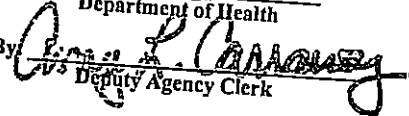


Final Order No. DOH-24-0230-5 -MQA
FILED DATE - FEB 21 2024
Department of Health
By: 
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2019-35169
LICENSE NO.: ME00116074

HUGO MARTIN ESPINOSA, 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 February 2, 2024, in Jacksonville, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

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

The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$15,000.00.

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 16th day of February, 2024.


BOARD OF MEDICINE

A handwritten signature in black ink, appearing to read "Paul A. Vazquez", written over a horizontal line.

Paul A. Vazquez, J.D., Executive Director
For Nicholas W. Romanello, Esquire, 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: Hugo Martin Espinosa, M.D., 8339 SW 59th Terrace, Ocala, FL 34476; 4379 W 16th Avenue, Hialeah, FL 33012 and Jonathan Rose, P.A., 201 South Orange Avenue, Suite 1017, Orlando, FL 32801-3477; by email to: Jonathan Rose, P.A., at jrose@jonathanrosepa.com; Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Christopher R. Dierlam, Senior Assistant Attorney General, at Christopher.Dierlam@myfloridalegal.com this 21st day of February, 2024.



Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2019-35169

HUGO MARTIN ESPINOSA, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Petitioner, Department of Health ("Department"), and Respondent, Hugo Martin Espinosa, M.D., 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 116074.

2. The Department charged Respondent with an Administrative Complaint that was 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 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 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 Complaint, 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 ***\$10,000.00*** 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 two (2) years 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 ***\$15,000.00***. 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 two (2) years 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. **Drug Course** – Respondent shall document completion of ten (10) hours of Continuing Medical Education (CME) in drug prescribing within one (1) year from the date the Final Order is filed.

6. **Records Course** – Respondent shall document completion of three (3) hours of Continuing Medical Education (CME) in medical recordkeeping 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 Order is filed.

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 7 day of August, 2023.


Hugo Martin Espinosa, M.D.

STATE OF FLORIDA
COUNTY OF Marion

BEFORE ME personally appeared Hugo Espinosa, whose identity is known to me or who produced a drivers license (type of identification) and who, under oath, acknowledges that their signature appears above.

SWORN TO and subscribed before me this 7 day of August, 2023.



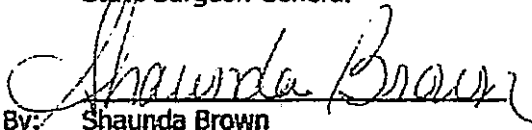
Ailsa D Burns
Comm.: HH 398100
Expires: May 15, 2027
Notary Public - State of Florida

NOTARY PUBLIC

My Commission Expires:

APPROVED this 10th day of August, 2023.

Joseph A. Ladapo, MD, PhD
State Surgeon General



By: Shaunda Brown
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
BOARD OF MEDICINE**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2019-35169

HUGO MARTIN ESPINOSA, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine ("Board") against Respondent, Hugo Martin Espinosa, 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 116074.

3. Respondent's address of record is 4379 West 16th Avenue, Hialeah, Florida 33012.

4. An alternate address for Respondent is 1580 Santa Barbara Boulevard, The Villages, Florida 32159.

5. From on or about March 3, 2016, until in or around August of 2017, Respondent treated Patient A.D. for Major Depressive Disorder and Bipolar Disorder.

6. On May 30, 2017, Respondent changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder.

7. Respondent did not clearly document in the record why he changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder.

8. Respondent prescribed Patient A.D. various benzodiazepines¹, including alprazolam², lorazepam³, temazepam⁴, diazepam⁵, and

¹ Benzodiazepines are a class of drugs used for treating anxiety, panic attacks, depression, insomnia, seizures, nausea, vomiting, and for muscle relaxation.

² A schedule IV benzodiazepine used to treat anxiety and panic disorders.

³ A schedule IV benzodiazepine used to treat anxiety.

⁴ A schedule IV benzodiazepine used to treat insomnia.

⁵ A schedule IV benzodiazepine used to treat anxiety, alcohol withdrawal, and seizures, and to relieve muscle spasms and provide sedation before medical procedures.

clonazepam⁶. Respondent switched between these medications throughout his treatment of Patient A.D.

