

Oct. 26, 2017

SETTING THE RECORD STRAIGHT: SUN SENTINEL OMITTS FACTS IN STORY ON DOH, STATE HEALTH CARE REGULATORY BOARDS ACCOUNTABILITY ACTIONS



Contact:

Communications Office

NewsMedia@flhealth.gov

850-245-4111

Tallahassee, Fla. – Today, the South Florida Sun Sentinel published an article that omitted key facts of Florida law and inaccurately portrayed the Department’s efforts to protect Florida’s patients from unscrupulous doctors.

After months of providing detailed answers to copious questions and educating the Sun Sentinel on the process by which the Department of Health and the state’s health care regulatory boards hold licensees accountable, the Sun Sentinel did not include much of the factual information shared.

The department is committed to conducting a thorough and objective investigation into any complaint we receive. By law, the department cannot disclose the existence of a complaint against any licensee until 10 days after a finding of probable cause.

In any complaint investigation, the department uses its authority to subpoena all relevant records and to conduct interviews that will support the investigation. **We are diligent and thorough in protecting patients from unsafe or unscrupulous health care practice.**

FALSE CLAIM: “Florida officials finally decided a year ago to revoke Kaplan’s license – but have yet to follow through.”

FACTS: The department’s prosecutors and Dr. Kaplan’s attorney reached a settlement agreement, which was presented to the Board of Osteopathic Medicine.

In November 2016, the Board of Osteopathic Medicine offered Dr. Kaplan a counter-offer to the proposed settlement, which is within their authority.

The Board’s counter-offer was for revocation. Dr. Kaplan had 7 days from receipt of the written counter-offer to accept or reject the offer, the licensee ultimately rejected the counter-offer of the Board.

As a result, the department continues to aggressively prosecute the licensee and is diligently working towards a resolution of the case.

FALSE CLAIM: "When it comes to taking action against doctors, the state of Florida takes its time"

FACTS: The department and all health care regulatory boards, including the Boards of Medicine and Osteopathic Medicine follow the law.

In Florida, a professional license is considered a property right and so before a license can be revoked, they have a constitutional right to due process.

The department has made it a priority to reduce the number of cases older than one year as well as bringing cases to a conclusion in less than one year when possible.

The number of osteopathic cases taking longer than one year has been reduced more than 40 percent over the last two years.

In the past year, medical cases taking longer than one year to prosecute was reduced by more than 25 percent.

FALSE CLAIM: "The review revealed a system often slow to punish doctors and quick to let them settle charges without accepting responsibility."

FACTS: The department's prosecutors focus on resolving all cases in an appropriate manner given the circumstances of the case, the evidence available to the department, and the information discovered through litigation.

As a result, the department consistently evaluates the veracity of the case, when a resolution is possible through settlement, the department's attorneys will explore that resolution with the Boards making the ultimate determination on the case.

The department is diligent and thorough in protecting Florida's patients from unsafe or unscrupulous health care practice.

FALSE CLAIM: "While state boards can strip the licenses of doctors found to have committed medical malpractice, cases that end in settlements don't count. In most settlements, doctors don't admit or deny the allegations against them and there is no finding of malpractice.

Eighty percent of all doctor discipline cases resolved in the last seven years ended in settlement agreements, state data shows."

FACTS: The Sun Sentinel fails to recognize the distinction between malpractice settlements and Board disciplinary action that results in a settlement.

Malpractice disputes between a doctor and a patient that are settled are not necessarily reported to the department and therefore the department would not have the authority to take action.

FALSE CLAIM: “Board members... can approve settlements between doctors and health department attorneys or issue their own sanctions, which can include license restrictions, revocations and fines.”

FACTS: Board members can only make counter offers to settlement offers presented by the department. Board members cannot issue sanctions after rejecting the settlement agreement. Doctors, or other health care licensees, still have the option of accepting or rejecting the Board's counter-offer.

FALSE CLAIM: “the agency did not answer a list of questions submitted two weeks ago.”

FACTS: After months of correspondence, the reporter submitted a list of 26 questions on Oct. 12 – during the Board of Medicine’s meeting. Upon conclusion of the meeting staff immediately got to work on the Sun Sentinel’s many questions and provided responses on Oct. 26. Over the past several months, the department has been in regular contact with the Sun Sentinel and has let no response go unanswered.

FALSE CLAIM: “Woodhall sued Kaplan in state court in December 2016. The lawsuit is pending and Kaplan has denied the allegations, court records show.

The Department of Health, which was notified of the lawsuit, has not filed charges against Kaplan for his involvement in her surgery.”

FACTS: A patient suing a doctor is not an automatic violation of chapter 456 Florida Statutes. Further, the department cannot disclose details of an investigation or the existence of an investigation until 10 days after probable cause is found.

An arrest or a licensee waiting for civil or criminal trial is not necessarily evidence of wrongdoing and Florida statutes recognize this by providing that only a conviction or plea is actionable by the Boards. In Florida, a professional license is considered a property right, therefore licenses cannot be revoked without the licensee having a constitutional right to due process.

About the Florida Department of Health

The department, nationally accredited by the [Public Health Accreditation Board](#), works to protect, promote and improve the health of all people in Florida through integrated state, county and community efforts.

Follow us on [Facebook](#), [Instagram](#) and Twitter at [@HealthyFla](#). For more information about the Florida Department of Health please visit www.FloridaHealth.gov.