

**CONSENT AGREEMENT  
BETWEEN  
FLORENTINO HUMBERTO TOLEDO, M.D.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Florentino Humberto Toledo, M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Toledo enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

**BASIS FOR ACTION**

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for violations of Section 4731.22(B)(22), Ohio Revised Code, for “[a ]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(22), Ohio Revised Code, as set forth in Paragraph E, below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Toledo has submitted an application for a certificate to practice medicine and surgery in the State of Ohio.
- D. Dr. Toledo states that he is also licensed to practice medicine and surgery in the States of Florida, Georgia and Texas.

## CONSENT AGREEMENT

Florentino Humberto Toledo, M.D.

PAGE 2

- E. Dr. Toledo admits that, on or about June 3, 1994, the Florida Department of Business and Professional Regulation [Florida Board] entered a Final Order [1994 Final Order] approving and adopting a Consent Agreement, which Dr. Toledo had previously executed on May 3, 1994. A copy of the 1994 Final Order is attached hereto and incorporated herein. The 1994 Final Order in part permanently restricts Dr. Toledo's Florida license by prohibiting him from performing all surgery except for minor office surgery.

Dr. Toledo admits that the 1994 Final Order is based in part on admissions that Dr. Toledo practiced medicine below the acceptable standard of care when he performed a 1992 laproscopic surgery during which Dr. Toledo lacerated the patient's left external iliac artery and vein, and failed to perform an immediate laparotomy on the patient to control severe bleeding resulting in an increased loss of blood.

### AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Toledo shall be granted a certificate to practice medicine and surgery in the State of Ohio, upon receipt and appropriateness of necessary documentation, and Dr. Toledo knowingly and voluntarily agrees with the Board that his certificate to practice medicine and surgery in Ohio shall be PERMANENTLY LIMITED AND RESTRICTED as follows:

#### **Restriction on Surgery**

1. Dr. Toledo shall not perform major surgery or assist in any major surgical procedure. Dr. Toledo may perform minor surgery, meaning surgery that can be safely and comfortably performed under topical anesthesia without more than minimal oral or intramuscular preoperative sedation. For purposes of this Consent Agreement, minor surgery includes surgery of the skin, subcutaneous tissue and adjacent tissue; the incision and drainage of superficial abscesses; limited endoscopies, such as proctoscopies; arthrocentesis; and closed reduction of simple fractures or small joint dislocations.

#### **Required Reporting by Licensee**

2. Within thirty days of the effective date of this Consent Agreement, Dr. Toledo shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Toledo shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide

health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

3. Within thirty days of the effective date of this Consent Agreement, Dr. Toledo shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Toledo further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or for reinstatement of any professional license. Further, Dr. Toledo shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

#### **FAILURE TO COMPLY**

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Toledo appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Toledo has violated any term, condition or limitation of this Consent Agreement, Dr. Toledo agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

#### **DURATION/MODIFICATION OF TERMS**

Dr. Toledo shall not request termination or modification of the PERMANENT LIMITATIONS AND RESTRICTIONS set forth in paragraphs 1, 2 and 3 of this Consent Agreement.

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Dr. Toledo acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

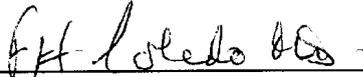
Dr. Toledo hereby releases the Board, its members, employees, agents, officers and

representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Toledo agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

**EFFECTIVE DATE**

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

  
\_\_\_\_\_  
FLORENTINO HUMBERTO TOLEDO, M.D.

  
\_\_\_\_\_  
ANAND G. GARG, M.D.  
Secretary

12/4/02  
\_\_\_\_\_  
DATE

12/11/02  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
RAYMOND J. ALBERT  
Supervising Member

12/11/02  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
REBECCA J. ALBERS  
Assistant Attorney General

12/11/02  
\_\_\_\_\_  
DATE

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE Final Order No. BPR-94-03580 Date 6-16-94

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

v.

