

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes**

**Gaylord Palms Resort & Convention Center
6000 West Osceola Parkway
Orlando, FL 34746
(407) 586-0322**

February 3-4, 2012

1 **Friday, February 3, 2012**

2 **8:00 a.m. ROLL CALL**

3

4 **Members Present:**

5 Jason J. Rosenberg, M.D., Chairman
6 Z.P. Zachariah, M.D., Vice Chairman
7 Nabil El Sanadi, M.D., 1st Vice Chairman
8 Fred Bearison, M.D.
9 Trina Espinola, M.D.
10 Brigitte Goersch, Consumer Member
11 Onelia Lage, M.D.
12 Bradley M. Levine, Consumer Member
13 Donald E. Mullins, Consumer Member
14 Robert Nuss, M.D.
15 James W. Orr, M.D.
16 Merle P. Stringer, M.D.
17 George Thomas, M.D.
18 Elisabeth Tucker, M.D.

Members Absent:

Gary Winchester, M.D.

19

20 **Staff Present:**

21 Joy A. Tootle, JD, Executive Director
22 Ed Tellechea, Board Counsel
23 Donna McNulty, Board Counsel
24 Nancy Murphy, Paralegal
25 Crystal Sanford, Program Operations Administrator
26 Chandra Prine, Program Operations Administrator
27 Whitney Bowen, Regulatory Specialist III
28 Shaila Washington, Compliance Officer

Others Staff:

Jennifer Hirst, Public Information Officer

29

30 **Prosecuting Attorneys Present:**

31 Veronica Donnelly
32 Diane Kiesling
33 Carol Gregg
34 Sharmin Hibbert

35

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1 Ms. Tootle provided opening remarks and explained the various hearings scheduled for the
2 meeting.

3
4 Dr. Rosenberg recognized Dr. Thomas. He thanked his fellow members for the Chairmanship
5 and for the members agreeing to serve as Chair's of the Boards various committees. He talked
6 about the new Communication, Education and Information Committee.

7
8 Mr. Tellechea provided opening remarks concerning a pending rule challenge. He explained the
9 Rules/Legislative Committee voted the night before to remove all references of community
10 service from the disciplinary guidelines. He asked members to vote to remove all references to
11 community service from the Settlement Agreements and Recommended Orders scheduled for the
12 meeting.

13
14 A motion was made, seconded and carried unanimously to remove all community service
15 requirements from Settlement Agreements and Recommended Orders scheduled for the meeting.

16
17 Mr. Tellechea also went on to explain the costs issue brought to light by Georges vs. Board of
18 Nursing. He asked the Board to table all cost motions scheduled for the meeting and explained
19 those motions will be heard at a future meeting.

20
21 Ms. Sanford read the Settlement Agreement list and the members determined which hearings
22 would be heard during the day.

23
24 **DISCIPLINARY CASE SCHEDULE:**

25 **Arnel Kennedy Larcia, M.D., Jacksonville, FL – Settlement Agreement3**

26 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

27
28 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
29 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
30 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
31 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
32 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
33 or in anticipation of the filing of administrative charges against the physician's license, shall be
34 construed as action against the physician's license and s. 458.331(1)(kk), FS (2010) – Failing to
35 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
36 against one's license to practice medicine in another state, territory, or country.

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1
2 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

3
4 **Penalty imposed:** letter of concern, \$1,500 fine, costs

5
6 **Aned M. Orbezo, M.D., Tampa, FL – Settlement Agreement6**

7 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

8 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
9 (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
10 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
11 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
12 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
13 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
14 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
15 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
16 in this paragraph shall be construed to require that a physician be incompetent to practice
17 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
18 administrative law judge or a final order of the board finding a violation under this paragraph
19 shall specify whether the licensee was found to have committed "gross medical malpractice,"
20 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
21 publication by the board must so specify.

22 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

23 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management

24 **Michael Joseph Veech, P.A., Delray Beach & Ft. Lauderdale, FL – Settlement**
25 **Agreement11**

26 Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.
27 Dr. Zachariah chaired this hearing.

28
29 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS
30 (2010) – Making deceptive, untrue, or fraudulent representations in or related to the practice of
31 medicine or employing a trick or scheme in the practice of medicine and s. 458.331(1)(v), FS
32 (2010) – Practicing or offering to practice beyond the scope permitted by law or accepting and

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1 performing professional responsibilities which the licensee knows or has reason to know that he
2 or she is not competent to perform.

3
4 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

5
6 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and Rules course, 3 hours CME in
7 ethics, 5 hours CME in risk management

8
9 **John R. Bradshaw, M.D., Lakeland, FL – Settlement Agreement12**

10 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

11
12 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
13 (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-
14 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
15 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
16 purposes of this paragraph, performing or attempting to perform health care services includes the
17 preparation of the patient.

18
19 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

20
21 **Penalty imposed:** letter of concern, \$10,000 fine, costs, 5 hours CME in risk management,
22 1 hour lecture

23
24 **Ivan Andreas Berend, M.D., Bal Harbour & Miami Beach, FL – Settlement**
25 **Agreement13**

26 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

27
28 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
29 (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

30
31 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

32
33 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, 5 hours CME in
34 risk management

35
36 **Douglas Mark Hershkowitz, M.D., Port Charlotte, FL – Settlement Agreement24**

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1 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
3 (2007-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
4 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions
5 of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to
6 require more than one instance, event, or act. 2. Committing gross medical malpractice.
7 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the
8 board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
9 continue to be licensed by this state to provide health care services as a medical doctor in this
10 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
11 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
12 an administrative law judge or a final order of the board finding a violation under this paragraph
13 shall specify whether the licensee was found to have committed "gross medical malpractice,"
14 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
15 publication by the board must so specify.

16 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

17

18 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours risk management CME

19

20 **Stephen Leif Helgemo, Jr., M.D., Port Charlotte, FL – Settlement Agreement26**

21 Mr. Levine was recused due to participation on the probable cause panel.

22

23 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
24 (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-
25 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
26 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the
27 purposes of this paragraph, performing or attempting to perform health care services includes the
28 preparation of the patient.

29

30 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

31

32 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours risk management CME, lecture

33

34 **Sergio Jose Cabrera, M.D., Crestview, FL – Settlement Agreement27**

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2

3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
4 (2008-2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
5 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions
6 of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to
7 require more than one instance, event, or act. 2. Committing gross medical malpractice.
8 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board
9 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
10 continue to be licensed by this state to provide health care services as a medical doctor in this
11 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
12 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
13 an administrative law judge or a final order of the board finding a violation under this paragraph
14 shall specify whether the licensee was found to have committed “gross medical malpractice,”
15 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any
16 publication by the board must so specify; s. 458.331(1)(m), FS (2008-2010) – Failing to keep
17 legible, as defined by department rule in consultation with the board, medical records that
18 identify the licensed physician or the physician extender and supervising physician by name and
19 professional title who is or are responsible for rendering, ordering, supervising, or billing for
20 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
21 including, but not limited to, patient histories; examination results; test results; records of drugs
22 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s.
23 458.331(1)(g), FS (2008-2010) – Failing to perform any statutory or legal obligation placed upon
24 a licensed physician.
25

26 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
27

28 **Penalty imposed:** letter of concern, \$5,500 fine, costs, FMA records course, 5 hours risk
29 management CME
30

31 **David Vernon Poole, M.D., Altamonte Springs, FL – Settlement Agreement1**

32 Dr. Poole was not present, but he was represented by Randolph Collette, Esquire. Mr. Collette
33 requested his client’s appearance be waived.
34

35 A motion was made, seconded and carried unanimously to waive Dr. Poole’s appearance.
36

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2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
3 (2007-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
4 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions
5 of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to
6 require more than one instance, event, or act. 2. Committing gross medical malpractice.
7 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the
8 board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
9 continue to be licensed by this state to provide health care services as a medical doctor in this
10 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
11 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
12 an administrative law judge or a final order of the board finding a violation under this paragraph
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14 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
15 publication by the board must so specify and s. 458.331(1)(m), FS (2007-2008) – Failing to keep
16 legible, as defined by department rule in consultation with the board, medical records that
17 identify the licensed physician or the physician extender and supervising physician by name and
18 professional title who is or are responsible for rendering, ordering, supervising, or billing for
19 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
20 including, but not limited to, patient histories; examination results; test results; records of drugs
21 prescribed, dispensed, or administered; and reports of consultations and hospitalizations

22 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

23

24 **Penalty imposed:** reprimand, \$20,000 fine, costs, UF drug course, FMA records course, QA
25 assessment, PRN evaluation and compliance

26

27 **Monica Lynn McPhail-Pruitt, M.D., Orlando & Lakeland, FL – Settlement Agreement 4**

28 Dr. McPhail-Pruitt was present and represented by Edward Copeland, Esquire.

29

30 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

31 Ms. Gregg represented the Department and represented the case to the Board. Allegations of the
32 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) –
33 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical

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1 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
2 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
3 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
4 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
5 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
6 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
7 in this paragraph shall be construed to require that a physician be incompetent to practice
8 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
9 administrative law judge or a final order of the board finding a violation under this paragraph
10 shall specify whether the licensee was found to have committed "gross medical malpractice,"
11 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
12 publication by the board must so specify.

