

**Florida Board of Medicine**

**Regency Hyatt  
9801 International Drive  
Orlando, Florida 32819  
(800) 233-1234**



**February 5, 2016**

**MEETING MINUTES**

**Friday, February 5, 2016**

8:00 a.m. Roll call

**Members Present:**

Steven Rosenberg, M.D., Chair  
Magdalena Averhoff, M.D., Vice Chair  
James W Orr, Jr, M.D.  
Zachariah P. Zachariah, M.D.  
Merle P. Stringer, M.D.  
Sarvam TerKonda, M.D.  
Joy Tootle, J.D., Consumer Member  
Brigitte Goersch, Consumer Member  
Gary Dolin, M. D.  
Seela Ramesh, M.D.  
Enrique Ginzburg, M.D.  
Bernardo Fernandez, M.D.  
Nicholas Romanello, Esq., Consumer Member

**Members Absent:**

**Staff Present:**

Adrienne Rodgers, J.D., Interim Executive Director  
Edward Tellechea, Esquire, Board Counsel  
Donna McNulty, Esquire, Board Counsel  
Nancy Murphy, Certified Paralegal  
Crystal A. Sanford, CPM, Program Operations Administrator (850) 421-0058  
Wendy Alls, Program Operations Administrator  
Angela Denson, Regulatory Supervisor  
Shaila Washington, Compliance Officer  
Rebecca Hewett, Regulatory Specialist III  
Brad Dalton, Public Information Officer

**Others Present:**

American Court Reporting  
Suzette Bragg  
425 Old Magnolia Rd  
Crawfordville, FL 32327

**Prosecutors Present:**

Yolonda Green, Esquire  
Peter Delia, Esquire  
Jack Wise, Esquire

Dr. Rosenberg said a few words then the Board took a moment of silence to mourn the loss of their colleague, Nabil El Sanadi, M.D.

Ms. Rodgers provided opening remarks to the audience and explained the various hearings being conducted the day. Afterwards, Ms. Sanford read the settlement agreement list to determine which cases were approved and which hearings would be heard by the Board.

The Board welcomed their newest board member, Nicholas Romanello, Esquire.

**Disciplinary Case Schedule:**

**Sasha Ross Lazarus, M.D., Weston, FL – Settlement Agreement.....2**

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(bb), FS (2014) - 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 accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5000 fine, \$6,265.48 costs, five hours CME and risk management, lecture

**Neal Joseph, M.D., Boca Raton, FL – Settlement Agreement .....4**

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

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$2500 fine, \$2,212.34 costs, five hours CME and risk management, lecture

**Hollis Ricardo Chan, M.D., Davie, FL – Settlement Agreement .....5**

Dr. Chan submitted a request to waive his appearance prior to the meeting. The basis of his request was that his Settlement Agreement was presented at the December 2015 Board Meeting. However, the Chair denied the request because the Settlement Agreement had been signed just prior to the last meeting and the members did not have time to read it in advance resulting in the matter being tabled.

Allegations of the Administrative Complaint: violation of 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 and s. 458.331(1)(nn), 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 Settlement Agreement.

**Penalty imposed:** letter of concern, \$2000 fine, \$3,844 costs, five hours CME and risk management, lecture

**Brian Chivas James, M.D., Sarasota, FL – Settlement Agreement.....9**

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(cc), FS (2007) – Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

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

**Penalty imposed:** reprimand, \$10,000 fine, \$7,179.48 costs, five hours CME and risk management, lecture

**Frank W. Bowden, III, M.D., Jacksonville, FL – Settlement Agreement.....14**

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(bb), FS (2014) – 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 accept the Settlement Agreement.

