



Florida Board of Medicine

**Palm Beach Gardens Marriott
4000 RCA Blvd
Palm Beach Gardens, FL 33410
(561) 622-8888**

June 5, 2015

MEETING MINUTES

Friday, June 5, 2015

7:30 a.m. Roll call

Members Present:

James W. Orr, Jr., M.D., Chairman
Steven Rosenberg, M.D., Vice Chairman
Nabil El Sanadi, M.D.
Merle Stringer, M.D.
George Thomas, M.D.
Brigitte Goersch, Consumer Member
Magdalena Averhoff, M.D.
Zachariah P. Zachariah, M.D.
Enrique Ginzburg, M.D.
Jorge Lopez, M.D.
Gary Dolin, M.D.
Joy A. Tootle, J.D., Consumer Member
Bernardo Fernandez, M.D.
Sarvam TerKonda, M.D.

Members Absent:

Staff Present:

André Ourso, J.D., Executive Director
Edward Tellechea, Esquire, Board Counsel
Donna McNulty, Esquire, Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations Administrator
Chandra Prine, Program Operations Administrator
Wendy Alls, Regulatory Supervisor
Rebecca Hewett, Regulatory Specialist III
Brad Dalton, Public Information Officer

Others Present:

American Court Reporting – Lisa Higbee
Penny Ziegler, M.D., Director, PRN

Prosecuting Attorneys Present:

Yolonda Green, Esquire
Jack Wise, Esquire
Arielle Davis, Esquire
Chad Dunn, Esquire

Mr. Ourso read the opening remarks to the audience and outlined the various hearings being presented throughout the day.

Ms. Sanford read the Settlement Agreement list to determine which cases the Board would hear during the day.

Disciplinary Case Schedule:

John Joseph D’Auria, M.D., Tampa, FL – Settlement Agreement1

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2012-2013) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and s. 458.331(1)(nn), FS (2012-2013) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: letter of concern, \$5,000 fine, costs, Laws and rules course, 5 hours CME in risk management, lecture

Jorge C. Bruno, M.D., Miami & Surfside, FL – Settlement Agreement6

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

Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS (2013) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

Penalty imposed: letter of concern, \$2,000 fine, costs, 5 hours CME in risk management, lecture

Rispba N. McCray-Garrison, M.D., Houston & League City, TX – Settlement Agreement7

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

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2013) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license.

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

Penalty imposed: letter of concern, \$1,000 fine, costs, 3 hours CME in ethics

Roberto Fojo, Jr., M.D., Miami Lakes, FL – Settlement Agreement8

Dr. Thomas and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(nn), FS (2011-13) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: letter of concern, costs, Laws and Rules course, pay delinquent inspection fees totaling \$3,000

George L. Caldwell, Jr., M.D., Ft. Lauderdale, FL – Settlement Agreement13

Dr. Thomas and Ms. Tootle were recused due to participation on the probable cause panel. Dr. El Sanadi recused himself because he knows Dr. Caldwell. Dr. Fernandez recused himself because he has a working relationship with the Respondent.

Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS (2012-2013) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

Penalty imposed: letter of concern, \$2,500 fine, costs, 6 hours CME in risk management, lecture

Paul Edward Beebe, M.D., Naples, FL – Settlement Agreement15

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (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)(q), FS

(2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent; and s. 458.331(1)(m), FS (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 (2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: letter of concern, \$10,000 fine, costs, UF drug course or equivalent, FMA records course or equivalent, 5 hours CME in risk management, 5 hours CME in epidural injections, dismiss count 4 [s. 458.331(1)(nn), FS (2009)]

Jeffrey D. Blatt, M.D., Jerusalem, Israel & North Miami Beach, FL – Settlement Agreement16

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g), FS (2008-2010) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

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

Penalty imposed: letter of concern, \$2,000 fine, costs, Laws and Rules course, pay judgment within 90 days

Francesco Cabrera, M.D., Miami, FL – Settlement Agreement17

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g), FS (2008-2010) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

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

Penalty imposed: letter of concern, \$2,000 fine, costs, Laws and Rules course, pay judgment within 90 days

Stanley Clark Newhall, M.D., Salt Lake City, UT – Settlement Agreement21

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

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2013) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license.

