

# **Florida Board Of Medicine**

**PCP South  
February 19, 2016**

**Meet-Me #: 1 (888) 670-3525  
Participation Code: 125-528-7056**

## Notice of Meeting/Workshop Hearing

### DEPARTMENT OF HEALTH Board of Medicine

The **Board of Medicine - Probable Cause Panel South** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Friday, February 19, 2016, 2:00 p.m.

**PLACE: Meet-Me #:** 1 (888) 670-3525, Participation Code: 125-528-7056

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct a public meeting to reconsider disciplinary cases with prior findings of probable cause.

A copy of the agenda may be obtained by contacting: Sheila Autrey at (850) 245-4444 ext. 8210 or email her at [sheila.autrey@flhealth.gov](mailto:sheila.autrey@flhealth.gov).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Sheila Autrey at (850) 245-4444 ext. 8210 or email her at [sheila.autrey@flhealth.gov](mailto:sheila.autrey@flhealth.gov).

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Sheila Autrey at (850) 245-4444 ext. 8210 or email her at [sheila.autrey@flhealth.gov](mailto:sheila.autrey@flhealth.gov).

**Florida Board of Medicine  
South Probable Cause  
Agenda**

**February 19, 2016  
2:00 pm**

**Meet-Me-Number: 1(888) 670-3525  
Conference Code: 125-528-7056**

**RECONSIDERATIONS (PUBLIC)**

<b>RN-01</b>	<b>Larry D. Thomas, M.D.</b>	<b>2011-06712</b>	<b>Chad Dunn</b>
<b>RN-02</b>	<b>Sherry Rockman, P.A.</b>	<b>2013-18206</b>	<b>Corynn Gasbarro</b>

# **RECONSIDERATIONS:**

RN-01 Through RN-02



**Mission:**

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



**Rick Scott**  
Governor

**John H. Armstrong, MD, FACS**  
State Surgeon General & Secretary

**Vision:** To be the Healthiest State in the Nation

## **MEMORANDUM FOR RECONSIDERATION**

**TO:** Probable Cause Panel

**FROM:** Chad Dunn, Assistant General Counsel 

**RESPONDENT:** Larry D. Thomas, M.D.

**DATE:** January 6, 2016

**CASE NO.:** 2011-06712

On September 7, 2012, the Probable Cause Panel found probable cause and an Administrative Complaint was filed against Respondent charging him with performing a wrong-site procedure on Patient B.R., a fifty-three year old female. The Complaint alleges that the right jugular vein was the correct site and that Respondent performed a wrong-site procedure by placing a dialysis catheter in Patient B.R.'s left common carotid artery, instead of the right jugular vein.

However, the right jugular vein was, in fact, not the correct site. The correct site was the left jugular vein. Respondent's operative report, subsequent imaging studies, and the Code 15 report reflect that the dialysis catheter was placed on the left, which was the intended and correct side.

Unfortunately, while performing the correct procedure, Respondent mistakenly placed the dialysis catheter in Patient B.R.'s left common carotid artery, instead of the left jugular vein. Respondent's error was not the performance of a wrong-site procedure; rather, Respondent's error was a mistake made during the performance of the correct procedure. A mistake made in performing the correct procedure should be judged by the standard of care.

Prior to the finding of probable cause, on or about March 20, 2012, a Department Expert board-certified in thoracic and cardiac surgery reviewed this case. The Expert opined that Respondent met the standard of care. The Expert

found that Respondent initially entered the left jugular vein (correct site) with a 25 gauge seeker needle; however, after placing the larger needle, Respondent entered the left common carotid artery. The Expert noted that Respondent used intraoperative fluoroscopy for guidance, but unfortunately, the fluoroscopy was misleading. The Expert opined that accessing the carotid artery is a recognized, though highly undesirable, complication associated with the placement of dialysis catheters.

In summary, Respondent made an error during the performance of the correct procedure. The Department's Expert opined that despite this error Respondent met the standard of care because the error is a known complication of the procedure. Based on the foregoing, the Department recommends that the Panel reconsider and dismiss the Administrative Complaint.

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

BOARD: Medicine

CASE NUMBER: 2011-06712

COMPLAINT MADE BY: Code 15 Report/Risk Manager

COMPLAINT MADE AGAINST: Larry D. Thomas, M.D.  
575 E. Central Ave  
Winter Haven, Florida 33880

REPRESENTED BY: Holly Platter, Esq.

DATE OF COMPLAINT: July 7, 2011

INVESTIGATED BY: Janie Shingles  
CSU

REVIEWED BY: Chad Dunn, Esq. *CD*  
Assistant General Counsel

RECOMMENDATION: Dismiss (4099 Dismissed, other)

**NOTICE OF DISMISSAL/CLOSING ORDER**  
**RECONSIDERATION**

THE COMPLAINT: The Administrative Complaint charges Respondent with performing a wrong-site procedure in violation of Section 456.072(1)(bb), Florida Statutes (2010).

THE FACTS: This case was predicated on receipt of Code 15 Report from Risk Manager L.B. of Winter Haven Hospital. The report stated that Winter Haven Hospital surgically removed a dialysis catheter misplaced in the left common carotid artery of Patient B.R., a fifty-three year old female. The report alleged that the misplaced dialysis catheter was the result of a wrong-site procedure performed at Bartow Regional Medical Center on

December 11, 2010. Through investigation, the Department discovered that Respondent placed the dialysis catheter in Patient B.R.

Thereafter, on September 7, 2012, the Probable Cause Panel found probable cause and an Administrative Complaint was filed against Respondent charging him with performing a wrong-site procedure. The Complaint alleges that the right jugular vein was the correct site and that Respondent performed a wrong-site procedure by placing a dialysis catheter in Patient B.R.'s left common carotid artery, instead of the right jugular vein.

However, the right jugular vein was, in fact, not the correct site. The correct site was the left jugular vein. Respondent's operative report, subsequent imaging studies, and the Code 15 report reflect that the dialysis catheter was placed on the left, which was the intended and correct side.

Unfortunately, while performing the correct procedure, Respondent made the mistake of entering Patient B.R.'s left common carotid artery, instead of the left jugular vein. Thus, Respondent did not perform a wrong-site procedure; rather, Respondent made a mistake during the performance of the correct procedure. A mistake made in the performance of the correct procedure should be judged by the standard of care.

Prior to the finding of probable cause, on or about March 20, 2012, a Department Expert board certified in thoracic and cardiac surgery reviewed this case. The Expert opined that Respondent met the standard of care. The Expert found that Respondent initially entered the left jugular vein (correct site) with a 25 gauge seeker needle; however, after placing the larger needle, Respondent entered the left common carotid artery. The Expert noted that Respondent used intraoperative fluoroscopy for guidance, but unfortunately, the fluoroscopy was misleading. The Expert opined that accessing the carotid artery is a recognized, though highly undesirable, complication associated with the placement of dialysis catheters.

In summary, Respondent made an error during the performance of the correct procedure. The Department's Expert opined that despite this error Respondent met the standard of care because the error is a known complication of the procedure. Based on the foregoing, the Department

recommends that the Panel reconsider and dismiss the Administrative Complaint.

THE LAW: Based on the foregoing facts and pursuant to Section 456.073(4), Florida Statutes, the Panel directs this case be dismissed.

It is, therefore, ORDERED that this case should be and the same is hereby DISMISSED.

DONE AND ORDERED this \_\_\_\_\_ day of February, 2016.

\_\_\_\_\_  
Chairperson, Probable Cause Panel  
Board of Medicine

CD  
PCP Date:  
PCP Members:

# BUSH GRAZIANO RICE & PLATTER, P.A.

TRIAL LAWYERS

REPLY TO:  
P.O. BOX 3423  
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HOLLY B. PLATTER

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DIRECT DIAL 813.204.2846

October 12, 2012

**Via Facsimile and U.S. Mail**

Laura L. Glenn  
Assistant General Counsel  
Department of Health - Prosecution Services Unit  
4052 Bald Cypress Way  
BIN #C-65  
Tallahassee, FL 32399-3265

Re: Florida Department of Health v. Larry Dee Thomas, M.D.  
Department of Health Case No.: 2011-06712  
Our File No.: 1071-016

Dear Ms. Glenn:

This letter is submitted on behalf of Larry D. Thomas, M.D., in response to the Administrative Complaint in matter number 2011-06712 filed September 18, 2012. In addition, please see the enclosed Answer to the Administrative Complaint which has also been filed in this matter.

Respondent disputes the allegations contained in paragraph 4 of the Administrative Complaint. In support of this dispute, Respondent states that he is board certified in general surgery. Dr. Thomas was also board certified in thoracic surgery from 1993 to 2003.

Respondent disputes the allegations contained in paragraph 5 of the Administrative Complaint in that the patient was already hospitalized and had previously undergone placement of a dialysis catheter into the right subclavian (jugular) vein. However, that catheter became occluded with thrombus, so placement of a new dialysis catheter in the internal jugular was planned. The procedure performed on December 11, 2010 was to the left internal jugular vein in an effort to prevent any further subclavian stenosis.

12 OCT 15 AM 8:59

LEGAL  
PRACTITIONER REGULATION

Laura L. Glenn  
October 12, 2012  
Page 2

Respondent disputes the allegations contained in paragraph 6 of the Administrative Complaint. More specifically, on December 11, 2010, Dr. Thomas inserted a new cuffed, tunneled dialysis catheter into the left internal jugular vein and removed the old cuffed, tunneled dialysis catheter from the right subclavian vein. During this procedure, Dr. Thomas confirmed the proper placement in several ways, including but not limited to an intraoperative spot fluoroscopic study which confirmed proper line placement. Additional radiology conducted on December 14, 2010 confirmed the proper placement of the dual lumen distal left internal jugular vein hemodialysis catheter.

Respondent disputes the allegations contained in paragraph 7 of the Administrative Complaint. More specifically, Patient B.R. underwent nearly three months of dialysis treatments, several times each week. While the dialysis treatments were primarily conducted through DaVita of Bartow, other facilities were used as well. Dialysis nurses are highly trained in their area of specialty. Further, they report unusual findings to the treating nephrologist. Yet Patient B.R. underwent approximately thirty dialysis treatments, without any reporting of unusual findings to the treating nephrologist. This is primarily because the findings were not out of the ordinary for this patient.

Respondent disputes the allegation contained in paragraph 10 (a) of the Administrative Complaint to the extent that it is vague. Respondent further disputes paragraph 10 (b), as there was no violation of Section 456.072(1)(bb).

Finally, Respondent disputes the allegations contained in paragraphs 11 and 12 of the Administrative Complaint as more fully detailed above in the preceding paragraphs.

Last but not least, pursuant to our request, we received a copy of the investigative file in this matter on or about May 18, 2012. As of that date, the Department of Health had not secured an expert opinion to support the theory that Dr. Thomas had violated Florida Statute 456.072(1)(bb). To the contrary, the DOH's retained expert, Joseph Boyer, M.D. concluded that Dr. Thomas' care of Patient B.R. was appropriate and that the procedure was handled reasonably and within the standard of care. As a result, I respectfully request a copy of any further investigative materials generated by the Department of Health relative to this matter, subsequent to our last request – and more specifically a copy of any expert report/opinion supporting the claims.

Sincerely,

BUSH GRAZIANO RICE & PLATTER, P.A.



Holly B. Platter

cc: Larry D. Thomas, M.D.

**ELECTION OF RIGHTS**

DOH v. Larry Dee Thomas, M.D. Case No. 2011-06712

**PLEASE SELECT ONLY 1 OF THE 3 OPTIONS**

An Explanation of Rights is attached. If you do not understand these options, please consult with your attorney or contact the attorney for the Prosecution Services Unit at the address/phone number listed at the bottom of this form.

OPTION 1.        I do not dispute the allegations of fact in the Administrative Complaint, but do wish to be accorded a hearing, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2.        I do not dispute the allegations of fact contained in the Administrative Complaint and waive my right to object or to be heard. I request that the Board enter a final order pursuant to Section 120.57, Florida Statutes.

OPTION 3.   ✓   I do dispute the allegations of fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. I specifically dispute the following paragraphs of the Administrative Complaint:

  dialysis catheter inserted by me into the  
  common carotid artery  
  (See Administrative Invoice and attached correspondence.)

