 18 U.S.C. § 3553(e), Section 5K1.1 of the Sentencing Guidelines, and the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of sentencing recommending a downward departure from the applicable guideline range. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, and the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence. In either case, the defendant understands that the determination as to whether he has provided "substantial assistance" rests solely with the government, and the defendant agrees that he cannot and will not challenge that decision, whether by appeal, collateral attack or otherwise.

- (c) At the time of sentencing, the government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation, and any other mitigating circumstances indicative of the defendant's intent to rehabilitate himself and to assume the fundamental civic duty of reporting crime.
- (d) At the time of sentencing, pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure, the

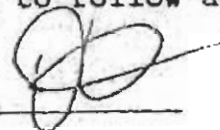
Defendant's Initials JK

government will not oppose the defendant's request to the Court and the United States Probation Office that in sentencing the defendant the Court not depart upward from the applicable sentencing guideline range.

- (e) The government reserves its right of allocution, that is, to make known to the United States Probation Office and to the Court all relevant facts, and to make whatever recommendation regarding the disposition of this case which it deems appropriate.
- (f) If the Court accepts the plea agreement, the government agrees not to charge defendant with committing any other federal criminal offenses known to the government at the time of the execution of this agreement, arising out of his affiliation with Healthlift, Inc., during the periods from September 29, 1988 through November 14, 1989, that he admits to prior to arraignment.

2. It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. It is further understood by the parties that the Court is not bound by any recommendation or request made by the parties, pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure, as to the appropriate sentence, and the defendant may not withdraw his plea of guilty if the Court declines to follow any such recommendations or

Defendant's Initials

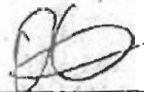


requests. The government expressly reserves the right to support and defend any decision the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

3. Defendant understands that he will be sentenced pursuant to the Federal Sentencing Guidelines as promulgated by law. Defendant understands that the particular sentencing guidelines, if any, applicable to his case will be determined solely by the Court. Defendant further understands that the Court is required to consider any applicable sentencing guidelines but may depart from those guidelines under some circumstances. Defendant further understands that any discussions between himself, or his attorney, and the government regarding application of the guidelines are not binding on the Court, and that he will not be permitted to withdraw his plea of guilty based upon the actual application of the guidelines to his case as eventually determined by the Court, except as expressly otherwise provided for in paragraph two of this agreement. Defendant acknowledges that he and his attorney have discussed the sentencing guidelines, and that he understands how the guidelines are applicable to his case.

4. Defendant and his attorney acknowledge that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant or his

Defendant's Initials           



attorney and without promise of benefit of any kind (other than the concessions contained in this agreement); and without threats, force, intimidation or coercion of any kind.

5. Defendant acknowledges that he understands the nature and elements of the crime with which he has been charged and to which he is pleading guilty.

6. Defendant understands the Count to which he will plead guilty carries the following penalties:

- (a) Count One is punishable by a maximum term of imprisonment of one (1) year.

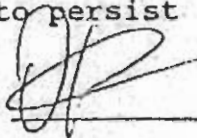
Defendant further understands that in addition to any other penalty authorized by law, the Court may order him to make restitution to any victim of the offenses, pursuant to the provisions of Title 18, United States Code, Section 3663.

7. Defendant understands that the Court shall impose upon him a special assessment of \$25.00, in addition to any fine or other penalties authorized by law, on each count involving an offense occurring on or after November 11, 1984, (if any) to which he is entering a plea of guilty, to be paid on the day of sentencing to the Clerk of the District Court.

8. Defendant acknowledges that he is completely satisfied with the representation and advice received from his undersigned attorney.

9. Defendant understands that he has the right to plead not guilty or to persist in that plea if it has already

Defendant's Initials



been made, and that he has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against him, the right not to be compelled to incriminate himself, and the right to compulsory process for the attendance of witnesses to testify in his defense; but by pleading guilty he waives or gives up those rights and there will be no trial.

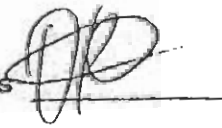
10. Defendant understands that upon pleading guilty the Court may ask him questions about the offense to which he has pleaded guilty, and any answers he gives under oath, on the record and in the presence of defense counsel may later be used against him in a prosecution for perjury or false statements.

11. Defendant further understands that he will be adjudicated guilty of the misdemeanor offense to which he has pleaded.

12. This agreement shall be presented to the Court, and filed in this cause, for the purpose of defendant's entry of a plea of guilty pursuant hereto.