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

Penalty imposed: reprimand, \$5,000 fine, costs, Laws and Rules course, UF drug course, FMA records course, restriction – limited to practice in ER setting only, restriction – may not prescribe Schedule I-IV controlled substances outside of ER setting, may petition to lift restrictions which requires appearance and demonstration of current ability to practice with reasonable skill and safety, Board retains jurisdiction to impose additional terms

Michael Moyer, M.D., Orlando, FL – Settlement Agreement2

Dr. Moyer was present and represented by Gregory Chaires Esquire.

Dr. El Sanadi and Dr. Thomas were recused due to participation on the probable cause panel.

Ms. Greene 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 (2008, 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)(q), FS (2008, 2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(m), FS (2008, 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. 456.072(1)(c), FS (2012) –

Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

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

A motion was made to offer a counter proposal to impose the same terms except to increase the fine to \$40,000, impose a permanent restriction on Schedules I-IV controlled substances, and no prescribing of Suboxone. This motion was seconded and carried unanimously.

The Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose reprimand, \$40,000 fine, costs, UF drug course or equivalent, FMA records course or equivalent, practice restrictions: 1) shall not own, operate or practice in a pain-management clinic; 2) shall not treat patients for chronic non-malignant pain; and 3) permanent restriction on prescribing Schedule I-IV controlled substances including suboxone, probation for two years under indirect supervision with tri-annual reports, first and last appearances, 25% chart review, 100% chart review of charts for patients treated with controlled substances

Mario Lopez, M.D., Port Charlotte, FL – Settlement Agreement.....19

Dr. Lopez was present and represented by Brian Newman, Esquire.

Dr. TerKonda was recused due to participation on the probable cause panel. Dr. Averhoff indicated that she knew Dr. Lopez but could remain impartial.

Mr. Wise represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2010) – 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.

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

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

The Board advised PSU they did not want to use the expert witness used in this case again and asked that the PCP members be made aware of this case.

Action Taken: Administrative Complaint dismissed

Simon Tsinker, M.D., Sunny Isles, Ft. Lauderdale & Hallandale, FL – Settlement Agreement3

Dr. Tsinker was present but not represented by counsel.

Dr. TerKonda and Ms. Tootle were recused due to participation on the probable cause panel.

Mr. Dunn 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 (2013) – 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 and s. 458.331(1)(m), FS (2013) – 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.

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

A motion was made and seconded to offer a counter proposal to impose the same terms but to restrict him from practicing OB/GYN until he has undergone a UF CARES evaluation and complies with the recommendations or becomes Board Certified in OB/GYN plus the Board reserves jurisdiction to impose additional terms following the evaluation, a course in ethics and a course in patient empathy.

An amendment was offered to impose a reprimand in lieu of the letter of concern. This amendment was accepted.

Another amendment was offered to increase the fine to \$20,000 and this amendment was accepted.

The motion carried unanimously and the Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose a reprimand, \$20,000 fine, costs, 5 hours CME in labor and delivery of breech presentations, FMA records course or equivalent, course in ethics, course in patient empathy, restricted from practicing OB/GYN until he has undergone a UF CARES evaluation and complies with the recommendations or becomes Board Certified in OB/GYN, Board reserves jurisdiction to impose additional terms following the evaluation

Roy Z. Braunstein, M.D., Lake Wales, FL – Settlement Agreement4

Dr. Braunstein withdrew from his Settlement Agreement prior to the meeting.

Jeffrey A. Samuels, M.D., Deerfield Beach, FL – Settlement Agreement5

Dr. Samuels was present and represented by Michael Mittelmark, Esquire.

Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel. Dr. El Sanadi recused himself because he works with Dr. Samuels at Broward Health.

Ms. Davis represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006-2009) – 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)(q), FS (2006-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; and s. 458.331(1)(m), FS (2006-2009) – 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.

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

A motion was made to offer a counter proposal to impose a letter of concern, the same fine and costs, a restriction on prescribing controlled substances until he undergoes a UF CARES

evaluation including a boundaries component and the Board reserved jurisdiction to impose additional terms. The motion was seconded carried unanimously.

The Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected, counter offer to impose a letter of concern, \$30,000 fine, costs, restriction – may not prescribe controlled substances until he undergoes a UF CARES evaluation including a boundaries component, Board retains jurisdiction to impose additional terms

Shlomo Pascal, M.D., Pembroke Pines, FL – Settlement Agreement9

Dr. Pascal was present and represented by Alex Barker, Esquire.

