



Hilton Deerfield Beach/Boca Raton
100 Fairway Dr
Deerfield, FL 33441
(954) 427-7700

October 12, 2012

DRAFT MEETING MINUTES

1 **7:00 a.m. ROLL CALL**
2 **Friday, October 12, 2012**

3
4 **Members Present:**

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

Members Absent:

20
21 **Staff Present:**

22 Joy A. Tootle, J.D., Executive Director
23 Ed Tellechea, Board Counsel
24 Donna McNulty, Board Counsel
25 Nancy Murphy, Paralegal
26 Crystal A. Sanford, CPM, Prog. Opr. Adm.
27 Chandra Prine, Prog. Opr. Adm.
28 Rebecca Hewett, Regulatory Specialist III
29 Shaila Washington, Compliance Officer
30 Ashley Carr, Public Information Officer

Others Present:

31
32 **Prosecuting Attorneys Present:**

33 Veronica Donnelly, Esquire



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1 Sharmin Hibbert, Esquire
2 Laura Glenn, Esquire

3
4 **Licensure Issues:**

5 **Lucy Ellen Mollan, ND – Recommended Order63**

6 Ms. Mollan was not present nor was she represented by counsel.

7
8 Lynette Norr, represented the Attorney General’s Office and Ms. Donnelly represented the
9 Board.

10
11 Dr. Rosenberg read the Recommended Order remarks and confirmed all participating members
12 had read the complete record.

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

16
17 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

18
19 **Action taken:** licensure denied

20
21 **Board Director’s Remarks:**

22 **Letters to CMS Regarding CRNA’s**

23 Ms. Tootle summarized the letter to the members which indicate DHHS will enter into
24 rulemaking to expand the scope of practice for CRNA’s.

25
26 Mr. Tellechea explained that in Florida, ARNP’s do not have prescriptive authority so this
27 rulemaking is not relevant in Florida.

28
29 No action taken.

30
31 **Disciplinary Case Schedule:**

32 **Kirsten O’Neil Matos, M.D. – Settlement Agreement24**

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



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1
2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(aa), FS
3 (2010) – Presigning blank prescription forms.

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

6
7 **Penalty imposed:** letter of concern, \$3,500 fine, costs, Laws & Rules course

8
9 **Abbas Shariat, M.D. – Settlement Agreement4**

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

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

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

26
27 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management

28
29 **Terrence Patrick O'Brien, M.D. – Settlement Agreement9**

30 Dr. Stringer and Mr. Levine were recused due to participation on the probable cause panel. Dr.
31 Shugarman recused himself because he knows the physician.



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1
2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
3 (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-
4 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
5 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
6 purposes of this paragraph, performing or attempting to perform health care services includes the
7 preparation of the patient and s. 458.331(1)(nn), FS (2010) – Violating any provision of this
8 chapter or chapter 456, or any rules adopted pursuant thereto.

9
10 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

11
12 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws & Rules Course, 5 hours CME in
13 risk management, lecture

14
15 **John R. Ayres, M.D. – Settlement Agreement10**
16 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

17
18 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
19 (2011) – Performing or attempting to perform health care services on the wrong patient, a wrong-
20 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
21 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
22 purposes of this paragraph, performing or attempting to perform health care services includes the
23 preparation of the patient.

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

26
27 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, lecture

28
29 **Chad M. Stine, M.D. – Settlement Agreement11**
30 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

31
32 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
33 (2011) – Performing or attempting to perform health care services on the wrong patient, a wrong-



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1 site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
2 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
3 purposes of this paragraph, performing or attempting to perform health care services includes the
4 preparation of the patient and s. 458.331(1)(nn), FS (2010) – Violating any provision of this
5 chapter or chapter 456, or any rules adopted pursuant thereto.

6
7 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

8
9 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, lecture

10
11 **Nitesh Arun Banker, M.D. – Settlement Agreement12**

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

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

23
24 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

25
26 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws & Rules course

27
28 **Susan Heleen Yandle, M.D. – Settlement Agreement13**

29 This matter was continued until the December Board Meeting.

30
31 **Action taken:** continued until the December Board Meeting

32
33 **Marisol Fernandez, M.D. – Settlement Agreement14**



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

3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
4 (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
5 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
6 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
7 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
8 or in anticipation of the filing of administrative charges against the physician’s license, shall be
9 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2011) – Failing to
10 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
11 against one’s license to practice medicine in another state, territory, or country.
12

13 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
14

15 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws & Rules course, 5 hours CME in
16 risk management
17

18 **Jennifer Carchidi Zampogna, M.D. – Settlement Agreement15**

19 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.
20

21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
22 (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
23 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
24 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
25 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
26 or in anticipation of the filing of administrative charges against the physician’s license, shall be
27 construed as action against the physician’s license; s. 458.331(1)(kk), FS (2011) – Failing to
28 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
29 against one’s license to practice medicine in another state, territory, or country; and s.
30 458.331(1)(c), FS (2009) – Being convicted or found guilty of, or entering a plea of nolo
31 contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the
32 practice of medicine or to the ability to practice medicine.
33



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

2
3 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws & Rules course, indefinitely
4 suspended until appears/demonstrates skill/safety including PRN eval/compliance and evidence
5 all licenses are unencumbered as determined by the Board, jurisdiction retained

6
7 **Julio Prado, P.A. – Settlement Agreement19**

8 Mr. Mullins was recused due to participation on the probable cause panel.

9
10 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(a), FS
11 (2004) – Making misleading, deceptive, or fraudulent representations in or related to the practice
12 of the licensee's profession.

