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DEPT. OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

Attorney for Department of Commerce
and Consumer Affairs

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HEARINGS OFFICE

HAWAII MEDICAL BOARD
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the License to Practice) MED 2022-162-L
Medicine of)
)
) SETTLEMENT AGREEMENT PRIOR TO
STELLA J. FITZGIBBONS, M.D.,) FILING OF PETITION FOR DISCIPLINARY
) ACTION AND BOARD'S FINAL ORDER;
Respondent.) EXHIBIT "1"
)
)

SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

Petitioner, the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS' REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "RICO" or "Petitioner"), through its undersigned attorney, and Respondent STELLA J. FITZGIBBONS, M.D. (hereinafter "Respondent"), enter into this Settlement Agreement on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. At all relevant times herein, Respondent was licensed by the HAWAII MEDICAL BOARD (hereinafter the "Board") to practice medicine under License Number MD 17402. The license was issued on or about February 1, 2014. The license will expire or forfeit on or about January 31, 2024.

2. Respondent's mailing address for purposes of this action is [REDACTED]

3. RICO received a request for investigation from the Board regarding a disciplinary action taken against Respondent in the State of Texas.

4. RICO obtained a copy of an Agreed Order by the Texas Medical Board entered on December 10, 2021 (hereinafter "Texas Order") (Exhibit "1"). The Texas Order was based on allegations Respondent inappropriately discharged a patient from the hospital despite suffering from leukocytosis and acute kidney injury as evidenced by abnormal blood testing. Sanctions included, amongst other things, a general medical care competency assessment and sixteen (16) hours of continuing medical education.

5. On or about September 5, 2022, Respondent reported the Texas Order on her Hawaii Medical Board license restoration application.

6. RICO alleges Respondent was disciplined by the State of Texas and failed to timely report disciplinary order as required by Hawaii law.

7. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute a violation of Hawaii Revised Statutes (hereinafter "HRS") § 453-8(a)(11) (disciplinary action by another state or federal agency) and § 453-8(a)(14) (failure to report disciplinary decision issued in another jurisdiction).

8. The Board has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that Respondent has the right to be represented by an attorney in this matter and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely, knowingly, voluntarily, and under no coercion or duress.

3. Respondent is aware of the right to have a hearing to adjudicate the issues in the case. Pursuant to HRS § 91-9(d), Respondent freely, knowingly, and voluntarily waives the right to a hearing and agrees to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent, being at all times relevant herein licensed to practice medicine by the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of the license and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondent represents Exhibit "1" is a true and correct copy of the Texas Order.

6. Respondent represents that all disciplinary sanctions agreed to in the Texas Order has been fully and successfully complied with by Respondent.

7. Respondent does not admit to violating any law or rule but acknowledges that RICO has sufficient cause to file a Petition for Disciplinary Action against Respondent's license.

8. Respondent enters into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

9. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. MED 2022-162-L.

10. Respondent acknowledges that upon its approval, this Settlement Agreement constitutes disciplinary action and understands that this Settlement Agreement may be subject to reporting requirements.

11. Respondent understands that this Settlement Agreement is public record pursuant to HRS Chapter 92F.

C. TERMS OF SETTLEMENT:

1. Administrative Fine. Respondent agrees to pay a fine in the amount of ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00). Payment shall be made by **cashier's check or money order made payable to "DCCA – Compliance Resolution Fund"** and mailed to the Regulated Industries Complaints Office, Attn: Stacia M. Silva, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this Settlement Agreement is returned to RICO.

2. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph C.1. of the Settlement Agreement, Respondent's license shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of licensure to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondent understands that Respondent cannot apply for a new license until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new license pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at that time.

3. Possible Further Sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondent violates any provision of the statutes or rules governing the conduct of physicians in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

4. Approval of the Board. Respondent agrees that, except for the representations, agreements and covenants contained in paragraphs C.5., C.6., C.7., C.8. and C.9. below, this

Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

5. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither Respondent nor any attorney that Respondent may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against Respondent on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

6. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

7. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement Agreement, and Respondent is not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

8. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

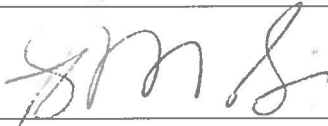
9. Counterparts. The parties hereto agree that this Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this Settlement Agreement, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date(s) set forth below. Each signatory to this Settlement Agreement hereby represents and warrants that he/she is authorized to execute and deliver this Settlement Agreement in the capacity shown below.

DATED: The Woodlands, Texas, April 26, 2023.
(City) (State) (Date)


STELLA J. FITZGIBBONS, M.D.
Respondent

DATED: Honolulu, Hawaii, JUL 3 2023.


STACIA M. SILVA
Attorney for the Department of Commerce
and Consumer Affairs

IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE OF STELLA J. FITZGIBBONS, M.D.; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; EXHIBIT "1"; RICO CASE NO. MED 2022-162-L

IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE OF STELLA J. FITZGIBBONS, M.D.; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; EXHIBIT "1"; RICO CASE NO. MED 2022-162-L

APPROVED AND SO ORDERED:
HAWAII MEDICAL BOARD
STATE OF HAWAII



DANNY M. TAKANISHI, JR., M.D.,
FACS
Chairperson



GARY BELCHER
Vice Chairperson



ANDREW R. FONG, M.D.



ELIZABETH IGNACIO, M.D.



WESLEY MUN

GERI YOUNG, M.D.

September 14, 2023

DATE



FRANKLIN V.H. DAO, M.D.

ANGELA PRATT, M.D.