13 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

14 A motion was made and seconded to dismiss the case.

15 The Respondent agreed to waive attorney fees and costs if the case was dismissed.

16 The motion carried unanimously.

17 **Action taken:** Administrative Complaint dismissed

18
19
20
21
22
23 **Robert N. Wilcox, M.D., Sarasota, FL – Hearing Not Involving Disputed Issues of**
24 **Material Fact.....5**

25 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

26
27 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
28 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
29 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
30 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
31 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
32 or in anticipation of the filing of administrative charges against the physician’s license, shall be
33 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
34 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
35 against one’s license to practice medicine in another state, territory, or country.

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1
2 Prior to the meeting, Dr. Wilcox signed a Voluntary Relinquishment form.

3
4 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
5 of license.

6
7 **Penalty imposed:** license relinquished

8
9 **Paul Kazuhiko Awa, M.D., Inglis, FL – Settlement Agreement.....7**

10 Dr. Awa was present and represented by Mark Aherns, Esquire.

11
12 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

13 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
14 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) –
15 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
16 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
17 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
18 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
19 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
20 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
21 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
22 in this paragraph shall be construed to require that a physician be incompetent to practice
23 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
24 administrative law judge or a final order of the board finding a violation under this paragraph
25 shall specify whether the licensee was found to have committed "gross medical malpractice,"
26 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
27 publication by the board must so specify and s. 458.331(1)(m), FS (2009) – Failing to keep
28 legible, as defined by department rule in consultation with the board, medical records that
29 identify the licensed physician or the physician extender and supervising physician by name and
30 professional title who is or are responsible for rendering, ordering, supervising, or billing for
31 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
32 including, but not limited to, patient histories; examination results; test results; records of drugs
33 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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1 A motion was made, seconded and carried with one opposed to accept the Settlement
2 Agreement.

3
4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course, 5 hours CME in
5 risk management

6
7 **Gregory Blair Stringfellow, M.D., Jacksonville, FL – Settlement Agreement8**
8 Dr. Stringfellow was present and represented by Kyle Jacobs, Esquire.

9
10 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

11
12 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
13 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2010) –
14 Performing or attempting to perform health care services on the wrong patient, a wrong-site
15 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
16 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
17 purposes of this paragraph, performing or attempting to perform health care services includes the
18 preparation of the patient.

19
20 A motion was made, seconded and carried unanimously to accept the Amended Settlement
21 Agreement.

22
23 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 5 hours CME in risk management, 1-hour
24 lecture

25
26 **Michael Madison Holloway, M.D., Ocala, FL – Settlement Agreement10**
27 Dr. Holloway was present and represented by Bruce Lamb, Esquire.

28
29 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

30
31 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
32 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(w), FS (2006-2007) –
33 Delegating professional responsibilities to a person when the licensee delegating such
34 responsibilities knows or has reason to know that such person is not qualified by training,
35 experience, or licensure to perform them; s. 458.331(1)(f), FS (2006-2007) – Aiding, assisting,
36 procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a

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1 rule of the department or the board; s. 458.331(1)(m), FS (2006-2007) – Failing to keep legible,
2 as defined by department rule in consultation with the board, medical records that identify the
3 licensed physician or the physician extender and supervising physician by name and professional
4 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic
5 or treatment procedure and that justify the course of treatment of the patient, including, but not
6 limited to, patient histories; examination results; test results; records of drugs prescribed,
7 dispensed, or administered; and reports of consultations and hospitalizations; and s.
8 458.331(1)(g), FS (2006-2007) – Failing to perform any statutory or legal obligation placed upon
9 a licensed physician.

10
11 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

12
13 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, 5 hours CME in
14 risk management

15
16 **Parveen Akhter Malik, M.D., Winter Haven, FL & Bay City, MI – Settlement**
17 **Agreement14**

18 Dr. Malik was present and represented by Bruce Lamb, Esquire.

19
20 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

21
22 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
23 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) – Having a
24 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
25 including the denial of licensure, by the licensing authority of any jurisdiction, including its
26 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
27 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
28 of the filing of administrative charges against the physician’s license, shall be construed as action
29 against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board,
30 in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s
31 license to practice medicine in another state, territory, or country.

32
33 Ms. Gregg presented an amended Settlement Agreement for the Board’s consideration.

34
35 The Board tabled the matter to give members an opportunity to read the amended Settlement
36 Agreement.

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1
2 **Michael M. Gutierrez, M.D., Orlando, FL – Settlement Agreement.....15**

3 Dr. Gutierrez was present and represented by Ralph Martinez, Esquire.

4
5 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

6 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
7 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2008) –
8 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
9 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
10 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
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12 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
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21 legible, as defined by department rule in consultation with the board, medical records that
22 identify the licensed physician or the physician extender and supervising physician by name and
23 professional title who is or are responsible for rendering, ordering, supervising, or billing for
24 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
25 including, but not limited to, patient histories; examination results; test results; records of drugs
26 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

27 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

28
29 **Penalty imposed:** letter of concern, \$7,000 fine, costs, 5 hours CME in risk management, QA
30 assessment

31
32 **Michael Gary Salav, M.D., Gainesville & Celebration, FL – Settlement Agreement 16**

33 Dr. Salav was present and represented by Allen Grossman, Esquire.

34

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2

3 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2009) – Being
5 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication,
6 a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to
7 practice medicine and s. 458.331(1)(b), FS (2009) – Having a license or the authority to practice
8 medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by
9 the licensing authority of any jurisdiction, including its agencies or subdivisions.

10
11 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
12

13 A motion was made, seconded and carried unanimously to offer a counter proposal to impose the
14 same terms but to include a five year suspension until he appears and demonstrates his ability to
15 practice with reasonable skill and safety which shall include a PRN evaluation and compliance,
16 must appear before the Board for reinstatement and the Board retained jurisdiction to impose
17 additional terms.

18
19 The Respondent accepted the counter offer.
20

21 **Penalty imposed:** suspension for 5 years and until appears and demonstrates, including PRN
22 evaluation and compliance, Board reserves jurisdiction, \$2,500 fine, costs, Laws and Rules
23 course
24

25 **Glenn Pizarro, M.D., Amsterdam, NY – Hearing Not Involving Disputed Issues of**
26 **Material Fact17**

27 Dr. Pizarro was present and represented by Allen Grossman, Esquire.
28

29 Mr. Levine was recused due to participation on the probable cause panel.
30

31 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
32 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x), FS (2009) – Violating
33 a lawful order of the board or department previously entered in a disciplinary hearing or failing
34 to comply with a lawfully issued subpoena of the department.
35

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1 A motion was made, seconded and carried unanimously to dismiss the Administrative
2 Complaint.

3
4 **Penalty imposed:** Administrative Complaint dismissed

5
6 **Mireille Lalanne, M.D., Boca Raton, FL & Nashville, TN – Settlement Agreement 18**

7 This matter was withdrawn prior to the meeting.

8
9 Dr. Rosenberg recognized Nick Romanello, Esquire, Department of Health General Counsel,
10 who was present in the audience.