**Penalty imposed:** letter concern, \$3000 fine, \$1,685.99 costs, five hours CME and risk management, lecture

**Ali Shariati, M.D., Lakeland, FL – Settlement Agreement .....15**

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

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$9500 fine, \$2,808.81 costs, five hours CME and diagnostic radiology, five hours CME in risk management

**Andrew Jacob Schneier, M.D., Maitland, FL – Settlement Agreement .....16**

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(bb), FS – (2010) – 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 accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$2500 fine, \$2,342.96 five hours CME and risk management, lecture

**Nageh Shawky Barsoum, M.D., Rockledge, FL – Settlement Agreement,.....1**

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

Ms. Tootle was recused due to the patient on the probable cause panel.

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(t), FS (2011-2013) – 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 specified; s. 458.331(1) (q), FS (2011–2013) – 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 (2011-2013) – 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 with one imposed to reject the Settlement Agreement.

A motion was made, seconded, and carried unanimously to offer a counter proposal to impose the same terms with the following changes: reprimand, \$50,000 fine, a permanent restriction from prescribing Schedule I-IV controlled substances until he completes the University of Florida CARES assessment, permanent restriction on owning, operating, and practicing in pain management clinic.

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

**Penalty imposed:** reprimand, \$50,000 fine, \$13,188.62 costs, Laws and Rules course, UF drug course, FMA records course, a permanent restriction on owning, operating, and practicing in pain management clinic, a permanent restriction from prescribing Schedule I-IV controlled substances until he completes the University of Florida CARES assessment

**Hung Doan, M.D., Daytona Beach, FL – Settlement Agreement .....3**

Dr. Doan was present and represented by Jason Brown, Esquire.

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

Mr. Delia represented the Department and presented the case to the board. Allegations of the Administrative Complaint: violation of 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 specified

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

**Penalty imposed:** letter of concern, \$10,000 fine, \$3,669.19 costs, 10 hours CME in the treatment of nephrology patients, five hours CME and risk management

**Leslie Leigh Dongell, M.D., Spring Hill, FL – Settlement Agreement.....6**

Dr. Dongell was present and represented by Allen Grossman, Esquire and Dr. Ziegler from PRN.

Dr. Dolin and Ms. Tootle were 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 s. 458.331(1)(r), FS (2013) – Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs and s. 458.331(1)(k), FS (2013-2014) – 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 Settlement agreement.

**Penalty imposed:** letter of concern, \$2,000 fine, \$1,904.89 costs, restriction – must comply with PRN, Laws and Rules course, five hours CME and risk management

**Robert B. Sperrazza, M.D., Panama City Beach, FL – Settlement Agreement.....7**

Dr. Sperrazza was not present but he was represented by Allen Grossman, Esquire.

Since Dr. Rosenberg was recused in case number 2010–17905, Dr. Averhoff chaired the hearing.

Mr. Wise represented the Department and presented the cases to the board.

**Case number 2010–17905**

Allegations of the Administrative Complaint: violation of s. 456.072(1)(c), FS (2011) - 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.

**Case number 2011–10201**

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

Allegations of the Administrative Complaint: violation of 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.

**Case number 2013-09149**

Meeting Minutes prepared by Crystal Sanford  
Board of Medicine Meeting February 2016

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

Allegations of the Administrative Complaint: violation of 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, seconded and, carried unanimously to offer a counter proposal to impose the same terms with the following changes: suspension until appears and demonstrates his ability to practice with reasonable skill and safety including an evaluation in compliance with PRN, permanent restriction on prescribing Schedule I-IV substances, and the board retains jurisdiction to impose additional terms upon reinstatement.

Mr. Grossman requested additional time to accept or reject the counter offer due to the difficulties in communicating with his client at this time.

Mr. Tellechea stated he would work with Mr. Grossman.

**Action taken:** Settlement Agreement rejected and counter offer proposed to impose reprimand, \$6000 fine, \$11,194.81 costs, permanently restricted from prescribing Schedule I-IV controlled substances, suspended until he appears and demonstrates his ability to practice with reasonable skill and safety including evaluation and compliance with PRN, Board retains jurisdiction to impose additional terms.

