



**MINUTES**  
**PUBLIC PORTION OF THE**  
**NORTH PROBABLE CAUSE AGENDA**  
**BOARD OF MEDICINE**  
**SCHEDULED FOR March 26, 2010**

**Toll Free Number- 1-888-808-6959, Conference Code Number- 2454131.**

Dr. Georges El-Bahri, M.D., Chairman, called the public portion of the meeting of the Probable Cause Panel to order at 2:02 P.M. Those present for the meeting included the following:

**Members Present:**

Georges El-Bahri, M.D. – Chairperson  
Jason Rosenberg, M.D. – Panel Member  
Donald Mullins – Panel Member  
Jayne Mittan, P.A. – Panel Member

**Others Present included:**

Ed Tellechea, Esq., Assistant Attorney General & Board Counsel  
Kathryn Price, Esq., Assistant General Counsel  
Veronica Donnelly, Esq., Assistant General Counsel  
David Pius, Esq., Attorney, Department of Health  
Susan Salamy, Attorney, Department of Health  
Greg Marr, Esq., Attorney, Department of Health  
Sharmin Hibbert, Esq., Attorney, Department of Health  
Grace Kim, Attorney, Department of Health  
Ephraim Livingston, Esq., Attorney, Department of Health  
Kim Sedor, Esq., Attorney, Department of Health  
Shirley Bates, Esq., Attorney, Department of Health  
Robert Milne, Esq., Attorney, Department of Health  
Thomas Dicken, Esq., Attorney, Department of Health  
Yolonda Green, Esq., Attorney, Department of Health  
Diane Kiesling, Esq., Attorney, Department of Health

**Court Reporter: For the Record (850) 222-5491; FAX (850) 224-5316**

**Opening Remarks:**

Mr. Tellechea, Assistant Attorney General, advised the panel if they have questions concerning the medical Practice Act, Chapter 458, Chapter 456, Florida Statutes or Rules of the Board to direct those questions to him. If the panel members have questions regarding the investigation and the facts of the investigation or how the investigation was handled, those questions should be directed to the prosecuting attorney. Mr. Tellechea asked the panel what material they have been provided. Mr. Marr stated the entire investigative files have been made available to the

panel members and Counsel to the Board and other documents that are pertinent to the file including draft proposed administrative complaints and closing orders. Mr. Tellechea asked the panel members if they had received the materials and had sufficient time to review the materials on the agenda prior to now. The panel members answered in the affirmative.

Mr. Tellechea asked that this statement be supplied with any request for copies of transcripts. Mr. Tellechea concluded the opening remarks of the public portion of the meeting. Mr. Tellechea asked that this statement be supplied with any request for copies of transcripts. Mr. Tellechea concluded the opening remarks for the public and confidential portions of the meeting.

## **RECONSIDERATIONS**

### **Subject Name**

### **Case No.**

**RN-01            Douglas Smith, M.D.**

**2006-28876**

Prosecution Services presented this case involving an alleged violation of 458.331(1)(t)(q)(m), F.S., involving failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; by inappropriately and/or excessively prescribing Oxycontin, Roxicodone, and other controlled substances to Patient J.S.; failure to keep medical records that justified the course of treatment of the patient. This case was previously brought before the panel as an Administrative Complaint and has been brought back as a Reconsideration for dismissal based upon the Department feeling that it would not be a justifiable use of limited state resources to conduct a lengthy trial requiring expert testimony and considerable expense given that the safety of patients is no longer at risk from the Respondent. The public health and safety are fully protected because the Respondent is not licensed, and if he should reapply for licensure in Florida, or apply for licensure in any other state, the Board has the necessary information to consider when reviewing his application and/or to provide to other jurisdictions. The panel discussed the circumstances of the case and dismissal.

Following discussion by the panel, a motion was made and seconded to dismiss the case. The panel voted to dismiss the case.

**RN-02            Leon Bynoe, M.D.**

**2008-08534**

Prosecution Services presented this case involving an alleged violation of 456.072(1)(bb), F.S., for implanting the wrong lens in Patient M.A.G's right eye. This case was previously brought before the panel as an Administrative Complaint and has been brought back as a Reconsideration for dismissal based upon the Respondent's additional information showing that he retrieved the proper lens for Patient M.A.G. prior to the surgery. The proper lens was given to a circulating nurse along with the lens for a second patient. The circulating nurse inadvertently switched the two lenses, but did not realize the error until after MAG's surgery. The medical expert opined that it was appropriate for Respondent to rely on the other staff. The panel discussed the circumstances of the case and dismissal.

Following discussion by the panel, a motion was made and seconded to dismiss the case. The panel voted to dismiss the case.

**RN-03 Carlos Cohen, M.D.**

**2009-14928**

Prosecution Services presented this case involving an alleged violation of 456.072(1)(v); 458.331(1)(j)(nn), involving engagement or attempting to engage in sexual misconduct as defined and prohibited by section 456.063(1), F.S.; exercising influence within a patient-physician relationship for purpose of engaging a patient in sexual activity; violation of any provision of chapter 458 or chapter 456, or any rules adopted pursuant thereto. The prosecuting attorney determined that it would strengthen the Department's case to characterize the alleged victim not only as a patient of Respondent but also as a guardian and/or representative of a patient of Respondent. This utilizes the broader class of protected persons under Sec. 456.063(1), F.S., and establishes additional, alternative theories of culpability for finding a violation of Sec 456.072(1)(v), for which probable cause already has been found.

Following discussion by the panel, a motion was made and seconded to amend the Administrative Complaint. The panel voted to accept the Amended Administrative Complaint.

**RN-04 John Christensen, M.D.**

**2008-15688**

Prosecution Services presented this case involving an alleged violation of 458.331(1)(q)(t), involving prescribing a controlled substance other than in the course of the physician's professional practice; committing medical malpractice. This was initially a one count Administrative Complaint, but the prosecuting attorney determined that the alleged violation should be charged more thoroughly by implicating additional statutory violations.

Following discussion by the panel, a motion was made and seconded to amend the Administrative Complaint. The panel voted to accept the Amended Administrative Complaint.

The meeting adjourned 2:25 p.m.