

**STATE OF FLORIDA
BOARD OF MEDICINE**

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

BOARD:	Medicine	CLERK: <i>Sandra Soto</i>
CASE NUMBER:	2007-25227	DATE: <u>7-22-2011</u>
COMPLAINT MADE BY:	JMM on behalf of BEM	
COMPLAINT MADE AGAINST:	Francisco H. Esparza, MD 7005 Cortez Road West Bradenton, Florida 34210	
DATE OF COMPLAINT:	November 1, 2007	
INVESTIGATED BY:	Barbel Lawson Tampa	
REVIEWED BY:	Carol L. Gregg Assistant General Counsel	
RECOMMENDATION:	Dismiss (4099)	

NOTICE OF DISMISSAL/CLOSING ORDER ON RECONSIDERATION

THE COMPLAINT: The complaint alleges that Subject violated Section 458.331(1)(t), Florida Statutes, by committing medical malpractice.

THE FACTS: In February of 2007, Patient BEM, a 78 year-old male, presented to Blake Medical Center with complaint of left arm weakness, drowsiness, shaking and numbness. The patient had a history of transient ischemic attacks, hyperglycemia and early dementia with possible focal seizures. The ER doctor consulted with the Subject, as the on-call neurologist. After examining the patient, Subject ordered a CT scan of the head. The CT indicated no acute intracranial process. The CT scan did indicate chronic atrophy with chronic small vessel ischemia. Subject treated the patient for seizures and dementia. The patient and the patient's family requested that the patient be allowed to go home and Subject agreed. The

patient was discharged and four days later was admitted back into Blake with a diagnosis of stroke.

A Department expert reviewed the investigative file and the medical records and concluded that Subject failed to meet the standard of care in not properly diagnosing Patient BEM and in not properly treating the patient. The Department expert opined that a vascular stroke was the most obvious diagnosis given the patient's prior history.

Subject filed a response to the Department's investigation and expert opinion. Subject submitted several expert opinions regarding Subject's failure to diagnosis and treat Patient BEM as a stroke patient. Subject persuasively asserts that given the results of the CT scan Subject had no radiographic evidence to support the diagnosis of an acute ischemic infarction and that he met the standard of care in treating this patient.

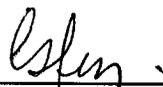
The Department's expert reviewed the subject's experts' opinions and indicated that these opinions did not change his original opinion. Finally, the Department consulted with the Department's in-house consultant regarding the various opinions issued in this case. After reviewing the file and records, the in-house consultant agreed with the Subjects' expert opinions that given the situation as the patient presented, the Subject met the standard of care.

Given the Department's burden of proving this case by clear and convincing evidence and the persuasiveness of the Subject's response, the Department recommends that this case be closed.

THE LAW: Based on the foregoing facts and law, and pursuant to Section 456.073(4), Florida Statutes, the matter is hereby DISMISSED with no further prosecution.

It is, therefore, ORDERED that this matter should be and the same is hereby dismissed.

DONE and ORDERED this 8th day of July 2011.

A handwritten signature in cursive script, appearing to read "L. Leon", is written above a horizontal line.

Chairperson, Probable Cause Panel
Board of Medicine

PCP Date: June 8, 2011

PCP Panel Members: Leon, M.D., Zachariah, M.D.