11
12 Dr. Rosenberg also recognized State Surgeon General Frank Farmer, M.D. who addressed the
13 Board. He applauded the efforts to address the old cases. He discussed the prescription drug
14 abuse problem in Florida and said the Legislature and the Board have made great strides. He
15 said the prescription drug monitoring program (PDMP) has been a huge success and is a model
16 for the rest of the country. He said he had a set back in that the Legislature did not approve his
17 bill to provide more authority to the Department to act on drug abuse cases.

18
19 Mr. Grossman readdressed the Board concerning Dr. Pizarro. He asked that the discipline be
20 removed from Dr. Pizarro's license.

21
22 Dr. Rosenberg advised the Department would handle that request immediately.

23
24 **Nicholas Ioannou, M.D., Ft. Pierce, FL – Recommended Order19**

25 Dr. Ioannou was not present nor was he represented by counsel.

26
27 Dr. Winchester and Mr. Levine were recused due to participation on the probable cause panel.

28
29 Dr. Rosenberg read the Recommended Order remarks and confirmed all participating members
30 had read the complete record.

31
32 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
33 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS (2006) – Failing to
34 keep legible, as defined by department rule in consultation with the board, medical records that
35 identify the licensed physician or the physician extender and supervising physician by name and
36 professional title who is or are responsible for rendering, ordering, supervising, or billing for

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1 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
2 including, but not limited to, patient histories; examination results; test results; records of drugs
3 prescribed, dispensed, or administered; and reports of consultations and hospitalizations and s.
4 458.331(1)(t), FS (2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):
5 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to
6 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be
7 construed to require more than one instance, event, or act. 2. Committing gross medical
8 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person
9 found by the board to have committed repeated medical malpractice based on s. 456.50 may not
10 be licensed or continue to be licensed by this state to provide health care services as a medical
11 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be
12 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A
13 recommended order by an administrative law judge or a final order of the board finding a
14 violation under this paragraph shall specify whether the licensee was found to have committed
15 "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any
16 combination thereof, and any publication by the board must so specify.

17
18 A motion was made, seconded and carried unanimously to adopt the Findings of Fact and
19 Conclusions of Law.

20
21 A motion was made, seconded and carried unanimously to adopt the Recommended Order,
22 striking reference to the community service and probation terms set.

23
24 **Penalty imposed:** \$8,500 fine for count 1, \$1,500 fine for count 2; probation for 6 months, 5
25 hours CME in risk management, indirect supervision with 25% review of charts with monthly
26 visits from the monitor, first and last reports and appearances along with the standard terms
27 applicable to probation

28
29 **Revisit Parveen Akhter Malik, M.D., Winter Haven, FL & Bay City, MI – Settlement**
30 **Agreement14**

31 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

32
33 A motion was made and seconded to counter with revocation. However, the motion failed 5-6.

34
35 A motion was made and seconded to offer another counter proposal to impose a suspension until
36 the Respondent undergoes a UF CARES evaluation and complies with recommendations; must

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1 appear before the Board for reinstatement at which time the Board reserves jurisdiction to
2 impose additional terms.
3
4 An amendment was offered to impose the Laws and Rules course and impose a \$3,000 fine.
5 This amendment was accepted.
6
7 Another amendment was offered to impose a reprimand and this amendment was accepted.
8
9 Another amendment was offered to require the Respondent comply with pre-trial terms. This
10 amendment was also accepted.
11
12 The motion carried with one opposed.
13
14 The Respondent took 7 days to accept or reject the counter offer.
15
16 **Action taken:** Settlement Agreement rejected; counter offer to impose a reprimand, \$3,000 fine,
17 Laws and Rules course, suspension until the Respondent undergoes a UF CARES evaluation and
18 complies with recommendations; must appear before the Board for reinstatement at which time
19 the Board reserves jurisdiction to impose additional terms and Respondent must comply with
20 pre-trial agreement
21
22 **Rosa Maria Herrera, M.D., Weston, FL – Settlement Agreement20**
23 Dr. Herrera was present and represented by Russell Bobo, Esquire.
24
25 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.
26
27 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007) -
29 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
30 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
31 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
32 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
33 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
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1 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
2 in this paragraph shall be construed to require that a physician be incompetent to practice
3 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
4 administrative law judge or a final order of the board finding a violation under this paragraph
5 shall specify whether the licensee was found to have committed "gross medical malpractice,"
6 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
7 publication by the board must so specify.

8 A motion was made and seconded to reject the Settlement Agreement.

9
10 Dr. Herrera agreed to waive attorney fees and costs.

11
12 The motion carried unanimously.

13
14 A motion was made, seconded and carried unanimously to dismiss the Administrative
15 Complaint.

16
17 **Action taken:** Administrative Complaint dismissed

18
19 **Mary Eloise Patterson, P.A., New Orleans, LA – Hearing Not Involving Disputed Issues**
20 **of Material Fact21**

21 Ms. Patterson was present but not represented by counsel.

22
23 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

24
25 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) – Having a
27 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
28 including the denial of licensure, by the licensing authority of any jurisdiction, including its
29 agencies or subdivisions and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in
30 writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license
31 to practice medicine in another state, territory, or country.

32
33 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

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- 1
- 2 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
- 3 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
- 4 Statues as charged in the Administrative Complaint.
- 5
- 6 A motion was made, seconded and carried unanimously to impose a letter of concern, \$3,000
- 7 fine and the Laws and Rules course.
- 8
- 9 A motion was made, seconded and carried unanimously to table the Motion for Costs.
- 10
- 11 A motion was made, seconded and carried unanimously to require the Respondent update her
- 12 practitioner profile.
- 13
- 14 **Penalty imposed:** letter of concern, \$3,000 fine, Laws and Rules course, update practitioner
- 15 profile; motion for costs tabled
- 16
- 17 **Raj R. Rangaraj, M.D., Albany, GA – Settlement Agreement22**
- 18 Dr. Rangaraj was present and represented by Frances Cullen, Esquire.
- 19
- 20 A motion was made, seconded and carried unanimously to find Ms. Cullen is a qualified
- 21 representative.
- 22
- 23 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.
- 24
- 25 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
- 26 Administrative Complaint: Violation of Florida Statues s. 458.331(1)(b), FS (2010) – Having a
- 27 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
- 28 including the denial of licensure, by the licensing authority of any jurisdiction, including its
- 29 agencies or subdivisions and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in
- 30 writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license
- 31 to practice medicine in another state, territory, or country.
- 32
- 33 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
- 34

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1 A motion was made, seconded and carried unanimously to offer a counter proposal to impose a
2 reprimand, \$2,000 fine, costs, the Laws and Rules course, and restricted from plastic surgery
3 other than ocular plastic surgery.
4

5 The Respondent took 7 days to accept or reject the counter offer.
6

7 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$2,000 fine,
8 costs, the Laws and Rules course, restricted from plastic surgery other than ocular plastic surgery
9

10 **Charles J. Demarco, M.D., Merrick, NY – Hearing Not Involving Disputed Issues of**
11 **Material Fact23**

12 Dr. Demarco was not present nor was he represented by counsel.
13

14 Dr. Espinola and Ms. Goersch were recused due to participation on the probable cause panel.
15

16 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
17 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2008) – Having a
18 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
19 including the denial of licensure, by the licensing authority of any jurisdiction, including its
20 agencies or subdivisions and s. 458.331(1)(kk), FS (2008) – Failing to report to the board, in
21 writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license
22 to practice medicine in another state, territory, or country.
23

24 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
25

26 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
27

28 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
29 Statutes as charged in the Administrative Complaint.
30

31 A motion was made, seconded and carried unanimously to revoke the Respondent’s license.
32

33 A motion was made, seconded and carried unanimously to table the Motion for Costs.
34

35 **Penalty imposed:** revocation; motion for costs tabled
36

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1 **Raul A. Ramos, M.D., Belle Glade, FL – Settlement Agreement9**

2 Dr. Ramos was not present, but was represented by Tara Finnigan, Esquire. Dr. Ramos was
3 requesting that his appearance be waived.

