

STATE OF FLORIDA
BOARD OF MEDICINE

By: Racquel
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-00409

LICENSE NO.: ME0041586

ERNEST C. REHNKE, 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 June 2, 2007, in Tampa, 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:

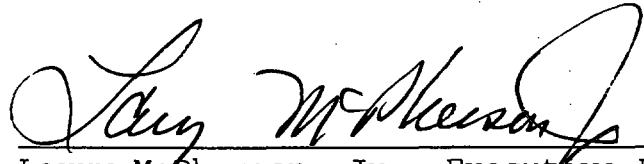
The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$3,261.40.

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 26 day of JUNE, 2007.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
for H. FRANK FARMER, JR., 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 ERNEST C. REHNKE, M.D., 1615 Pasadena Avenue, South, #460, St. Petersburg, Florida 33707; to Jeffrey S. Howell, Esquire, The Phipps Law Firm, 215 South Monroe Street, Suite 802, Tallahassee, Florida 32301; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 27 day of June, 2007.



Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

PRACTITIONER REGULATION
LEGAL

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DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2006-00409

ERNEST C. REHNKE, M.D.,

Respondent,

SETTLEMENT AGREEMENT

Ernest C. Rehnke, M.D., referred to as "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 a 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 41586.
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 the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by 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 administrative 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 includes but shall not exceed THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the Final Order in this cause. 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. Community Service - Respondent shall perform 50 hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

5. **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. **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.

4. **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.

5. **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.

6. **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.

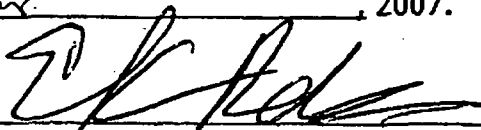
7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board

and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **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.

9. **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 28th day of February, 2007.


Ernest C. Rehnke, M.D.

Before me, personally appeared Ernest C. Rehnke M.D., whose identity is known to me by personally known to me (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of February, 2007.

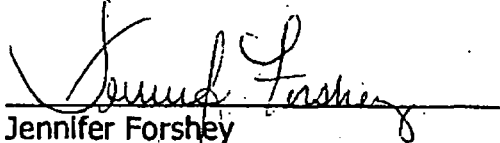
Patricia M. Keilty
NOTARY PUBLIC

My Commission Expires:



APPROVED this 12th day of April, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health



By: Jennifer Forshey
Assistant General Counsel
Department of Health

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2006-00409

ERNEST C. REHNKE, M.D.,

RESPONDENT.

FEB 09 2007

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against the Respondent, Ernest C. Rehnke, 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 physician within the State of Florida, having first been issued license number ME 41586.

3. Respondent's address of record is 1615 Pasadena Avenue South, Suite 460, St. Petersburg, Florida 33707.

4. Respondent practices in the area of general and vascular surgery.

5. On or about July 18, 2005, Patient W.S., a seventy-six year old male, presented to Respondent with complaints of bilateral leg pain with walking. Respondent's physical examination of Patient W.S. revealed no palpable pulses distally and weak Doppler signals.

6. At that time, Respondent referred Patient W.S. for a computed tomographic arteriogram ("CTA").

7. A CTA is a diagnostic study that assists in the diagnosis of peripheral vascular disease.

8. On or about July 25, 2005, Patient W.S. underwent a CTA of the lower abdominal aorta, iliac, femoral and lower extremity vasculature. The reading physician's impression of the CTA results was as follows: Complete occlusion of the superficial femoral arteries bilaterally at their origins with collateral reconstitution of the popliteal arteries. There is runoff through anterior tibial and peroneal arteries, but only anterior tibial

arteries are seen at the ankle joints bilaterally. There is heavy vascular calcification of the abdominal aorta, iliac vessels and femoral vessels.

9. On or about August 4, 2005, Patient W.S. returned to Respondent, who, based on the CTA results, recommended that Patient W.S. undergo a right above knee femoral-popliteal artery bypass graft. Respondent did not perform or recommend any additional workup on Patient W.S. at that time.