FLORENTINO H. TOLEDO, M.D.,

Respondent.

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**FILED**  
Dept. of Business and Professional Regulation  
AGENCY CLERK

Sarah Wachman, Agency Clerk  
By: Brandon J. More

DBPR CASE NUMBER: 92-08829  
LICENSE NUMBER: ME 0009398

**FINAL ORDER**

THIS MATTER came before the Board of Medicine (Board) pursuant to Section 120.57(3), Florida Statutes, on June 3, 1994, in Palm Beach, Florida, for consideration of a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled case. Upon consideration of the Consent Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference herein. Accordingly, the parties shall adhere to and abide by all of the terms and conditions of the Consent Agreement.

This Final Order takes effect upon filing with the Clerk of the Department.

DONE AND ORDERED this 3 day June, 1994.

BOARD OF MEDICINE

*Edward A. Dauer, M.D.*

EDWARD A. DAUER, M.D.  
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by certified U.S. Mail to Florentino H. Toledo, M.D., P.O. Box 1997, Brandon, Florida 33509-1997, and by interoffice delivery to Larry G. McPherson, Jr., Chief Medical Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, at or before 5:00 P.M., this 16<sup>th</sup> day of June, 1994.

*Marm M. Harris*

MARM M. HARRIS, Ed.D.  
Executive Director

RECEIVED  
94 MAY -4 PM 3:57

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

v.

DBPR CASE NO. 9 2 0 8 8 2 9

FLORENTINO H. TOLEDO, M.D.,

Respondent.

CONSENT AGREEMENT

Florentino H. Toledo, M.D., referred to as the "Respondent," and the Department of Business and Professional Regulation, 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.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0009398.

2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted 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.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 455 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

STIPULATED DISPOSITION

1. FUTURE CONDUCT. Respondent shall not in the future violate Chapters 455, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent read Chapters 455, 458 and 893 and the Rules of the Board of Medicine, at Section 61F6, Florida Administrative Code.

2. FINE. The Board shall impose an administrative fine in the amount of \$1,500 (fifteen hundred dollars) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within 180 days of its imposition by Final Order of the Board.

3. REPRIMAND. The Respondent shall receive a reprimand from the Board of Medicine.

4. RESTRICTION ON PRACTICE. The Respondent shall be permanently restricted from performing all surgery except for minor office surgery.

5. 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 a Final Order incorporating the terms of this Agreement is entered by the Board.

6. Respondent shall appear before the Board at the meeting of the Board where this Agreement is considered. Respondent, in conjunction with the consideration of this Agreement by the Board, shall respond to questions under oath from the Board, Board Staff or Department Staff. The Respondent shall be prepared to explain the circumstances involved in this matter and what measures have been taken to prevent a reoccurrence.

7. Should this Agreement be rejected, no statement made in furtherance of this Agreement by the Respondent may be used as direct evidence against the Respondent in any proceeding; however, such statements may be used by the Petitioner for impeachment purposes.

8. Respondent and the Department fully understand that this joint Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A herein.

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11/11/94

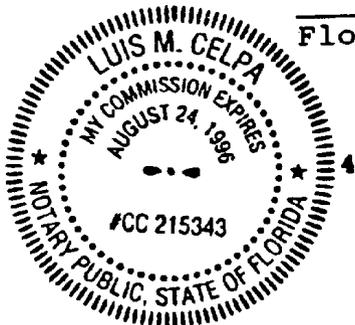
9. Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

10. Upon the Board's adoption of this Agreement, the parties hereby agree that each party will bear his 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 in connection with this matter.

11. This Agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. 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. Furthermore, should this joint 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.

SIGNED this 3rd day of May, 1994.

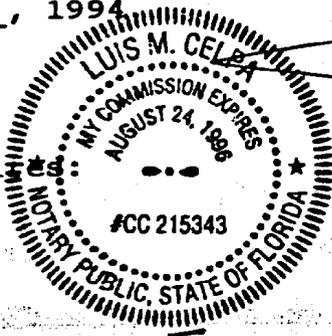
F. H. Toledo M.D.  
Florentino H. Toledo, M.D.  
Florentino H. Toledo M.D.