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

15
16 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws & Rules course

17
18 **Ralph Tinghan Ho, M.D. – Settlement Agreement.....23**

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

20
21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
22 (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
23 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
24 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
25 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
26 or in anticipation of the filing of administrative charges against the physician's license, shall be
27 construed as action against the physician's license and s. 458.331(1)(kk), FS (2011) – Failing to
28 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
29 against one's license to practice medicine in another state, territory, or country.

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

32



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1 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws & Rules course, prior to practicing
2 in FL, must appear before the Board and demonstrate all licenses are unencumbered; jurisdiction
3 retained
4

5 **Aimee Gonzalez, M.D., Miami, FL – Settlement Agreement.....25**

6 Mr. Levine was recused due to participation on the probable cause panel.
7

8 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
9 (2010) – Failing to perform any statutory or legal obligation placed upon a licensed physician.
10

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

13 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws & Rules course
14

15 **Gary J. Cowen, M.D. – Settlement Agreement31**

16 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.
17

18 Allegations of the Second Amended Administrative Complaint: Violation of Florida Statutes s.
19 458.331(1)(q), FS (2003-2004) – Prescribing, dispensing, administering, mixing, or otherwise
20 preparing a legend drug, including any controlled substance, other than in the course of the
21 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed
22 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,
23 including all controlled substances, inappropriately or in excessive or inappropriate quantities is
24 not in the best interest of the patient and is not in the course of the physician's professional
25 practice, without regard to his or her intent; s. 458.331(1)(t), FS (2003-2004) – Gross or repeated
26 malpractice or the failure to practice medicine with that level of care, skill, and treatment which
27 is recognized by a reasonably prudent similar physician as being acceptable under similar
28 conditions and circumstances; s. 458.331(1)(nn), FS (2003-2004) – Violating any provision of
29 this chapter or chapter 456, or any rules adopted pursuant thereto; and s. 458.331(1)(m), FS
30 (2003-2004) – Failing to keep legible, as defined by department rule in consultation with the
31 board, medical records that identify the licensed physician or the physician extender and
32 supervising physician by name and professional title who is or are responsible for rendering,
33 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the



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1 course of treatment of the patient, including, but not limited to, patient histories; examination
2 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
3 consultations and hospitalizations.

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

6
7 **Penalty imposed:** Ct 1 and 2 of Amended AC dropped (q,t); reprimand, \$7,500 fine, costs, Laws
8 & Rules course, 5 hours CME in risk management

9
10 **Ronald R. Discenza, M.D. – Settlement Agreement32**

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

12
13 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
14 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
15 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
16 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
17 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
18 or in anticipation of the filing of administrative charges against the physician’s license, shall be
19 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
20 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
21 against one’s license to practice medicine in another state, territory, or country.

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

24
25 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws & Rules course, suspended until
26 appears/demonstrates all licenses are unencumbered, jurisdiction retained

27
28 **Ralph Jennings Chambers, Jr., M.D. – Settlement Agreement33**

29 Case numbers 2009-05877, 2009-20428

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

31 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
32 (2006-2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing



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1 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions
2 of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to
3 require more than one instance, event, or act. 2. Committing gross medical malpractice.
4 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the
5 board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
6 continue to be licensed by this state to provide health care services as a medical doctor in this
7 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
8 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
9 an administrative law judge or a final order of the board finding a violation under this paragraph
10 shall specify whether the licensee was found to have committed "gross medical malpractice,"
11 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
12 publication by the board must so specify; s. 458.331(1)(q), FS (2006-2010) – Prescribing,
13 dispensing, administering, mixing, or otherwise preparing a legend drug, including any
14 controlled substance, other than in the course of the physician’s professional practice. For the
15 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
16 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
17 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
18 and is not in the course of the physician’s professional practice, without regard to his or her
19 intent; and s. 458.331(1)(m), FS (2006-2010) – Failing to keep legible, as defined by department
20 rule in consultation with the board, medical records that identify the licensed physician or the
21 physician extender and supervising physician by name and professional title who is or are
22 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment
23 procedure and that justify the course of treatment of the patient, including, but not limited to,
24 patient histories; examination results; test results; records of drugs prescribed, dispensed, or
25 administered; and reports of consultations and hospitalizations.

26 Case number 2010-03851

27 Mr. Levine was recused due to participation on the probable cause panel.
28

29 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
30 (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician
31 and s. 458.331(1)(v), FS (2009) – Practicing or offering to practice beyond the scope permitted



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

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

5
6 **Penalty imposed:** reprimand, \$60,000 fine, costs, suspension until undergoes FL CARES
7 evaluation; UF Drug course, Laws & Rules course, FMA records course, FL CARES evaluation
8 within 1 year with report to the Probation Committee; Board retains jurisdiction

9
10 **David Ari Blum, M.D. – Settlement Agreement34**

11 Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel. Dr.
12 Rosenberg recused himself from this case and Dr. Zachariah chaired the hearing.

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

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

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

24
25 **Luis Ernesto Augsten, M.D. – Settlement Agreement1**

26 Dr. Augsten was present and represented by Leslie McCormick, Esquire.

27
28 Dr. Stringer and Mr. Mullins were recused due to participation on the probable cause panel.

29 Ms. Donnelly represented the Department and presented the case to the Board. Allegations of
30 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (1999-2000,
31 2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
32 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.



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

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

13
14 A motion was made and seconded to offer a counter proposal to impose the same terms but to
15 replace the Laws and Rules course with an 8 hour course in echocardiography. The counter
16 motion carried with two opposed.

17
18 The Respondent accepted the counter offer.

19
20 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 8 hour course in echocardiography, 5
21 hours CME in risk management

22
23 **Orestes Molina, M.D. – Settlement Agreement2**

24 Dr. Molina was present and represented by Laura S. Martin, Esquire.

25
26 Mr. Mullins was recused due to participation on the probable cause panel.