**In addition to the above selection, I also elect the following:**

- ( ) I accept the terms of the Settlement Stipulation, have signed and am returning the Settlement Stipulation or I am interested in settling this case.
- ( ) I do not wish to continue practicing, have signed and returned the voluntary relinquishment of licensure form, if it has been provided.

Regardless of which option I have selected, I understand that I will be given notice of time, date, and place when this matter is to be considered by the Board for Final Action. Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and complete all the information below.)

  *[Signature]*    
 Larry Dee Thomas   M.D.    
 Address:   575 E Central Ave    
  Winter Haven, FL    
 Lic. No.   ME 36360    
 Phone No.   (863) 299-5424    
 Fax No.   (863) 298-8455  

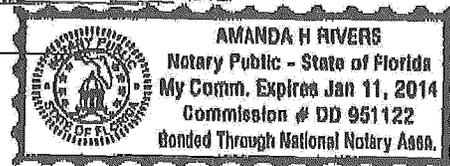
STATE OF FLORIDA  
COUNTY OF   Polk  

Before me, personally appeared   Larry Thomas   whose identity is known to me or by   Driver's Lic   (type of identification) and who, acknowledges that his/her signature appears above.  
Sworn to or affirmed by Affiant before me this   25   day of   Sept  , 2012.

Notary Public, State of Florida

My Commission Expires   11/11/14  

  Amanda Rivers    
Type or Print Name



PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Laura L. Glenn, Assistant General Counsel, DOH, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 245-4640; FAX (850) 245-4681

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**Case No. 2011-06712**

**vs.**

**LARRY DEE THOMAS, M.D.,**

**Respondent.**

---

**ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW, Respondent, LARRY DEE THOMAS, M.D., by and through his undersigned attorney and submits the following Answer and Affirmative Defenses to the Administrative Complaint filed by the Department of Health. In response to the numbered paragraphs of Petitioner's Complaint, Respondent states as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied.
5. Admitted.
6. Denied.
7. Admitted that Patient B.R. received over two months of dialysis treatment following the December 11, 2010 procedure. Denied that Patient had high flows and poor runs.
8. Admitted.
9. To the extent this statement is inconsistent with the medical records, denied.
10. (first): Admitted that the jugular vein is one of the options for placement of a dialysis catheter.

10. (second): Admitted, section 456.072(1)(bb), Florida Statutes speaks for itself.
11. Denied.
12. Denied.

### AFFIRMATIVE DEFENSES

#### FIRST AFFIRMATIVE DEFENSE

Respondent did not fail to practice medicine at the level of care, skill and treatment which is recognized by a reasonably prudent physician under similar conditions and circumstances.

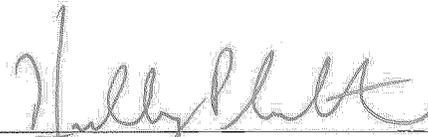
#### SECOND AFFIRMATIVE DEFENSE

Any injuries alleged by Patient B.R. were the result of intervening or superseding events, factors, occurrences or conditions, which were in no way caused by Respondent.

#### REQUEST FOR FORMAL ADMINISTRATIVE HEARING

The Respondent requests that this case be referred to the Division of Administrative Hearings for assignment of an Administrative Law Judge and the holding of a formal hearing involving issues of disputed material facts pursuant to Section 120.569 and 120.57, *Florida Statutes*. The preferred hearing site is Tampa.

BUSH GRAZIANO RICE & PLATTER, P.A.



\_\_\_\_\_  
Holly B. Platter  
Florida Bar No. 0074012  
101 East Kennedy Boulevard, Suite 1700  
Tampa, Florida 33602  
813.228.7000; Fax: 813.273.0091 (fax)  
Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to: Laura L. Glenn of Prosecution Services Unit (counsel for Petitioner) at Florida Department of Health, 4052 Bald Cypress Way, BIN # C-65, Tallahassee, Florida 32399-3265 on this 12<sup>th</sup> day of October, 2012.



\_\_\_\_\_  
Attorney for Respondent

10-7-11-016 SA  
**BUSH GRAZIANO RICE & PLATTER, P.A.**

TRIAL LAWYERS

P.O. BOX 3423

TAMPA, FLORIDA 33601-3423

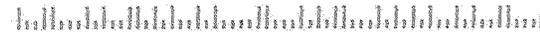
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Laura L. Glenn  
Assistant General Counsel  
Department of Health - Prosecution Services  
Unit  
4052 Bald Cypress Way  
BIN #C-65  
Tallahassee, FL 32399-3265

32399326599



A-17  
LG

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO.: 2011-06712**

**LARRY DEE THOMAS, M.D.,**

**RESPONDENT.**

**ADMINISTRATIVE COMPLAINT**

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against the Respondent, Larry Dee Thomas, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 36360.

3. Respondent's address of record is 575 E. Central Avenue, Winter Haven, Florida 33880.

4. Respondent is not board certified in any specialty.

5. On or about December 11, 2010, Patient B.R., a fifty-three (53) year-old female, presented to Respondent for placement of a dialysis catheter into the right subclavian (jugular) vein (the correct site).

6. On or about December 11, 2010, Respondent placed a dialysis catheter into Patient B.R.'s left common carotid artery (the wrong site).

7. Subsequent to this procedure, Patient B.R. received multiple dialysis treatments each week at the Bartow Regional Medical Center. During the treatments, Patient B.R. had high flows and poor runs.

8. On or about March 1, 2011, Patient B.R. underwent surgical removal of the dialysis catheter by a different surgeon at Winter Haven Hospital Interventional Radiology.

9. On or about March 1, 2011, a fluoroscopy test showed that the dialysis catheter was entering the left common carotid artery near the thoracic inlet with the catheter coursing into the ascending aorta (the wrong site).

10. The correct site for the placement of the dialysis catheter was in the jugular vein.

10. Section 456.072(1)(bb), Florida Statutes (2010), provides that performing or attempting to perform health care services (including the preparation of the patient) 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 is grounds for disciplinary action by the Board of Medicine.

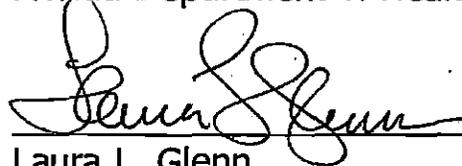
11. On or about December 11, 2010, Respondent performed a wrong-site procedure by placing a dialysis catheter in Patient B.R.'s left common carotid artery (wrong site) instead of in the patient's right jugular vein (correct site).

12. Based on the foregoing, Respondent has violated Section 456.072(1)(bb), Florida Statutes (2010), by 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.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 7th day of September, 2012

JOHN H. ARMSTRONG, MD  
Surgeon General and  
Secretary of Health  
Florida Department of Health



Laura L. Glenn  
Assistant General Counsel  
Fla. Bar No. 0861413  
Florida Department of Health  
Office of the General Counsel  
4052 Bald Cypress Way, Bin C-65  
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Telephone: (850) 245-4640  
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Email: Laura\_Glenn@doh.state.fl.us

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK

CLERK: Angel Sanders  
DATE: SEP 10 2012

LLG/cab

PCP: 9/7/12

PCP Members: Dr. S. Rosenberg, Dr. El Sanadi, ~~Ms. Goersch~~ <sup>Mr. Mullins</sup>

**DOH V. LARRY DEE THOMAS, M.D.,**

**CASE NUMBER 2011-06712**

**NOTICE OF RIGHTS**

**Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.**

**NOTICE REGARDING ASSESSMENT OF COSTS**

**Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.**

**Joseph H. Boyer, M.D.**

2320 North Orange Ave, Ste 201  
Orlando, FL 32804

March 20, 2012

Melba Apellániz  
Department of Health, PSU

c/o Abbason and Associates, Inc.  
127 W. Fairbanks Avenue #452  
Winter Park, FL 32789

Regarding: DOH v Larry D. Thomas, M.D.  
Case Number: 2011-06712

Dear Ms. Apellániz,

This investigation is predicated in receipt of Code 15 Report from Linda Bradway for the patient, a 53-year-old female patient at Winter Haven Hospital in Winter Haven, Florida. This Code 15 Report alleges that on December 11, 2010, Larry D. Thomas, M.D., placed a dialysis catheter into the patient's left common carotid artery. Subsequently, the patient underwent surgical removal of this by a different surgeon on March 1, 2011, and unfortunately as a perioperative complication of this apparently developed evidence of some cerebrovascular accident symptoms including right arm weakness and spasticity. As a consequence, the patient did end up at a rehabilitation center for continued therapy.

Questions:

1. I do not know the subject, I do not know the complainant, and I have no direct knowledge of the circumstances.
2. I definitely perform and have performed within the last year the procedure that is at issue in this case.
3. I believe that the subject surgeon did meet the standard of care for the insertion of dialysis catheter in this patient.
4. A review of the medical record including the investigative report, available operative record from December 5, 2010, as well as from December 11, 2010, as well as an accompanying letter of response dated August 23, 2011, from the Law Office of George K. Brew, Attorney at Law, as well as review of radiologic studies from Bartow Regional Medical Center suggest that the subject did adequately assess the patient's complaints and symptoms and that appropriate radiologic confirmation of the placement of the dialysis catheter was in fact attempted.
5. It appears from a review of the medical record that this is a patient with end-stage renal disease undergoing chronic hemodialysis and it certainly would appear that it was appropriate, that the treatment plan to reinsert a new dialysis catheter was appropriate, adequate, accurate, and timely.
6. Specialized consultations were not required.

7. Yes. The patient was referred for placement of a new dialysis catheter. It appears that Dr. Thomas appropriately scheduled surgery, removed an infected cuffed-tunneled dialysis catheter from the right internal jugular vein on December 5, 2010, and inserted a new cuffed-tunneled dialysis catheter through the right subclavian vein after an unsuccessful attempt on the left side.
8. N/A.
9. Yes. It appears from the review of the operative notes that Dr. Thomas actually dictated a very complete, non-generic operative note that included considerable detail regarding the difficulties encountered in obtaining venous access in this complex patient especially relating to the procedure performed on December 11, 2010.
10. Billing records do not apply.
11. A review of the medical records suggest that at time of the operative procedure performed by Dr. Larry D. Thomas on December 11, 2010, despite his recognition that "the venous pressure was noted to be higher than expected through the venous needle" and that the "blood was quite dark," Dr. Thomas relied on the fluoroscopic appearance of the course of the wire and triple lumen catheter as is usual and customary in such procedures. However, one could certainly hypothesize that had consideration been given to performing an intraoperative injection of contrast, in other words some type of venography, that the misplacement of the catheter in question could have been recognized at the time of surgery.
12. The council response dated August 23, 2011, points out that multiple radiologic studies performed on December 11, 2010, December 14, 2010, suggested that there was in fact a left internal jugular hemodialysis catheter appropriately positioned and in place. However, it is disingenuous to suggest as is written in the response letter on the bottom of page 2 that the suggestion that subsequent fluoroscopic evaluations were "interpreted by the subsequent physician" in a different manner, clearly this catheter was placed in the carotid artery by Dr. Thomas at the time of the original surgery on December 11, 2010, since there was no record of any interval procedure between December 11, 2010, and the subsequent removal of this catheter in March 2011. Since all of the views obtained with fluoroscopy and the portable chest x-ray are anterior-posterior views and do not reflect the three-dimensional space of superimposed objects, clearly the x-rays that were obtained were misleading to some degree. Unfortunately, I am not provided access to any copy of the fluoroscopic images that had been performed at the time of the surgery on December 11, 2010; parenthetically this is not uncommon as these are not routinely recorded as part of the medical record or for posterity.

**Summary/Conclusion:** Review of the records demonstrates that on December 5, 2010, Dr. Thomas removed an infected cuffed-tunneled dialysis catheter from the right internal jugular vein after he had attempted to place a left subclavian dialysis catheter and successfully placed a right subclavian dialysis catheter under fluoroscopic control. There is no argument that this procedure was uneventful and that the patient recovered quite well and did fine. Six days later, the patient was returned to the operating room with intent to place an apparently more permanent dialysis catheter this time through the left internal jugular vein. The operative procedure notes that the appropriate prepping and draping and anesthesia care was obtained and in fact, the left internal jugular vein was initially entered with a 25 gauge seeker needle which is certainly appropriate. A larger needle was thereafter inserted and guide wires placed and with fluoroscopic guidance the catheter was placed. Of note is the comment by Dr. Thomas that the venous pressure was noted to be higher than expected, but using fluoroscopic guidance the suggestion was that this wire traversed in a usual manner through the jugular, brachiocephalic into the SVC and right atrium. The remainder of the procedure was uneventful and the patient tolerated that procedure very well.