**Chairman's Recognition Awards:**

**Clinton Dunn – Medical Student at Florida State University.....54**

**Carl Herndon – Medical Student at University of Florida ..... No tab**

The Board recognized Mr. Dunn and Mr. Herndon, for exemplifying professionalism, moral character, compassion and intellect essential to the future leaders of our medical profession.

**Filemon Rillera Patacxil, M.D., Tallahassee, FL – Settlement Agreement .....8**

Dr. Patacxil was present and represented by Gregory Chaires, Esq.

Dr. Fernandez 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 s. 458.331(1)(t), FS (2011-2013) – 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)(m), FS (2011-2013) – 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; and s. 458.331(1)(q), FS (2011-2013) – 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.

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

A motion was made, seconded, and carried unanimously to offer a counter proposal to impose the same terms but to restrict him from prescribing all amphetamines instead of just Adderall.

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

**Action taken:** Settlement Agreement rejected, counter proposal offered to impose a letter of concern, \$15,500 fine, \$3149.13 costs, restricted from prescribing or administering amphetamines until he has completed the UF drug course, UF drug course, FMA records course, five hours CME and risk management, Laws and Rules course

**Frank Rodriguez, M.D., West Palm Beach, FL – Settlement Agreement .....10**

Dr. Rodriguez was present and represented by Bruce Lamb, Esquire.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 456.072(1)(cc), FS (2012) – Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional; s. 458.331(1)(t), FS (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; 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, seconded, and carried unanimously to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose a reprimand, \$30,000 fine, costs, 10 hours CME in abortions, lecture, FMA medical records course, no procedures until he completes the UF CARES assessment and the Board retains jurisdiction to impose additional terms.

An amendment was offered to require him to take a medical ethics course and to undergo a risk management assessment. This amendment was accepted.

The motion carried with one opposed.

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

Mr. Lamb asked if the Probation Committee Chair would consider approval of a practice plan based on the UF CARES evaluation.

The Board took no action on this request.

**Action taken:** Settlement Agreement rejected, counter offer to impose reprimand, \$30,000 fine, \$5619.92 costs, 10 hours CME in abortion procedures, lecture, FMA medical records course, UF CARES physician assessment, Board retains jurisdiction to determine if additional terms and conditions are necessary after reviewing the evaluation, restricted from any and all surgical procedures until he has complied with the physician assessment, medical ethics course, risk management assessment

**Earle Winston Moore, M.D., Cape Coral, FL – Settlement Agreement.....11**

Dr. Moore was present and represented by Cynthia A. Mikos, Esquire.

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(b), FS (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:** reprimand \$5,000 fine, \$1306.40 costs, restricted from prescribing controlled substances schedules I-IV; permanently restricted from owning, operating, being employed by, or performing in any PMC; five hours CME and risk management

**Darrin Lyle Frye, M.D., West Palm Beach, FL – Settlement Agreement .....12**

Dr. Frye was present and represented by William Furlow, Esquire.

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

Mr. Delia represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(ee), FS (2008-2011) – Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term “muscle building” does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use; s. 458.331(1)(q), FS (2008-2011) – 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)(t)1, FS (2008-2011) – 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.; and s. 458.331(1)(w), FS (2008-2011) – Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

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

A motion made and seconded to offer a counter proposal to impose the same terms but to require a UF CARES evaluation to be reviewed by the Probation Committee and jurisdiction is retained to impose additional terms.

In amendment was offered to require an ethics course. This amendment was accepted.

An amendment was offered to change the restriction on the clinic to being permanently restricted from advertising or holding himself out as practicing antiaging and or regenerative medical services. This amendment was accepted.

Another amendment was offered to not require the UF CARES evaluation, but instead require the evaluation only if he wishes to have the restriction lifted. This amendment was also accepted.

A final amendment was offered to add the term hormonal balancing to the type of services he may not perform. This amendment was rejected.

The motion carried with three opposed.