Dr. Orr and Ms. Tootle were recused due to participation on the probable cause panel. Dr. Rosenberg chaired this hearing.

Mr. Wise represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(t), FS (2009-2011) – 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)(m), FS (2009-2011) – 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 (2009-2011) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to table this hearing because the Board wanted to see the entire CPEP evaluation.

Action taken: tabled; provided entire CPEP evaluation

Bruce Hal Berman, M.D., Riviera Beach, FL – Settlement Agreement10

Dr. Berman was present and represented by Bernard Cassidy, Esquire. Dr. Zeigler also addressed the Board.

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Corrected Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(mm), FS (2011-2012) – Failure to comply with controlled substance prescribing requirements of s. 456.44 and s. 458.331(1)(t), FS (2010-2012) – 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.

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

Penalty imposed: reprimand, \$30,000 fine, costs, Laws and Rules course, UF drug course or equivalent, 5 hours CME in identification and treatment of substance abuse, misuse and addiction in patients, 5 hours CME in risk management, Restrictions: 1) permanently restricted from owning, operating or practicing in a pain-management clinic, 2) permanently restricted from treating patients for chronic non-malignant pain and 3) permanently restricted from prescribing Schedule II controlled substances, suspended for six months, probation for one year under indirect supervision, tri-annual reports, first and last appearances, 25% chart review, may prescribe Schedule III-V controlled substances under the following restrictions: 1) utilize sequentially numbered triplicate prescriptions, 2) one copy to the monitor and 3) one copy in the patient’s record

Chairman’s Recognition Awards:

Dr. Orr, along with the rest of the Board, recognized Ms. Prine for 34 ½ years with the Board of Medicine. She will be retiring on July 2nd.

Amy Hammers, M.D. – University of Florida Resident38

Dr. Hammers was awarded the Chairman’s Recognition Award for because she, among other things, demonstrates extraordinary medical and social competence and skill expected of a young medical professional.

Robert Yates Knowlton, Jr., M.D. – University of Florida Resident39

Dr. Knowlton was also recognized by the Board and awarded the Chairman’s Recognition Award for his demonstration of extraordinary medical and social competence and skill expected of a young medical professional.

Roy G. Heilbron, Jr., M.D., Santa Fe, NM – Settlement Agreement11

Dr. Heilbron was not present but he was represented by Alex Barker, Esquire.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2013) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license; s. 458.331(1)(kk), FS (2013) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license to practice medicine in another state, territory, or country; and s. 456.072(1)(w), FS (2013) – Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

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

Penalty imposed: letter of concern, \$5,000 fine, costs, not required to appear, but his counsel must appear on his behalf

Terence E. Moore, M.D., Kittanning, PA – Settlement Agreement12

Dr. Moore was not present but he was represented by Allen Grossman, Esquire. Mr. Grossman provided a letter from Dr. Moore’s physician indicating his inability to travel at this time.

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

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2013-2014) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license.

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

Penalty imposed: letter of concern, \$1,000 fine, costs, suspended until appears and demonstrates ability to practice with reasonable skill and safety, jurisdiction retained

Hector J. Diaz, M.D., Plant City & Temple Terrace, FL – Settlement Agreement ..14

Dr. Diaz was present and represented by Andrew Brown, Esquire.

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

Ms. Davis 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 (2013) – 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)(q), FS (2013) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent; and s. 458.331(1)(m), FS (2013) – 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.

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

Penalty imposed: reprimand, \$12,500 fine, costs, Laws and Rules course or equivalent, FMA records course or equivalent, probation for one year under indirect supervision, tri-annual reports, first and last appearances, 50% chart review, review all charts for patients treated for opioid addiction with controlled substances listed in Schedule II, III and/or IV

Dale Reynolds Fralicker, M.D., Neptune Beach, FL - Settlement Agreement20

Dr. Fralicker was present and represented by Tad Delegal, Esquire.

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

Mr. Wise represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(s), FS (2013-2014) – being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

A motion was made and seconded to offer a counter proposal to impose the same terms, but to suspend his license until he undergoes a PRN evaluation and the Board retained jurisdiction to impose additional terms. The motion carried unanimously.

The Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose costs, suspended until he undergoes a PRN evaluation, Board retains jurisdiction to impose additional terms at reinstatement

Charles Eagar, M.D., Englewood, FL – Settlement Agreement18

Dr. Eagar was not present nor was he represented by counsel.

A motion was made, seconded and carried unanimously to table this matter until the next meeting.

Action taken: tabled until next meeting

Joseph Molea, M.D., Tampa, FL – Settlement Agreement44

Dr. Molea was present and represented by Gregory Chaires, Esquire.

Dr. El Sanadi and Dr. Orr were recused due to participation on the probable cause panel. Dr. Rosenberg chaired this hearing.

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS (2012) – Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine; s. 458.331(1)(aa), FS (2012) – Presigning blank prescription forms; and s. 458.331(1)(m), FS (2012) – 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.

A motion was made to reject the Settlement Agreement. This motion was later withdrawn.

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

Penalty imposed: reprimand, \$7,500 fine, costs, UF drug course, Laws and Rules course, 5 hours CME in risk management

Mark T. Ramsey, M.D., Riverview, FL & Oconomowoc, WI – Recommended Order22

Dr. Ramsey was not present by he was represented by William Furlow, Esquire.

Dr. Stringer was recused due to participation on the probable cause panel. Dr. Rosenberg chaired this hearing.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statute s. 456.072(1)(hh), FS (2010) – Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

A motion was made, seconded and carried unanimously to reject the Respondent's first exception on the basis the Board cannot rule on evidentiary issues.

A motion was made, seconded and carried unanimously to reject the Respondent's second exception on the basis of the Administrative Law Judge's reading of the statute and there is evidence in the record to support PRN is a treatment program.

A motion was made, seconded and carried unanimously to reject the Respondent's third exception on the basis the Board does not have jurisdiction over evidentiary issues.

A motion was made, seconded and carried unanimously to reject the Respondent's fourth exception on the basis of the Departments comments and information in the record.

A motion was made, seconded and carried unanimously to reject the Respondent's fifth exception on the basis of the comments made by the Department.

A motion was made, seconded and carried unanimously to reject the Respondent's sixth exception on the basis of the Departments comments and the information in the record.

A motion was made, seconded and carried unanimously to reject the Respondent's seventh exception on the basis of the Departments comments and the information in the record.

A motion was made, seconded and carried unanimously to reject the Respondent's eighth exception on the basis of the Departments comments.

A motion was made, seconded and carried unanimously to reject the Respondent's ninth exception on the basis of the Departments comments and the information in the record.

A motion was made, seconded and carried unanimously to reject the Respondent's tenth exception on the basis of the Administrative Law Judge's reading of the statute and there is evidence in the record to support PRN is a treatment program.

A motion was made, seconded and carried unanimously to reject the Respondent's eleventh exception on the basis of the Departments comments, the information in the record and Mr. Tellechea's explanation.

A motion was made, seconded and carried with two opposed to reject the Respondent's exception to the penalty on the basis of the Departments.

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

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

A motion was made, seconded and carried unanimously to reject the penalty because this is an impairment case and the Board typically does not impose a fine in impairment cases.

The Respondent agreed not to file for an appeal if the Board did not impose costs.

A motion was made, seconded and carried unanimously to waive costs.

Penalty imposed: found guilty, no fine or costs

Italia T. Mancino, R.E., Brandon, FL – Hearing Not Involving Disputed Issues of Material Fact23

Ms. Mancino was not present nor was she represented by counsel.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(v), FS (2014) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

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

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

A motion was made, seconded and carried unanimously to impose a restriction on performing laser hair removal and light based hair removal and a \$100 fine.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$850.61 and the costs are to be paid within 12 months.

Penalty imposed: a restriction on performing laser hair removal and light based hair removal, \$100 fine, costs

Kornelis Andries Poelstra, M.D., Destin, FL – Hearing Not Involving Disputed Issues of Material Fact.....24

Dr. Poelstra was present but not represented by counsel.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS (2013) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

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

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

A motion was made and seconded to impose a letter of concern.

An amendment was offered to impose a \$2,500 fine, five hours CME in risk management and 1 hour lecture. This amendment was accepted and the Respondent may submit his lecture and CME retrospectively.

The motion carried unanimously.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$645.45.

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

Presentation:

Dr. Orr presented Onelia Lage, M.D., former Board Member and Chair, a plaque for her work with the Board.