However, it subsequently became clear that there was a problem with this dialysis catheter related to the flows and pressures and so radiologic consultation was obtained and the patient was later seen by another surgeon. At this point, it was recognized that this catheter was indeed not in the jugular vein, but instead in the left common carotid artery, unfortunately in an area just behind the clavicle. A complex stenting procedure was then undertaken in an attempt to deal with a very difficult area and avoid a full sternotomy or clavicular dislocation to access this difficult to access area. Unfortunately, as a consequence of this procedure, the patient did develop stroke-like symptoms and was found to have an acute CVA with right arm weakness and some spasticity and she was subsequently referred to physical therapy and occupational therapy and ultimately to the Joy-Fuller Rehabilitation Center for therapy. There is no suggestion from the operative note or the records provided to me that Dr. Thomas was involved in this procedure any time after his operation on December 11, 2010. As the response letter dated August 23, 2011, points out, there were at least two radiologic studies, one performed on December 11, 2010, and a second performed on December 14, 2010, that strongly suggested that the left internal jugular dialysis catheter had been properly placed in the jugular vein and not the carotid. In consideration of the above and recognizing the difficulties encountered, having performed many of these procedures under very difficult circumstances, it is recognized that accessing the carotid artery is a recognized albeit highly undesirable complication associated with the placement of dialysis catheters. It appears that Dr. Thomas did by checking venous pressure intraoperatively and looking at the characteristics of the blood, which was quoted to be "quite dark" and to fluctuate with ventilation that the appropriate attempts were made to determine whether this was an arterial stick or a venous stick as desired. Furthermore, the use of fluoroscopic guidance is often very helpful in such cases and was employed in this instance and unfortunately was apparently misleading. As I have noted in my answer to question 11, consideration, perhaps, could have been made toward performing intraoperative contrast injection to confirm the appropriate positioning of the catheter in the venous system.

In consideration of the above, therefore, I do believe that the subject met the standard of care in this case. The fact that there was an unfortunate access to the arterial side of the circulatory system does not change my view. Unfortunately, this is a recognized complication of this procedure and I believe that any subsequent disability sustained by this patient could just as easily have been encountered had the catheter misplacement been recognized and dealt with on December 11, 2010.

If you have any further questions, please call (407) 766-0882 to schedule a telephone conference.

Sincerely,



Joseph H. Boyer, M.D.

CURRICULUM VITAE

**JOSEPH H. BOYER, JR., M.D.**

2320 NORTH ORANGE AVE.; SUITE #201  
ORLANDO, FL 32804 - 3469  
407-228-7373  
407-228-7393 (FAX)

GENERAL INFORMATION:

DATE OF BIRTH	██████
PLACE OF BIRTH	BAY SHORE, NEW YORK.
MARITAL STATUS	MARRIED: BETTY JEAN BOYER (1979) CHILDREN: JOSEPH, JOHN, JESSICA, JASON
SOCIAL SECURITY	
CITIZENSHIP	UNITED STATES OF AMERICA
DEA NUMBER	BB1561148

ACADEMIC BACKGROUND:

PRE-MEDICAL EDUCATION:

	UNIVERSITY OF SCRANTON SCRANTON, PA 18910
DATES OF ATTENDANCE	SEPTEMBER 1975 - MAY 1979
DEGREES AWARDED	B.S. CHEMISTRY 1979 B.S. BIOCHEMISTRY 1979
HONORS RECEIVED	JESUIT HONORS PROGRAM MAGNA CUM LAUDE

MEDICAL EDUCATION:

	STATE UNIVERSITY OF NEW YORK (SUNY) UPSTATE MEDICAL CENTER SCHOOL OF MEDICINE ELIZABETH BLACKWELL STREET SYRACUSE, NEW YDRK
DATES OF ATTENDANCE:	SEPTEMBER 1979- MAY 1983
DEGREES AWARDED:	DOCTOR OF MEDICINE (1983)
HONORS RECEIVED:	ALPHA OMEGA ALPHA (AOA) NATIONAL MEDICAL HONOR SOCIETY

**PROFESSIONAL EXPERIENCE:**

**INTERNSHIP:**

SUNY UPSTATE MEDICAL CENTER  
DEPARTMENT OF GENERAL SURGERY  
DR. DAVID FROMM, CHIEF  
SYRACUSE NEW YORK

JULY 1983- JULY 1984

**RESIDENCY:**

SUNY UPSTATE MEDICAL CENTER  
DEPARTMENT OF GENERAL SURGERY  
DR. DAVID FROMM, CHIEF  
SYRACUSE NEW YORK

JULY 1984- JULY 1987

**CHIEF RESIDENCY:**

SUNY UPSTATE MEDICAL CENTER  
DEPARTMENT OF GENERAL SURGERY  
DR. DAVID FROMM, CHIEF  
SYRACUSE NEW YORK

JULY 1987- JULY 1988

**CARDIOTHORACIC RESIDENCY:**

LOYOLA-STRICTH SCHOOL OF MEDICINE  
DEPARTMENT OF CARDIO THORACIC SURGERY  
DR. ROQUE PIFARRE, CHIEF  
CHICAGO, ILLINOIS

JULY 1988- JULY 1990

6 MONTHS CHIEF RESIDENT IN  
CARDIOTHORACIC SURGERY AT  
CHILDREN'S MEMORIAL HOSPITAL

6 MONTHS CHIEF RESIDENT IN  
CARDIO THORACIC SURGERY AT  
HINES VETERANS ADMINISTRATION HOSPITAL

### **LICENSURE:**

NEW YORK	1984
ILLINOIS	1988 (NO.036-077181)
PENNSYLVANIA	1990 (NO.MD-041754-L)
FLORIDA	1992 (NO. ME0062668)

### **BOARD CERTIFICATIONS:**

NATIONAL BOARD OF MEDICAL EXAMINERS	1984
AMERICAN BOARD OF SURGERY	1989, 1999
AMERICAN BOARD OF THORACIC SURGERY	1991

### **SOCIETY MEMBERSHIPS**

AMERICAN MEDICAL ASSOCIATION	1983- PRESENT
NEW YORK MEDICAL SOCIETY	1983- 1988
ONONDAGA COUNTY MEDICAL SOCIETY	1983- 1988
PENNSYLVANIA MEDICAL SOCIETY	1990- 1992
LEHIGH COUNTY MEDICAL SOCIETY	1990-1992
FLORIDA MEDICAL ASSOCIATION	1992- PRESENT
ORANGE COUNTY MEDICAL SOCIETY	1992- PRESENT
FLORIDA THORACIC SOCIETY	1994- PRESENT
AMERICAN COLLEGE OF CARDIOLOGY	1994- PRESENT
THE SOCIETY OF THORACIC SURGEONS (STS)	1994- PRESENT

### **CURRENT HOSPITAL AFFILIATIONS:**

<b>FLORIDA HOSPITAL ORLANDO</b> 601 EAST ROLLINS STREET ORLANDO, FL 32803	<b>ACTIVE STAFF</b>
---	---------------------

<b>ORLANDO HEALTH</b> 1414 SOUTH KUHL AVENUE ORLANDO, FL 32803	<b>ACTIVE STAFF</b>
--	---------------------



1992-2000

CARDIO VASCULAR SURGEONS, PA  
PARTNER AND SHAREHOLDER  
217 HILLCREST STREET  
ORLANDO, FL 32801

**PRESENTATIONS:**

" MINIMALLY INVASIVE CARDIAC AND THORACIC SURGERY UTILIZING  
THORACOSCOPIC AND ROBOTIC TECHNIQUES: THE FUTURE?"  
HORIZONS PRESENTATION  
FLORIDA HOSPITAL CARDIOVASCULAR INSTITUTE  
AUGUST 2006

" MINIMALLY INVASIVE CORONARY ARTERY BYPASS WITHOUT  
CARDIOPULMONARY BYPASS: OPCAB TECHNIQUES & RESULTS"  
JFK MEDICAL CENTER  
INVITED GUEST LECTURER  
ATLANTIS FLORIDA  
2002

" MINIMALLY INVASIVE CARDIAC SURGERY WITHOUT CARTER PULMONARY  
BYPASS"  
LIVE CASE PRESENTATION AND INTERNET BROADCAST  
INVITED GUEST LECTURER  
FEBRUARY 2000  
TAMPA GENERAL HOSPITAL  
TAMPA, FL

" OFF PUMP MYOCARDIAL REVASCULARIZATION WITH USE OF THE MEDTRONIC  
OCTOPUS II"  
CARDIO THORACIC SURGERY GRAND ROUNDS  
FLORIDA HOSPITAL ORLANDO  
601 EAST ROLLINS STREET  
ORLANDO, FL

" SELECTION AND SCREENING CRITERIA FOR PORT ACCESS MULTI-VESSEL  
MYOCARDIAL REVASCULARIZATION"  
INVITED GUEST LECTURER  
MINIMALLY INVASIVE CARDIAC SURGERY SYMPOSIUM  
NEW ORLEANS, LA

**" MINIMALLY INVASIVE CARDIAC SURGERY SYMPOSIUM"**

ORLANDO REGIONAL HEALTHCARE SYSTEM

MODERATOR

APRIL 1998

**STANFORD UNIVERSITY PORT ACCESS SYMPOSIUM**

MODERATOR: MINIMALLY INVASIVE CARDIAC SURGERY

DECEMBER 1997

PALM SPRINGS, CA

**" EARLY RESULTS WITH PORT ACCESS CARDIAC SURGERY"**

PRESENTED AT AATS/PORT ACCESS MEETING

WASHINGTON, D.C.

APRIL 1997

**" MINIMALLY INVASIVE CARDIAC SURGERY: FUTURE PERSPECTIVES"**

TELEVISION PRESENTATION

DR. WALT LARRIMORE

UNIVERSAL STUDIOS

ORLANDO FLORIDA

APRIL 1997

**" ON- PUMP CABG USING PORT ACCESS TECHNIQUES"**

COWEN AND ASSOCIATES MEETING

BOSTON, MA

FEBRUARY 1997

**" PORT ACCESS MYOCARDIAL REVASCULARIZATION"**

EARLY CLINICAL EXPERIENCE

HEART PORT LAUNCH

MILLENNIUM HOTEL

NY, NY

JANUARY 1997

**" CURRENT TRENDS IN CARDIAC SURGERY**

CARDIOVASCULAR SYMPOSIUM

LEHIGH VALLEY HOSPITAL CENTER

LEHIGH VALLEY HOSPITAL

SEPTEMBER 1991

**" IS PERCUTANEOUS TRANSLUMINAL ANGIOPLASTY AN ALTERNATIVE TO  
SURGICAL REVASCULARIZATION OF THE KIDNEY?"**

INTERNATIONAL UNION OF ANGIOLOGY

THIRD MEETING OF THE EUROPEAN CHAPTER

TOURS, FRANCE

OCTOBER, 1984

**" BROAD BREASTED BRONZE TURKEYS AND ACUTE AORTIC DISSECTION"**

**CHIEF RESIDENT GRAND ROUNDS**

**SUNY HEALTH SCIENCES CENTER**

**SYRACUSE, NEW YORK**

**DECEMBER, 1987**

**PUBLICATIONS:**

**"EARLY RESULTS FROM THE PORT ACCESS INTERNATIONAL REGISTRY"**

**ANNALS OF THORACIC SURGERY 1999 A. GALLOWAY, J H BOYER ET AL.**

Rick Scott  
Governor



Steven L. Harris, M.D., M.Sc.  
Interim State Surgeon General

**CONFIDENTIAL**

March 15, 2012

**Abbason & Associates, Inc.**  
c/o Kim Mulligan  
127 W. Fairbanks Avenue, #452  
Winter Park, FL 32789

**RE: DOH v. Larry D. Thomas, M.D.; Complaint No. 2011-06712**

Dear Consultant:

Enclosed is additional information this office has just received in the above referenced case you are currently reviewing. These records are a necessary part of the case, so we ask that you include them with your review of the original records and consider this information before you render your opinion. Please add the time spent for this supplemental information on the work authorization form.