27
28 A motion was made, seconded and carried unanimously to approve Ms. Martin as a qualified
29 representative.

30
31 Ms. Donnelly represented the Department and presented the case to the Board. Allegations of
32 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) –



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1 Having a license or the authority to practice medicine revoked, suspended, or otherwise acted
2 against, including the denial of licensure, by the licensing authority of any jurisdiction, including
3 its agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment
4 of a license, stipulation, consent order, or other settlement, offered in response to or in
5 anticipation of the filing of administrative charges against the physician’s license, shall be
6 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
7 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
8 against one’s license to practice medicine in another state, territory, or country.

9
10 After discussion, Dr. Molino withdrew from his Settlement Agreement.

11
12 **Action taken:** Settlement Agreement withdrawn

13
14 **John W. Snead, M.D. – Settlement Agreement3**

15 Dr. Snead was present and represented by Jon Pellett, Esquire.

16
17 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.
18 Dr. Orr stated he knows Dr. Snead but could be objective in ruling on the case.

19
20 Ms. Donnelly represented the Department and presented the case to the Board. Allegations of
21 the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2011) –
22 Performing or attempting to perform health care services on the wrong patient, a wrong-site
23 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
24 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the
25 purposes of this paragraph, performing or attempting to perform health care services includes the
26 preparation of the patient.

27
28 Both parties agreed that Dr. Snead would pay the actual costs in the case.

29
30 A motion was made, seconded and carried with two opposed to accept the Settlement Agreement
31 as amended by both parties.

32
33 **Penalty imposed:** letter of concern, \$4,000 fine, actual costs, Laws & Rules course, lecture



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1
2 **Curtiss Lee Beuregard, M.D. – Settlement Agreement5**

3 This matter was withdrawn from the agenda prior to the meeting.
4

5 **Action taken:** none
6

7 **Carl Z. Salzman, M.D. – Settlement Agreement6**

8 Dr. Salzman was present and represented by Monica Rodriguez, Esquire.
9

10 Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel. The
11 Board reviewed an amended Settlement Agreement executed by Dr. Salzman.

12 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of
13 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t)1, FS (2006-2010) –
14 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
15 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
16 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
17 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
18 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
19 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
20 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
21 in this paragraph shall be construed to require that a physician be incompetent to practice
22 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
23 administrative law judge or a final order of the board finding a violation under this paragraph
24 shall specify whether the licensee was found to have committed "gross medical malpractice,"
25 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
26 publication by the board must so specify; s. 458.331(1)(q), FS (2006-2010) – Prescribing,
27 dispensing, administering, mixing, or otherwise preparing a legend drug, including any
28 controlled substance, other than in the course of the physician’s professional practice. For the
29 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
30 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
31 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
32 and is not in the course of the physician’s professional practice, without regard to his or her



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1 intent and s. 458.331(1)(nn), FS (2006 – 2010) – Violating any provision of this chapter or
2 chapter 456, or any rules adopted pursuant thereto.

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

5 A motion was made and seconded to offer a counter proposal to impose the same terms but to
6 increase the fine to \$30,000 and suspension of his license until he completes the UF drug course.
7

8 An amendment was offered to include two years probation upon reinstatement with indirect
9 supervision, tri-annual reports and appearances, and 25% chart review. This amendment was
10 accepted.

11
12 Another amendment was offered to reduce the fine back to \$10,000. This amendment was
13 accepted.
14

15 The motion carried 7-4. The Respondent took 7 days to accept or reject the counter offer.
16

17 **Action taken:** Settlement Agreement rejected; counter offered to include reprimand, \$10,000
18 fine, costs, UF drug course, FMA records course, Restrictions: 1) permanently restricted from
19 owning, operating or practicing in a pain management clinic; 2) permanently restricted from
20 treating any patient for chronic, non-malignant pain; 3) suspended until completes the UF drug
21 course; two year probation upon reinstatement with indirect supervision, tri-annual reports and
22 appearances, and 25% chart review
23

24 **Astrid Alejandra Febre, M.D. – Settlement Agreement7**

25 Dr. Febre was present and represented by Michael Holden, Esquire.
26

27 Dr. J. Rosenberg and Ms. Goersch were recused due to participation on the probable cause panel.
28 Dr. Zachariah chaired this hearing.
29

30 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of
31 the Administrative Complaint: Violation of Florida Statutes s. 458.31(1)(q), FS (2009, 2010) –
32 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including



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1 any controlled substance, other than in the course of the physician’s professional practice. For
2 the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
3 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
4 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
5 and is not in the course of the physician’s professional practice, without regard to his or her
6 intent; s. 458.31(1)(m), FS (2009, 2010) – Failing to keep legible, as defined by department rule
7 in consultation with the board, medical records that identify the licensed physician or the
8 physician extender and supervising physician by name and professional title who is or are
9 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment
10 procedure and that justify the course of treatment of the patient, including, but not limited to,
11 patient histories; examination results; test results; records of drugs prescribed, dispensed, or
12 administered; and reports of consultations and hospitalizations; s. 458.31(1)(t), FS (2009, 2010)
13 – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
14 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
15 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
16 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
17 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
18 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
19 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
20 in this paragraph shall be construed to require that a physician be incompetent to practice
21 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
22 administrative law judge or a final order of the board finding a violation under this paragraph
23 shall specify whether the licensee was found to have committed "gross medical malpractice,"
24 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
25 publication by the board must so specify; and s. 458.31(1)(nn), FS (2009, 2010) – Violating any
26 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

27
28 A motion was made and seconded to reject the Settlement Agreement. However, the motion
29 failed 4-9.