Petition for Declaratory Statement:

Kurt Markgraf, M.D., Sara P. Brusco, AA-C, Robert S. Wagner, AA-C RE s. 458.3475(3)(a)6., F.S. and Rule 64B8-31.005, F.A.C.....45

Michael Glazier, Esquire appeared before the Board accompanied by Mr. Wagner, Ms. Brusco, and Dr. Markgraf. The petitioners were questioning the legality of Anesthesiology Assistants (AA’s) performing certain procedures, such as an epidural.

Dr. Orr indicated that he knows Dr. Markgraf and Ms. Brusco very well but could be impartial.

Glenn Thomas, Esquire, addressed the Board regarding his Motion to Intervene on behalf of the Certified Registered Nurse Anesthetists.

A motion was made, seconded and carried unanimously to grant Mr. Thomas intervener status.

A motion was made and seconded to find that under the current law, AA’s may not perform the procedures listed in the petition without having a physician present and that the AA’s are not permitted to perform the procedures without supervision.

A member pointed out that according to the law, AA's cannot perform epidurals even with supervision.

The motion carried with five opposed.

The Petitioners requested to withdraw their petition.

A motion was made, seconded and carried unanimously to allow the Petitioner's to withdraw from their petition.

Action taken: Petition withdrawn

Presentation:

Dr. Fernandez presented Dr. Orr with a plaque for serving as the Chairman with distinction January – June 2015.

Richard Lee Carpenter, M.D., Vero Beach, FL & Lansing, MI – Hearing Not Involving Disputed Issues of Material Fact25

Dr. Carpenter was not present nor was he represented by counsel.

Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel. Dr. Rosenberg chaired this hearing.

Ms. Davis represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS (2013) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

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

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

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

A motion was made, seconded and carried unanimously to impose a reprimand, \$5,000 fine, a permanent restriction on prescribing controlled substances for non-malignant pain and also restricted from working in, owning or operating a pain-management clinic.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$286.69.

Penalty imposed: reprimand, \$5,000 fine, costs, permanent restriction on prescribing controlled substances for non-malignant pain, restricted from working in, owning or operating a pain-management clinic

William H. Wyttenbach, M.D., Ft. Meyers, FL – Hearing Not Involving Disputed Issues of Material Fact26

Dr. Wyttenbach was present but not represented by counsel.

Dr. Ginzburg and Ms. Goersch were recused due to participation on the probable cause panel.

Ms. Davis represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2013) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician’s license, shall be construed as action against the physician’s license.

Mr. Tellechea questioned PSU and the Respondent regarding the status of the Respondent’s Tennessee license. Dr. Wyttbach admitted to action on his Tennessee license, therefore there were no disputed issues of material fact. The Board proceeded with an informal hearing.

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

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

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

Dr. Zachariah left at 2:06 p.m.

A motion was made, seconded and carried unanimously to suspend the Respondent’s license until his Tennessee license is clear, \$5,000 fine, and the Board retained jurisdiction to impose additional terms at reinstatement.

The Respondent’ requested a hand count for the vote and the Board voted again. Eleven hands were counted in favor of the vote.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$5,741.69.

Penalty imposed: suspended until Tennessee license clear, Board retained jurisdiction, \$5,000 fine, costs

Paul M. Goldberg, M.D. – Motion to Assess Costs27

This matter was withdrawn by PSU prior to the meeting.

Final Order Compliance Issues:

Fernando Mendez-Villamil, M.D. – Petition for Board Clarification.....28

Dr. Mendez-Villamil was not present nor was he represented by counsel.

A motion was made, seconded and carried unanimously to table this matter.

Action taken: tabled

Harry Wilks, M.D. – Request for Modification of Final Order 49, Addendum

This matter was tabled.

A motion was made, seconded and carried unanimously to table this matter.

Action taken: tabled

Licensure Issues:

John E. Christ, M.D. – Petition for Hearing on Disputed Issues of Fact (re Notice of Intent to Deny).....29

Dr. Christ was present accompanied by his mother and a family helper.

Ms. McNulty presented the issue to the Board then questioned Dr. Christ.

A motion was made, seconded and carried unanimously to determine there are no disputed issues of material fact and the Board could proceed with an Informal Hearing.

