

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-20013
LICENSE NO.: ME0047383

CARLOS M. RAMIREZ-CALDERON, 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 November 30, 2012, in Orlando, 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 was accepted on the record by the parties. 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 \$3,990.73.

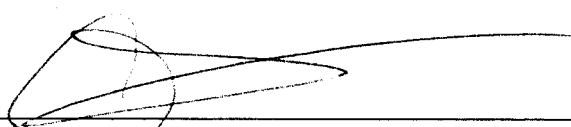
2. Within six months from the date this Final Order is filed, Respondent shall present a one hour lecture to the entire medical staff of the hospital at which the Respondent maintains staff privileges. The lecture shall address the subject of the **management of encephalitis**. Respondent shall submit a written plan to the Board's Probation Committee for approval prior to the performance of said lecture. Documentation of completion of said lecture shall be provided to the Board's Probation Committee.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated 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 7th day of December, 2012.

BOARD OF MEDICINE



Allison M. Dudley, J.D., Executive Director
For Jason J. Rosenberg, 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 CARLOS M. RAMIREZ-CALDERON, M.D., 9240 SW 72nd Street, Miami, Florida 33173; to Brian Newman, Esquire, 215 South Monroe Street, 2nd Floor, Tallahassee, Florida 32302-2095; and by interoffice delivery to Sharmin Hibbert, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 10 day of December, 2012.

Amy L. Conway

Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2010-20013

CARLOS RAMIREZ-CALDERON, M.D.,

Respondent,

_____ /

SETTLEMENT AGREEMENT

Carlos Ramirez-Calderon, 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 47383.

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 five thousand dollars (\$5,000.00) against the license of Respondent, to be paid by Respondent to Payments, Department of Health; Compliance Management Unit, Bln C-76, P. O. Box

6320, Tallahassee, FL 32314-6320, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by cashiers 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 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 is currently *three thousand seven hundred thirty-four dollars and seventy-two cents (\$3,734.72)*, but shall not exceed *five thousand two hundred thirty-four dollars and seventy-two cents (\$5,234.72)*.

Respondent will pay costs to Payments, Department of Health, Compliance Management Unit, Bin C-76, P. O. Box 6320, Tallahassee, FL 32314-6320, within thirty-days (30) from the date of filing of the Final Order in this cause. All costs shall be paid by cashiers check or money order. 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. 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.

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 written agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). Respondent shall submit documentation 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 date of filing of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, 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. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education course(s) shall consist of a formal, live lecture format.

4. **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.

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of terms 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.

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 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.

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 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.

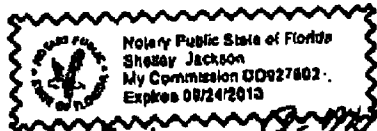
SIGNED this 11 day of September, 2012.

[Handwritten Signature]
Carlos Ramirez-Calderon, M.D.

STATE OF FLORIDA
COUNTY OF Miami Dade

Before me, personally appeared Carlos Ramirez-Calderon, whose identity is known to me or by Florida, Domestic (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 12 day of September, 2012.



[Handwritten Signature]
NOTARY PUBLIC

My Commission Expires: 9-24-2012

APPROVED this 19th day of September, 2012.

John H. Armstrong
State Surgeon General and
Secretary of Health

[Handwritten Signature]
Diane K. Kiesling
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2010-20013

CARLOS M. RAMIREZ-CALDERON, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel, files this Administrative Complaint before the Board of Medicine against Respondent, Carlos M. Ramirez-Calderon, M.D., and in support thereof alleges:

1. Petitioner is the state department 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 47383.
3. Respondent's address of record is 9240 S.W. 72nd Street, #238, Miami, Florida 33173.

4. Respondent practices neurology but is not Board certified.
5. Patient H.D. (HD), a 48 year-old male, presented to Coral Gable Hospital Emergency Department (ED) via Fire Rescue on March 8, 2010, around 7:00 a.m. for headaches, altered mental status, and fever of 102 degrees. He was described as awake, confused, flat and Inappropriate for age, and oriented to person. The preliminary diagnosis by the ED doctor was transient ischemic attack (TIA).
6. Patient HD was given aspirin, acetaminophen, and IV Levaquin. Assorted diagnostic tests were obtained or ordered, including blood cultures.
7. His brain CT on March 8, 2010, showed "small sites of intra-axial attenuation in the left posterior mesial frontal and minimally right posterior mesial frontal region consistent with acute nonhemorrhagic areas of infarction in the pericallosal territories."
8. A neurologist from Tele-physicians advised to evaluate HD for encephalopathy, rather than TIA or stroke, and to do a lumbar puncture; however, the lumbar puncture was not done.
9. Respondent was called for a neurological consult on March 8, 2010, around 2:00 p.m. He described HD as awake, alert, anxious,

perplexed, aphasic, able to follow simple commands, but very slow with complex ones. Respondent recorded his impression as TIA and hypertensive crisis and his recommendations were focused on additional cardio-vascular monitoring and diagnostic procedures. He did not follow the Tele-physician's recommendation of a lumbar puncture.