30
31 A motion was made, seconded and carried with two opposed to accept the Settlement
32 Agreement.

33



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1 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws & Rules course, UF drug course, FMA
2 records course, 5 hours CME in risk management, permanently restricted from
3 prescribing/dispensing Schedule II controlled substances, permanently restricted from practicing
4 in a pain-management clinic; probation for two years with indirect supervision, 25% chart
5 review, consult on all cases resulting in the issuance of a prescription, quarter reports; reports
6 from respondent, 1st and last appearances
7

8 **Carol Roberts, M.D. – Settlement Agreement8**

9 Dr. Roberts was present and represented by Gregory Chaires, Esquire.
10

11 Case number 2009-18475

12 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.
13

14 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS
15 (2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
16 thereto.
17

18 Case number 2010-03687

19 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.
20

21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS
22 (2009) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
23 thereto.
24

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

27 **Penalty imposed:** reprimand, \$15,000 fine, costs, Laws and Rules course, 5 hours CME in
28 ethics, 5 hours CME in infectious disease prevention, restricted from being a medical director
29 until she completes 5 hours CME for medical directors
30

31 **Munir Marwan Uwaydah, M.D. – Settlement Agreement16**

32 Dr. Uwaydah was not present nor was she represented by counsel.
33



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

3 Ms. Glenn represented the Department and represented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) – Having a
5 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
6 including the denial of licensure, by the licensing authority of any jurisdiction, including its
7 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
8 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
9 of the filing of administrative charges against the physician’s license, shall be construed as action
10 against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to report to the board,
11 in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s
12 license to practice medicine in another state, territory, or country.
13

14 A motion was made, seconded and carried unanimously to waive the Respondent’s appearance.
15

16 A motion was made, seconded and carried with one opposed to accept the Settlement
17 Agreement.
18

19 **Penalty imposed:** reprimand, \$3,000 fine, costs, Laws & Rules course, FMA’s medical records
20 course, 5 hours CME in ethics, notify the Board 30 days prior to practicing in FL, QA
21 assessment and compliance, indefinite suspension until she appears and demonstrates all licenses
22 are unencumbered
23

24 **Ana Victoria Dorta-Baez, P.A. – Settlement Agreement17**

25 This matter was withdrawn from the agenda prior to the meeting.
26

27 **Action taken:** withdrawn
28

29 **Michael Lee Maynor, M.D. – Settlement Agreement18**

30 Dr. Maynor was not present nor was he represented by counsel.
31

32 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.
33



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1 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
2 (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
3 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
4 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
5 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to
6 or in anticipation of the filing of administrative charges against the physician’s license, shall be
7 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2011) – Failing to
8 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
9 against one’s license to practice medicine in another state, territory, or country.

10
11 A motion was made, seconded and carried unanimously to waive the Respondent’s appearance.

12
13 A motion was made, seconded and carried to continue this case until the next Board Meeting.

14
15 **Action taken:** hearing continued until next Board Meeting

16
17 **Francisco Danilo Guerra-Morales, P.A. – Settlement Agreement20**

18 Mr. Guerra-Morales withdrew from his Settlement Agreement prior to the meeting.

19
20 **Action taken:** Settlement Agreement withdrawn

21
22 **Alejandro Octavio Roca, M.D. – Settlement Agreement21**

23 Dr. Roca was present and represented by Sierra Teresita, Esquire.

24
25 Dr. Nuss was recused due to participation on the probable cause panel.

26 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of
27 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS (2006-2010) –
28 Failing to keep legible, as defined by department rule in consultation with the board, medical
29 records that identify the licensed physician or the physician extender and supervising physician
30 by name and professional title who is or are responsible for rendering, ordering, supervising, or
31 billing for each diagnostic or treatment procedure and that justify the course of treatment of the
32 patient, including, but not limited to, patient histories; examination results; test results; records of



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1 drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations
2 and s. 458.331(1)(t), FS (2006-2010) – Notwithstanding s. 456.072(2) but as specified in s.
3 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give
4 great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice
5 shall not be construed to require more than one instance, event, or act. 2. Committing gross
6 medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A
7 person found by the board to have committed repeated medical malpractice based on s. 456.50
8 may not be licensed or continue to be licensed by this state to provide health care services as a
9 medical doctor in this state. Nothing in this paragraph shall be construed to require that a
10 physician be incompetent to practice medicine in order to be disciplined pursuant to this
11 paragraph. A recommended order by an administrative law judge or a final order of the board
12 finding a violation under this paragraph shall specify whether the licensee was found to have
13 committed "gross medical malpractice," "repeated medical malpractice," or "medical
14 malpractice," or any combination thereof, and any publication by the board must so specify.

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

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

19 **Michael L. Zelkowitz, M.D. – Settlement Agreement22**

20 Dr. Zelkowitz withdrew from his Settlement Agreement prior to the meeting.
21

22 **Action taken:** Settlement Agreement withdrawn
23

24 **Anthony Taycer Hasan, M.D. – Settlement Agreement26**

25 Dr. Hasan was present and represented by Julie Gallagher, Esquire.
26

27 Dr. Lage and Mr. Levine were recused due to participation on the probable cause panel.
28

29 Ms. Donnelly represented the Department and represented the case to the Board. Allegations of
30 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2010) – Being
31 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication,



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

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

5
6 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws & Rules course, UF drug course,
7 probation for 1 year with indirect supervision, 25% chart review, quarterly reports, first and last
8 appearances

9
10 **Carlos Alberto Salgueiro, M.D. – Settlement Agreement27**

11 Dr. Salgueiro was present and represented by Donna Blanton, Esquire.

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

14
15 Ms. Glenn represented the Department and represented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2011) – Having a
17 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
18 including the denial of licensure, by the licensing authority of any jurisdiction, including its
19 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
20 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
21 of the filing of administrative charges against the physician’s license, shall be construed as action
22 against the physician’s license.

