

STATE OF FLORIDA  
BOARD OF MEDICINE

FILED DATE - AUG 21 2017  
Department of Health

*Amber Greene*  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2014-19026

LICENSE NO.: ME0059840

ELY D. PELTA, 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 August 4, 2017, in Miami, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarifications:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$12,505.60.


2. At the hearing and on the record, the parties orally agreed that Paragraph 6 of the Stipulated Disposition shall be amended to add that the Board retains jurisdiction in this matter to determine the conditions for reinstatement, and may impose additional terms and conditions on Respondent's practice such as a period of probation with terms and conditions to be set at the time of reinstatement.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

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

DONE AND ORDERED this 21<sup>st</sup> day of August, 2017.

BOARD OF MEDICINE

  
\_\_\_\_\_  
Claudia Kemp, J.D., Executive Director  
For Magdalena Averhoff, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **Certified Mail** to ELY D. PELTA, M.D., 9974 NW 65<sup>th</sup> Manor, Parkland, Florida 33076; and 11645 Biscayne Boulevard, Suite 309, North Miami, Florida 33181;

to John Londot, Esquire, and Evelyn Cobos, Esquire, Greenberg Traurig, P.A., 101 E. College Avenue, Tallahassee, Florida 32301; by email to Allison Dudley, Assistant General Counsel, Department of Health, at [Allison.Dudley@flhealth.gov](mailto:Allison.Dudley@flhealth.gov); and by email to Edward A. Tellechea, Chief Assistant Attorney General, at [Ed.Tellechea@myfloridalegal.com](mailto:Ed.Tellechea@myfloridalegal.com) this 21<sup>st</sup> day of August, 2017.

|||||.....  
Ely D. Pelta, M.D.  
9974 NW 65th Manor  
Parkland, FL 33076

**Certified Article Number**  
9414 7266 9904 2090 7513 62  
**SENDERS RECORD**

*Anber Greene*  

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**Deputy Agency Clerk**

|||||.....  
John Londot, Esquire & Evelyn Cobos, Esq.  
Greenberg Traurig, P.A.  
101 E. College Ave  
Tallahassee, FL 32301

**Certified Article Number**  
9414 7266 9904 2090 7513 48  
**SENDERS RECORD**

|||||.....  
Ely D. Pelta, M.D.  
11645 Biscayne Blvd  
Suite 309  
North Miami, FL 33181

**Certified Article Number**  
9414 7266 9904 2090 7513 55  
**SENDERS RECORD**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**Case No.: 2014-19026**

**ELY D. PELTA, M.D.,**

**Respondent.**

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Ely D. Pelta, 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 59840.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 456, Florida

Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

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

#### **STIPULATED CONCLUSIONS OF LAW**

1. Respondent admits that, in his 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 456, 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 *Ten Thousand Dollars (\$10,000.00)* against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of any fine imposed by

the Board must be approved in advance by the Probation Committee of the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. Reimbursement of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is *Eleven Thousand Three Hundred Eight Dollars and Twenty Cents (\$11,308.20), but shall not exceed Thirteen Thousand Three Hundred Eight Dollars and Twenty Cents (\$13,308.20)*. Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320,

Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any change in the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

**RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.**

4. **Laws And Rules Course** - Within eighteen (18) months of the filing of the Final Order, Respondent shall complete the course "Legal and Ethical Implications in Medicine: Physician's Survival Guide - Laws and Rules" administered by the Florida Medical Association, or a Board-approved equivalent, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee.

5. **Continuing Medical Education** - Within one year of the date of the filing of a Final Order, Respondent shall complete ten (10) hours of Continuing Medical Education (CME) in Ethics, and shall submit documentation of such completion, in the

form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee.

6. **Suspension** - Respondent's license to practice medicine in the State of Florida is hereby SUSPENDED for a minimum of six (6) months from the date of filing of the Final Order in this case. Following completion of the six (6) month suspension period, Respondent's license shall remain suspended until such time as he demonstrates to the Board his ability to practice medicine with reasonable skill and safety. Such demonstration of skill and safety shall include an evaluation by the Physicians Resource Network (PRN). The Board reserves jurisdiction in this matter to impose additional terms and conditions, including a period of probation with terms and conditions to be determined by the Board at the time of reinstatement of Respondent's license to practice medicine. However, the term of suspension shall be imposed prior to the Board's considering Respondent's petition for reinstatement. Respondent shall not practice medicine in Florida until he petitions the Board for reinstatement, appears before the Board, and has his license reinstated.

#### **STANDARD PROVISIONS**

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.



3. **Continuing Medical Education** - Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses.

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner profile and licensure renewal updates. Prior to signing this agreement, the Respondent

shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. **No Preclusion Of Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. **Waiver Of Attorney's Fees And Costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. **Waiver of Further Procedural Steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

*[Signatures appear on the following page.]*

SIGNED this 28 day of July, 2017.



Ely D. Pelta, M.D.

STATE OF FLORIDA

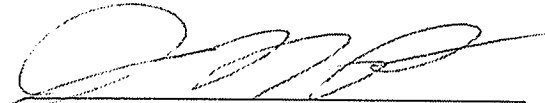
COUNTY OF Broward

BEFORE ME personally appeared Ely Pelta, whose identity is known to me or who produced FLDL # P436-204-57-16 (type of identification) and who, under oath, acknowledges that his signature appears above.

