

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2015-09610

MARVIN SPONAUGLE, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against Respondent, Marvin Sponaugle, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes; chapter 456, Florida Statutes; and chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed medical doctor within the state of Florida, having been issued license number ME 45587.
3. Respondent's address of record is 300 East State Street, Unit #203, Oldsmar, Florida 34677.
4. At all times material to this Complaint, Respondent treated patients at: Sponaugle Wellness Center ("Sponaugle Wellness"), 300 East State Street, Unit #222, Oldsmar, FL 34677.

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

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

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

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

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

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

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

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

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

12. Section 458.331(1)(t)(1), Florida Statutes (2014), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Section 456(1)(g), Florida Statutes (2014), states medical malpractice means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2014), provides that the prevailing standard of care for a given healthcare provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

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

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

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

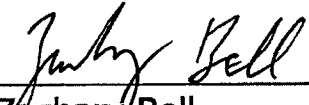
14. Based on the foregoing, Respondent violated Section 458.331(1)(t)(1), Florida Statutes (2014), by committing medical malpractice.

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

[Signature appears on the following page.]

SIGNED this 19th day of February, 2018.

Celeste Philip, MD, MPH
State Surgeon General



Zachary Bell
Assistant General Counsel
Florida Bar No. 0105735
DOH-Prosecution Services Unit
4052 Bald Cypress Way-Bin C-65
(850) 245-4666
(850) 245-4684 fax
E-Mail: zachary.bell@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **FEB 19 2018**

ZB

PCP: February 16, 2018.

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

NOTICE OF RIGHTS

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

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

NOTICE REGARDING ASSESSMENT OF COSTS

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