

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes**

**Tampa Airport Marriott
4200 George J. Bean Parkway
Tampa, FL 33607
(813) 879-5151**

April 1-2, 2011

1 **Friday, April 1, 2011**

2
3 **8:02 a.m. ROLL CALL**

4
5 **Members Present:**

6 Michael Chizner, M.D., Chair
7 George Thomas, M.D., Vice Chair
8 Steven P. Rosenberg, M.D., 1st Vice Chair
9 Jason Rosenberg, M.D., 2nd Vice Chair
10 Trina Espinola, M.D.
11 Fred Bearison, M.D.
12 Brigitte Goersch, Consumer Member
13 Tully Patrowicz, M.D.
14 Gary Winchester, M.D.
15 Bradley Levine, Consumer Member
16 Robert Nuss, M.D.
17 Elisabeth Tucker, M.D.
18 Donald Mullins, Consumer Member

19
20 **Staff Present:**

21 Joy Tootle, J.D., Executive Director
22 Ed Tellechea, Board Counsel
23 Donna McNulty, Board Counsel
24 Nancy Murphy, Paralegal
25 Crystal Sanford, Program Operations Administrator
26 Chandra Prine, Program Operations Administrator
27 Whitney Bowen, Regulatory Specialist II
28 Jennifer Hirst, Deputy Press Secretary

29
30 **Prosecuting Attorneys Present:**

31 Veronica Donnelly, Medical Section Lead
32 Diane Kiesling
33 Sharmin Hibbert
34 Carol Gregg
35 Grace Kim
36 Yolonda Green

Members Absent:

Onelia Lage, M.D.

Others Present:

Judy Rivenbark, M.D., Director,
Practitioners Resource Network

American Court Reporting

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1
2 Dr. Chizner introduced the new Executive Director, Joy Tootle, J.D.

3
4 A motion was made, seconded and carried unanimously to confirm Ms. Tootle as Executive
5 Director.

6
7 **Action taken:** Ms. Tootle confirmed

8
9 Ms. Tootle provided the opening remarks and explained the various hearings scheduled for the day.

10
11 Dr. Chizner read the Settlement Agreement list and confirmed the hearings that would be held
12 throughout the day.

13
14 **DISCIPLINARY CASE SCHEDULE:**

15
16 **Stanley Wayne Janasiewicz, M.D., Wellborn, FL – Settlement Agreement9**

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

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

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

32
33 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 10 hours CME
34 in pediatric emergency medicine, 5 hours CME in risk management

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1
2 **John Francis Coughlan, P.A., Naples, FL – Settlement Agreement20**

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

4
5 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS
6 (2009) - Violating a lawful order of the department or the board, or failing to comply with a lawfully
7 issued subpoena of the department.

8
9 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

10
11 **Penalty imposed:** letter of concern, \$1,500 fine, costs, shall comply with previous FO

12
13 **James Taber Banta, M.D., Miami, FL – Settlement Agreement7**

14 Dr. Banta was present and represented by Monica Rodriguez, Esquire.

15
16 Ms. Goersch was recused due to participation on the probable cause panel.

17
18 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
19 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) - Performing
20 or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
21 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
22 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
23 performing or attempting to perform health care services includes the preparation of the patient.

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

26
27 A motion was made and seconded to offer a counter proposal to impose the same terms but to
28 increase the fine to \$2,500 and to increase the community service to 25 hours.

29
30 An amendment was offered to increase the fine to \$5,000 and the community service to 50 hours.
31 This amendment was rejected.

32
33 The motion carried with three (3) opposed.

34
35 The Respondent and the Department accepted the counter offer.

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1 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 25 hours community service, 1-hour lecture

2
3 **Leonard Abraham Rubinstein, M.D., Sarasota, FL – Recommended Order29**

4 Dr. Rubinstein was present and represented by Ariel Sofro, Esquire.

5
6 In case number 2005-53222, Dr. S. Rosenberg was recused due to participation on the probable
7 cause pane. In case number 2006-01705, Dr. Lage was recused. In case number 2006-27634, Dr.
8 Bearison was recused.

9
10 Dr. Chizner read the Recommended Order remarks and confirmed all participating members had
11 read the complete record.

12
13 Ms. Hibbert represented the Department and presented the cases to the Board.

14
15 **Case number 2005-53222**

16 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
17 (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care,
18 skill, and treatment which is recognized by a reasonably prudent similar physician as being
19 acceptable under similar conditions and circumstances; violation of Florida Statutes s.
20 458.331(1)(m), FS (2004) – Failing to keep legible, as defined by department rule in consultation
21 with the board, medical records that identify the licensed physician or the physician extender and
22 supervising physician by name and professional title who is or are responsible for rendering,
23 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
24 of treatment of the patient, including, but not limited to, patient histories; examination results; test
25 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
26 hospitalizations; and violation of Florida Statutes s. 458.331(1)(n), FS (2004) – Exercising influence
27 on the patient or client in such a manner as to exploit the patient or client for financial gain of the
28 licensee or of a third party, which shall include, but not be limited to, the promoting or selling of
29 services, goods, appliances, or drugs.