10. Respondent next saw HD on March 9, 2010, at approximately 8:00 a.m., at which time he observed persistent aphasia, temperature of 103 degrees, and less responsiveness. He ordered a brain MRI scan. Respondent noted that "the remote possibilities of a CNS infection also considered, but there is no sign at the present time of that. Therefore CSF (cerebrospinal fluid) studies will be considered only if indeed clinically deemed to do so."

11. Respondent next saw HD on March 10, 2010, around 6:00 a.m. and observed him to awake, but not responding directly to commands or speech. Respondent ordered a brain MRA and decided to wait for an Infectious Disease assessment.

12. Later that day, HD was assessed by an Infectious Disease specialist. At that time, antibacterial antibiotics were already in place, but

the Infectious Disease specialist did not start antiviral drugs even though he suspected Herpes Simplex Encephalitis.

13. On March 11, 2010, HD went into respiratory distress and was intubated and ventilated. He had tonic seizures. At that point a lumbar puncture was not possible without anesthesiology support. The Infectious Disease specialist finally ordered antiviral medication, IV Acyclovir.

14. Respondent saw HD on March 12, 2010, around 5:00 a.m., and attempted a lumbar puncture at his bedside, but failed. Later that day a radiologist completed the lumbar puncture under fluoroscopy and it was positive for Herpes Simplex Encephalitis.

15. As a result of the delayed treatment, HD is in a significantly neurologically impaired state.

16. Based on the initial presentation on March 8, 2010, infectious meningitis or encephalitis should have been in the differential diagnosis.

17. A lumbar puncture should have been performed immediately, while HD could still cooperate with the performance of the procedure.

18. An antiviral, like Acyclovir, should have been started empirically immediately, along with the antibacterial antibiotic. If the cause of HD's

condition ultimately was not viral, Acyclovir could be discontinued without harm to the patient.

19. Respondent's initial diagnosis was inadequate and inaccurate based on HD's symptoms, and he never listed the correct diagnosis as one he considered in his differential diagnoses. Even as HD's symptoms worsened each day, Respondent continued to treat him on a vascular basis, instead of an infectious basis.

20. Respondent should have accomplished a lumbar puncture in the ER or the ICU while HD could still cooperate.

21. Even before the lumbar puncture, Respondent should have empirically treated HD with Acyclovir, along with the broad spectrum antibiotics that were given.

22. The standard of care requires a neurologist to consider the possibility of meningitis or encephalitis in a patient presenting with headaches, altered mental status and fever, along with CT brain abnormalities. Respondent failed to meet this standard of care.

23. The standard of care requires treatment with Acyclovir based on HD's symptoms until meningitis or encephalitis are ruled out. Respondent failed to timely meet this standard of care.

24. The standard of care requires an early completion of the lumbar puncture to confirm or rule out the differential diagnoses of meningitis or encephalitis. Respondent failed to timely perform the necessary lumbar puncture and, thereby, fell below the standard of care.

25. Section 458.331(1)(t)1., Florida Statutes (2008), subjects a doctor to discipline for committing medical malpractice as defined in Section 456.50. Section 456.50, Florida Statutes (2008), 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.

26. The 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 (2008), defines the standard of care to mean ". . . The 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. . . ."

27. Respondent fell below the acceptable standard of care in one or more of the following ways:

a. By failing to consider or pursue the possibility of meningitis or encephalitis;

b. By failing to include meningitis or encephalitis in his differential diagnoses;

c. By failing to immediately initiate treatment with Acyclovir based on HD's presenting symptoms;

d. By delaying the completion of the lumbar puncture to confirm or rule out a diagnosis meningitis or encephalitis.

28. Based on the foregoing, Respondent has violated Section 458.331(1)(t)1., Florida Statutes (2008), by committing medical malpractice.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of

fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 24th day of August, 2012.

John H. Armstrong, MD
State Surgeon General and
Secretary of Health



Diane K. Klesling
Assistant General Counsel
DOH-Prosecution Services Unit
4052 Bald Cypress Way-Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar # 233285
(850) 245-4640
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE AUG 27 2012

DKK

PCP: August 24, 2012

PCP Members: Dr. Miguel, Dr. Stringer, Mr. Levine

DOH v. Carlos M. Ramirez-Calderon, M.D., Case No. 2010-20013

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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 to any other discipline imposed.