If you have any questions, please feel free to contact me directly at 850-245-4640, ext. 8223, or toll free at 1-888-240-9931 or by fax at 850-245-4684. Thank you for your efforts in reviewing this case for the Department of Health.

Sincerely,

Melba L. Apellaniz, AAI  
Prosecution Services Unit  
Expert Witness Office

Enclosure: Imaging Studies

Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265  
850-245-4640, ext. 8212 • 850-245-4682 fax


**Shipment Receipt  
Address Information**

<b>Ship to:</b>	<b>Ship from:</b>
Melba Apellaniz	Abbason & Associates, Inc
Department of Health	Kim Mulligan
4040 Esplanade Way, Suite	127 W FAIRBANKS AVE #
101	452
Tallahassee, FL	WINTER PARK, FL
32399	327894326
US	US
8502454640	4077660882

**Shipping Information**

Tracking number: 798173781087  
Date Created: 03/15/2012  
Estimated shipping charges: 6.03

**Package Information**

Return label type: Print  
Service type: FedEx 2-Day  
Package type: FedEx Pak  
Number of packages: 1  
RMA no.:  
Total weight: 1LBS  
Declared value: 0.00USD  
Special Services:  
Pickup/Drop-off: Use an already scheduled pickup at my location

**Billing Information**

Bill transportation to: MyAccount-963  
Your reference: 64220501015  
P.O. no.:  
Invoice no.: Imaging Studies 11-06712  
Department no.:

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**Please Note**

FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income, interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g., jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits. Consult the applicable FedEx Service Guide for details. The estimated shipping charge may be different than the actual charges for your shipment. Differences may occur based on actual weight, dimensions, and other factors. Consult the applicable FedEx Service Guide or the FedEx Rate Sheets for details on how shipping charges are calculated.



Rick Scott  
Governor

H. Frank Farmer, Jr., M.D., Ph.D.  
State Surgeon General

---

PERSONAL AND CONFIDENTIAL

March 7, 2012

**Abbason & Associates, Inc.**  
c/o Kim Mulligan  
127 W. Fairbanks Avenue, #452  
Winter Park, FL 32789

**RE: DOH v. Larry D. Thomas, M.D.; Complaint No. 2011-06712**

Dear Consultant:

Thank you very much for agreeing to review the above referenced case. The Department of Health is currently reviewing allegations that the medical professional referenced above may have failed to provide appropriate medical care such as is expected of a medical practitioner in the State of Florida.

**Please review this case and contact the attorney, Laura Glenn, at 850-245-4640, ext. 8117 prior to rendering your written opinion.**

REVIEW MATERIALS

The following materials are being provided by the Department for your review:

**Final Investigative Report dated 9/27/2011 with Exhibits 1-8**  
**Supplemental Investigative Report I dated 11/09/2012 with Exhibits S1-S3**  
**Supplemental Investigative Report II dated 12/28/2011 with Exhibits S1-S3**  
**Subject's Response Letter dated 8/23/2011**

If you cannot read any material parts of the medical records or information provided, or if additional information (interviews, medical records, X-rays, etc.) is required before you can render an opinion, please send me an email (Melba\_Apellaniz@doh.state.fl.us) or fax (850-245-4682), outlining your needs.

REPORT GUIDELINES

Your opinion should be prepared on letterhead and include your name and best contact information (should the need arise for follow-up questions or discussion of your review) and the case name and number.

**Use only the initials of the patient any time a reference to the patient is required in your report or any future correspondence.**

Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265  
850-245-4640, ext. 8212 • 850-245-4682 fax

Include page numbers in your responses to the questions when referring to specific records.

Identify any publications/written material used in reaching your opinion.

Do not include a penalty recommendation.

AFTER YOUR REVIEW

Please sign your opinion and mail it along with the original Work Authorization and Invoice form to my attention at the address below.

Department of Health - Prosecution Services Unit  
Attention: Melba L. Apellaniz, AAI  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265

You should retain this letter and the enclosed materials pending notification from the Department regarding the disposition of this matter. The exception to this is that any x-rays, slides, videos, or photographs that accompanied the case should be returned to DOH with your opinion.

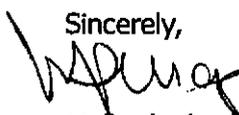
Please be advised that your testimony may be needed at a later date should a formal hearing be necessary to resolve the allegations in this case. You will be notified first of the decision by the Panel and second, if an Administrative Complaint is filed, by the litigation attorney assigned to the case.

CONFIDENTIALITY

Materials submitted are confidential and should not be discussed with anyone except members of the Department legal staff, unless prior approval from the Department is secured. Should any other party contact you regarding this case, please contact me immediately.

The Department would like to thank you in advance for your time and effort spent in the review of this matter.

Sincerely,



Melba L. Apellaniz, Administrative Assistant I  
Prosecution Services Unit  
Expert Witness Office

Case Name: Larry D. Thomas, M.D.  
Case No.: 2011-06712

**STOP: It is critical that you contact the Department's attorney, Laura Glenn, at 850-245-4640, ext. 8117, prior to rendering your written opinion.**

### QUESTIONS

**Before answering the following questions, please provide a brief but adequately detailed overview of the patient's condition and the treatments and evaluations provided by the Subject. Such an overview should include discussion of the examination, diagnostic testing, diagnosis, and treatment that were utilized in the care of this patient.**

1. Do you know the Subject, the Complainant, and/or have direct knowledge of the circumstances surrounding this case? If during the course of your review, you discover any direct or indirect knowledge of the Subject, the Complainant, and/or circumstances surrounding this case, you must cease your review and call Melba L. Apellaniz at (850) 245-4640, ext. 8223 immediately.
2. Do you currently perform or have you performed within the last year, the examination/test/procedure/etc. or prescribe the medications that are at issue in this case? Did you perform the examination/test/procedure/etc. or prescribed the medications that are issue in this case at the time the incident occurred? If you do not currently perform the examination/test/procedure/etc., or have not done so within the last year or at the time of the incident in question, you must cease your review and call Melba L. Apellaniz at (850) 245-4640, ext. 8223 immediately.
3. Did the Subject meet the applicable standards of care outlined in the Florida Statutes in his/her examination, diagnosis, and treatment of the patient? **If in your opinion the Subject fell below/met the standard of care – please state "The Subject fell below/met the standard of care by ....."**. Please identify in detail each instance in which the Subject failed to meet a standard of care and describe the particular examination/test/procedure/etc. being performed by the Subject on the patient at the time. Please identify in detail the measures that the Subject should have taken in order to meet the applicable standard of care.
4. Did the Subject adequately assess the patient's complaints and symptoms? Was a complete assessment of the patient's condition completed to include appropriate lab testing, x-rays and examinations? Was a complete and proper history and physical examination documented by the Subject? Please explain in detail your answer to this question.
5. Was the Subject's diagnosis of the patient's condition appropriate, adequate, accurate, and timely? Please explain in detail your answer to this question.

6. Did the patient's complaints/condition call for the use of specialized consultations for diagnosis and/or treatment? If so, did the Subject appropriately and timely refer the patient for such consultations? Please explain in detail your answer to this question.
7. Was the appropriate plan or treatment for the patient's condition identified and pursued by the Subject? Please explain in detail your answer to this question.
8. Did the Subject prescribe, dispense, inject, or administer legend drugs or any substance to the patient that was inappropriate, in an inappropriate manner, or in excessive or inappropriate quantities? Please explain in detail your answer to this question.
9. Do the medical records maintained by the Subject accurately and completely document and justify the course of treatment utilized in the care of the patient? Is the patient's history and examination complete? Are all test results, records of drugs prescribed, dispensed or administered, and reports of consultation and/or hospitalization included in the patient's medical records? Are there any identifiable deficiencies or problems with the medical records maintained by the Subject? Are Subject's entries in the medical records legible? Please explain in detail your answer to this question.
10. Do the billing records (if enclosed) for services provided reflect appropriate tests/testing? Are fees within acceptable range? Is there any indication of fraud in the practice of medicine? Please explain in detail your answer to this question.
11. What other steps, if any, could Subject have taken to deal with this problem more effectively? Please explain in detail your answer to this question.
12. Please comment on Subject's response or expert opinion on behalf of Subject if included in the materials for your review.

**After you have answered the above questions, please add a CONCLUSION/SUMMARY, which clearly states whether the Subject failed to meet/met the required standard of care or failed to meet/met the requirements established by Florida or Federal law. If in your opinion the Subject fell below/met the standard of care – please state "The Subject fell below/met the standard of care by .....".**

End

# BUSH GRAZIANO RICE & PLATTER, P.A.

TRIAL LAWYERS

REPLY TO:  
P.O. BOX 3423  
TAMPA, FLORIDA 33601-3423  
HOLLY B. PLATTER

101 EAST KENNEDY BOULEVARD  
SUITE 1700  
TAMPA, FLORIDA 33602

TELEPHONE (813) 228-7000  
FACSIMILE (813) 273-0091  
WWW.BGRPLAW.COM  
hplatter@bgrtriallaw.com  
DIRECT DIAL 813.204.2846

June 21, 2012

**Via Facsimile (850-245-4681) and U.S. Mail**

Laura L. Glenn, Assistant General Counsel  
Florida Department of Health  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C65  
Tallahassee, FL 32399-3265

Re: DOH Case No. 2011-06712 (Larry Thomas, M.D.)  
Our File No.: 1071-016

12 JUN 25 AM 9:33  
PRACTITIONER REGULATION  
LEGAL

Dear Ms. Glenn:

Please allow this letter to serve as Larry Thomas, M.D.'s written response, following receipt of the Florida Department of Health's Investigation file materials. Since prior counsel for Dr. Thomas, George Brew, responded to the 45 day investigation notice on August 23, 2011, on Dr. Thomas' behalf, I will not reiterate what has already been stated.

We have appreciated having the opportunity to review the investigation materials and are in agreement with the opinions expressed by the Florida Department of Health's retained expert, Joseph Boyer, M.D. in part. We agree that the procedure performed by Dr. Thomas on December 11, 2010 was appropriate, and that it was handled reasonably and within the standard of care. However, we are not yet convinced that another procedure was not performed (at another facility) sometime between the December 11, 2010 procedure performed by Dr. Thomas and February 18, 2011, when the discovery was made that the dialysis catheter was located in the carotid, not the jugular. In fact, there is an obvious lack of medical documentation during those two key months that calls into question what may have occurred during that time frame. In any case, even assuming that Dr. Thomas did, indeed, inadvertently place the catheter in the carotid, (as Dr. Boyer has assumed), his actions to verify the placement were reasonable under the circumstances.

Thank you for your consideration of this matter. Please feel free to contact me with any questions or concerns regarding this matter. On behalf of Dr. Thomas, we contend that the Department of Health investigation is without merit and respectfully request that this matter be closed.

Very truly yours,

**BUSH GRAZIANO RICE & PLATTER, P.A.**

  
Holly B. Platter

HBP/tr  
cc: Larry Thomas, M.D.

1071-016 (LL)  
BUSH GRAZIANO RICE & PLATTER, P.A.

TRIAL LAWYERS  
P.O. BOX 3423  
TAMPA, FLORIDA 33601-3423



HASLER  
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Mailed From 33602  
US POSTAGE

Laura L. Glenn, Assistant General Counsel  
Florida Department of Health  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C65  
Tallahassee, FL 32399-3265

Rick Scott  
Governor



Steven L. Harris, M.D., M.Sc.  
Interim State Surgeon General

May 18, 2012

Bush, Graziano, Rice & Platter, P.A.  
Attn: Holly B. Platter, Esquire  
101 East Kennedy Boulevard, Suite 1700  
Tampa, Florida 33602

Re: DOH v. Larry Thomas, M.D., Complaint Number: 2011-06712

Dear Ms. Platter:

Pursuant to section 456.073(10), Florida Statutes, enclosed please find a CD containing a copy the Department's complete investigative file in Complaint Number 2011-06712. Section 456.073(10), Florida Statutes provides in part:

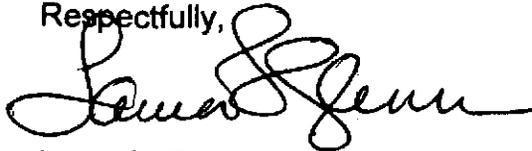
. . . Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. . . .