30
31 **Case number 2006-01705**

32 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
33 (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care,
34 skill, and treatment which is recognized by a reasonably prudent similar physician as being
35 acceptable under similar conditions and circumstances; violation of Florida Statutes s.
36 458.331(1)(m), FS (2004) – Failing to keep legible, as defined by department rule in consultation

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1 with the board, medical records that identify the licensed physician or the physician extender and
2 supervising physician by name and professional title who is or are responsible for rendering,
3 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
4 of treatment of the patient, including, but not limited to, patient histories; examination results; test
5 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
6 hospitalizations; and violation of Florida Statutes s. 458.331(1)(n), FS (2004) – Exercising influence
7 on the patient or client in such a manner as to exploit the patient or client for financial gain of the
8 licensee or of a third party, which shall include, but not be limited to, the promoting or selling of
9 services, goods, appliances, or drugs.

10
11 Case number 2006-27634

12 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
13 (2006) – 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. 766.102
15 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
16 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
17 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
18 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
19 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
20 construed to require that a physician be incompetent to practice medicine in order to be disciplined
21 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
22 the board finding a violation under this paragraph shall specify whether the licensee was found to
23 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
24 malpractice," or any combination thereof, and any publication by the board must so specify.

25
26 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
27 paragraph 22 of the Recommended Order based on the Department's presentation.

28
29 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
30 paragraph 38 of the Recommended Order based on the reasons submitted by the Department.

31
32 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
33 paragraph 67 of the Recommended Order based on the fact the credibility of the expert witness is
34 determined by the Administrative Law Judge (ALJ) and is appropriate and for the reasons outlined
35 by the Department.

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1 At this time, the Respondent's attorney refused to argue his exceptions any longer desiring to go
2 straight to the penalty phase at this time.

3
4 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
5 paragraph 88 of the Recommended Order based on the reasons set forth by the Department.

6
7 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
8 paragraph 89 of the Recommended Order on the basis the ALJ made a permissible inference and for
9 the reasons stated by the Department.

10
11 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
12 paragraph 90 of the Recommended Order on the basis the ALJ made a permissible inference and for
13 the reasons stated by the Department.

14
15 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
16 paragraph 91 of the Recommended Order for the reasons stated by the Department.

17
18 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
19 paragraph 102 of the Recommended Order for the reasons stated by the Department.

20
21 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
22 paragraph 102 of the Recommended Order for the reasons stated by the Department.

23
24 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
25 paragraph 102 of the Recommended Order for the reasons stated by the Department.

26
27 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
28 paragraph 105 of the Recommended Order for the reasons stated by the Department.

29
30 A motion was made, seconded and carried unanimously to deny the Respondent's Exception to
31 paragraph 107 of the Recommended Order for the reasons stated by the Department.

32
33 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

34
35 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

36

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

2

3 A motion was made, seconded and carried unanimously to assess costs in the amount of \$98,856.70.

4

5 **Penalty imposed:** revocation and \$10,000 fine for each case for a total of \$30,000 fine

6

7 **Michael James Lawless, M.D.St. Petersburg, FL - Settlement Agreement.....1**

8 Dr. Lawless was present and represented by Bruce Lamb, Esquire.

9

10 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel. Dr.
11 Espinola recused herself because she has practiced with this physician for over ten (10) years.

12

13 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
14 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2000 & 2004) – Gross
15 or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment
16 which is recognized by a reasonably prudent similar physician as being acceptable under similar
17 conditions and circumstances and violation of Florida Statutes s. 458.331(1)(m), FS (2004) – Failing
18 to keep legible, as defined by department rule in consultation with the board, medical records that
19 identify the licensed physician or the physician extender and supervising physician by name and
20 professional title who is or are responsible for rendering, ordering, supervising, or billing for each
21 diagnostic or treatment procedure and that justify the course of treatment of the patient, including,
22 but not limited to, patient histories; examination results; test results; records of drugs prescribed,
23 dispensed, or administered; and reports of consultations and hospitalizations.

24

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

26

27 The Respondent agreed to waive attorney fees and costs.

28

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

30

31 **Action taken:** Administrative Complaint dismissed

32

33 **Howard Gershman, M.D., Palm Bay, FL – Settlement Agreement.....27**

34 Dr. Gershman was present and represented by counsel.

35

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

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1 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
2 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) -
3 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
4 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
5 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
6 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
7 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
8 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
9 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
10 construed to require that a physician be incompetent to practice medicine in order to be disciplined
11 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
12 the board finding a violation under this paragraph shall specify whether the licensee was found to
13 have 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
16 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

17
18 The Respondent agreed to waive attorney fees and costs.

19
20 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.

21
22 **Action taken:** Administrative Complaint dismissed

23
24 **Ladapo Olufela Shyngle, M.D., Valrico, FL – Hearing Not Involving Disputed Issues of**
25 **Material Fact2**

26 Dr. Shyngle was not present not was he represented by counsel.

27
28 Dr. Thomas was recused due to participation on the probable cause panel.