4
5 A motion was made, seconded and carried unanimously to waive the Respondent’s appearance.

6
7 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

8
9 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
10 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(w), FS (2009-2010) –
11 Delegating professional responsibilities to a person when the licensee delegating such
12 responsibilities knows or has reason to know that such person is not qualified by training,
13 experience, or licensure to perform them; s. 458.331(1)(nn), FS (2009-2010) – Violating any
14 provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and s.
15 458.331(1)(aa), FS (2009-2010) – Presigning blank prescription forms.

16
17 A motion was made and seconded to accept the Settlement Agreement. The motion failed with
18 only 4 members in favor of the motion.

19
20 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

21
22 A motion was made, seconded and carried unanimously to offer a counter proposal to impose the
23 same terms, but to suspend the license until completion of the UF CARES evaluation and
24 compliance with recommendations and the Board retains jurisdiction to impose additional terms
25 at reinstatement.

26
27 The Respondent took 7 days to accept or reject the counter offer.

28
29 **Action taken:** Settlement Agreement rejected; counter to impose reprimand, \$2,500 fine, costs,
30 Laws and Rules course, suspension the license until completion of the UF CARES evaluation
31 and compliance with recommendations and the Board retains jurisdiction to impose additional
32 terms at reinstatement

33
34 **Christopher Kelly Vincent, M.D., Roanoke, VA & Winchester, VA - Hearing Not**
35 **Involving Disputed Issues of Material Fact.....25**

36 This matter was withdrawn prior to the meeting.

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Marisela Gonzalez, M.D., Miami, FL – Settlement Agreement29

Dr. Gonzalez was present and represented by Mark Dresnick, Esquire.

Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(v), FS (2005-2009) – Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform; s. 458.331(1)(m), FS (2005-2009) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s. 458.331(1)(nn), FS (2005-2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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1 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

2

3 **Penalty imposed:** reprimand, \$10,000 fine, \$7,584.09 costs, Laws and Rules course, FMA
4 records course, 5 hours risk management CME, either take AMA approved CPT and medical
5 billing course or hire a certified CPT consultant

6

7 **Yared Dessalegne Lakew, M.D., Lakeland, FL – Determination of Waiver Hearing...**

8 **.....30**

9 Dr. Lakew was not present nor was he represented by counsel.

10

11 Dr. Orr was recused due to participation on the probable cause panel.

12

13 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
14 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2008) – – Failing to
15 perform any statutory or legal obligation placed upon a licensed physician.

16

17 A motion was made, seconded and carried unanimously to find the Respondent waived his right
18 to a hearing.

19

20 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

21

22 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

23

24 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
25 Statutes as charged in the Administrative Complaint.

26

27 A motion was made, seconded and carried unanimously to suspend the Respondent’s license
28 until he appears and addresses the issues in the Administrative Complaint.

29

30 **Penalty imposed:** suspension until appears and addressed the issues in the Administrative
31 Complaint

32

33 **Binod K. Singh, M.D., Bay Shore & Napanoch, NY – Determination of Waiver**

34 **Hearing.....31**

35 Dr. Singh was not present nor was he represented by counsel.

36

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1 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

2
3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
4 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
5 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
6 including its agencies or subdivisions; s. 458.331(1)(kk), FS (2010) – Failing to report to the
7 board, in writing, within 30 days if action as defined in paragraph (b) has been taken against
8 one’s license to practice medicine in another state, territory, or country; and s. 458.331(1)(c), FS
9 (2010) - Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
10 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
11 the ability to practice medicine.

12
13 A motion was made, seconded and carried unanimously to find the Respondent waived his right
14 to a hearing.

15
16 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

17
18 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

19
20 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
21 Statues as charged in the Administrative Complaint.

22
23 A motion was made, seconded and carried unanimously to revoke the Respondent’s license and
24 to waive costs.

25
26 **Penalty imposed:** revocation, costs waived

27
28 **Benjamin Sanchez, M.D., Tampa & Hollywood, FL – Determination of Waiver**
29 **Hearing32**

30 Dr. Sanchez was not present nor was he represented by counsel.

31
32 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

33
34 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
35 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x), FS (2010) – Violating a

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1 lawful order of the board or department previously entered in a disciplinary hearing or failing to
2 comply with a lawfully issued subpoena of the department.

3
4 A motion was made, seconded and carried unanimously to find the Respondent waived his right
5 to a hearing.

6
7 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

8
9 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

10
11 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
12 Statutes as charged in the Administrative Complaint.

13
14 A motion was made, seconded and carried unanimously to revoke the Respondent’s license and
15 to waive costs.

16
17 **Penalty imposed:** revocation, costs waived

18
19 **Evan J. Zimmer, M.D., Miami & Ft. Lauderdale, FL – Determination of Waiver**
20 **Hearing.....33**

21 Dr. Zimmer was not present nor was he represented by counsel

22
23 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

24
25 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS (2010-2011) – Being
27 unable to practice medicine with reasonable skill and safety to patients by reason of illness or use
28 of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental
29 or physical condition.

30
31 A motion was made, seconded and carried unanimously to find the Respondent waived his right
32 to a hearing.

33
34 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

35
36 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

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- 1
- 2 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
- 3 Statues as charged in the Administrative Complaint.
- 4
- 5 A motion was made, seconded and carried unanimously to suspend the Respondent’s license
- 6 until he appears before the Board and demonstrates his ability to practice with reasonable skill
- 7 and safety and the Board reserves jurisdiction to impose additional terms at reinstatement and the
- 8 costs are tabled.
- 9
- 10 **Penalty imposed:** suspension until he appears before the Board and demonstrates his ability to
- 11 practice with reasonable skill and safety; Board reserves jurisdiction to impose additional terms
- 12 at reinstatement; costs are tabled
- 13
- 14 **William Morris Abernathy, M.D., Hoover, AL & Niceville, FL – Determination of**
- 15 **Waiver Hearing.....34**
- 16 Dr. Abernathy was present but not represented by counsel.
- 17
- 18 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.
- 19
- 20 Ms. Hibber represented the Department and presented the case to the Board. Allegations of the
- 21 Administrative Complaint: Violation of Florida Statues s. 458.331(1)(g), FS (2010) – Failing to
- 22 perform any statutory or legal obligation placed upon a licensed physician and s. 458.331(1)(nn),
- 23 FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
- 24 thereto.
- 25
- 26 A motion was made, seconded and carried unanimously to find the Respondent waived his right
- 27 to a hearing.
- 28
- 29 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
- 30
- 31 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
- 32
- 33 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
- 34 Statues as charged in the Administrative Complaint.
- 35
- 36 The Board directed the Department to open a case for impairment.

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1
2 A motion was made, seconded and carried unanimously to table this matter until another meeting
3 to allow Prosecuting Services to speak with the Respondent to ensure he understands the process.
4

5 **Action taken:** Hearing tabled until another meeting during which time PSU is to speak with the
6 Respondent and ensure he understands the process
7

8 **Augusto Gabriel Lizarazo, M.D., Lynbrook, NY – Determination of Waiver Hearing**³⁵

9 Dr. Lizarazo was not present nor was he represented by counsel.
10

11 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

12 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
13 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) –
14 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
15 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
16 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
17 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
18 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
19 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
20 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
21 in this paragraph shall be construed to require that a physician be incompetent to practice
22 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
23 administrative law judge or a final order of the board finding a violation under this paragraph
24 shall specify whether the licensee was found to have committed "gross medical malpractice,"
25 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
26 publication by the board must so specify; s. 458.331(1)(q), FS (2009) – Prescribing, dispensing,
27 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,
28 other than in the course of the physician's professional practice. For the purposes of this
29 paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or
30 otherwise preparing legend drugs, including all controlled substances, inappropriately or in
31 excessive or inappropriate quantities is not in the best interest of the patient and is not in the
32 course of the physician's professional practice, without regard to his or her intent; s.
33 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or chapter 456, or any rules
34 adopted pursuant thereto; and s. 458.331(1)(m), FS (2009) – Failing to keep legible, as defined
35 by department rule in consultation with the board, medical records that identify the licensed

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1 physician or the physician extender and supervising physician by name and professional title
2 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
3 treatment procedure and that justify the course of treatment of the patient, including, but not
4 limited to, patient histories; examination results; test results; records of drugs prescribed,
5 dispensed, or administered; and reports of consultations and hospitalizations.