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

**Action taken:** reprimand, \$25,000 fine, costs, ethics course Laws and Rules course, five hours CME and risk management, permanently restricted from practice antiaging and/or regenerative medical services, required to undergo a UF CARES evaluation if he wishes for this restriction to be lifted; restricted from prescribing hGH, testosterone, HCG, or any of their analogues, probation for three years, in direct supervision, 25% review of charts, triannual reports, first and last appearances

**Arcadio Jose Oliva, M.D., Orlando, FL – Settlement Agreement.....13**

Dr. Oliva was present and represented by Stephen Shapiro, Esquire.

Dr. Stringer and Ms. Goersch were 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 s. 458.331(1)(t)1, 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 offer a counter proposal to impose the same terms but to remove the requirement for CME and pathology.

The Respondent accepted the counter offer.

**Penalty imposed:** letter of concern, \$8000 fine, \$3535.94 costs, five hours CME and risk management

**Donald Ray Savage, Jr., M.D., Orlando & Port St. Lucie, FL – Settlement Agreement**

.....17

Dr. Savage was present but not represented by counsel.

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

Mr. Delia represented the Department presented the case to the Board. Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$7500 fine, costs, Laws and Rules, five hours CME in ethics

**Joseph James Starnes, P.A., Inverness & Spring Hill, FL – Informal Hearing.....18**

Mr. Starnes was present and represented by Steven Brownlee, 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 s. 458.331(1)(a), FS (2012) – Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

The Board received a Motion for Dismissal of Administrative Complaint and Mr. Tellechea explained Mr. Starnes was disputing a material fact. As a result, he recommended terminating the hearing and referring it back to the Division of Administrative Hearings.

A motion was made, seconded, and carried unanimously to terminate the hearing and refer the matter back to the Division of Administrative Hearings.

**Action taken:** hearing terminated; referred to the Division of Administrative Hearings

**Lycia L. Alexander-Guerra, M.D., Tampa, FL - Informal Hearing .....19**

Dr. Alexander-Guerra was present and represented by Holly Platter, Esquire.

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

Mr. Delia represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(t), FS (2009-2014) – 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 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 has violated Florida Statutes as charged in the Administrative Complaint.

A motion was made, seconded, and carried unanimously to impose a reprimand, \$10,000 fine, the Laws and Rules course, five hours CME in ethics, a boundaries course, and she may submit the course that she has already taken for approval.

A motion was made, seconded, and carried unanimously to assess costs in the amount of \$4178.

**Penalty imposed:** reprimand, \$10,000 fine, \$4178 costs, Laws and Rules course, five hours CME in ethics, a boundaries course, she may submit the course that she has already taken for approval

**Cynthia Denise Wirth, M.D., North Miami Beach, FL - Informal Hearing.....20**

Dr. Wirth was not present nor was she represented by counsel.

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

Mr. Delia represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of 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; and 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.

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 has violated Florida Statutes as charged in the Administrative Complaint.

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

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

**Penalty imposed:** revocation

**Douglas Frank Deorchis, M.D., Boca Raton, FL - Informal Hearing.....21**

Dr. Deorchis was present and represented by Richard Woulfe, Esquire.

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

Mr. Wise represented the Department and presented the case to the Board. Allegations of the Second Amended Administrative Complaint: violation of s. 456.072(1)(bb), FS (2012) – 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 has violated Florida Statutes as charged in the Administrative Complaint.

A motion was made and seconded to impose a letter of concern, \$1000 fine, and a lecture.

An amendment was offered to remove the fine. This amendment was rejected.

The motion failed with five votes to six.

A motion was made, seconded, and carried seven votes to five to recognize he committed a wrong site surgery but to impose no penalty.

A motion was made, seconded, and carried unanimously to assess costs at the cap in the amount of \$10,000.