23
24 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

25
26 **Penalty imposed:** letter of concern, \$2,000 fine, costs, Laws & Rules course

27
28 **John Edward Nees, M.D. – Settlement Agreement28**

29 Dr. Nees was present and represented by Richard T. Woulfe, Esquire.

30
31 Ms. Donnelly represented the Department and represented the case to the Board.

32
33 Case number 2008-14690



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1 Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel.
2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS
3 (2008) – Failing to keep legible, as defined by department rule in consultation with the board,
4 medical records that identify the licensed physician or the physician extender and supervising
5 physician by name and professional title who is or are responsible for rendering, ordering,
6 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
7 treatment of the patient, including, but not limited to, patient histories; examination results; test
8 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
9 hospitalizations.

10
11 Case number 2008-21684

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

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



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

2
3 A motion was made and seconded to offer a counter proposal to impose \$10,000 fine, costs,
4 Laws and Rules course, reprimand, probation following a one year suspension with terms of
5 probation to be sent at the time of reinstatement.

6
7 An amendment was offered to require the FL CARES evaluation prior to reinstatement. The
8 amendment was accepted.

9
10 Another amendment was offered to suspend the license until completion of the FL CARES
11 evaluation. This amendment was rejected.

12
13 The motion carried unanimously. The Respondent took seven days to accept or reject the
14 counter offer.

15
16 **Action taken:** Settlement Agreement rejected; counter offered to impose \$10,000 fine, costs,
17 Laws and Rules course, reprimand, probation following a one year suspension with terms of
18 probation to be sent at the time of reinstatement, FL CARES evaluation required for
19 reinstatement

20
21 **Laura Elizabeth Kunberger, M.D. – Settlement Agreement29**

22 Dr. Kunberger was present and represented by Gregory Chaires, Esquire.

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

25 Ms. Glenn represented the Department and represented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2010) –
27 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
28 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
29 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
30 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
31 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
32 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to



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1 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
2 in this paragraph shall be construed to require that a physician be incompetent to practice
3 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
4 administrative law judge or a final order of the board finding a violation under this paragraph
5 shall specify whether the licensee was found to have committed "gross medical malpractice,"
6 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
7 publication by the board must so specify and s. 458.331(1)(m), FS (2010) – Failing to keep
8 legible, as defined by department rule in consultation with the board, medical records that
9 identify the licensed physician or the physician extender and supervising physician by name and
10 professional title who is or are responsible for rendering, ordering, supervising, or billing for
11 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
12 including, but not limited to, patient histories; examination results; test results; records of drugs
13 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

14 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
15

16 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 10 hours CME in the reading and
17 interpretation of brain CT studies and/or diagnosis of hydrocephalus or similar area, 5 hrs CME
18 in risk management
19

20 **Clara S. Rodriguez-Iznaga, M.D. – Settlement Agreement30**

21 Dr. Rodriguez-Iznaga withdrew from her Settlement Agreement prior to the meeting.
22

23 **Action taken:** Settlement Agreement withdrawn
24

25 **John Gomez, M.D. – Settlement Agreement35**

26 This matter was continued until the December Board Meeting.
27

28 **Action taken:** continued until December Board Meeting
29

30 **William Todd Overcash, M.D. – Hearing Not Involving Disputed Issues of Material**
31 **Fact36**

32 Dr. Overcash was present and represented by Richard Levenstein, Esquire.



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- 1
- 2 Dr. Bearison was recused due to participation on the probable cause panel.
- 3
- 4 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of the
- 5 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2010) – Failing to
- 6 perform any statutory or legal obligation placed upon a licensed physician and s. 458.331(1)(nn),
- 7 FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
- 8 thereto.
- 9
- 10 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
- 11
- 12 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
- 13
- 14 A motion was made, seconded and carried unanimously to find the Respondent violated Florida
- 15 Statutes as charged in the Administrative Complaint.
- 16
- 17 A motion was made and seconded to impose a letter of concern, \$1,000 fine, Laws and Rules
- 18 course and 5 hours CME in risk management.
- 19
- 20 An amendment was offered to impose a reprimand. The amendment was rejected.
- 21
- 22 The motion carried unanimously.
- 23
- 24 A motion was made, seconded and carried unanimously to table the motion for costs until
- 25 another meeting at which the Respondent’s appearance is waived.
- 26
- 27 **Penalty imposed:** letter of concern, \$1,000 fine, Laws and Rules course, 5 hours CME in risk
- 28 management’ motion for costs continued
- 29
- 30 **Elio Madan, M.D. – Hearing Not Involving Disputed Issues of Material Fact37**
- 31 Dr. Madan was present and represented by counsel.
- 32
- 33 Dr. Bearison and Mr. Levine was recused due to participation on the probable cause panel.



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1
2 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of the
3 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2011) – Being
4 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication,
5 a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to
6 practice medicine.

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

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

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

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

16
17 **Penalty imposed:** revocation

18
19 **Robert Dean Marshall, M.D. – Recommended Order39**

20 Dr. Marshall was not present nor was he represented by counsel.

21
22 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
23 Rosenberg read the Recommended Order Remarks and confirmed all participating members had
24 read the complete record.

25 Ms. Donnelly represented the Department and represented the case to the Board. Allegations of
26 the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) –
27 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
28 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
29 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
30 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing
31 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
32 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to



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1 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
2 in this paragraph shall be construed to require that a physician be incompetent to practice
3 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
4 administrative law judge or a final order of the board finding a violation under this paragraph
5 shall specify whether the licensee was found to have committed "gross medical malpractice,"
6 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
7 publication by the board must so specify.