6 A motion was made, seconded and carried unanimously to find the Respondent waived his right
7 to a hearing.

8
9 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

10
11 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

12
13 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
14 Statutes as charged in the Administrative Complaint.

15
16 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

17
18 **Penalty imposed:** revocation

19
20 **Cesar Armando Ramirez, M.D., Miami, FL – Determination of Waiver Hearing ...36**
21 Dr. Ramirez was present but not represented by counsel.

22
23 Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.
24 Dr. Zachariah chaired this hearing.

25
26 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
27 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(jj), FS (2010) – Failing to
28 remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a
29 final order, judgment, or stipulation or settlement; s. 456.072(1)(kk), FS (2010) – Being
30 terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid
31 program, or the federal Medicare program, unless eligibility to participate in the program from
32 which the practitioner was terminated has been restored; and s. 458.331(1)(g), FS (2010) –
33 Failing to perform any statutory or legal obligation placed upon a licensed physician.

34

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1 A motion was made, seconded and carried unanimously to find the Respondent waived his right
2 to a hearing.

3
4 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

5
6 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

7
8 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
9 Statutes as charged in the Administrative Complaint.

10
11 A motion was made, seconded and carried unanimously to dismiss the (kk) charge.

12
13 A motion was made, seconded and carried unanimously to impose a letter of concern and \$1,500
14 fine.

15

16 **Penalty imposed:** (kk) charge dismissed; letter of concern, \$1,500 fine

17
18 **John Windham, P.A., Lake City, FL – Determination of Waiver Hearing.....37**

19 Mr. Windham was not present nor was he represented by counsel.

20
21 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

22
23 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
24 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2008-2010) –
25 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s.
26 458.331(1)(t), FS (2008-2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):
27 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to
28 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be
29 construed to require more than one instance, event, or act. 2. Committing gross medical
30 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person
31 found by the board to have committed repeated medical malpractice based on s. 456.50 may not
32 be licensed or continue to be licensed by this state to provide health care services as a medical
33 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be
34 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A
35 recommended order by an administrative law judge or a final order of the board finding a
36 violation under this paragraph shall specify whether the licensee was found to have committed

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1 "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any
2 combination thereof, and any publication by the board must so specify; and s. 458.331(1)(m), FS
3 (2009) – Failing to keep legible, as defined by department rule in consultation with the board,
4 medical records that identify the licensed physician or the physician extender and supervising
5 physician by name and professional title who is or are responsible for rendering, ordering,
6 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
7 treatment of the patient, including, but not limited to, patient histories; examination results; test
8 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
9 hospitalizations.

10
11 A motion was made, seconded and carried unanimously to find the Respondent waived his right
12 to a hearing.

13
14 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

15
16 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

17
18 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
19 Statutes as charged in the Administrative Complaint.

20
21 A motion was made and seconded to impose a reprimand, \$10,000 fine, 6 months suspension,
22 must appear before the Probation Committee for reinstatement at which time the Committee will
23 set probationary terms, and the FMA records course.

24
25 An amendment was offered to require a one year suspension. The amendment was rejected.

26
27 A motion was made, seconded and carried unanimously to strike the previous motion and to
28 impose a reprimand, \$10,000 fine, 1 year suspension and the Board reserved jurisdiction to
29 impose additional terms at reinstatement.

30
31 **Penalty imposed:** reprimand, \$10,000 fine, 1 year suspension, Board reserved jurisdiction to
32 impose additional terms at reinstatement

33
34 **LICENSURE ISSUES:**
35 **Mark Morgan, M.D. – Referral from Credentials Committee.....38**

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1 Dr. Morgan was present but not represented by counsel. He presented his credentials and asked
2 the Board to grant him licensure.

3
4 Ms. McNulty explained Dr. Morgan meets all the requirements for licensure although he has not
5 practiced since 1987. After discussion and a statement from Dr. Morgan indicating under oath
6 that he would not practice medicine in Florida until he passed the specialty board or SPEX
7 examination.

8
9 After discussion, a motion was made, seconded and carried unanimously to approve for
10 licensure.

11
12 **Action taken:** licensure approved

13
14 **FINAL ORDER COMPLIANCE ISSUES:**
15 **Mark Seldes, M.D. – Petition to Modify Final Order39**

16 Dr. Seldes was present but not represented by counsel. He asked the Board to allow him to seek
17 practice in the private sector where he has a position pending. Dr. Rivenbark was also present.

18
19 A motion was made, seconded and carried 7-6 to support Dr. Seldes’ petition.

20
21 **Action taken:** may seek employment in private sector

22
23 **Gregory Saric, M.D. – Petition for Reinstatement59**

24 Dr. Saric was present and represented by Allen Grossman, Esquire. Dr. Rivenbark was also
25 present. He was requesting reinstatement of his license.

26
27 A motion was made, seconded and carried unanimously to reinstate Dr. Saric’s license.

28
29 **Action taken:** license reinstated

30
31 Dr. Rosenberg thanked PSU and said they did a tremendous job.

32
33 **BOARD DIRECTOR’S REMARKS:**
34 **Renewal of Delegations.....50**

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1 Ms. Tootle asked the Board to review the memos in their agenda materials and approve. She
2 explained the delegation memos allowed her, on behalf of the Chairman of the Board and Chair's
3 of the various Committees, to complete certain tasks as delineated in the memos.
4

5 Mr. Tellechea also asked the Board to delegate to the Chairman, the responsibility to settle fee
6 cases on behalf of the Board. He explained these cases can be time sensitive and sometimes he
7 does not have time to take the settlement offer to the Board. This would allow him to work with
8 the Chairman and then report back to the Board afterwards.
9

10 A motion was made, seconded and carried unanimously to approve the delegated duties.
11

12 **Action taken:** duties delegated as delineated in the memos and Mr. Tellechea's verbal request
13

14 **BOARD COUNSEL'S REMARKS: No tab**

15 Mr. Tellechea reminded the Board about the rule challenge that requires the Board to remove
16 references to community service in the disciplinary guidelines. He also reminded them about the
17 cost issue and said he would keep the Board updated. He said there was also another pending
18 non-rule policy challenge but he could not yet provide the details.
19

20 No action necessary.
21

22 **FEDERATION OF STATE MEDICAL BOARDS (FSMB)51**

23 Ms. Prine explained the FSMB was requesting a letter of support from the Board to continue
24 their research on portability of licensure and telemedicine. She said the Board has not been in
25 favor of licensure portability in the past.
26

27 Mr. Tellechea reminded the Board that any changes related to these to issues would require
28 legislative authority.
29

30 A motion was made, seconded and carried unanimously to allow the Rules/Legislative
31 Committee to research and make a recommendation to the Board.
32

33 **COMMITTEE REPORTS:**

34 **Finance & Process Accountability Committee**

35 Mr. Mullins provided the report for the meeting held February 1, 2012.
36

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1 A motion was made, seconded and carried unanimously to accept the report.

2

3 **Action taken:** report approved

4

5 **Communication, Education and Information Committee**

6 Ms. Goersch provided the report for the meeting held February 1, 2012. She said Ms. Sanford
7 would be adding all the Board members to the Mailman Listserv.

8

9 A motion was made, seconded and carried unanimously to accept the report.

10

11 **Action taken:** report approved

12

13 **Rules/Legislative Committee Meeting**

14 Dr. Zachariah and Ms. Tootle provided the report for the meeting held February 1, 2012.

15

16 A motion was made, seconded and carried unanimously to accept the report.

17

18 **Action taken:** report approved

19

20 **Surgical Care/Quality Assurance Committee**

21 Dr. Orr provided the report for the meeting held February 1, 2012.

22

23 A motion was made, seconded and carried unanimously to accept the report.

24

25 **Action taken:** report approved

26

27 **APPROVAL OF MEETING MINUTES:**

28 **December 2-3, 2011 Meeting54**

29 A motion was made, seconded and carried unanimously to approve the minutes as written.

30

31 **Action taken:** minutes approved

32

33 **RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.55**

34 A motion was made, seconded and carried unanimously to ratify the licensure lists provided with
35 the exception of the name indicating graduation from the Institute of Massage Therapy, unless
36 staff confirms that was a data entry error in which case all names are ratified.