10. On or about August 17, 2005, Respondent performed a right above knee femoral popliteal bypass grafting on Patient W.S.

11. On or about September 1, 2005, Patient W.S. presented to Respondent with significant reperfusion swelling. Respondent encouraged Patient W.S. to elevate his leg and return in one month.

12. On or about October 6, 2005, Patient W.S. was seen by Respondent who recommended that Patient W.S. proceed with left femoral popliteal bypass graft.

13. On or about October 12, 2005, Respondent performed a left femoral popliteal bypass graft on Patient W.S.

14. On or about October 20, 2005, Patient W.S. presented to Respondent complaining of tightness and pain in the left thigh.

Respondent noted marked erythema consistent with possible fungal overgrowth as well as possible bacteria. Respondent noted moderate reperfusion swelling and encouraged Patient W.S. to elevate his leg. Respondent prescribed Diflucan and Cipro and instructed Patient W.S. to return in one week. Respondent did not recommend any additional workup for Patient W.S. at that time.

15. Diflucan is a legend drug used to treat fungal infections.

16. Cipro is a legend drug used to treat bacterial infections.

17. On or about October 27, 2005, Patient W.S. returned to Respondent who noted that Patient W.S.'s fungal overgrowth was resolved and that the wound was "much better." Respondent instructed Patient W.S. to continue elevating his leg. Respondent did not recommend any additional workup for Patient W.S. at that time.

18. On or about November 3, 2005, Patient W.S. returned to Respondent who noted that Patient W.S.'s wound was improving but that Patient W.S. was running a temperature. Because of Patient W.S.'s temperature, Respondent placed Patient W.S. on Cipro for five additional days. Respondent instructed Patient W.S. to return in one week. Respondent did not recommend any additional workup for Patient W.S.

19. On or about November 8, 2005, Patient W.S. presented to the emergency room complaining of fever with chills and severe pain of the left thigh. The emergency room physician diagnosed Patient W.S. with severe cellulitis of the left thigh at the site of bypass surgery and anemia related to chronic infection and recent postoperative blood loss.

20. On or about November 10, 2005, Respondent saw Patient W.S. in the hospital and diagnosed him with local wound infection with cellulitis and reperfusion swelling of the lower extremity.

21. On or about November 15, 2005, while still hospitalized, Patient W.S. began experiencing severe bleeding. At that time, Dr. S.L. evaluated Patient W.S. and determined that surgical removal of the infected femoral-popliteal graft was necessary.

22. On or about November 16, 2005, Dr. S.L. removed Patient W.S.'s infected left femoral-popliteal graft and repaired the femoral and popliteal arteries with contralateral saphenous vein patches.

23. Postoperatively, Dr. S.L. determined that Patient W.S. required a left above knee amputation.

24. On or about November 17, 2005, Dr. S.L. performed a left above knee amputation on Patient W.S.

25. Following the left above knee amputation, Patient W.S. remained in the hospital until expiring in January 2006.

26. Section 458.331(1)(t), Florida Statutes (2005), subjects a licensee to discipline by the Board of Medicine by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure; by committing gross medical malpractice; or by committing repeated medical malpractice.

27. Respondent failed to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure in one or more of the following ways:

(a) By failing to perform an appropriate initial workup on Patient W.S.; and/or

(b) By operating on Patient W.S. prematurely, i.e., before attempting medical therapy treatment; and/or

(c) By failing to appropriately diagnose and/or treat Patient W.S.'s post-operative infection.

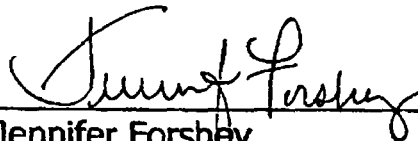
28. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2005), by failing to practice medicine in

accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

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 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 12th day of February, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health



Jennifer Forshey
Assistant General Counsel
Florida Bar No.: 0344140
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin # C-65
Tallahassee, FL 32399-3265
850.245.4640 ext.8140
850.245.4680 Facsimile

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Racoul Bee
DATE 2/13/07

/JF

PCP: Ashkar & Beebe
DATE: 2/9/07

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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.