Pursuant to the provisions of section 456.073(10), Florida Statutes, your written response must be received in my office no later than **June 7, 2012**.

Prosecution Services Unit  
4052 Bald Cypress Way, Bin C65 • Tallahassee, Florida 32399-3265  
Phone: (850) 245-4640 • Fax: (850) 245-4681

Any requests for an extension of time must be made to my office prior to the expiration of June 7, 2012. **You will need a password to view the documents. Please contact my office to obtain this password at (850) 245-4640 ext. 8149.**

Respectfully,



Laura L. Glenn  
Assistant General Counsel

LLG/lm

Enclosures: CD Investigative File (2011-06712)  
Invoice

**BUSH GRAZIANO RICE & PLATTER, P.A.**

**TRIAL LAWYERS**

REPLY TO:  
P.O. BOX 3423  
TAMPA, FLORIDA 33601-3423

101 EAST KENNEDY BOULEVARD  
SUITE 1700  
TAMPA, FLORIDA 33602

TELEPHONE (813) 228-7000  
FACSIMILE (813) 273-0091  
WWW.BGRPLAW.COM

ERIN B. REYNOLDS

ereynolds@bgrplaw.com  
DIRECT DIAL 813.204.2854

April 20, 2012

Department of Health

APR 23 2012

Ms. Janie M. Shingles  
Florida Department of Health  
Division of Medical Quality Assurance, Investigative Services Unit  
5016 N. Davis Highway  
Pensacola, Florida 32503

ISU/Pensacola

**RE: DOH Case No. 201106712 (Larry Dee Thomas, M.D.)**  
**Our file: 1071-011**

Dear Ms. Shingles:

Please allow this correspondence to serve as Dr. Thomas' request for a complete copy of the investigative file as it relates to the above referenced matter. Please forward to my attention at the appropriate time. In the interim, should you have any questions or concerns regarding the above, or require any additional information, please do not hesitate to contact the undersigned at your earliest convenience.

Sincerely,

**BUSH, GRAZIANO RICE & PLATTER, P.A.**



Holly B. Platter  
Erin B. Reynolds

EBR/tr

cc: Larry Dee Thomas, M.D.

1071.011 tr

**BUSH GRAZIANO RICE & PLATTER, P.A.**

TRIAL LAWYERS  
P.O. BOX 3423  
TAMPA, FLORIDA 33601-3423



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	<b>\$0.450</b>	
	04/20/2012	
Mailed From 33602		

Department of Health

APR 23 2012

ISU/Pensacola

Ms. Janie M. Shingles  
Florida Department of Health  
Division of Medical Quality Assurance  
Investigative Services Unit  
5016 N. Davis Highway  
Pensacola, Florida 32503

32503234515



**LAW OFFICE OF GEORGE K. BREW\***

*Attorney at Law*

6817 Southpoint Parkway, Suite 1804  
Jacksonville, Florida 32216

PRACTITIONER REGULATION  
LEGAL  
12 MAR 23 AM 8:58

Civil Trial Practice  
Circuit Mediation  
\*AV Rated by Martindale-Hubbell

Telephone No.: (904) 354-4741  
Facsimile No.: (904) 354-8001

March 21, 2012

Laura L. Glenn, Assistant General Counsel  
Florida Department of Health  
4052 Bald Cypress Way  
Bin C65  
Tallahassee, FL 32399-1701

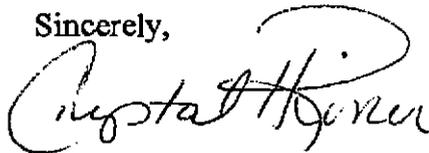
Re: Complaint No.: 2011-06712; Larry D. Thomas, M.D.

Dear Ms. Glenn:

Please find enclosed per your request Dr. Thomas' Acknowledgment of and Agreement to Maintain Patient Confidentiality.

If you have any questions, please do not hesitate to contact our office.

Sincerely,



Crystal H. Riner  
Secretary

Enclosure

PRACTITIONER REGULATION  
LEGAL

12 MAR 23 AM 8:58

**Acknowledgement of and  
Agreement to Maintain Patient Confidentiality**

I Larry Thomas am the Subject of an investigation by the Department of Health. As the Subject of such an investigation, I am entitled to inspect or receive a copy of the investigative report, including any expert witness report or patient records connected with the investigation pursuant to Section 456.073(10), Florida Statutes, if I agree in writing to maintain the confidentiality of any information received under this provision, until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to section 456.057, F.S. I was provided with a copy of section 456.072, F.S. and understand my duty to maintain the confidentiality of the patient's records that I received and or inspected.

SIGNED this 20 day of March, 2012.

[Signature]  
Larry D. Thomas, M.D.

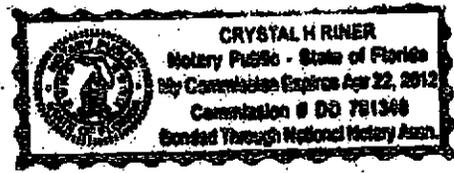
STATE OF FLORIDA  
COUNTY OF Duval

Before me personally appeared Larry D. Thomas, M.D. whose identity is known to me or by personally known (type of identification), and who under oath, acknowledges that his signature appears above.

Sworn to and subscribed by Respondent before me this 20<sup>th</sup> day of March, 2012.

[Signature]  
Notary Public

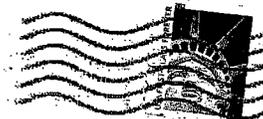
My Commission Expires:



*Law Office of George K. Brew  
6817 Southpoint Parkway  
Suite 1804  
Jacksonville, FL 32216*

JACKSONVILLE FL 320

21 MAR 2012 PM 11



Laura L. Glenn, Assistant General Counsel  
Florida Department of Health  
4052 Bald Cypress Way  
Bin C65  
Tallahassee, FL 32399-1701



32399170199



**PROSECUTION SERVICES UNIT**  
4052 BALD CYPRESS WAY, BIN # C65  
TALLAHASSEE FLORIDA 32399-3265

PHONE: (850) 245-4640

TO Holly B Platter Esquire  
Bush Graziano Rice & Platter PA  
101 East Kennedy Boulevard  
Suite 1700  
Tampa Florida 33602

INVOICE NUMBER MQPR12-722

DATE May 18, 2012

SERVICES RENDERED	AMOUNT
(copy)      ___ Pages @\$.15 Per Page	\$
___ Pages @\$.75 Per Page (Color Copied)	\$
<u>5</u> CD @ \$8.00 Each	\$ 40.00
Charge to Certify Above Copies	\$
X-Ray Duplication Charge:	\$
Research Charge (if over one half hour)	\$
At \$ _____ per hour x _____ hours	\$
Postage & Handling Fees:	\$
<b>TOTAL AMOUNT DUE UPON RECEIPT</b>	<b>\$ 40.00</b>

**Payment Options: Cashier Check or Money Order made payable to:**

**Florida DOH, Division of MQA**

Please reference the INVOICE NUMBER on your Payment—Mail to the above address.

Organization Code: 64-22-05-01-015

Expense Code: 497000

EO Code: PA

Profession: Medicine

Case Name: Larry Thomas

Case Number: 2011-06712

**FedEx** *NEW Package*  
Express *US Airbill*

FedEx Tracking Number

8770 5046 0232

**1 From** Please print and press hard.

Date 5/18/12

Sender's FedEx Account Number

SENDER'S F. NO. 4577-1496-3

Sender's Name DDH

Phone ( 850 ) 245-4640

Company FLORIDA DEPT OF HEALTH

Address 4040 ESPLANADE WAY

Dept./Floor/Suite/Room

City TALLAHASSEE

State FL ZIP 32399-7016

**2 Your Internal Billing Reference** First 24 characters will appear on invoice.

6422050101015 org code

**3 To**

Recipient's Name Holly B. Platter Esq.

Phone (813) 228-7000

Company Bush, Graziano, Rice & Platter, P.A.

Address 101 East Kennedy Blvd. Ste 1700

HOLD Weekly FedEx location address REQUIRED, not applicable for FedEx First Overnight.

Address Suite 1700

HOLD Saturday FedEx location address REQUIRED. Applies only for FedEx Priority Overnight and FedEx Day to Door.

Use this line for the HOLD location address or for continuation of your shipping address.

City Tampa

State FL ZIP 33602

11-06712 /

0443501225



**The FedEx US Airbill has changed. See Section 4.**

For shipments over 150 lbs., order the new FedEx Express Freight US Airbill.



**Sender's Copy**

**4 Express Package Service**

\* To meet location.

NOTE: Service order has changed. Please select carefully.

**Packages up to 150 lbs.**  
For packages over 150 lbs., use the new FedEx Express Freight US Airbill.

**Next Business Day**

FedEx First Overnight  
Certified next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Priority Overnight  
Next business morning. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Standard Overnight  
Next business afternoon.\* Saturday Delivery NOT available.

**Next Business Day**

NEW FedEx 2Day A.M.  
Second business morning.\* Saturday Delivery NOT available.

FedEx 2Day  
Second business afternoon.\* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

FedEx Express Saver  
Third business day.\* Saturday Delivery NOT available.

**5 Packaging** \*Declared value limit \$500.

FedEx Envelope\*  FedEx Pak\*  FedEx Box  FedEx Tube  Other

**6 Special Handling and Delivery Signature Options**

SATURDAY Delivery  
NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

No Signature Required  
Delivery will be made without obtaining a signature for delivery.

Direct Signature  
Complete all recipient's address and sign for delivery. Fee applies.

Indirect Signature  
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

**Does this shipment contain dangerous goods?**

No  Yes one attached  Yes Shipper's Declaration  Yes Shipper's Declaration not required  Dry Ice  Dry Ice, 5 UN 1845  Cargo Aircraft Only

**7 Payment B/E# is:**

Sender's Account No. or Credit Card No. below:  Recipient  Third Party  Credit Card  Cash/Check

FedEx Account No.  Recipient  Third Party  Credit Card  Cash/Check

Total Packages Total Weight Total Declared Value\*

No. \$ 00

\*Your liability is limited to \$200 unless you declare a higher value. See back for details. By using this Airbill you agree to the terms and conditions on the back of this Airbill and in the current FedEx Service Guide, including terms and conditions for liability.



Rev. Date 1/10 - Part #02134 - ©1994-2010 FedEx - PRINTED IN U.S.A. SRS

FOLD AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO FOLDS NEEDED.

**BUSH GRAZIANO RICE & PLATTER, P.A.**

TRIAL LAWYERS

REPLY TO:  
P.O. BOX 3423  
TAMPA, FLORIDA 33601-3423

101 EAST KENNEDY BOULEVARD  
SUITE 1700  
TAMPA, FLORIDA 33602

TELEPHONE (813) 228-7000  
FACSIMILE (813) 273-0091  
WWW.BGRPLAW.COM

HOLLY B. PLATTER

hplatter@bgrplaw.com  
DIRECT DIAL 813.204.2846

May 14, 2012

Ms. Janie M. Shingles  
Florida Department of Health  
Division of Medical Quality Assurance  
Investigative Services Unit  
5016 N. Davis Highway  
Pensacola, Florida 32503

**RE: DOH Case No. 201106712 (Larry Dee Thomas, M.D.)**  
**Our file: 1071-011**

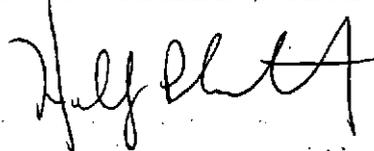
Dear Ms. Shingles:

Please be advised that our firm represents Dr. Thomas in the above referenced matter now that George Brew has filed his notice of withdrawal from the case.

Please allow this correspondence to serve as Dr. Thomas' request for a complete copy of the investigative file as it relates to the above referenced matter. Please forward to my attention at the appropriate time. In the interim, should you have any questions or concerns regarding the above, or require any additional information, please do not hesitate to contact the undersigned at your earliest convenience.

Sincerely,

**BUSH GRAZIANO RICE & PLATTER, P.A.**



Holly B. Platter

HBP/tr

cc: Larry Dee Thomas, M.D.

12 MAY 21 AM 10:17

LEGAL  
PRACTITIONER REGULATION

FLORIDA DEPARTMENT OF HEALTH

PRACTITIONER REGULA  
LEGAL  
12 MAY 10 AM 9:0

FLORIDA DEPARTMENT OF HEALTH,  
Plaintiff,

COMPLAINT 2011-06712

vs.