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- 1
- 2 **Action taken:** licenses ratified except one unless staff confirms data entry error
- 3
- 4 Dr. Rosenberg thanked everyone for their work.
- 5
- 6 The meeting adjourned at 4:8 p.m.

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1 **Saturday, February 4, 2012**

2 **8:00 a.m. ROLL CALL**

3

4 **Members Present:**

5 Jason J. Rosenberg, M.D., Chairman
6 Z.P. Zachariah, M.D., Vice Chairman
7 Nabil El Sanadi, M.D., 1st Vice Chairman
8 Fred Bearison, M.D.
9 Trina Espinola, M.D.
10 Brigitte Goersch, Consumer Member
11 Onelia Lage, M.D.
12 Bradley M. Levine, Consumer Member
13 Donald E. Mullins, Consumer Member
14 Robert Nuss, M.D.
15 James W. Orr, M.D.
16 Merle P. Stringer, M.D.
17 George Thomas, M.D.
18 Elisabeth Tucker, M.D.

Members Absent:

Gary Winchester, M.D.

19

20 **Staff Present:**

21 Joy A. Tootle, JD, Executive Director
22 Ed Tellechea, Board Counsel
23 Donna McNulty, Board Counsel
24 Nancy Murphy, Paralegal
25 Crystal Sanford, Program Operations Administrator
26 Chandra Prine, Program Operations Administrator
27 Whitney Bowen, Regulatory Specialist III
28 Shaila Washington, Compliance Officer

Others Staff:

Jennifer Hirst, Public Information Officer

American Court Reporting

29

30 **Prosecuting Attorneys Present:**

31 Veronica Donnelly
32 Diane Kiesling
33 Carol Gregg
34 Sharmin Hibbert

35

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1 Ms. Tootle provided opening remarks and explained the various types of hearings scheduled for
2 the day.

3
4 Ms. Sanford read the Settlement Agreement list and determined which hearings would be
5 presented the Board.

6
7 **DISCIPLINARY CASE SCHEDULE CONTINUED:**

8 **Albert G. Caruana, M.D., Cooper City & Miami, FL – Settlement Agreement41**

9 Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.
10 Dr. Zachariah chaired this hearing.

11
12 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
13 (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-
14 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
15 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the
16 purposes of this paragraph, performing or attempting to perform health care services includes the
17 preparation of the patient.

18
19 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

20
21 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 5 hours risk management CME, lecture

22
23 **Grace Mary Valente (Guastella), M.D., Jacksonville, FL – Settlement Agreement .42**

24 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

25
26 Allegations of the Administrative Complaint: Violation of Florida s. 456.072(1)(jj), FS (2009 -
27 2010) - Failing to remit the sum owed to the state for an overpayment from the Medicaid
28 program pursuant to a final order, judgment, or stipulation or settlement.

29
30 A motion was A motion was made, seconded and carried unanimously to accept the Settlement
31 Agreement.

32
33 **Penalty imposed:** reprimand, costs, set up payment schedule within 60 days

34
35 **William H. Hass, M.D., Pensacola, FL – Settlement Agreement.....40**

36 Dr. Hass was present and represented by Art C. Young, Esquire.

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1
2 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

3
4 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
5 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) –
6 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
7 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
8 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
9 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
10 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
11 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
12 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
13 in this paragraph shall be construed to require that a physician be incompetent to practice
14 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
15 administrative law judge or a final order of the board finding a violation under this paragraph
16 shall specify whether the licensee was found to have committed "gross medical malpractice,"
17 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
18 publication by the board must so specify and s. 458.331(1)(m), FS (2009) – Failing to keep
19 legible, as defined by department rule in consultation with the board, medical records that
20 identify the licensed physician or the physician extender and supervising physician by name and
21 professional title who is or are responsible for rendering, ordering, supervising, or billing for
22 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
23 including, but not limited to, patient histories; examination results; test results; records of drugs
prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

24 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

25
26 A motion was made, seconded and carried unanimously to offer a counter proposal to impose a
27 reprimand, \$10,000 fine, risk management review within 6 months and the rest of the terms of
28 the original Settlement Agreement.

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1
2 The Respondent took 7 days to accept or reject the counter offer.

3
4 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$10,000 fine,
5 costs, risk management review, FMA records course, 1 hour CME in treatment of drug or
6 allergic reactions under anesthesia

7
8 **Guillermo C. Narvarte, M.D., Naples & Bonita Springs, FL – Settlement Agreement2**

9 Dr. Narvarte was present and represented by Anthony Leon, Esquire.

10
11 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel. Dr.
12 Orr recused himself because his wife is CEO of the company involved in this case.

13
14 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
15 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(1), FS (2008) – Soliciting
16 patients, either personally or through an agent, through the use of fraud, intimidation, undue
17 influence, or a form of overreaching or vexatious conduct. A solicitation is any communication
18 which directly or implicitly requests an immediate oral response from the recipient.

19
20 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

21
22 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$10,000
23 fine, costs, the Laws and Rules course, an ethics course and 1-hour training in HIPAA.

24
25 An amendment was offered to impose a letter of concern in lieu of the reprimand. The
26 amendment was rejected.

27
28 The motion carried unanimously.

29
30 The Respondent took 7 days to accept or reject the counter offer.

31
32 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$0,000 fine,
33 costs, Laws and Rules course, 1-hour course in HIPAA, an ethics course

34
35 **Alejandro Miguel Hernandez-Cano, M.D., Hialeah, FL – Settlement Agreement ...28**

36 Dr. Hernandez-Cano was present and represented by Brian Neuman, Esquire.

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1
2 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

3 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statutes – four (4) counts of violation of s.
5 458.331(1)(t), FS (2005-2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):
6 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to
7 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be
8 construed to require more than one instance, event, or act. 2. Committing gross medical
9 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person
10 found by the board to have committed repeated medical malpractice based on s. 456.50 may not
11 be licensed or continue to be licensed by this state to provide health care services as a medical
12 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be
13 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A
14 recommended order by an administrative law judge or a final order of the board finding a
15 violation under this paragraph shall specify whether the licensee was found to have committed
16 "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any
17 combination thereof, and any publication by the board must so specify and s. 458.331(1)(m), FS
18 (2005-2007) – Failing to keep legible, as defined by department rule in consultation with the
19 board, medical records that identify the licensed physician or the physician extender and
20 supervising physician by name and professional title who is or are responsible for rendering,
21 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the
22 course of treatment of the patient, including, but not limited to, patient histories; examination
23 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
24 consultations and hospitalizations.

25 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

26
27 A motion was made and seconded to offer a counter proposal to impose the same terms in the
28 original agreement, but to impose a reprimand, \$10,000 fine and to remove the requirement for
29 CME in infectious diseases.

30
31 An amendment was offered to require a \$25,000 fine. The amendment was rejected.

32
33 The motion carried unanimously.

34

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1 The Respondent took 7 days to accept or reject the counter offer.
2
3 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$10,000 fine,
4 costs, 5 hours risk management CME
5
6 **Revisit Guillermo C. Narvarte, M.D., Naples & Bonita Springs, FL – Settlement**
7 **Agreement.....2**
8 Dr. Narvarte accepted the counter offer.
9
10 **Penalty imposed:** reprimand, \$0,000 fine, costs, Laws and Rules course, 1-hour course in
11 HIPAA, an ethics course
12
13 **PETITIONS FOR WAIVER/VARIANCE:**
14 **Charles Stark, M.D. – Rule 64B8-9.0131, FAC.....43**
15 Dr. Stark was present but not represented by counsel. He was requesting a waiver or variance of
16 Rule 64B8-9.0131, FAC.
17
18 After interviewing Dr. Stark regarding his credentials, a motion was made, seconded and carried
19 unanimously to deny Dr. Stark’s petition on the basis he has failed to demonstrate how granting
20 the waiver would serve the purposes of the underlying statute.
21
22 **Action taken:** petition denied
23
24 **Revisit Alejandro Miguel Hernandez-Cano, M.D., Hialeah, FL – Settlement**
25 **Agreement28**
26 Dr. Hernandez- Cano accepted the counter offer.
27
28 **Penalty imposed:** reprimand, \$10,000 fine, costs, 5 hours risk management CME
29
30 **Joseph Pecoraro, M.D. – Rule 64B8-8.019, FAC44**
31 Dr. Pecoraro was present and represented by Brian Neuman, Esquire. He was requesting a
32 waiver or variance of Rule 64B8-8.019, FAC due to the cost of the obtaining the entire record.
33
34 Dr. Thomas was recused because he knows the physician and treats family members.
35

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1 After discussion, a motion was made, seconded and carried unanimously to grant the petition
2 with the condition that if the record is not available when needed, Dr. Pecoraro agrees this
3 constitutes a strike.