13. Defendant will plead guilty because he is in fact guilty of the charge contained in Count One of the Information. In pleading guilty to this Count, defendant acknowledges the facts as stated in the stipulation contained below are true, and were the case to go to trial, the government would be able to prove beyond a reasonable doubt the following:

Defendant's Initials





Stipulated Facts

The Medicare health insurance program is fully funded by the federal government and is administered by the Health Care Financing Administration of the United States Department of Health and Human Services. Blue Cross and Blue Shield of Florida, Inc., acts as the agent for Medicare in the State of Florida.

As a general rule, Medicare Part B carriers reimburse for diagnostic testing only if it is billed by a physician or a supplier that has been specifically certified by the Health Care Financing Administration to perform such testing. For diagnostic tests performed by an independent ultrasound supplier to be reimbursed by Medicare Part B, the test must be ordered by a physician who is actively treating the patient and the test must be "medically reasonable and necessary" for the diagnosis of the patient's condition.

In late July or early August 1988, at the suggestion of Dr. Joe Witek, Wesley Blevins met with Dr. Oscar Klein about arranging for Healthlift, Inc. to perform testing at Dr. Klein's practice, Westbay Medical Walk-In Clinic, Holmes Beach, Florida, Wesley Blevins was the executive director and Dr. Joe Witek was the medical coordinator.

In August 1988, Healthlift placed an advertisement in the Bradenton Herald newspaper offering "free tests that may help you prevent stroke and heart attack", offered by Dr. Oscar Klein

Defendant's Initials OK

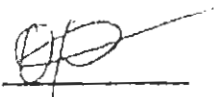
and the Westbay Medical Walk-In Clinic. The advertisement indicated that ultrasound and other tests, "ordinarily costing \$700.00, are a gift to you if you . . . " qualified with certain problems or conditions specified in the advertisement.

As a result of the advertisement, numerous individuals contacted the clinic and scheduled appointments for free testing. Many of these individuals had health insurance coverage provided by the Medicare program. The purpose of the advertisement was to attract and add new patients to Dr. Klein's patient base. Many of the individuals who scheduled appointments at the clinic and were subsequently tested by Healthlift were not established patients of Dr. Klein nor were they being actively treated by Dr. Klein.

Medicare requires that a physician examine a patient to determine if non-invasive vascular testing is medically reasonable and necessary for the diagnosis of the patient's condition. Medicare beneficiaries revealed they were not examined by a physician at the walk-in clinic prior to submitting to non-invasive vascular testing performed by Healthlift. In absence of a physician's examination and recommendation for further testing, Medicare considers this a routine screening procedure, for which it does not reimburse the supplier.

To receive payment from medicare for services rendered, the government requires the submission of a completed health

Defendant's Initials



insurance claim form. The claim also requires the name of the physician which referred the patient for testing.

On September 29, 1988, Blevins caused numerous claims to be electronically transmitted to Blue Cross and Blue Shield of Florida for payment. Blevins misrepresented on each and every claim the name of a referring physician, fully knowing that the named physician never examined or ordered testing for the patient. Klein, later having knowledge of this false billing practice, failed to report and did assist in concealing such information about the false billing when no payment was authorized.

Klein admits that the above-mentioned facts can establish a violation of Title 42, United States Code, Section 1320(a)-7(b). He also admits to committing this offense knowingly and willfully.

14. It is understood by the parties that if either party fails to abide by the terms of this plea agreement, the agreement is voidable at the option of the aggrieved party. If this agreement is voided, neither party is bound by the terms of this agreement.

15. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and reasonably disclose and

Defendant's Initials



provide full and complete cooperation, which determinations are within the sole discretion of the United States, this agreement is voidable at the option of the United States, and the following conditions shall then also apply:

- (a) The defendant may be prosecuted for any perjury or false statements, if any, committed while testifying pursuant to this agreement or for obstruction of justice; should he commit these offenses during the time in which he is cooperating with law enforcement pursuant to the agreement;
- (b) The government may prosecute the defendant for the federal crimes which were or are to be dismissed or not to be charged pursuant to this agreement (if any);
- (c) The government may prosecute the defendant for any other federal crimes which he has committed;
- (d) The government may use against the defendant his own admissions and statements and the information and books, papers, documents and objects that he himself has furnished in the

Defendant's Initials



course of his cooperation with the government; and

- (e) The defendant hereby waives prosecution by indictment and consents that the United States may proceed by information with regard to any felony charges, and the defendant agrees to waive the applicable statute of limitations and speedy trial defenses to such charges.