LARRY D. THOMAS, M.D.  
Defendant.

NOTICE OF WITHDRAWAL

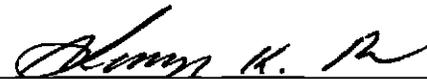
The undersigned attorney, George K. Brew, Esquire and George K. Brew, PLLC hereby gives notice of withdrawal as counsel of record on behalf of Defendant, Larry D. Thomas, M.D., and states as follows:

1. Dr. Thomas has retained new counsel to represent his interests in this matter.
2. New counsel is Holly Platter of Bush, Grazino, Platter & Rice, PA.

WHEREFORE, George K. Brew, Esquire and George K. Brew, PLLC advises this Agency they are no longer Counsel of record for Larry D. Thomas, M.D.

LAW OFFICE OF GEORGE K. BREW

BY



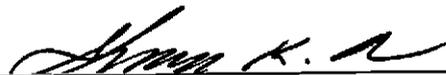
George K. Brew, Esquire  
Florida Bar No.: 854379  
6817 Southpoint Parkway, Suite 1804  
Jacksonville, Florida 32216  
Telephone No.: (904) 354-4741  
Facsimile No.: (904) 354-8001

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been sent to Laura L. Glenn, Esquire, Prosecution Services Unit, 4052 Bald Cypress Way, Bin C-65, Tallahassee, FL 32399, Holly Platter, Esquire, 101 E. Kennedy Blvd., Ste. 1700, Tampa, FL 33602 by U.S. Mail this 7<sup>th</sup> day of May 2012.

LAW OFFICE OF GEORGE K. BREW

BY



George K. Brew, Esquire  
Florida Bar No.: 854379  
6817 Southpoint Parkway, Suite 1804  
Jacksonville, Florida 32216  
Telephone No.: (904) 354-4741  
Facsimile No.: (904) 354-8001

JACKSONVILLE FL 320

09 MAY 2012 PM 4 L



LAW OFFICE OF GEORGE K. BREW  
6817 Southpoint Parkway  
Suite 1804  
Jacksonville, Florida 32216



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Laura L. Glenn, Esquire  
Prosecution Services Unit  
4052 Bald Cypress Way  
Bin C-65  
Tallahassee, FL 32399

32399701752



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STATE OF FLORIDA



DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

Office: Tampa	Date of Complaint: 07/07/11	Case Number: 2011-06712
Subject: LARRY DEE THOMAS, M.D. 575 E. Central Avenue Winter Haven, FL 33880 (863) 299-5424	Source: Code 15 Report (B.R.) 0003974 Linda Bradway, Risk Manager Director Winter Haven Hospital 200 Avenue F NE Winter Haven, FL 33881 (863) 293-1121	
Profession: Medical Doctor	License Number and Status: ME36360 Active/Clear	
Related Case(s): None	Period of Investigation and Type of Report: 12/01/14, through 12/02/14 SUPPLEMENTAL - 4	
Alleged Violation: F.S. 458.331(1)(g)(t)(nn)		
<p>Synopsis: This supplemental investigation is predicated upon receipt of a response from DR. FAVILLI. (Exhibit #S4-1). FAVILLI stated he did not refer B.R. for a change of her dialysis catheter between December of 2010, and February 25, 2011.</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">RECEIVED-LEGAL 14 DEC -3 PM 3:35</p> <p><u>Exhibits:</u> *S4-1: Response from DR. FAVILLI (pages 2-3)</p> <p>* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statute.</p>		
Investigator/Date: <i>Carol Gammans 12-02-14</i> Carol Gammans Medical Quality Assurance Investigator, TI-134	Approved By/Date: <i>12-2-14</i> <i>Babette Agett</i> Babette Agett Investigation Supervisor, TI115	
Distribution: HQ/ISU	Investigative Services	Page 1

DEC 03 2014

INV FORM 301, Created 04/14

DOW/MQA  
Tallahassee HQ

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STATE OF FLORIDA



DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

Office: Tampa	Date of Complaint: 07/07/11	Case Number: 2011-06712
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Profession: Medical Doctor	License Number and Status: ME36360 Active/Clear	
Related Case(s): None	Period of Investigation and Type of Report: 10/24/14, through 11/25/14 SUPPLEMENTAL - 3	
Alleged Violation: F.S. 458.331(1)(g)(t)(nn)		

Synopsis: A request for additional information was received from DIANE K. KIESLING, from PSU. (Exhibit #S3-1) The additional information request included the following: 1) determine if patient, B.R. is still alive, and if so, conduct an interview with her. If patient is deceased, contact her sister, L.W. and obtain a release, 2) obtain a copy of B.R.'s records from DR. LUIS FAVILLI and determine if he referred B.R. for a change of her dialysis catheter and why B.R. was sent to Winter Haven Hospital, 3) obtain copy of B.R.'s records from Bartow DaVita Dialysis.

L.W. was interviewed via phone on 11/19/14. She stated that B.R.'s dialysis catheter was placed in her jugular vein. B.R. began having bad headaches and was referred to a doctor at the Gessler Clinic. The catheter was removed at Winter Haven Hospital. Afterwards, B.R. had a stroke and was placed in rehab. Within a month, B.R. was back in the hospital at Bartow Hospital. B.R. coded two to three times and was then sent to Orlando Regional Medical Center. B.R. was then placed in hospice and died on 05/17/13. L.W. provided a signed release form but as of this date has failed to provide letters of administration after several attempts.

DR. LUIS FAVILLI has failed to respond via phone, fax or mail.

Exhibits:

- \*S3-1: PSU Request Form (pages 2-3)
  - \*S3-2: Reasonable Cause Subpoenas (pages 4-11)
  - \*S3-3: Subpoena Duces Tecum #A0085789, directed to DR. LUIS FAVILLI dated 09/04/14, sent by CSU (pages 12-17)
  - \*S3-4: Subpoena Duces Tecum #A0086225, directed to DR. LUIS FAVILLI (pages 18-25)
  - \*S3-5: Patient records for B.R. from DR. LUIS FAVILLI (pages 26-70)
  - \*S3-6: Subpoena Duces Tecum #A0085790, directed to Bartow DaVita Dialysis dated 09/04/14, sent by CSU (pages 71-76)
  - \*S3-7: Subpoena Duces Tecum #A0086224, directed to Bartow DaVita Dialysis (pages 77-84)
  - \*S3-8: Patient records for B.R. from Bartow DaVita Dialysis (pages 85-220)
  - \*S3-9: Death Certificate for B.R. (page 221)
  - \*S3-10: Patient notification letter dated 10/27/14, directed to L.W. with release form (pages 222-223)
  - \*S3-11: Patient release form (page 224)
  - \*S3-12: Letter dated 11/19/14, directed to DR. LUIS FAVILLI (pages 225-227)
  - \*S3-13: Confidential Index (page 228)
- \* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statute.

RECEIVED-LEGAL  
11 DEC 1 PM 7:51

Investigator/Date: <i>Carol Gammans 11-25-14</i> Carol Gammans Medical Quality Assurance Investigator, TI-134	Approved By/Date: <i>11-25-14</i> <i>Babette Agett</i> Babette Agett Investigation Supervisor, TI115
--	--

NOV 26 2014

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**Mission:**

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

**Rick Scott**

Governor

**John H. Armstrong, MD, FACS**

State Surgeon General &amp; Secretary

**Vision:** To be the Healthiest State in the Nation

**STATE OF FLORIDA DEPARTMENT OF HEALTH  
SUPPLEMENT INVESTIGATIVE REPORT**

Office: Consumer Services Unit		Date of Case: 07/07/11		Case Number: 2011-06712	
Subject: <b>LARRY DEE THOMAS, MD</b> 575 E. Central Avenue Winter Haven, Florida 33880 (863) 299-5424			Source: <b>DEPARTMENT OF HEALTH/CONSUMER SERVICES UNIT</b> 4052 Bald Cypress Way, Bin C-75 Tallahassee, FL 32399 (850) 245-4339		
Prefix: ME	License #: 36360	Profession: Medical Doctor	Board: Board of Medicine	Report Date: 12/04/2014	
Period of Investigation: 10/24/2014 through 11/25/2014			Type of Report: SUPPLEMENTAL-1		
Alleged Violation: SS. 458.331(1)(g)(t)(nn) F.S.					
Synopsis: This report was generated based on the supplemental request for records from Bond Clinic in Winter Haven, Florida. (Supp #1) pages 2-190					
Related Case(s):					
Investigator/Date: <i>Sherra W. Mears</i> Sherra W. Mears                      December 4, 2014			Approved By/Date: <i>Donna Howell</i> Donna Howell, Senior Management Analyst II		
Distribution: CSU/PSU					

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## SUPPLEMENTAL INVESTIGATIVE REPORT

Office: CONSUMER SERVICES		Date of Complaint: 07/07/2011		Case Number: ME 2011-06712	
Subject: <b>LARRY DEE THOMAS, MD</b> 575 E. CENTRAL AVENUE WINTER HAVEN, FL 33880 863-299-5424			Source: <b>CODE 15 REPORT (B.R.) 0003974</b> LINDA BRADWAY, RISK MANAGER DIRECTOR WINTER HAVEN HOSPITAL 200 AVENUE F NE WINTER HAVEN, FL 33881 863-293-1121		
Prefix: ME 1501	License #: 36360	Profession: Allopathic Physician	Board: Medicine	Report Date: 12/28/2011	
Period of Investigation: December 2, 2011 through December 28, 2011			Type of Report: SUPPLEMENTAL		
Alleged Violation: F.S. 458.331(1)(g)(t)(nn) ... Practicing below the standard of care.					
<p><u>Synopsis:</u> This investigation is predicated on the receipt of a supplemental request from the Department of Health/PROSECUTION SERVICES UNIT, requesting further investigation. Specifically, Investigator SHINGLES was asked to obtain the images from Patient B.R.'s fluoroscopy that was done at Winter Haven Hospital interventional radiology. (Ex. #S1)</p> <p>On December 8, 2011 Investigator SHINGLES sent Subpoena Duces Tecum A-0071732 to Winter Haven Hospital Interventional Radiology to obtain copies of Patient B.R.'s fluoroscopy images taken February 2011 – August 2011. (Ex. #S2)</p> <p>On December 20, 2011, Investigator SHINGLES received Patient B.R.'s medical image reports taken June 2011 – September 2011 from Winter Haven Hospital. (Ex. #S3)</p>					
<p><b>EXHIBITS:</b></p> <ul style="list-style-type: none"> <li>* Exhibit #S1 – Supplemental Investigation Request (p 2)</li> <li>* Exhibit #S2 – Copy of Subpoena Sent Duces Tecum A-0071732 (p 3 – 5)</li> <li>* Exhibit #S3 – Patient B.R.'s medical records from Winter Haven Hospital (p 6 - 25)</li> </ul> <p>* EXHIBIT CONTAINS CONFIDENTIAL DOCUMENTS &gt;</p>					
Related Case: N/A					
Investigator/Date: Janie M. Shingles, HA 126 – 12/28/2011 Government Analyst			Approved By/Date: Nicole Singleton OMC Manager <i>Nicole Singleton</i> 12/29/11		
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Page 1					

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### PSU REQUEST FORM

FROM: Sheila Autrey, RS-II for Susan Salamy, Esq.	
TO: ISU Pensacola Tallahassee Alachua Jacksonville St. Pete Tampa Orlando Ft. Myers West Palm Ft. Lauderdale Miami	
Date: December 2, 2011	TO: CSU x Nicole Singleton
Phone #: 850-245-4640 ext: 8210	CC: Janie M Shingles

Case Number: 2011-06712	Board: ME	Status: 60
Subject: Larry Dee Thomas, MD.	HL Code: HL-94A	
Requested Completion Date: January 3, 2012		

**(PSU) TYPE OF REQUEST:** (describe details below)

Process Service\* (Activity Code 160)

Additional Information Requested (Activity Code 145)

Deficiency in Investigative Work (Activity Code 150)

**Details:** Our consultant has requested we get the images from the patient's fluoroscopy that was done at Winter Haven Hospital interventional radiology section.