8 A motion was made, seconded and carried unanimously to adopt the Findings of Fact as
9 amended by deleting paragraph seven because there has been no competent substantial evidence
10 the Respondent abandoned his right to a hearing.

11
12 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law by
13 adopting only the first and second paragraphs and the last sentence of the third paragraph.

14
15 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

16
17 A motion was made, seconded and carried unanimously to waive costs in this case.

18
19 **Penalty imposed:** revocation, \$10,000 fine

20
21 **Ernesto S. Perez-Ferreiro, M.D. – Determination of Waiver40**

22 Dr. Perez-Ferreiro was not present nor was he represented by counsel.

23
24 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

25
26 Ms. Glenn represented the Department and represented the case to the Board. Allegations of the
27 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2007) – Having a
28 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
29 including the denial of licensure, by the licensing authority of any jurisdiction, including its
30 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
31 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
32 of the filing of administrative charges against the physician’s license, shall be construed as action



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1 against the physician’s license and s. 458.331(1)(kk), FS (2007) – Failing to report to the board,
2 in writing, within 30 days if action as defined in paragraph (b) has been taken against one’s
3 license to practice medicine in another state, territory, or country.

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

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

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

11
12 A motion was made, seconded and carried with two opposed to impose a reprimand, \$3,000 fine,
13 Laws and Rules course, permanent restriction from prescribing weight loss medications, and
14 suspended until licenses in all jurisdictions are unencumbered.

15
16 A motion was made, seconded and carried unanimously to waive legal costs and assess costs in
17 the amount of \$115.24.

18
19 **Penalty imposed:** reprimand, \$3,000 fine, Laws and Rules course, permanent restriction from
20 prescribing weight loss medications, suspended until licenses in all jurisdictions are
21 unencumbered, costs

22
23 **Malcolm Colburn Foster, M.D. – Determination of Waiver41**

24 Dr. Foster was not present nor was he represented by counsel.

25
26 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

27 Ms. Glenn represented the Department and represented the case to the Board. Allegations of the
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2010) –
29 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
30 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
31 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require
32 more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing



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1 repeated medical malpractice as defined in s. 456.50. A person found by the board to have
2 committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
3 be licensed by this state to provide health care services as a medical doctor in this state. Nothing
4 in this paragraph shall be construed to require that a physician be incompetent to practice
5 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
6 administrative law judge or a final order of the board finding a violation under this paragraph
7 shall specify whether the licensee was found to have committed "gross medical malpractice,"
8 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
9 publication by the board must so specify and s. 458.331(1)(q), FS (2010) – Prescribing,
10 dispensing, administering, mixing, or otherwise preparing a legend drug, including any
11 controlled substance, other than in the course of the physician’s professional practice. For the
12 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
13 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
14 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
15 and is not in the course of the physician’s professional practice, without regard to his or her
16 intent.

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

19
20 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

21
22 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

23
24 A motion was made, seconded and carried unanimously to impose revocation.

25
26 A motion was made, seconded and carried unanimously to waive costs.

27
28 **Penalty imposed:** revocation, costs waived

29
30 **AHCA Exemptions:**

31 **Mark Seldes, M.D.42**

32 Dr. Seldes was present but not represented by counsel.



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1
2 Mr. Tellechea advised the Board there was an exception in the law that Dr. Seldes falls under
3 that prohibits the Board from granting an exception.

4
5 A motion was made, seconded and carried unanimously to deny Dr. Seldes' request for an
6 exemption.

7
8 **Action taken:** denied

9
10
11 **Scott Eber, M.D.44**
12 Dr. Eber withdrew his request for an exemption.

13
14 **Action taken:** none

15
16 **Anthony P. Tkac, P.A.45**
17 Dr. Tkac was not present nor was he represented by counsel.

18
19 A motion was made, seconded and carried unanimously to deny this request because there was
20 not sufficient information in front of them concerning rehabilitation.

21
22 **Action taken:** denied

23
24 **Sara Caridad Vizcay, M.D.62**
25 Dr. Vizcay withdrew her request.

26
27 **Action taken:** none

28
29 **Petitions for Waiver/Variance:**
30 **Panhandle Orthopaedics, LLC RE: Rule 64B8-9.009(3)b(b)1, FAC46**
31 This matter was withdrawn from this agenda prior to the meeting.

32
33 **Action taken:** withdrawn



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Petitions for Declaratory Statement:

Michael Mozzetti, M.D. RE: Rule 64B8-9.0131, FAC48

Dr. Mozzetti was present but not represented by counsel. He was requesting the Board interpret “live, lecture format” the way the AMA does to include webinars.

Dr. Thomas advised the Board the Probation Committee has been accepting webinars, but not all online courses are webinars.

A motion was made, seconded and carried unanimously to interpret the term to include webinars.

Mr. Tellechea stated he would present a draft Final Order at the next meeting for the Board’s approval.

Action taken: interpret “live, lecture format” to include webinars

Voluntary Relinquishments:

Charles David Reed, M.D.....49

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

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine and s. 458.331(1)(s), FS (2009) – Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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



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1
2 **Penalty imposed:** license relinquished

3
4 **Daniel Jay Hauser, M.D.50**

5 Dr. Hauser was not present nor was he represented by counsel.

6
7 Probable cause was waived in this case.

8
9 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
10 (2011) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
11 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
12 the ability to practice medicine; s. 458.331(1)(g), FS (2011) – Failing to perform any statutory or
13 legal obligation placed upon a licensed physician; and s. 458.331(1)(nn), FS (2011) – Violating
14 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

15
16 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
17 of license.