**Penalty imposed:** committed wrong site surgery, no penalty, \$10,000 costs

**Dror M. Peled, M.D., Holiday, FL – Informal Hearing .....28**

Dr. Peled was present but not represented by counsel. This case was originally on the agenda as a voluntary relinquishment. Subsequently, Dr. Peled withdrew his relinquishment and requested an informal hearing.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(s), FS (2015) – 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; s. 456.072(1)(hh), FS (2015) – 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; s. 458.331(1)(q), FS (2015) – 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)(v), FS (2015) – 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.

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.

After discussion with Dr. Peled, it appeared that he was disputing the facts of the Administrative Complaint.

A motion was made, seconded, and carried unanimously to terminate the hearing and refer the matter to the Division of Administrative Hearings.

**Penalty imposed:** hearing terminated; referred to Division of Administrative Hearings

**Vinod Dharamraj Bhavnani, M.D., Ft. Myers, FL - Informal Hearing.....22**

Dr. Bhavnani was present and represented by Barbara Chapman, Esquire.

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

Mr. Wise represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of 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 has violated Florida Statutes as charged in the Administrative Complaint.

A motion was made, seconded, and carried unanimously to impose a letter of concern, \$2000 fine, a lecture within six months, and five hours CME and risk management.

A motion was made, seconded, and carried unanimously to reconsider the previous motion to remove the CME.

A motion was made, seconded, and carried unanimously to assess costs in the amount of \$1475.57.

**Penalty imposed:** letter of concern, \$2000 fine, \$1475.57 costs, lecture

**John Spencer Chikeziem Archinihu, M.D., Tampa, FL – Informal Hearing .....23**

Dr. Archinihu was present and represented by Bernard Cassidy, Esquire.

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

Mr. Delia represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 456.072(1)(c), FS (2014) – 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 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 has violated Florida Statutes as charged in the Administrative Complaint.

A motion was made, seconded, and carried unanimously to impose a reprimand and a \$5000 fine.

A motion was made, seconded, and carried unanimously to assess costs in the amount of \$424.19.

**Penalty imposed:** reprimand, \$5000 fine, \$424.19

**Brian Mitchell Lee, M.D., Pensacola, FL – Recommended Order .....24**

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

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

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 456.072(1)(c), FS (2013-2014) – 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.

Ms. Green advised the Board she was withdrawing exception number two. She explained exception number one was a typographic error related to the disciplinary guidelines in effect at that time.

A motion was made, seconded, and carried unanimously to accept exception number one.

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 has violated Florida Statutes as charged in the Administrative Complaint.

A motion was made, seconded, and carried unanimously to adopt the Recommended Order.

The Department withdrew their Motion for Costs.

**Penalty imposed:** revocation

**Determination of Waiver:**

**Antonio R. Pizarro, M.D., Determination of Waiver .....46**

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

Ms. Green advised the Board a voluntary relinquishment of license was received from Dr. Pizarro.

Mr. Tellechea reviewed the relinquishment and confirm to the Board the relinquishment was properly executed.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: three counts violation of 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; three counts violation of 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; three counts violation of s. 456.072(1)(mm), FS (2013) – Failure to comply with controlled substance prescribing requirements of s. 456.44; three counts violation of 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; and three counts violation of s. 458.331(1)(nn), 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

**AHCA Exemption Requests:**

**Nyree Penn, A.A.,.....25**

Ms. Penn was present but not represented by counsel. She was requesting an exemption from the exclusion list.

After responding to questions from the Board, a motion was made, seconded, and carried unanimously to grant the exemption.

**Action taken:** exemption granted

**Voluntary Relinquishments:**

**George F. Daviglus, M.D., Lauderdale By The Sea, FL .....29**

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

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(c), FS (2014) – 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)(x), FS (2014) – Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

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

**Penalty imposed:** license relinquished

**Gwendolyn M. Mercer, M.D., Ft. Walton Beach, FL.....30**

Dr. Mercer was not present nor was she represented by counsel.