\*The following additional information is needed for each service request:

Last Known Address      Last Known Name & Phone Number:  
 Last Known Place of Employment & Address if Known:  
 Has Contact Been Made With This Individual? YES  No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent?  
 YES  No  NOTE: All process service requests need to be sent to appropriate field office.  
 \*\*IF YES, please send a copy of the original Investigative Report without attachments.

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**(ISU/CSU) RESPONSE:**

Process Service Completed (Activity Code 161)     Process Service NOT Completed (Activity Code 162)

Add'l Info Sent to Legal (Activity Code 156)

Investigative Work Returned to Legal (Activity Code 156)

Cancelled by Legal (Activity Code 157)       Cancelled by ISU/CSU (Activity Code 158)

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## SUPPLEMENTAL INVESTIGATIVE REPORT

Office: CONSUMER SERVICES		Date of Complaint: 07/07/2011		Case Number: ME 2011-06712	
Subject: <b>LARRY DEE THOMAS, MD</b> 575 E. CENTRAL AVENUE WINTER HAVEN, FL 33880 863-299-5424			Source: <b>CODE 15 REPORT (B.R.) 0003974</b> LINDA BRADWAY, RISK MANAGER DIRECTOR WINTER HAVEN HOSPITAL 200 AVENUE F NE WINTER HAVEN, FL 33881 863-293-1121		
Prefix: ME 1501	License #: 36360	Profession: Allopathic Physician	Board: Medicine	Report Date: 11/09/2011	
Period of Investigation: October 6, 2011 through November 9, 2011			Type of Report: SUPPLEMENTAL		
Alleged Violation: F.S. 458.331(1)(g)(t)(nn) ... Practicing below the standard of care.					
<p><u>Synopsis:</u> This investigation is predicated on the receipt of a supplemental request from the Department of Health/PROSECUTION SERVICES UNIT, requesting further investigation. Specifically, Investigator SHINGLES was asked to obtain medical records from Winter Haven Hospital. (Ex. #S1)</p> <p>On October 11, 2011 Investigator SHINGLES sent Subpoena Duces Tecum A-0070653 to Winter Haven Hospital to obtain copies of Patient B.R.'s medical records. (Ex. #S2)</p> <p>On November 8, 2011, Investigator SHINGLES received Patient B.R.'s medical records from Winter Haven Hospital. (Ex. #S3)</p>					
<p><b>EXHIBITS:</b></p> <ul style="list-style-type: none"> <li>* Exhibit #S1 – Supplemental Investigation Request (p 2 - 13)</li> <li>* Exhibit #S2 – Copy of Subpoena Sent Duces Tecum A-0070653 (p 14 - 18)</li> <li>* Exhibit #S3 – Patient B.R.'s medical records from Winter Haven Hospital (p 19 - 900)</li> </ul> <p>* EXHIBIT CONTAINS CONFIDENTIAL DOCUMENTS</p>					
Related Case: N/A					
Investigator/Date: Janie M. Shingles, HA 126 – 11/09/2011 Government Analyst I			Approved By/Date: Nicole Singleton, <i>Nicole Singleton</i> OMC Manager <i>Nicole Singleton</i> 11/9/2011		
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## INVESTIGATIVE REPORT

Office: CONSUMER SERVICES		Date of Complaint: 07/07/2011		Case Number: ME 2011-06712	
Subject: LARRY DEE THOMAS, MD 575 E. CENTRAL AVENUE WINTER HAVEN, FL 33880 863-299-5424			Source: CODE 15 REPORT (B.R.) 0003974 LINDA BRADWAY, RISK MANAGER DIRECTOR WINTER HAVEN HOSPITAL 200 AVENUE F NE WINTER HAVEN, FL 33881 863-293-1121		
Prefix: ME 1501	License #: 36360	Profession: Allopathic Physician	Board: Medicine	Report Date: 09/27/2011	
Period of Investigation: July 22, 2011 through September 27, 2011			Type of Report: FINAL		
Alleged Violation: F.S. 458.331(1)(g)(t)(nn) ... Practicing below the standard of care.					
<p><b>Synopsis:</b> This investigation is predicated on the receipt of a Code 15 Report, from LINDA BRADWAY, for Patient B.R. (53 y/o female) alleging that on 12/11/2010 LARRY DEE THOMAS, MD placed a dialysis catheter into Patient B.R.'s left common carotid artery. On 12/11/2010, Patient B.R. had a catheter inserted by LARRY DEE THOMAS, MD. After this procedure Patient B.R. received dialysis treatment three (3) times per week at the Bartow Regional Medical Center. However, Patient B.R. had high flows and poor runs during the dialysis. On 03/01/2011, Patient B.R. was referred by her primary care physician to Winter Haven Hospital Interventional Radiology for catheter exchange. During the fluoroscopy, the dialysis catheter was shown to be entering the left common carotid artery near the thoracic inlet with the catheter coursing into the ascending aorta. The catheter was nearly occlusive (Catheter should have been in the jugular vein). The catheter was removed from the carotid artery on 03/01/2011. (Ex. #1, Case Summary, and attachments)</p> <p>LARRY DEE THOMAS, MD was notified of this complaint by a letter dated 07/22/2011 that was sent to his address of record with the Department of Health/ Board of Medicine. This letter included a copy of the Case Summary and a copy of the Code 15 Report. (Ex. #2)</p> <p>DOH computer information obtained 09/23/2011 indicates LARRY DEE THOMAS, MD is licensed to practice as an allopathic physician in the State of Florida. LARRY DEE THOMAS, MD's license is in a CLEAR, ACTIVE status. (Ex. #3)</p> <p>Patient B.R. was notified of this complaint via a certified letter dated; 07/22/2011. According to the United States Postal Service web site (www.usps.com) the letter was received on 07/27/2011. However, Patient B.R. has not responded to the letter from the Florida Department of Health (Ex. #4)</p> <p>LARRY DEE THOMAS, MD is represented by George K. BREW, ESQUIRE, 6817 Southpoint Parkway, Suite 1804, Jacksonville, Florida 32216, 904-354-4741. <u>BREW requested a copy of all investigative materials in his letter of representation, dated 08/23/2011.</u> (Ex. #5)</p> <p>On 08/29/2011, Investigator SHINGLES received LARRY DEE THOMAS, MD's written response via his attorney George BREW, ESQUIRE. The letter dated 08/23/2011, provided a review of LARRY DEE THOMAS, MD's medical experience and reported that LARRY DEE THOMAS, MD did place the catheter into Patient B.R. on 12/11/2010. The document goes on to state that LARRY DEE THOMAS, MD ordered the following tests on Patient B.R. to ensure proper placement of the catheter; on 12/11/2010 an intraoperative spot fluoroscopic study was completed and on 12/14/2010 a chest x-ray was done. George BREW, ESQUIRE states the two radiologists that reviewed these tests, confirmed proper placement of the catheter. (Ex. #5)</p>					
Related Case: N/A					
Investigator/Date: Janie M. Shingles, MA 126 - 09/27/2011 Government Analyst			Approved By/Date: Nicole Singleton, OMC Manager <i>Nicole Singleton</i> 9/29/11		
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        Interview/Statement of LARRY DEE THOMAS, MD.....4

IV. EXHIBITS

\* 1) Case Summary and Attachments .....5 – 10

2) Subject Notification Letter.....11 - 13

3) DOH Licensure Information .....14 - 18

\* 4) Patient Notification Letter .....19 - 21

\* 5) Letter of Representation and Written Statement .....22 – 34

\* 6) Copy of Subpoena Duces Tecum A-0069465 directed to .....35 – 40 ✓  
Bartow Memorial Hospital

\* 7) Copy of Patient B.R.'s Medical Records from .....41 – 408 ✓  
Bartow Memorial Hospital

\* 8) Confidential Patient Index .....409 ✓

\* EXHIBITS CONTAIN INFORMATION WHICH IDENTIFIES PATIENT(S) BY NAME AND ARE SEALED PURSUANT TO SECTION 456.057(8), FLORIDA STATUTES

INVESTIGATIVE DETAILS

SUMMARY OF EXHIBITS

Exhibit # 1 is the Initial complaint from the Code 15 Report and a copy of the Case Summary

Exhibit # 2 is a copy of the Subject Notification letter dated July 22, 2011.

Exhibit # 3 is the Department of Health's Licensure Information for LARRY DEE THOMAS, MD.

Exhibit # 4 is a copy of the Patient Notification letter dated July 22, 2011.

Exhibit # 5 is the Letter of Representation and Written Statement from George BREW, ESQUIRE.

Exhibit # 6 is a copy of Subpoena Duces Tecum A-0069465.

Exhibit # 7 is a copy of Patient B.R.'s medical records, the resultant records of Subpoena Duces Tecum A-0069465

Exhibit # 8 is the Confidential Patient Index.

INTERVIEW/STATEMENT OF Patient B.R. / PATIENT

Address:       PATIENT B.R.

Patient B.R. was notified of this complaint via a certified letter dated; 07/22/2011. According to the United States Postal Service web site ([www.usps.com](http://www.usps.com)) the letter was received on 07/27/2011. However, Patient B.R. has not responded to the letter from the Florida Department of Health (Ex. #4).

**DOH INVESTIGATIVE REPORT**

**CASE NUMBER ME 2011-06712**

**INVESTIGATIVE DETAILS**

**INTERVIEW/STATEMENT OF LARRY DEE THOMAS, MD/ SUBJECT**

Address:     **LARRY DEE THOMAS, MD**  
                  **575 E. CENTRAL AVENUE**  
                  **WINTER HAVEN, FL 33880**  
                  **863-299-5424**

As of 09/23/2011, LARRY DEE THOMAS, MD has not submitted a written response. However, on 08/29/2011, Investigator SHINGLES received LARRY DEE THOMAS, MD's written response via his attorney George BREW, ESQUIRE. The letter dated 08/23/2011, provided a review of LARRY DEE THOMAS, MD's medical experience and reported that LARRY DEE THOMAS, MD did place the catheter into Patient B.R. on 12/11/2010. The document goes on to state that LARRY DEE THOMAS, MD ordered the following tests on Patient B.R. to ensure proper placement of the catheter; on 12/11/2010 an intraoperative spot fluoroscopic study was completed and on 12/14/2010 a chest x-ray was done. George BREW, ESQUIRE states the two radiologists that reviewed these tests, confirmed proper placement of the catheter. (Ex. #5)

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Rick Scott  
Governor

H. Frank Farmer, Jr., MD, Ph.D. FACP  
State Surgeon General

July 22, 2011

**CONFIDENTIAL**

Larry Dee Thomas, MD  
575 East Central Avenue  
Winter Haven, FL 33880

Complaint Number: 201106712

Dear Dr. Thomas:

The Consumer Services Unit of the Department of Health has received the enclosed report involving treatment you provided. We reviewed the report and determined that the Medical Practice Act may have been violated. Therefore, we have opened an investigation into this matter. Please submit a written response to this report within 45 days.

When the investigation is complete, you may make a written request for a copy of the investigative file. At that time, you may submit a response to the information in the investigative file within 20 days.

This report and all investigative information will remain confidential until 10 days after the probable cause panel has determined that a violation occurred or you give up the right to confidentiality. Please note that the enclosed report will remain confidential even if the Probable Cause Panel determined that a violation has occurred.

The mission of the Department of Health is to protect and promote the health of all resident and visitors in Florida. If you have any questions, please call us at (850) 245-4339.

Sincerely,

Janie M. Shingles  
Government Analyst I

/mw  
Enclosure  
Return Receipt: 7011 0470 0001 3224 8301

Division of Medical Quality Assurance, Consumer Services Unit  
4052 Bald Cypress Way, Bin C-75 • Tallahassee, FL 32399-3275  
Telephone Number (850) 245-4339 or Toll Free Call Center 1-888-419-3456  
Visit us online at [www.doh.state.fl.us](http://www.doh.state.fl.us)

**EXHIBIT #2: 00011**

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USPS  
Permit No. C-10

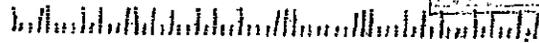
• Sender: Please print your name, address, and ZIP+4 in this box •



Consumer Services Unit  
4052 Bald Cypress Way, Bin C-75  
Tallahassee, FL 32399-3275/mw

RECEIVED  
JUL 29 2011

017



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**CONFIDENTIAL**  
Larry Dee Thomas, MD  
575 East Central Avenue  
Winter Haven, FL 33880  
201106712/126

2. Article Number  
(Transfer from service label)

7011 0470 0001 3224 8301

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1840

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X Teresa Jones

Agent

Addressee

B. Received by (Printed Name)

Teresa Jones

C. Date of Delivery

7-27-11

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

EXHIBIT #2: 00012

U.S. Postal Service<sup>SM</sup>  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

1001 0470 0001 3224 8301

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

Send to

Street, Apt. No.,  
or PO Box No.