4
5 **Action taken:** petition granted with condition that if the record is not available when needed, Dr.
6 Pecoraro agrees this constitutes a strike

7
8 **VOLUNTARY RELINQUISHMENTS:**

9 **Sharon D. Washington, M.D., Tracy, CA.....45**

10 Dr. Washington was not present nor was she represented by counsel.

11
12 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

13
14 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
15 (2010) - Having a license or the authority to practice medicine revoked, suspended, or otherwise
16 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
17 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
18 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
19 or in anticipation of the filing of administrative charges against the physician's license, shall be
20 construed as action against the physician's license and s. 458.331(1)(kk), FS (2010) - Failing to
21 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
22 against one's license to practice medicine in another state, territory, or country.

23
24 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
25 of license.

26
27 **Penalty imposed:** license relinquished

28
29 **Allen Turtel, M.D., Boca Raton, FL46**

30 Dr. Turtel was not present nor was he represented by counsel.

31
32 Probable cause was waived in this case.

33
34 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
35 (2011) - Failing to perform any statutory or legal obligation placed upon a licensed physician and

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1 s. 458.331(1)(nn), FS (2011) - Violating any provision of this chapter or chapter 456, or any
2 rules adopted pursuant thereto.

3
4 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
5 of license.

6
7 **Penalty imposed:** license relinquished

8
9 **Joseph J. Kubacki, M.D., Ft. Walton Beach, FL47**

10 Dr. Kubacki was not present nor was he represented by counsel.

11
12 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

13
14 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
15 (2011) - Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
16 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
17 the ability to practice medicine.

18
19 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
20 of license.

21
22 **Penalty imposed:** license relinquished

23
24 **Stephen J. Kaskie, M.D., Bonita Springs, FL48**

25 Dr. Kaskie was not present nor was he represented by counsel.

26
27 Dr. Tucker, Dr. Espinola and Mr. Mullins were recused due to participation on the probable
28 cause panel.

29 Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s.
30 458.331(1)(t), FS (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):
31 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to
32 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be
33 construed to require more than one instance, event, or act. 2. Committing gross medical
34 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person
35 found by the board to have committed repeated medical malpractice based on s. 456.50 may not

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1 be licensed or continue to be licensed by this state to provide health care services as a medical
2 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be
3 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A
4 recommended order by an administrative law judge or a final order of the board finding a
5 violation under this paragraph shall specify whether the licensee was found to have committed
6 "gross medical malpractice," "repeated medical malpractice," or "medical malpractice," or any
7 combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS
8 (2009) – Failing to keep legible, as defined by department rule in consultation with the board,
9 medical records that identify the licensed physician or the physician extender and supervising
10 physician by name and professional title who is or are responsible for rendering, ordering,
11 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
12 treatment of the patient, including, but not limited to, patient histories; examination results; test
13 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
14 hospitalizations; s. 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or
15 chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(q), FS (2009) –
16 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including
17 any controlled substance, other than in the course of the physician's professional practice. For the
18 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
19 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
20 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
21 and is not in the course of the physician's professional practice, without regard to his or her
22 intent.

23 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
24 of license.

25
26 **Penalty imposed:** license relinquished

27
28 **Jose Alberto Nunez, M.D., Miami, FL49**

29 Dr. Nunez was not present nor was he represented by counsel.

30
31 Probable cause was waived in this case.

32
33 Allegations of the Administrative Complaint: Violation of Florida Statues s. 458.331(1)(c), FS
34 (2011) - Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless

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1 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
2 the ability to practice medicine.

3
4 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
5 of license.

6
7 **Penalty imposed:** license relinquished

8
9 **RETREAT DISCUSSIONS:**

10 **BOARD MEMBER ETHICS TRAINING56**

11 Mr. Tellechea gave a brief summary of the materials in the agenda and advised the members to
12 call him if they had questions after reading the materials.

13
14 No action necessary.

15
16 **HB 7095 UPDATE57**

17 Ms. Tootle provided an update on the various changes implemented by HB 7095 (2011
18 Legislative Session).

19
20 Ms. Sanford provided information regarding the data reporting portion of the bill.

21
22 No action necessary.

23
24 **PRESENTATION: CPEP No tab**

25 Dr. Tucker provided an overview of her visit to the Center for Physician Education to see their
26 program first hand. She advised they have a comprehensive ethics course and medical record
27 course. She also said they had a good program for re-entry into practice. She said they have
28 found the average is 3 years before physician's need re-entry training. Dr. Tucker said the cost
29 for the courses start at \$1,500 and all are by referral only. She said the entire program can cost
30 from \$6,000 – \$9,000.

31
32 No action necessary.

33
34 **2013 MEETING LOCATIONS No tab**

35 Ms. Tootle explained the meeting planners are having difficulty finding meeting locations in the
36 Ft. Lauderdale area and the Board is scheduled to meeting in that city twice in 2013. She said

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1 the meeting planners have requested the Board consider changing one of the Ft. Lauderdale
2 locations to another city.

3
4 Dr. Bearison suggested West Palm Beach or Miami.

5
6 Dr. Lage suggested the Marriott in Coral Gables.

7
8 Dr. Zachariah suggested holding the meeting at a medical school.

9
10 Mr. Mullins reminded the Board USF invited the Board to hold the meeting at the Embassy
11 Suites on campus.

12
13 **Action taken:** Board suggested West Palm Beach or Miami

14
15 **OLD BUSINESS:**

16 Mr. Tellechea asked the Board to reconsider action taken at the Surgical Care Committee and
17 reported on the previous day. He said it was pointed out to him there is an error in Rule 64B8-
18 9.009, FAC wherein section III should read 'The facility does not have an anesthetic machine on
19 premises;'.
20

21 A motion was made, seconded and carried unanimously to approve the modified language.

22
23 A motion was made, seconded and carried unanimously to find this amendment does not have an
24 adverse impact on small business nor will it be likely to directly or indirectly increase regulatory
25 costs to any entity in excess of \$200,000 in the aggregate in Florida within one year after the
26 implementation of the rule amendment.

27
28 **Action taken:** language modified, no SERC

29
30 **COMMITTEE REPORTS:**

31 **Credentials Committee Meeting**

32 Dr. Nuss provided the report for the meeting held February 1, 2012.

33
34 A motion was made, seconded and carried unanimously to accept the report.

35
36 **Action taken:** report approved

Minutes prepared by Crystal Sanford

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Anesthesiologist Assistants No tab

Dr. Zachariah provided the report for the meeting held February 1, 2012. He said there needed to be a correction to the minutes related to the adjournment time. It should read adjourned at 3:25 p.m.

A motion was made, seconded and carried unanimously to accept the report as amended.

Action taken: report approved as amended

COUNCIL ON PHYSICIAN ASSISTANTS:..... No tab

Dr. Zachariah provided the report for the meeting held February 1, 2012.

A motion was made, seconded and carried unanimously to accept the report.