9. Throughout his treatment of Patient A.D., Respondent prescribed Patient A.D. various antidepressants, mood-stabilizing drugs, and anti-psychotics, including Wellbutrin, Escitalopram, Lamotrigine, and Seroquel. Respondent switched between these medications throughout the course of his treatment of Patient A.D.

10. Respondent did not adequately justify in his medical records the reasons for switching between these medications.

11. Respondent also prescribed Patient A.D. oxycodone⁷ for a foot injury on or about February 22, 2017.

12. It is outside the scope of the practice of a psychiatrist to prescribe an opioid for foot pain.

13. Respondent also prescribed Patient A.D. alprazolam at the same time Respondent prescribed her oxycodone.

14. Opioids, including oxycodone, can have significant drug interactions with benzodiazepines, such as alprazolam.

⁶ A schedule IV benzodiazepine used to prevent and control seizures and panic attacks.

⁷ An opioid analgesic used to relieve moderate to severe pain.

15. The standard of care requires that benzodiazepines not be prescribed along with opioids without a sufficient justification.

16. Respondent violated the standard of care by prescribing opioids along with benzodiazepines without a sufficient justification.

17. Respondent did not adequately document concerns for potential drug interactions in his records.

COUNT ONE

18. Petitioner realleges and fully incorporates paragraphs one (1) through sixteen (16) as if fully stated herein.

19. Section 458.331(1)(t)1., Florida Statutes (2015-2017), subjects a licensed physician to discipline for committing medical malpractice as defined in section 456.50, Florida Statutes (2015-2017). Sections 456.50(1)(e) and (g), Florida Statutes (2015-2017), define 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 per the standard of care specified in section 766.102, Florida Statutes (2015-2017). Section 766.102(1), Florida Statutes (2015-2017), specifies that the prevailing professional standard of care for a physician shall be that level of care, skill, and treatment which, in light of all relevant

surrounding circumstances, is recognized as acceptable and appropriate by a reasonably prudent similar physician.

20. Respondent fell below the prevailing professional standard of care in his treatment of Patient A.D. by prescribing benzodiazepines in combination with opioids without sufficient justification.

21. Based on the foregoing, Respondent violated section 458.331(1)(t), Florida Statutes (2015-2017).

COUNT TWO

22. Petitioner realleges and fully incorporates paragraphs one (1) through seventeen (17) as if fully stated herein.

23. Section 458.331(1)(m), Florida Statutes (2015-2017), subjects a licensed physician to discipline for failing to keep legible, as defined by Department rule in consultation with the Board, medical records that identify the licensed physician who is 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 administered; and reports of consultations and hospitalizations.

24. Section 458.331(1)(nn), Florida Statutes (2015-2017), subjects a licensed physician to discipline for violating any provision of chapter 456 or chapter 458, or any rules adopted pursuant thereto.

25. Florida Administrative Code Rule 64B8-9.003(2)–(3) (2015–2017) provides standards for adequacy of medical records and states that a licensed physician shall maintain patient medical records with sufficient detail to clearly demonstrate why the course of treatment was undertaken and the medical record shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed or administered; reports of consultations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient.

26. Respondent failed to create, keep, and/or maintain written legible medical records that justified the course of treatment of Patient A.D. in one or more of the following ways:

- a. Respondent failed to clearly document in the medical record why he changed Patient A.D.'s diagnosis from Major Depressive Disorder to Bipolar Disorder;
- b. Respondent failed to adequately justify in the medical records the reasons for switching between the various benzodiazepines, anti-depressants, mood stabilizing drugs, and anti-psychotics; and
- c. Respondent failed to adequately document concerns for potential drug interactions in his records.

27. Based on the foregoing, Respondent has violated section 458.331(1)(m) and/or section 458.331(1)(nn), Florida Statutes (2015-2017), by failing to keep legible medical records that justify the course of treatment of the patient.

WHEREFORE, the Petitioner respectfully requests that the Board 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 3rd day of May, 2021.

Scott A. Rivkees, M.D.
State Surgeon General

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Bridget Coates*
DATE: May 3, 2021

/s/ Jeremy A. Trimble

Jeremy A. Trimble
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 1018994
Telephone: (850) 558-9911
Fax: (850) 245-4684 fax
Jeremy.Trimble@flhealth.gov

PCP: April 30, 2021

PCP Members: Georges El-Bahri, Jorge Lopez, M.D.; & Nicholas Romanello.

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 to any other discipline imposed.