City, State, ZIP+4

Work with License (all 2)			
Lic Type	1501	Medical Doctor	Indv/Org # 4903755
File #	28493	THOMAS, LARRY DEE MD	Expires 01/31/2013
License #	36360	Medical Doctor	Extended To
Fed Tax #		CLEAR, ACTIVE	Renewed 10/26/2010
Street #	575	Street	E. CENTRAL AVENUE
Line 2			
Line 3			
City	WINTER HAVEN	Prov/State	FL Postal/Zip 33880
Routing			
1st License	03/18/1980	Rank Date	03/18/1980 Certificate # 323950
Method	EXEN	Status Date	01/01/1801 Certificate Date 10/27/2010
Fee Exempt	No	Birth Date	02/02/1950 Renewal Sent 10/12/2010
Modifiers			
Notes			

Licensee

View

Work

History

Notes

Notes History

Exit

DOH Consumer Services

SEP 23 2011

**Practitioner Profile**

Information in this profile has been verified by the practitioner.

**LARRY DEE THOMAS MD**

LICENSE NUMBER: **ME36360**  
Profession: **MEDICAL DOCTOR**  
Year Began Practicing: **1/1/1976**  
Expiration Date: **1/31/2013**  
Status: **CLEAR/ACTIVE**

**Primary Practice Address**

LARRY DEE THOMAS MD  
575 E. CENTRAL AVENUE  
WINTER HAVEN, FL 33880  
UNITED STATES

**Medicaid**

This practitioner does participate in the Medicaid program.

**Staff Privileges**

This practitioner does not currently hold staff privileges at any hospital/medical/health institution.

**E-Mail Address**

Please contact at: [Tchristy7@aol.com](mailto:Tchristy7@aol.com)

**Other State Licensure**

This practitioner has not indicated any additional state licensures.

**Education and Training**

<b>Institution Name</b>	UNIVERSITY OF ARKANSAS
<b>Dates of Attendance</b>	-5/1/1976
<b>Graduation Date</b>	5/1/1976
<b>Degree Title</b>	MD

**Other Health Related Degrees**

This practitioner does not hold any additional health related degrees.

**Professional and Postgraduate Training**

This practitioner has completed the following graduate medical education:

<b>Program Name</b>	MT SINAI MC-GREATER
<b>Program Type</b>	FELLOWSHIP
<b>Specialty Area</b>	GS - VASCULAR SURGERY
<b>Other Specialty Area</b>	
<b>City</b>	***
<b>State or Country</b>	FLORIDA

**Dates Attended From** 07/01/1984  
**Dates Attended To** 06/30/1985

**Program Name** NEW ENGLAND MEDICAL CENTER  
**Program Type** RESIDENCY  
**Specialty Area** TS - THORACIC SURGERY  
**Other Specialty Area**  
**City** \*\*\*  
**State or Country** MASSACHUSETTS  
**Dates Attended From** 07/01/1985  
**Dates Attended To** 06/30/1987

**Program Name** MEMORIAL MEDICAL CENTER  
**Program Type** INTERNSHIP  
**Specialty Area** GS - SURGERY  
**Other Specialty Area**  
**City** \*\*\*  
**State or Country** GEORGIA  
**Dates Attended From** 07/01/1976  
**Dates Attended To** 06/30/1977

**Program Name** MT SINAI MC-GREATER  
**Program Type** RESIDENCY  
**Specialty Area** GS - SURGERY  
**Other Specialty Area**  
**City** \*\*\*  
**State or Country** FLORIDA  
**Dates Attended From** 07/01/1980  
**Dates Attended To** 06/30/1984

#### Academic Appointments

This practitioner does not currently hold faculty appointments at any medical/health related institutions of higher learning.

#### Specialty Certification

This practitioner holds the following certifications from specialty boards recognized by the Florida board which regulates the profession for which he/she is licensed:

**Specialty Board** AMERICAN BOARD OF SURGERY  
**Certification** GS - SURGERY

**Specialty Board** AMERICAN BOARD OF THORACIC SURGERY  
**Certification** TS - THORACIC SURGERY

#### Financial Responsibility

I have hospital staff privileges and I have established an irrevocable letter of credit or escrow account in an amount of \$250,000/\$750,000, in accordance with Chapter 675, F. S., for a letter of credit and s. 625.52, F. S., for an escrow account.

#### **Criminal Offenses**

The criminal history information, if any exists, may be incomplete; federal criminal history information is not available to the public. Information is verified by DOH at the time of initial licensure through the FDLE and FBI. Changes after initial licensure may be self-reported by the practitioner or updated based on a report received from FDLE. DOH conducts statewide criminal background checks every two years, immediately following a renewal cycle for the practitioner.

This practitioner has indicated that he/she has no criminal offenses required to be published on this profile.

Information provided has been verified through a criminal records check as of 7/24/2011 5:01:50 AM.

#### **Medical Sanctions and Terminations**

This practitioner has not been sanctioned or terminated for cause from the Medicaid program.

#### **Final Disciplinary Actions (Within last 10 years)**

For instructions on how to order copies of final disciplinary actions, please go to [http://www.doh.state.fl.us/mqa/clientsev/records\\_request.htm](http://www.doh.state.fl.us/mqa/clientsev/records_request.htm)

This information is self reported by the practitioner:

##### **Final disciplinary action taken by a specialty board within the previous 10 years:**

This practitioner has indicated that he/she has **NOT** had any final disciplinary action taken against him/her within the previous 10 years by a specialty board.

##### **Final disciplinary action taken by a licensing agency within the previous 10 years:**

This practitioner has indicated that he/she has **NOT** had any final disciplinary action taken against him/her within the previous 10 years by a licensing agency.

##### **Disciplinary action taken by a health maintenance organization, pre-paid health clinic, nursing home, hospital or ambulatory surgical center within the previous 10 years:**

This practitioner has indicated that he/she has **NOT** had any final disciplinary action taken against him/her within the previous 10 years by a health maintenance organization, pre-paid health clinic, nursing home, hospital or ambulatory surgical center.

##### **Resignation from or non-renewal of medical staff membership or the restriction or revocation of staff privileges within the previous 10 years by a health maintenance organization, pre-paid health clinic, nursing home, hospital or ambulatory surgical center in lieu of or in settlement of a pending disciplinary case related to competence or character.**

This practitioner has indicated that he/she has **NEVER** been asked to or allowed to resign from or had any medical staff privileges restricted or revoked within the previous 10 years by a health maintenance organization, pre-paid health clinic, nursing home, hospital or ambulatory surgical center.

##### **Liability Claims Exceeding \$100,000.00 (Within last 10 years).**

Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on

the professional competence or conduct of the physician. A payment settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

Additional claims information may have been reported to the Department of Financial Services. To check their web site, please click here.

The following liability actions have been reported as required under section 456.049, F. S., within the previous 10 years:

Incident Date	1/27/2000
County	POLK
Judicial Case	GCG-01-3704
Settlement Date	12/15/2002
Amount	\$225,000.00
Policy Amount	\$250,000.00

#### Committees/Memberships

This practitioner has not indicated any committees on which they serve for any health entity with which they are affiliated.

#### Professional or Community Service Awards

This practitioner has not provided any professional or community service activities, honors, or awards.

#### Publications

This practitioner has not provided any publications that he/she authored in peer-reviewed medical literature within the last ten years.

#### Professional Web Page

This practitioner has not provided any professional web page information.

#### Languages Other Than English

This practitioner has not indicated that any languages other than English are used to communicate with patients, or that any translation service is available for patients, at his/her primary place of practice.

#### Other Affiliations

This practitioner has not provided any national, state, local, county, or professional affiliations.

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**MEMORANDUM FOR RECONSIDERATION**

TO: 12/14/15 South Probable Cause Panel

FROM: Corynn Gasbarro, Assistant General Counsel *CG*

RESPONDENT: Sherry Rockman, P.A.

CASE NO.: 2013-18206

DATE: October 27, 2015

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This case was presented at the December 15, 2014 Probable Cause Panel meeting, at which time probable cause was found. On December 16, 2014, a one-count Administrative Complaint was filed, alleging Subject violated section 456.072(1)(nn), Florida Statutes, for violating Section 458.347(7)(e), Florida Statutes, by failing to timely report changes in supervision.

After the Administrative Complaint was filed, the Department received a response from Subject, in which she took full responsibility for the violation. Additionally, the response provided information regarding some of the circumstances which led to the incident.

On or about September 18, 2015, the case was presented to the Probable Cause Panel for reconsideration with a recommendation for closure. Following its discussion, the panel requested that the matter be tabled in order to allow the Department to obtain additional information from the Subject.

The Subject has since provided the Department with the requested information. Therefore, the Department is bringing this matter back before you for reconsideration so that the Subject's response can be considered by the Panel. Rather than prosecution, the Department is requesting that the Panel dismiss the Administrative Complaint and recommends closure.

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

BOARD: Medicine

CASE NUMBER: 2013-18206

COMPLAINT MADE BY: DOH

COMPLAINT MADE AGAINST: Sherry Rockman, P.A.  
9597 River Road  
Spring Hill, FL 34608

SUBJECT'S ATTORNEY: Pro Se

DATE OF COMPLAINT: November 15, 2013

INVESTIGATED BY: Krista Davis  
CSU

REVIEWED BY: Corynn Gasbarro, Esquire  
Assistant General Counsel

RECOMMENDATION: Dismiss (4099)

NOTICE OF DISMISSAL

THE COMPLAINT: The Complaint alleges Subject violated Section 458.331(1)(nn), Florida Statutes (2013), by violating Section 458.347(7)(e), Florida Statutes (2013), for failing to notify the Department in writing of any changes in supervising physicians, within thirty (30) days.

THE FACTS: This complaint is predicated upon receipt of a case submitted by the Department of Health Board of Medicine in regards to the Subject's failure to timely report changes in supervision.

On or about October 28, 2013, the Board received the Subject's Supervision Data Form ("Form"), which reflected the deletion of twenty-seven (27) supervising physicians from Access Health Care ("Access"). The Form indicated the effective date as June 1, 2013, making the notification untimely per Florida Statutes.

During the investigation of this matter, the Department made several attempts to contact the Subject to discuss the allegations. However, those attempts were unsuccessful. On December 15, 2014, the Probable Cause Panel found probable cause in the matter, and a one-count Administrative Complaint was filed.

The Subject's response to the Complaint was received on or about February 4, 2015. The Department was also able to speak with the Subject via telephone to discuss the issues in this case.

The Subject was remorseful for having submitted the Form late and took full responsibility for failing to timely notify the Board of the changes in supervision. She stated that the process of completing and submitting the Form was confusing when working with a large medical group like Access, where there can be many different physicians on staff at any given time. She claimed that she was often asked by the facility to sign the blank Forms before the physicians' names were listed, and as a result, many doctors she never worked with were included on her October Form. She expressed frustration with this process, and an uncertainty as to whether this was common practice at other offices. Additionally, she advised that at the time of this incident, she was dealing with several medical issues which led to the termination of her employment with Access and played a role in her submitting the Form late. Presently, she is unable to practice due to her medical circumstances and is living out-of-state with family.

While the Subject did submit the Form in an untimely manner, in light of the circumstances, the Department recommends closure rather than full prosecution of this matter.

THE LAW: Based on the foregoing, and pursuant to Section 456.073(4), Florida Statutes, there is no probable cause to believe Subject violated Chapter 458, Florida Statutes, or the rules of the Board or Department.

It is, therefore, ORDERED that this case should be and the same is hereby DISMISSED.

DONE and ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Chairperson, Probable Cause Panel  
Board of Medicine

PCP Date: February 19, 2016

PCP Members: Fuad Ashkar, M.D.; Nabil El Sanadi, M.D.; Deborah Gerbert, P.A.;  
Joy Tootle

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