A motion was made, seconded and carried unanimously to include all materials in the agenda materials into the record.

A motion was made, seconded and carried unanimously to adopt the facts in the Notice of Intent to Deny as the Board’s Findings of Fact.

A motion was made, seconded and carried unanimously to deny licensure.

Action taken: licensure denied

Petition for Waiver or Variance:

James Yelton-Rossello, M.D. RE Rule 64B8-8.0011, F.A.C. – Standard Terms Applicable to Final Orders30

Dr. Yelton-Rossello was present and represented by Alex Barker, Esquire. He was requesting a waiver of the rule that requires his supervising physician be within 20 miles of his practice.

A motion was made, seconded and carried unanimously to grant the petition under Dr. Iserman’s supervision.

Action taken: petition granted

Pierre Puente, M.D. RE Rule 64B8-8.0011, F.A.C. – Standard Terms Applicable to Final Orders31

Dr. Puente was present and represented by Allen Grossman, Esquire. He was requesting waver or variance of Rule 64B8-8,001, FAC because his supervising physician is more than 20 miles from his practice.

A motion was made, seconded and carried unanimously to grant the petition

Action taken: petition granted

Petition for Declaratory Statement:

Minutes prepared by Crystal Sanford, CPM
June 5, 2015 Board of Medicine Meeting

Juan Diego Oms, M.D. and Larkin Community Hospital, Inc RE Rule 64B8-9.0141, F.A.C.

.....47
Dr. Oms was not present but he was represented by Jason Winn, Esquire. Jack Michel, M.D., a representative of Larkin Hospital was also present. Mr. Winn read Dr. Oms' letter into the record.

Mr. Tellechea explained to the Board that Larkin Hospital, the co-petitioner, does not have standing to bring a petition before the Board of Medicine.

A motion was made, seconded and carried unanimously to deny Larkin Hospital.

After discussion, a motion was made and seconded to deny the petition because the petitioner has failed to demonstrate a hardship as required by the law.

Dr. Michel addressed the Board concerning the denial.

Mr. Tellechea confirmed from Mr. Winn that he approved Dr. Michel addressing the Board on behalf of his client.

The motion carried 8-5.

Action taken: Larkin denied for lack of standing; Dr. Oms denied for failing to demonstrate hardship

Diane James, E.O. RE Rule 64B8-51.001 and 53.002, F.A.C..... 48, Addendum

Ms. James was not present nor was she represented by counsel. She was requesting a waiver of the rule as it relates to her educational documentation because the school is no longer in existence.

A motion was made, seconded and carried unanimously to table consideration of the petition until such time as staff can verify the school is out of existence and to verify when the petition was received.

Action taken: tabled until additional research can be conducted

Petition for Declaratory Statement:

Lawrence S. Halperin, M.D. and Covalent Medical, LLC – Approval of Draft Final Order32

Dr. Halperin was not required to be present. His petition was presented at the last meeting and the Board made a ruling. The Final Order was being presented for the Board's review and approval.

A motion was made, seconded and carried unanimously to approve the draft Final Order.

Action taken: Final Order approved

Voluntary Relinquishments:

Santiago B. Montoya, M.D., Miami, FL.....33

Dr. Montoya was not present nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(h), FS (2013) – Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician and s. 458.331(1)(k), FS (2013) – Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

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

Penalty imposed: license relinquished

Aaron Branham Roush, M.D., Lakeland & Winter Haven, FL.....37

Dr. Roush was not present nor was he represented by counsel.

No current members were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007-2009) – 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)(q), FS (2007-2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(m), FS (2007-2009) – 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 (2007-

2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: license relinquished

Jorge Oscar Weksler, M.D., Trinity & Hudson, FL34

Dr. Weksler was not present nor was he represented by counsel.

Case number 2007-36742

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; ; s. 458.331(1)(m), FS (2004) – 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)(p), FS (2004) – Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

Ms. Goersch was recused due to participation on the probable cause panel.

Case number 2008-12423

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances and s. 458.331(1)(m), FS (2004) – 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.

No current members were recused due to participation on the probable cause panel.

Case number 2008-13434

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005) – 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 and s. 458.331(1)(m), FS (2005) – 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.

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

Case number 2009-13469

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; s. 458.331(1)(m), FS (2004) – 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; s. 458.331(1)(p), FS (2004) – Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13; and s. 458.331(1)(aa), FS (2004) – Presigning blank prescription forms.