16. It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state or local prosecuting authorities, although this Office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

Defendant's Initials

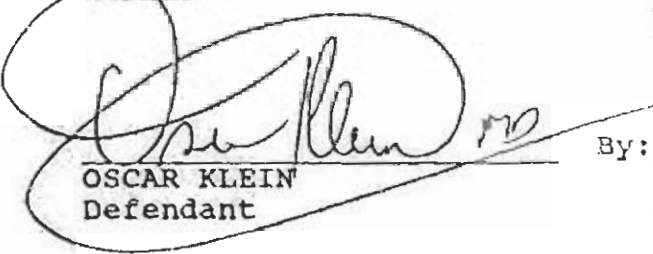


17: The undersigned counsel certify that this agreement has been read by (or has been read to) the defendant, and that defendant fully understands its terms.

DATED this 5 day of SEPTEMBER, 1991.

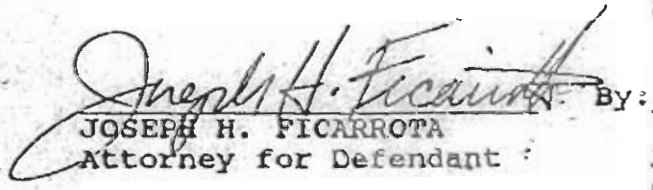
AGREED:

ROBERT W. GENZMAN  
United States Attorney

  
OSCAR KLEIN  
Defendant

By: \_\_\_\_\_  
MONTE C. RICHARDSON  
Assistant United States Attorney

By: \_\_\_\_\_  
SIDNEY ROCKE  
Special Assistant U.S. Attorney

  
JOSEPH H. FICARROTA  
Attorney for Defendant

By: \_\_\_\_\_  
TODD FOSTER  
Assistant United States Attorney  
Chief, Major Litigation Section



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

MAY - 7

POOR DOCUMENT

Mr. Larry G. McPherson, Jr.  
Chief Medical Attorney  
DPR Division of Regulations - Legal  
1940 North Monroe Street  
Tallahassee, Florida 32399-0792

Dear Mr. McPherson:

Re: Oscar Klein, M.D.  
Case Nos. 8909833 & 8910360

I was the Federal prosecutor who handled the criminal case of United States v. Klein, which I believe is the basis for the administrative complaint in the two above-referenced case numbers. In essence, Dr. Klein pled guilty to concealing his knowledge of false Medicare claims by the Healthlift company. This was a misdemeanor violation of 42 USC § 1320a-7b(a).

Since initially being confronted by the government, Dr. Klein has been quite candid and open about his activities. In fact, the government recommended, and the court agreed, that he be given a reduced sentence because of his personal acceptance of responsibility. Furthermore, Dr. Klein has been highly cooperative in assisting the government with other investigations aimed at maintaining the integrity of our nation's health care system. He has not only provided evidence, but has agreed to testify truthfully if called upon to do in the future. If you have any further questions, feel free to write or call me at (202) 619-1525.

Sincerely yours,

*Sidney Rocke*  
Sidney Rocke  
Special Prosecutor

cc: Joseph Ficarrott Esquire

DEC 1989

STATE OF FLORIDA  
DEPARTMENT OF PROFESSIONAL REGULATION  
BOARD OF MEDICINE



DEPARTMENT OF PROFESSIONAL  
REGULATION,

PETITIONER,

vs.

CASE NOS. 8909833 & 8910360

OSCAR KLEIN, M.D.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against OSCAR KLEIN, M.D., hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.30, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0038601. Respondent's last known address is 401 Manatee Avenue, Holmes Beach, Florida 34217-1920.

3. On or about December 3, 1991, Respondent pleaded guilty to, and was found guilty of, one count of Medicare Fraud in the United States District Court, Middle District of Florida.



4. Medicare is a federal medical and hospital care program for the elderly.

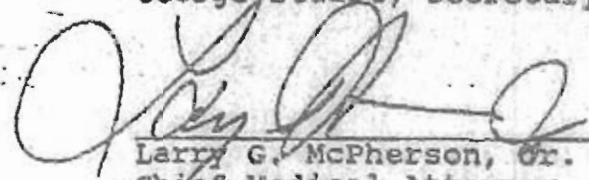
5. Respondent is guilty of being found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine in that Respondent was found guilty of one count of Medicare Fraud in the United States District Court, Middle District of Florida.

6. Based on the preceding allegations, Respondent violated Section 458.331(1)(b), Florida Statutes, in that he is guilty of being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 30 day of March, 1992.

George Stuart, Secretary



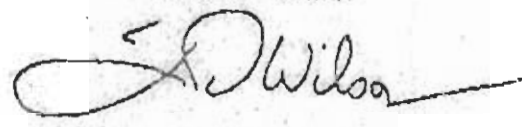
Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
CJR/DPB/tb  
PCP: March 23, 1992  
McEwen, Kaiser, Dauer

FILED

Department of Professional Regulation  
AGENCY CLERK



CLERK \_\_\_\_\_  
DATE 3-31-92