SWORN TO and subscribed before me this 28 day of July, 2017.



JASON N PERRYMAN  
MY COMMISSION # FF 0071558  
EXPIRES: February 22, 2018  
Bonded Thru Budget Notary Services

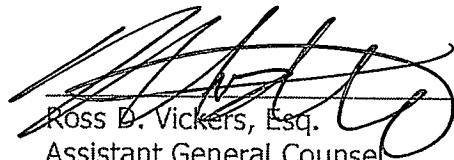


NOTARY PUBLIC

My Commission Expires: 2-22-18

APPROVED this 4th day of August, 2017.

Celeste Philip, MD, MPH  
State Surgeon General & Secretary  
State of Florida

By:   
Ross D. Vickers, Esq.  
Assistant General Counsel  
Department of Health

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**Case No. 2014-19026**

**ELY D. PELTA, M.D.,**

**RESPONDENT.**

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**ADMINISTRATIVE COMPLAINT**

Petitioner Department of Health hereby files this Administrative Complaint before the Board of Medicine against Respondent Ely D. Pelta, 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 59840.

3. Respondent's address of record is 11645 Biscayne Boulevard, Suite 309, North Miami, Florida 33181.
4. Respondent is board certified in Psychiatry by the American Board of Psychiatry and Neurology.
5. During times material to this Complaint, Respondent had a physician-patient relationship with Patient B.R., an adult female.
6. On one or more occasions in May 2014, Patient B.R. presented to Respondent with complaints of anxiety and depression resulting from job-related stress.
7. Beginning on or about May 10, 2014 and continuing through on or about May 20, 2014, Respondent sent Patient B.R. multiple text messages.
8. One or more of the aforementioned text messages pertained to Patient B.R.'s treatment.
9. One or more of the aforementioned text messages pertained to Respondent using purported connections to get Patient B.R. a new job, with Respondent suggesting that Patient B.R. would owe him a favor.
10. One or more of the aforementioned text messages contained sexually-suggestive and/or sexually-explicit language.

11. In one or more of the aforementioned text messages, Respondent indicated that Patient B.R. needed a "sugar daddy."<sup>1</sup>

12. In one or more of the aforementioned text messages, Respondent told Patient B.R. to be his "sugar baby."

13. In one or more of the aforementioned text messages, Respondent indicated to Patient B.R. that he was naked/in a state of undress from the waist down while seeing another patient, and that the patient did not know.

14. In one or more of the aforementioned text messages, Respondent indicated that he would be naked the next time Patient B.R. came in.

15. In one or more of the aforementioned text messages, Respondent told Patient B.R. to focus on him and indicated that he was naked.

16. In one or more of the aforementioned text messages, Respondent indicated to Patient B.R. that he was taking naked pictures to distract her.

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<sup>1</sup> "Sugar daddy" is a colloquial term for a man who gives money, gifts, etc., to someone (such as a younger woman) in exchange for physical intimacy and/or companionship.

17. In one or more of the aforementioned text messages, Respondent indicated to Patient B.R. that he was going to "celebrate by getting naked."

18. One or more of the aforementioned sexually-suggestive and/or sexually-explicit text messages were sent outside the scope of Respondent's practice as a medical doctor.

19. Section 456.072(1)(v), Florida Statutes (2013), provides that engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes (2013), is grounds for discipline.

20. Section 456.063(1), Florida Statutes (2013), provides that sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.



21. The Respondent used his professional relationship with Patient B.R. to engage or attempt to engage Patient B.R. in, or to induce or attempt to induce Patient B.R. to engage in, verbal or physical sexual activity outside the scope of the Respondent's professional practice as a medical doctor by sending Patient B.R. one or more of the aforementioned sexually-suggestive and/or sexually-explicit text messages.

22. Based on the foregoing, the Respondent violated Section 456.072(1)(v), Florida Statutes (2013), by engaging or attempting to engage in sexual misconduct as prohibited in Section 456.063(1), Florida Statutes (2013).

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.

(SIGNATURE PAGE FOLLOWS)

SIGNED this 31<sup>st</sup> day of October, 2016.

CELESTE PHILIP, MD, MPH  
State Surgeon General and Secretary

*Ross D. Vickers*

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Ross D. Vickers, Esq.  
Florida Bar Number 121717  
Assistant General Counsel  
Office of the General Counsel  
Prosecution Services Unit  
Florida Department of Health  
4052 Bald Cypress Way, Bin #C-65  
Tallahassee, Florida 32399-3265  
Telephone: (850) 245-4640, Ext. 8165  
Facsimile: (850) 245-4684  
Email: Ross.Vickers@flhealth.gov

**FILED**  
**DEPARTMENT OF HEALTH**  
**DEPUTY CLERK**  
CLERK: *Angel Sanders*  
DATE: **OCT 31 2016**

PCP: October 28, 2016

PCP Members: Georges El-Bahri, M.D.; Sarvam Terkonda, M.D.; Bradley Levine

### **NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.**

**Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.**

### **NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.**