No current members were recused due to participation on the probable cause panel.

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

Penalty imposed: license relinquished

Edward L. Harwell, M.D., Ft. Meyers, FL & Reed City, MI35

Dr. Harwell was not present nor was he represented by counsel.

Case number 2012-16073

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

Allegations of the Amended Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2012) – Having a license or the authority to practice medicine revoked,

suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

Case number 2013-10453

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

Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(c), FS (2013) – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession and s. 456.072(1)(w), FS (2013) – Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

No current members were recused due to participation on the probable cause panel.

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

Penalty imposed: license relinquished

Alejandra M. Tobon, E.O., Pembroke Pines & Coral Gables, FL.....36

Ms. Tobon was not present nor was she represented by counsel.

Dr. El Sanadi was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(v), FS (2013) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: license relinquished

UNTIMED ITEMS*:

Board Chair’s Remarks:

Dr. Orr addressed the Board regarding his concern over the lack of residencies available in Florida. The Board agreed this was an issue and to include it in the Board’s strategic plan.

Action taken: include in the Board’s strategic plan

Dr. Orr thanked the Board for allowing him to serve as Chairman for the last six months.

Board Counsel’s Remarks:

Government in the Sunshine Training40

Mr. Tellechea provided training to the Board Members concerning the Government in the Sunshine laws.

Mr. Tellechea updated the Board regarding the Rule Challenge submitted by the Society for Clinical and Medical Hair Removal. He advised the Board won on all issues except whether the Board has authority to defer consideration of petitions to the Council to review prior to the Board's review. Despite the law that does give the Board authority to delegate; the judge found the Board does not have the authority to delegate. Mr. Tellechea advised he conferred with the Chairman and he approved appealing the decision.

A motion was made, seconded and carried unanimously to confirm the Chairman's decision to appeal the decision.

Mr. Tellechea advised SCMHR has filed a cross motion for appeal for the issues they did not prevail. He said they have also filed for attorney fees. He said he would keep the Board posted.

Mr. Tellechea also advised the Board regarding the rule challenge related to the costs for reproducing medical records. He said they are in discovery now with a hearing scheduled for August 22-24. He said he would keep the Board posted on the status of this challenge.

Action taken: confirmed Chair decision to appeal decision

Board Director's Remarks:.....No tab

Mr. Ourso waived his time to speak to the Board.

Dr. Orr took that opportunity to thank everyone who is involved in putting the meeting together.

Department Remarks:

Year-Old Case Report**41**

Ms. Green presented the year old case report to the members as information.

A motion was made, seconded and carried unanimously to have PSU continue processing the older cases.

Ms. Green also advised the Board the team leaders have undertaken a project to clear out the older prescribing cases. She said the members would start seeing these cases at probable cause and at the Board Meetings.

Action taken: approved to continue processing older cases

Council on Physician Assistants Meeting:**No tab**

Dr. El Sanadi presented the report for the meeting held June 4, 2015.

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

Action taken: report approved

Committee Reports:

Credentials Committee Meeting**No tab**

Dr. Averhoff provided the report for the meeting held June 4, 2015.

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

Action taken: report approved

Rules/Legislative Committee Meeting No tab

Dr. Orr provided the report for the meeting held. June 4, 2015.

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

Action taken: report approved

Joint Boards of Medicine and Osteopathic Medicine Office Surgery Rule Subcommittee Meeting..... No tab

Dr. TerKonda provided the report for the meeting held June 4, 2015.

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

Action taken: report approved

Expert Witness Committee No tab

Dr. Lopez gave the report for the meeting held June 4, 2015.

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

Action taken: report approved

Telemedicine Committee No tab

Dr. Orr provided the report for the meeting held June 4, 2015.

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

Action taken: report approved

Strategic Planning Committee No tab

Dr. El Sanadi gave the report for the meeting held June 4, 2015.

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

Action taken: report approved

Approval of Meeting Minutes:

April 10, 2015 Board Meeting.....42

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

Action taken: minutes approved

Ratification of Applicants Pursuant to Chapter 458, FS.....43

A motion was made, seconded and carried unanimously to ratify the licenses.

Action taken: licenses ratified

The meeting was adjourned at 3:46 p.m.

DRAFT