Action taken: report approved

PROCESS IMPROVEMENT DISCUSSION52

Dr. Rosenberg introduced the topic and said Ms. Tootle's staff, PSU, the Department are committed to making better the process of presenting cases to the Board. He asked the Board for their ideas. He said he would be traveling to Tallahassee in February to see PSU build an agenda and learn the process. He made the following suggestions:

- Add components to the Board memo that are not consistently present now
- Organize the material in folders in an specific order such as:
 - Board Memo
 - Administrative Complaint
 - Defense Materials
 - Medical Records
 - Other Required Information which would include documents required for legal purposes but not necessarily important to the Board's decision

Dr. Thomas said the quality of the documents is important and should be on the quality of documents provided to judges. He also suggested having the same prosecutor handle the case throughout the entire litigation process from PCP to presentation before the Board.

Dr. Rosenberg noted PSU grouped the cases handled by each attorney which was helpful.

Minutes prepared by Crystal Sanford

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1
2 Dr. Tucker asked if the Pleading File in Recommended Order cases was required.
3

4 Ms. Alsobrook advised the Board they needed the complete record, but did not need duplicates
5 of documents. She said her team would work on that or put those documents in a folder marked
6 'Duplicates'.
7

8 Dr. Rosenberg recognized TJ, Ms. Goersch's son, who was present in the audience.
9

10 Mr. Mullins advised the Board a technology workgroup has been formed to look at the software
11 used to present the case material. He said as the workgroup moved forward to replacing the
12 current system in 2013, they would keep in mind that OCR software allows a user to search
13 documents and that function should be included in any new software considered.
14

15 Dr. Rosenberg stated PSU also did a good job explaining why a proposed Settlement Agreement
16 was not exactly what the Board wanted as a resolution to the case. He said everyone is working
17 toward improvement and looks forward to the day when all Settlement Agreements are
18 approved. He said this time there were a few language issues that prevented some from being
19 approved. He asked Mr. Tellechea to work with PSU on that issue. Dr. Rosenberg also
20 suggested Mr. Mullin's Finance and Process Accountability Committee look into Settlement
21 Agreement acceptance/rejection patterns and determine reasons why they are rejected.
22

23 Mr. Mullins asked members to email Ms. Tootle any tools they feel are necessary when
24 reviewing case material including the software.
25

26 Dr. Lage said the Board Memo is a valuable tool that she finds helpful. She asked the memo
27 include Board certification and the disciplinary guidelines.
28

29 Dr. Rosenberg asked if the Expert Witness materials could be included in one folder and marked
30 who the opinion was from and in chronological order.
31

32 Mr. Mullins said it was helpful when the transcript is included and asked if the pertinent section
33 could be highlighted or marked in some way.
34

35 He was advised PSU, for legal reasons, could not mark the transcript as requested.
36

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1 **PROBATION COMMITTEE DISCUSSION53**

2 Mr Tellechea explained the Board expressed a desire to hold Probation Committee meetings in
3 conjunction with Board Meetings. He explained, in order to accomplish that, all physicians on
4 probation with quarterly appearances would need to have their Final Orders modified to require
5 triennial appearances. He asked the Board to authorize him to draft an Order, for the Chairman’s
6 approval, to make the modification for the affected physicians.

7
8 Dr. Thomas expressed concern about the Committee schedule on the Thursday prior to the Board
9 Meeting.

10
11 Dr. Rosenberg said staff could look at the schedule. He said not all committees need to meet
12 every meeting and he would leave that up to the individual committee chairs. He also reminded
13 the Board that two committees have been moved to conference calls: Expert Witness and
14 Dietetics-Nutrition/Electrology Committees.

15
16 Mr. Mullins said he appreciated the Chairman obtaining the small conference room for members
17 to conduct non-Board meeting related work when not in committee meetings.

18
19 Ms. Donnelly addressed an early request to allow prosecutors to follow the case from PCP
20 through presentation to the Board. She advised that she uses the panel meetings to train new
21 attorneys before she allows them to present at the Board meeting or at formal hearings.

22
23 Dr. Rosenberg said he wanted every attorney handling a case to sign at the bottom of the Board
24 Memo a statement such as ‘I have prepared, reviewed and take responsibility for everything
25 provided in this case.’

26
27 Ms. Alsobrook pointed out it is unethical for PSU to handle defense attorney items that are
28 received after the deadline, specifically defense mitigation letters.

29
30 Dr. Rosenberg said if the role of the Board office is to be Administrator of the case materials,
31 then that is the way it should be handled.

32
33 Ms. Donnelly went on to say that each of her presenting prosecutors can effectively handle 20
34 cases per meeting.

35

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1 Mr. Grossman addressed the Board and asked the Board, when looking at the committee
2 schedule consider that defense attorneys represented clients that attend the Credentials
3 Committee, Probation Committee, PA Council Meeting and the Anesthesiology Assistant
4 Committee Meeting.

5
6 Mr. Grossman also asked that the Compliance Officer be mindful of final appearances before the
7 Board since the Board has moved to triennial appearances to ensure no physician remains on
8 probation beyond the scheduled termination date.

9
10 Mr. Grossman also expressed concern about the deadline dates for submitting materials before
11 the Board. He said sometimes a physician does not obtain counsel until finding out he/she is
12 scheduled for the hearing. He said that presents a problem in submitting supporting
13 documentation in time for the deadline.

14
15 Dr. Rosenberg said he wanted deadlines to be deadlines, but wanted to be fair. His goal is to
16 limit the addendum and supplemental materials. Dr. Rosenberg asked PSU and Dr. Rivenbark to
17 discuss how they can alert PRN when PRN cases are being scheduled before the Board so their
18 letters can meet the deadline.

19
20 Mr. Mullins stated his committee could process map this at the next meeting to address this
21 issue.

22
23 Dr. Rosenberg asked members to forward any additional thoughts to Ms. Tootle.

24
25 Mr. Mullins reminded the Board the process must include other Boards besides Medicine that
26 use the agenda software.

27
28 No action taken.

29
30 **YEAR OLD CASE REPORT DISCUSSION No tab**

31 Ms. Alsobrook said she reported to the Finance and Process Accountability Committee on
32 Thursday a report that will address older cases. The Committee approved the template and
33 format. She said the report will be provided on a quarterly basis and will include the total
34 number of old cases pending and how those cases will be processed. She said they will use a
35 dashboard technique to provide statistics on the current status of old cases. She said PSU have
36 reduced the old cases from 1,500 cases to 1,100 cases in six months. She commended the

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1 amazing work of the probable cause panels to accomplish this task. Ms. Alsobrook suggested
2 bringing back the Medical Advisory Committee to serve as consultants to PSU in making
3 determinations on older cases such as whether additional information is necessary for the case to
4 proceed, if prosecution should move forward on the case or close it; and/or other such
5 determinations. She also suggested the use of alternative resolutions to assist in handling less
6 severe cases.

7
8 **MEDIATION-CITATION DISCUSSION60**

9 Ms. Alsobrook presented a proposal to provide additional information to the Board at the next
10 meeting for alternative resolution to cases which would include mediation and citations.

11
12 The Board agreed to Ms. Alsobrook's suggestion.

13
14 **DEPARTMENT REMARKS..... No tab**

15 Ms. Donnelly reported her Expert Witness Seminar regarding over-prescribing cases was
16 successful. She said she is working with FMA to create a certification for the general expert
17 witness training she provides. She said Dr. Nuss and Dr. Farmer were assisting. She said she
18 will be conducting the first in-house training for attorneys to obtain their health care certification
19 from the Florida Bar. She said the examination is scheduled for May 2013. Ms. Donnelly said
20 she planned to bring attorneys to the August Board Meeting in Jacksonville. She said she would
21 also be conducting a seminar on collecting costs when physicians file bankruptcy.

22
23 Ms. Donnelly, on behalf of PSU, presented Dr. Thomas with a leadership award for his work
24 while Chairman of the Board in 2011.

25
26 **BOARD CHAIR'S REMARKS..... No tab**

27 Dr. Rosenberg reminded the Board Dr. Espinola would be leaving the Board, but said she would
28 be invited to a future meeting for presentation of her plaque.

29
30 Dr. Espinola said it was a privilege and an honor to know the Board Members. She said she has
31 grown professionally and personally and thanked the members.

32
33 Dr. Rosenberg thanked the members.

34
35 The meeting was adjourned at 11:30 am.