18
19 **Penalty imposed:** license relinquished

20
21 **Rudolfo B. Torres, M.D.51**

22 Dr. Torres was not present nor was he represented by counsel.

23
24 Probable cause was waived in this case.

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

30
31 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
32 of license in tab numbers 51-52, 54, and 56.

33



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1 **Penalty imposed:** license relinquished

2

3 **Alberto Andres Ayala, M.D.52**

4 Dr. Ayala was not present nor was he represented by counsel.

5

6 Probable cause was waived in this case.

7

8 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
9 (2011) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
10 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
11 the ability to practice medicine.

12

13 **Penalty imposed:** license relinquished

14

15 **Lisa R. Schilling, P.A.54**

16 Ms. Schilling was not present nor was she represented by counsel.

17

18 Probable cause was waived in this case.

19

20 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
21 (2012) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
22 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
23 the ability to practice medicine; s. 458.331(1)(g), FS (2012) – Failing to perform any statutory or
24 legal obligation placed upon a licensed physician; and s. 458.331(1)(s), FS (2012) – Being
25 unable to practice medicine with reasonable skill and safety to patients by reason of illness or use
26 of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental
27 or physical condition.

28

29 **Penalty imposed:** license relinquished

30

31 **Mark Steven Willner, M.D.56**

32 Dr. Willner was not present nor was he represented by counsel.

33



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1 Probable cause was waived in this case.

2
3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
4 (2012) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless
5 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to
6 the ability to practice medicine.

7
8 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
9 of license.

10
11 **Penalty imposed:** license relinquished

12
13 **Gerald Joseph Klein, M.D.53**

14 Dr. Klein was not present nor was he represented by counsel.

15
16 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

17
18 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
19 (2008-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
20 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions
21 of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to
22 require more than one instance, event, or act. 2. Committing gross medical malpractice.
23 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the
24 board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
25 continue to be licensed by this state to provide health care services as a medical doctor in this
26 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to
27 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by
28 an administrative law judge or a final order of the board finding a violation under this paragraph
29 shall specify whether the licensee was found to have committed "gross medical malpractice,"
30 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any
31 publication by the board must so specify; s. 458.331(1)(q), FS (2008-2009) – Prescribing,
32 dispensing, administering, mixing, or otherwise preparing a legend drug, including any



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1 controlled substance, other than in the course of the physician’s professional practice. For the
2 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
3 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
4 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient
5 and is not in the course of the physician’s professional practice, without regard to his or her
6 intent; s. 458.331(1)(nn), FS (2008-2009) – Violating any provision of this chapter or chapter
7 456, or any rules adopted pursuant thereto; and s. 458.331(1)(m), FS (2008-2009) – Failing to
8 keep legible, as defined by department rule in consultation with the board, medical records that
9 identify the licensed physician or the physician extender and supervising physician by name and
10 professional title who is or are responsible for rendering, ordering, supervising, or billing for
11 each diagnostic or treatment procedure and that justify the course of treatment of the patient,
12 including, but not limited to, patient histories; examination results; test results; records of drugs
13 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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

16

17 **Penalty imposed:** license relinquished

18

19 **Susan Jean Brandt, M.D. 55**

20 Dr. Brandt was not present nor was she represented by counsel.

21

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

23

24 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(k), FS
25 (2011) – Failing to perform any statutory or legal obligation placed upon a licensee.

26

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

29

30 **Penalty imposed:** license relinquished

31

32



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1 **Andrew G. Frank, M.D.57**

2 Dr. Frank was not present nor was he represented by counsel.

3
4 Dr. Orr was recused due to participation on the probable cause panel.

5
6 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS
7 (2010-2011) – Being unable to practice medicine with reasonable skill and safety to patients by
8 reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as
9 a result of any mental or physical condition.

10
11 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment
12 of license.

13
14 **Penalty imposed:** license relinquished

15
16 **Oscar M. Ramirez, M.D. – Recommended Order38**

17 Dr. Ramirez was present and represented by Sean Ellsworth and Anthony Vitale, Esquires.

18
19 Mr. Levine was recused due to participation on the probable cause panel. Dr. Rosenberg read
20 the Recommended Order Remarks and confirmed all participating members read the complete
21 record.

22
23 Ms. Hibbert represented the Department and represented the case to the Board. Allegations of the
24 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) – Having a
25 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
26 including the denial of licensure, by the licensing authority of any jurisdiction, including its
27 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of
28 a license, stipulation, consent order, or other settlement, offered in response to or in anticipation
29 of the filing of administrative charges against the physician’s license, shall be construed as action
30 against the physician’s license.

31
32 A motion was made, seconded and carried unanimously to reject the Department’s Exceptions to
33 Recommended Order.



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- 1
- 2 A motion was made, seconded and carried unanimously to reject the Conclusions of Law
- 3 paragraphs 28-63.
- 4
- 5 A motion was made, seconded and carried unanimously to accept paragraph 64 of the
- 6 Conclusions of Law.
- 7
- 8 A motion was made, seconded and carried unanimously to reject paragraphs 65-75 of the
- 9 Conclusions of Law.
- 10
- 11 A motion was made, seconded and carried unanimously to accept paragraphs 76-79 of the
- 12 Conclusions of Law.
- 13
- 14 A motion was made, seconded and carried unanimously to reject paragraphs 80-81 of the
- 15 Conclusions of Law.
- 16
- 17 A motion was made, seconded and carried unanimously to accept paragraphs 82-86 of the
- 18 Conclusions of Law.
- 19
- 20 A motion was made, seconded and carried unanimously to reject paragraphs 87-88, 90 of the
- 21 Conclusions of Law.
- 22
- 23 A motion was made, seconded and carried unanimously to accept paragraphs 89 of the
- 24 Conclusions of Law.
- 25
- 26 A motion was made, seconded and carried unanimously to replace the rejected paragraphs with
- 27 the language approved by the Board.
- 28
- 29 A motion was made, seconded and carried 7-6 to adopt the penalty in paragraph 91 of the
- 30 Recommended Order.
- 31
- 32 A motion was made, seconded and carried unanimously to table the Motion for Costs until
- 33 another meeting where the Respondent's appearance is waived.