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the department alleging a violation of s. 458.331(1)(g), FS (2015) – Failing to perform any statutory or legal obligation placed upon a licensed physician and s. 458.331(1)(nn), FS (2015) – 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

**Roger Rousseau, M.D., Miami, FL - Voluntary Relinquishment.....31**

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

Dr. Fernandez and Ms. Tootle were recused due to participation on the probable cause panel. Dr. Averhoff recused herself from consideration of this case because she has known the Respondent for over 30 years.

Allegations of the Administrative Complaint: violation of s. 456.072(1)(c), FS (2015) – 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; s. 456.072(1)(ll), FS (2015) – Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud; s. 456.072(1)(x), FS (2015) – Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999; and s. 456.072(1)(w), FS (2015) – 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 unanimously to accept the voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Gary J. Barsky, M.D., Deerfield & Elmhurst, IL - Voluntary Relinquishment .....32**

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

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(b), FS (2010) – 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 (2010) – 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; s. 456.072(1)(k), FS (2010) – Failing to perform any statutory or legal obligation placed upon a licensee.

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

**Penalty imposed:** license relinquished

**Russell H. Sachs, M.D., Green Cove Springs, FL - Voluntary Relinquishment .....33**

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

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the department alleging a violation of s. 458.331(1)(t), FS (2014) – 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 voluntary relinquishment of license.

**Penalty imposed:** license relinquished

**Naina Sachdev, M.D. ....52**  
This matter was withdrawn prior to the meeting.

No action taken.

**Final Order Compliance Issues:**  
**Cheryl Ackerman, M.D. - Petition for Reinstatement.....26**  
Dr. Ackerman was present but not represented by counsel. Dr. Ziegler with PRN was also present.

Dr. Ackerman was asked if she had undergone the required PRN evaluation.

Dr. Ziegler confirmed she had not completed the intake paperwork.

Mr. Tellechea advised Dr. Ackerman she needed to complete the intake paperwork and work with PRN in order to be reinstated to practice medicine in the state of Florida.

A motion was made, seconded, and carried unanimously to deny the request for reinstatement.

**Action taken:** request for reinstatement denied

**David Blyweiss, M.D. ....27**  
Dr. Blyweiss withdrew his petition prior to the meeting.

No action taken.

**Christina Paylan, M.D. –Motion to Dissolve Final Order.....53**

Dr. Paylan was present but she was not represented by counsel. She was requesting the board dissolve the Final Order.

Mr. Tellechea asked if she had appealed the Final Order.

Dr. Paylan confirmed she had appealed before the Second District Court of Appeals.

Mr. Tellechea asked if the court had relinquished jurisdiction to the Board.

Dr. Paylan said she had in Order giving the Board ten days to respond to the Motion to Relinquish Jurisdiction.

Mr. Tellechea advise the board the appellate attorney for the board as to respond to the Motion to Relinquish Jurisdiction. He said the Board had no authority to take action.

No action taken.

**Petition for Waiver/Variance:**

**Allison Miner, LDN, Petition for Waiver – Rule 64B8-42.002 .....48**

Ms. Miner was present but not represented by counsel. She was requesting waiver of Rule 64B8-42.002, FAC with regard to her supervised practice.

A motion was made, seconded and carried unanimously to grant the petition for waiver or variance.

**Action taken:** waiver or variance granted

**Board Chair’s Remarks:**

Dr. Rosenberg thanked Ms. Sanford for helping him out during the past month and especially throughout the day.

Dr. Fernandez stated the Board should not be pushed into using a system that has problems and constant updates until that software is fixed.

Dr. Orr confirmed and advised it increased his worktime by fifty percent.

Dr. TerKonda stated the user interface was slow, it was difficult to highlight, and difficult to find things. He suggested waiting until all these matters were corrected as well.

Dr. Rosenberg said there was a problem with the software for viewing images such as x-rays.

Dr. Lopez stated that members are volunteers and must maximize their time. He said he thought they were told they were going to receive new equipment.