MICHAEL JAFFE, D.O.



REBECCA SAWAI, M.D.

LICENSE NO. F-9423

IN THE MATTER OF
THE LICENSE OF
STELLA J. FITZGIBBONS, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 10 day of December, 2021, came on to be heard before the Texas Medical Board (Board), duly in session, the matter of the license of Stella J. Fitzgibbons, M.D. (Respondent).

On October 4, 2021, Respondent appeared remotely via videoconference with counsel, Don Karotkin, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Sherif Zaafran, M.D., a member of the Board, and Kimberly Phillips, a member of a District Review Committee (Panel). Michelle A. McFaddin represented Board staff.

BOARD CHARGES

Board Staff alleges that Respondent inappropriately discharged a patient from the hospital to a nursing home while the patient was suffering from leukocytosis and an acute kidney injury developed during her hospitalization, as evidenced by abnormal creatinine levels and elevated white blood cell counts, resulting in the patient's death.

BOARD HISTORY

Respondent has not previously been the subject of disciplinary action by the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:

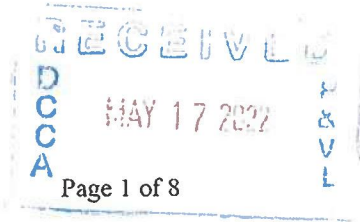


EXHIBIT "1"

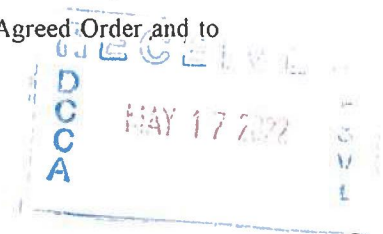
- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, TEX. OCC. CODE ANN. §§151.001 *et seq.* (Vernon Supp. 2021) (Act) or the rules of the Board.
- b. Respondent currently holds Texas Medical License No. F-9423. Respondent was originally issued this license to practice medicine in Texas on August 23, 1981. Respondent is also licensed to practice in Hawaii.
- c. Respondent is primarily engaged in the practice of Internal Medicine. Respondent is board certified by the American Board of Internal Medicine, a member of the American Board of Medical Specialties.
- d. Respondent is 72 years of age.

2. Specific Panel Findings:

- a. Respondent discharged the patient before the patient was stable.
- b. Respondent failed to obtain additional laboratory results and further failed to verify that the patient's hemoglobin levels had stabilized.
- c. The patient's escalating hemoglobin levels and unexplained blood loss should have been resolved before the patient was discharged from the hospital to a nursing facility.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors: Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.



CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by the following Board Rules: 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one's professional practice; and 190.8(1)(D), failure to safeguard against potential complications.
3. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent for prescribing and administering a drug or treatment that is non-therapeutic.
4. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within 30 days from the date of the entry of this order, Respondent shall contact the Texas A&M Health Science Center Knowledge, Skills, Training, Assessment, and Research (KSTAR) program to schedule an assessment for general medical care. Upon Respondent's acceptance into the KSTAR program, Respondent shall execute a written request and authorization to KSTAR representatives to provide a complete copy of the final assessment report to the Compliance Division within 15 days of its completion. Respondent shall successfully complete the assessment, and any and all retraining, remedial measures, and/or other recommendations made by KSTAR based upon the assessment, within one year of the date

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of the entry of this Order. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least sixteen hours of continuing medical education (CME) approved for Category I credits by the American Medical Association or the American Osteopathic Association, divided as follows: eight hours of CME on the topic of risk management, and eight hours of CME on the topic of post-operative complications; each approved in writing in advance by the Executive Director or a designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities in Texas where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery showing that the Order was delivered to all such facilities.

4. Pursuant to Board Rule 189.15, the time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) this Order is stayed or enjoined by Court Order; or (c) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine and such cessation in practice is NOT due to a suspension of Respondent's license. Respondent shall immediately notify the Board in writing in the event that Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days. Upon Respondent's return to active practice or return to Texas, Respondent shall notify the Board in writing. Upon return to Texas or



active practice. Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling. Tolling shall be in accordance with Board Rule 189 15.

5. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

6. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

7. Respondent shall inform the Board in writing of any change of Respondent's practice or mailing address within 10 days of the address change. This information shall be submitted to the Registrations Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days' notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance with this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

8. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

9. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

10. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1 and 2.

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RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT WITH RESPECT TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.


THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

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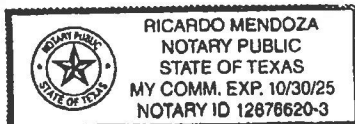
I, STELLA J. FITZGIBBONS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: November 2, 2021.

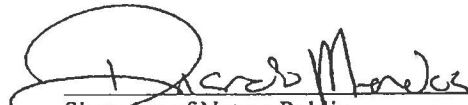

STELLA J. FITZGIBBONS, M.D.
Respondent

STATE OF TEXAS §
COUNTY OF Montgomery §
§

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 2 day of November, 2021.

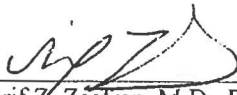


(Notary Seal)


Signature of Notary Public

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SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
10 day of December, 2021.



Sherif Z. Zaafran, M.D., President
Texas Medical Board

STATE OF TEXAS
COUNTY OF TRAVIS

I, Christine Rodriguez certify that I am an official
assistant custodian of records for the Texas Medical Board
and that this is a true and correct Copy of the original, as it
appears on the file in this office.

Witness my official hand and seal of the BOARD.

This 13th, Day of May, 20 22
Christine Rodriguez

Assistant Custodian of Records

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