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1
2 **Penalty imposed:** reprimand, \$1,000 fine, Motion for Costs tabled

3
4 **Christine Pasquali, N.D.43**

5 Ms. Pasquali was present but not represented by counsel.

6
7 A motion was made, seconded and carried unanimously to grant the exemption pending receipt
8 of the requested documents regarding her arrest.

9
10 **Action taken:** granted pending receipt of requested documents regarding her arrest

11
12 **Anthony P. Tkac, P.A.45**

13 Dr. Tkac was present but not represented by counsel.

14
15 A motion was made, seconded and carried unanimously to reconsider the previous action.

16
17 A motion was made, seconded and carried unanimously to grant the exemption.

18
19 **Action taken:** exemption granted

20
21 **Chairman’s Recognition of Law Enforcement on Efforts to Fight Prescription Drug Abuse**
22 **in Florida:**

23 The Board presented framed certificates to the following individuals:

- 24 • Assistant US Attorney Paul Schwartz
- 25 • Assistant US Attorney Larry LaVecchio
- 26 • Special Agent Jennifer J. Turner
- 27 • Special Agent Kurt McKenzie
- 28 • Special Agent Michael Burt
- 29 • Special Agent David Keyes
- 30 • Investigative Analyst Dara Shapiro
- 31 • Sheriff Al Lamberti
- 32 • Susan Langston



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1 **Chairman’s Recognition Award:**

2 Trine Engebretsen-Labbe, a medical student at Florida International University was recognized
3 by the Board because she exemplifies the professionalism, moral character, compassion and
4 intellect essential to the future leaders of our medical profession.

5
6 The State Surgeon General, John Armstrong, M.D. addressed the Board regarding an issue he
7 said he would follow up on from a previous meeting. He stated the General Counsel had reached
8 out to the Agency for Health Care Administration regarding the issue of foreign bodies being a
9 systems failure. Those discussions continue.

10
11 **Board Counsel’s Remarks:**

12 **Update to delegations No tab**

13 Mr. Tellechea asked the Board to delegate to him the authority to sign PCP closing orders on
14 behalf of the Board in lieu of the PCP Chairs.

15
16 A motion was made, seconded and carried unanimously to grant authority, including retroactive
17 authority, to sign PCP closing orders.

18
19 **Action taken:** Board Counsel delegated authority to sign closing orders

20
21 Mr. Tellechea explained the new process for noticing meetings with the Florida Administrative
22 Register in the Florida Administrative Weekly. He said these changes will make rulemaking go
23 quicker and loosens the meeting notice requirements.

24
25 Mr. Tellechea announced that Ms. McNulty was recently promoted to Senior Assistant Attorney
26 General.

27
28 No action taken.

29
30 **Committee Reports:**

31 **Surgical Care/Quality Assurance Committee No tab**

32 Dr. Orr provided the report for the meeting held October 11, 2012.



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

2

3 **Action taken:** report approved

4

5 **Credentials Committee Meeting No tab**

6 Dr. Nuss provided the report for the meeting held October 11, 2012.

7

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

9

10 **Action taken:** report approved

11

12 **Rules/Legislative Committee Meeting..... No tab**

13 Ms. Tootle provided the report on behalf of Dr. Zachariah for the meeting held October 11, 2012.

14

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

16

17 **Action taken:** report approved

18

19 **Communication, Education and Information Committee Meeting No tab**

20 Ms. Goersch provided the report for the meeting held October 11, 2012. She advised Ms.

21 Pouncey would be doing a final presentation at the December Meeting.

22

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

24

25 **Action taken:** report approved

26

27 **Expert Witness Committee Meeting58**

28 Dr. Tucker provided the report for the meeting held September 10, 2012.

29

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

31

32 **Action taken:** report approved

33



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1 **Dietetic-Nutrition/Electrolysis Committee Meeting59**

2 Mr. Levine provided the report for the meeting held September 10, 2012.

3

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

5

6 **Action taken:** report approved

7

8 **Approval of Meeting Minutes:**

9 **August 3, 2012 Meeting60**

10

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

12

13 **Action taken:** minutes approved

14

15 **Ratification of Applicants Pursuant to Chapter 458, FS.....61**

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

17

18 **Action taken:** licenses ratified

19

20 **Department Remarks: No tab**

21 Ms. Donnelly addressed the Board and brought them up to date on various issues.

22

23 No action taken.

24

25 **New Business**

26 Mr. Mullins advised that due to staff changes a Finance & Process Accountability Meeting was
27 not held in conjunction with this meeting. He said the Committee would be looking at the
28 budget projections at the December Meeting.

29

30 **Chairman's Remarks:**

31 Dr. Rosenberg introduced Allison Dudley, Esquire, present in the audience, as the top candidate
32 for the Executive Director position succeeding Ms. Tootle. He said she was currently Board
33 Counsel to the Board of Pharmacy.



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- 1
- 2 The Board said thanks and goodbye to Ms. Tootle. Dr. Rosenberg thanked the members for their
- 3 hard work.
- 4
- 5 The meeting adjourned at 12:30 pm.