Before me, personally appeared Florentino H. Toledo, whose identity is known to me by Personally (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 3rd day of May, 1994



[Signature]  
NOTARY PUBLIC

My Commission Expires:

APPROVED this 5 day of May, 1994.

George Stuart  
Secretary

[Signature]

By: Larry G. McPherson, Jr.  
Chief Attorney  
Medical Section

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

PETITIONER,

vs.

CASE NO. 9208829

Florentino H. Toledo, M.D.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Business and Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Florentino H. Toledo, M.D. hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.165, Florida Statutes; Chapter 455, Florida Statutes; and Chapter 458, Florida Statutes.

2. Respondent is and has been at all times material hereto a licensed physician in the State of Florida, having been issued license number ME 0009398. Respondent's last known address is P.O. Box 1997, Brandon, Florida 33509-1997.

3. Respondent is Board Certified in obstetrics and gynecology.

4. On or about May 4, 1992, Patient #1, a 41 year old female, was admitted by Respondent to University Community Hospital

with complaints of severe lower abdominal pain for the past two months. Patient #1's past surgical history included, but was not limited to, a Cesarean section, a total abdominal hysterectomy with bilateral salpingo-oophorectomy, and an appendectomy. Patient #1 also had a history of malignant hyperthermia and cardiac arrest following two other surgeries.

5. On or about May 5, 1992, Respondent performed a laparoscopic examination on Patient #1, during which he lysed several adhesions with laparoscopic scissors.

6. Respondent elected to use endo-shears (laparoscopic scissors) in the coagulation mode on Patient #1 for the lysis of adhesions. During the procedure, Respondent lacerated Patient #1's left external iliac artery and vein (the main vessels to the left leg) with the laparoscopic scissors.

7. As a result of the lacerated vessels, Patient #1 suffered a sudden onset of bleeding. Respondent first attempted to stop the bleeding with the bipolar coagulator, but this was unsuccessful.

8. After approximately eight (8) minutes had elapsed since the bleeding began, Respondent began an emergency laparotomy. During this procedure, Patient #1 went into cardiac arrest. She was given three (3) defibrillating shocks, and normal sinus rhythm returned.

9. Julian Belisle, M.D., a vascular surgeon, was called in to repair Patient #1's left iliac artery and vein.

10. Patient #1 suffered a blood loss of approximately 5000 cc's during the procedure performed by Respondent.

11. Patient #1 was subsequently taken to the Intensive Care Unit where she remained comatose and exhibited signs of seizure.

12. Patient #1 suffered severe hypoxic encephalopathy as a result of the extreme blood loss that occurred during the procedure performed by Respondent.

13. On or about May 6, 1992, an electroencephalogram was performed on Patient #1, and the results indicated brain death. Patient #1 was subsequently disconnected from the ventilator and she expired.

14. Respondent practiced medicine below the acceptable standard of care in that Respondent: lacerated Patient #1's left external iliac artery and vein during a laparoscopic examination; and failed to perform an immediate laparotomy on Patient #1 to control severe bleeding resulting in an increased loss of blood.

15. Based on the preceding allegations, Respondent has violated Section 458.331(1)(t), Florida Statutes, through gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an Order imposing one or more of the following penalties: restriction of Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board

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deems appropriate. Petitioner is not seeking permanent revocation or suspension of Respondent's license.

SIGNED this 2 day of February, 1994.

George Stuart, Secretary



Larry G. McPherson, Jr.  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

Larry G. McPherson, Jr.  
Chief Medical Attorney  
Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750  
Florida Bar #788643  
LGM/ceb  
PCP: January 26, 1994  
Katims, Diblan, Fenwick

**FILED**  
Department of Business and Professional Regulation  
DEPUTY CLERK

CLERK Ronda Bryan  
DATE 2-3-94