Ms. Tootle advised the system was slow.

Dr. Rosenberg indicated there was a lot of sliding must be done to read the documents. He said he would like to continue receiving discs until the software meets their needs.

Dr. Dolin indicated he liked both systems.

Todd Gardner addressed the Board regarding their concerns. He stated they completed an evaluation of the inventory and ordered new devices for them. He further indicated the largest reading screen is an enhancement that is forthcoming. He indicated the Board of Nursing had 100% adoption and were happy with the product. He said he was hearing the same things from other Boards as well.

Ms. Goersch volunteered to work with the department to produce a better product that meets the Board's needs.

Dr. Rosenberg stated that the Board of Nursing probably didn't have to meet 3000 images of an MRI and therefore the software probably does meet their needs. He said volunteers should not have to double their work time.

Dr. Fernandez indicated he felt the Board had no voice in the software systems or hardware systems they must utilize.

Dr. Orr indicated he only wants one or two versions of the agenda.

Ms. Sanford explained the difference between the various versions and said she would work on reducing the number of versions.

Mr. Koshy tried to explain the different versions and how to use subsequent versions to see only the items that were added.

Ms. Sanford indicated staff would be conducting a process review due to the change in software.

Mr. Gardner stated he would raise the Board's concerns regarding the software.

Dr. Fernandez suggested having a workgroup at the next meeting to work out these details.

Dr. Rosenberg suggested surveying members to see who would like to serve on that workgroup.

**Board Counsel's Remarks:**

**Appeal of Medical Records Rule Challenge .....50**

Mr. Tellechea provided an update on the status of this rule pending ratification before the legislature. He explained the Legislators were concerned about the impact on the patients and they tabled ratification to get more information. He explained the members really wanted to know what the actual costs were for the physician to provide the records. The matter was rescheduled and tabled again. He said he did not believe the rule would be ratified this session but they would bring it back next year. He said if it was not ratified next year the board was back to the drawing board. Mr. Tellechea also explained even though they had won the rule challenge, it was being appealed. He said they would continue to defend it and hope to have it resolved by the end of the summer.

**Society for Clinical and Medical Hair Removal Opinion.....34**

Mr. Tellechea reminded the Board this matter originally came as a declaratory statement regarding whether electrolysis required certification one time or continued certification. He indicated he and his colleagues successfully defended the Board’s decision after which the Society appealed. He said he and his colleagues would continue to defend in this matter. He explained there is a bill pending before the Legislature that would change supervision requirements for electrologist from direct to indirect.

**Board Director’s Remarks:**

**Delegations of Authority.....35**

Every year with the appointment of the new chair and vice chair for the Board as well as chairs for the various Committees, new delegations of authority to staff must be approved and signed. Included in the agenda material were delegations for the chair and vice chair of the Board and chairs of the various Committees.

Ms. Rodgers read the various delegation memos after which motions were made, seconded, and carried unanimously to approve as drafted.

**Action taken:** delegations of authority approved

**Joint Meeting with Board of Pharmacy.....36**

Ms. Rodgers advised the Board that a joint meeting between them and the Board of Pharmacy was being set for the Wednesday before their April Board Meeting. She asked the board members to let her know if they had any topics they wish to be added to the agenda for discussion.

**Budget Update.....45**

Ms. Rodgers provided a budget update to the board and said she was available if there were any questions.

**Onelia Lage, M.D., FSMB Ethics and Professionalism Committee .....47**

Dr. Lage applied to be on the Federation of State Medical Board’s Ethics and Professionalism Committee. Dr. Fernandez, chair at the time of her requests, provided her with a letter of support.

No action was necessary.

**Challenge to Board Appointment.....49**

Ms. Rodgers informed the Board of a challenge to the recent appointment of Stephanie Petrosky to serve on the Dietetic Nutrition Council. Judy Stone, Legislative Policy Director with the Board for Certification of Nutrition Specialists appealed the appointment under section 468.506, Florida Statutes. John Armstrong, M.D., FACS, State Surgeon General, after reviewing the documentation the Board considered at the December 2015 Board Meeting, denied the request for appeal.

No action necessary.

**Update SB918 .....55**

**Update to PA & ARNP Legislation .....56**

**SB 210.....57**

**SB 946.....58**  
**HB 423.....59**  
**HB 1241/SB 152.....60**

Ms. Rodgers stated the indicated legislation could have an impact on physicians, physician practice, or the people physician supervise. She said she was available if the members had any questions.

**2016 AIM Annual Awards .....61**

Administrators in Medicine was requesting nominations for their annual awards.

**Action taken:** none taken

**Department Remarks: .....37**

Ms. Green addressed the Board regarding the year old case report. She indicated there were less than 400 cases that were year old which was a decrease from December 2015. She requested approval to continue prosecuting pending cases.

A motion was made, seconded, and carried unanimously to approve the Department continuing to prosecute these cases.

**Action taken:** approved to continue prosecution

**Healthiest Weight Update: ..... No Tab**

Ms. Rodgers indicated the healthiest weight initiative was a program developed by the State Surgeon General. She said the Board would need a new liaison.

Ms. Tootle agreed to serve as the Board’s liaison.

**Council on Physician Assistants Meeting: .....38**

Dr. Orr provided the minutes for the meeting held February 4, 2016.

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

**Action taken:** report approved

**Committee Reports:**

**Credentials Committee Meeting ..... No tab**

Dr. Averhoff provided the report for the meeting held February 4, 2016.

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

**Action taken:** report approved

**Surgical Care/Quality Assurance Meeting ..... No tab**

Dr. Orr provided the report for the meeting held February 4, 2016. He also discussed the proposed statement of estimated regulatory costs for Rule 64B8-9.009, FAC – Standard of Care for Office Surgery. He said staff would be making some changes and will present the revised language at the next meeting.

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

**Action taken:** report approved

**Rules/Legislative Committee Meeting** .....No tab  
Dr. Zachariah provided the report for the meeting held February 4, 2016.

Mr. Tellechea explained the Board amended Rule 64B8-9.0141 – Standards for Telemedicine Practice at the last meeting to allow the prescribing of controlled substances for the treatment of psychiatric disorders. He explained the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 as it relates to the Board’s telemedicine rule. He explained the Act defines “valid prescription” involves an in-person medical evaluation with the physical presence of the physician and the patient. He explained questions were raised whether our rule was inconsistent with the Act. He went on to say he did not feel it was inconsistent because the rule says that in Florida it is okay to prescribe controlled substances for the treatment of psychiatric disorders. He went on to say all physicians are still required to comply with federal regulations. He asked Ms. Rodgers if we could put something on the website about this matter. He recommended not changing the rule.

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

**Action taken:** report approved

**Disruptive Behavior Workgroup** .....No tab  
Dr. Averhoff provided the report for the meeting held February 4, 2016.

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

**Action taken:** report approved

**Expert Witness Committee Meeting** .....No tab  
Dr. Dolin provided the report for the meeting held February 4, 2016.

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

**Action taken:** report approved

**Approval of Meeting Minutes:** .....44  
A motion was made, seconded, and carried unanimously to approve the December 4, 2015 Board of Medicine meeting minutes as written.

**Action taken:** minutes approved

**Ratification of Applicants Pursuant to Chapter 458, FS.** .....51  
A motion was made, seconded, and carried unanimously to ratify the licenses provided on the license lists.

**Action taken:** licenses ratified

**New Business:**

Ms. Rodgers advised that the State Surgeon Gen. issued an emergency rule concerning the Zika virus. She explained that Emergency Rule DER16-2 requires immediate reporting of the confirmation of the Zika virus pursuant to Rule 64DER16-1.

There being no further business, the meeting adjourned at 3:21 p.m.

DRAFT