29
30 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes. 458.331(1)(c), FS (2008) - Being
32 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
33 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
34 medicine.

35
36 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

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1
2 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

3
4 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
5 Statutes as charged in the Administrative Complaint.

6
7 A motion was made, seconded and carried unanimously to revoke the license and impose a \$10,000
8 fine.

9
10 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,300.48.

11
12 **Penalty imposed:** revocation, \$10,000 fine

13
14 **Jorge Llovet, M.D., Miami, FL – Settlement Agreement.....3**

15 Dr. Llovet was present and represented by Allen Grossman, Esquire.

16
17 Mr. Mullins was recused due to participation on the probable cause panel.

18
19 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2008) - Being
21 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
22 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
23 medicine.

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

26
27 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and Rules course, 5 hours CME in risk
28 management, restricted from owning or being employed by an HIV clinic, suspension for 1 year
29 starting October 6, 2010 when he voluntarily withdrew from practice, probation for 1 year upon
30 reinstatement to include indirect supervision, 25% record review, quarterly reports, first and last
31 appearances, compliance with PRN

32
33 **Gregg Adam Miller, P.A., Lehigh Acres, FL – Determination of Waiver4**

34 Mr. Miller was not present nor was he represented by counsel.

35
36 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

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1
2 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
3 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x), FS (2009) - Violating a
4 lawful order of the board or department previously entered in a disciplinary hearing or failing to
5 comply with a lawfully issued subpoena of the department.

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

9
10 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

11
12 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

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

16
17 A motion was made and seconded to reprimand his license.

18
19 An amendment was offered to require the Respondent submit a payment plan prior to reinstatement.
20 This amendment was accepted.

21
22 The motion carried unanimously.

23
24 A motion was made, seconded and carried unanimously to assess costs in the amount of \$346.64.

25
26 **Penalty imposed:** reprimand, costs, required to submit payment plan prior to reinstatement

27
28 **Ikram U. Qureshi, M.D., Bonifay, FL – Settlement Agreement5**

29 Dr. Qureshi was present and represented by Wendy Hansen, Esquire.

30
31 Ms. Goersch was recused due to participation on the probable cause panel.

32
33 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
34 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) -
35 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
36 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when

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

11
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 by require
15 the CME be in the area of emergency medicine and he must be Advanced Cardiac Life Support
16 (ACLS) certified within six (6) months.

17
18 The motion carried unanimously.

19
20 The Respondent and the Department accepted the counter offer.

21 **Penalty imposed:** letter of concern, \$10,000 fine, costs, 100 hours community service, 12 hours
22 CME in emergency medicine and must be ACLS certified within six months

23 **Matthew Carl Biagioli, M.D., Tampa, FL – Settlement Agreement6**

24 Dr. Biagioli was present and represented by Bruce Lamb, Esquire.

25
26 Ms. Goersch was recused due to participation on the probable cause panel.

27
28 Ms. Gregg represented the Department and presented the case to the Board Allegations of the
29 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(cc), FS (2009) - Leaving a
30 foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia
31 commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this
32 paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of
33 the patient and is not within the standard of care of the profession, regardless of the intent of the
34 professional.

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

3
4 The Respondent agreed to waive attorney fees and costs.

5
6 A motion was made, seconded and carried 7-5 to dismiss the Administrative Complaint.

7
8 **Action taken:** Administrative Complaint dismissed

9
10 **Juan Carlos Fleites-Vazquez, M.D., Miami, FL – Settlement Agreement8**

11 Dr. Fleites-Vazquez was present and represented by Ariel Sofro, Esquire.

12
13 No present members were recused due to participation on the probable cause panel.

14
15 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(cc), FS (2008) - Leaving a
17 foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia
18 commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this
19 paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of
20 the patient and is not within the standard of care of the profession, regardless of the intent of the
21 professional.

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

24
25 The Respondent agreed to waive attorney fees and costs.

26
27 A motion was made, seconded and carried with three (3) opposed to dismiss the Administrative
28 Complaint.

29
30 **Action taken:** Administrative Complaint dismissed

31
32 **Karen Eloise Harris, M.D., Gainesville, FL – Settlement Agreement10**

33 Dr. Harris was present and represented by Ariel Sofro, Esquire.

34
35 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

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2 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) -
3 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
4 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
5 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
6 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
7 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
8 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
9 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
10 construed to require that a physician be incompetent to practice medicine in order to be disciplined
11 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
12 the board finding a violation under this paragraph shall specify whether the licensee was found to
13 have 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
16 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

17
18 The Respondent agreed to waive attorney fees and costs.

19
20 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.

21
22 **Action taken:** Administrative Complaint dismissed

23
24 **Becky H. Smith, E.O., Pensacola, FL – Determination of Waiver11**

25 Ms. Smith was not present nor was she represented by counsel.

26
27 Dr. Nuss was recused due to participation on the probable cause panel.

28
29 Ms. Green represented the Department and presented the case to the Board. Allegations of the
30 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2009) - Violating a
31 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
32 the department.

33
34 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
35 to a hearing.

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

2

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

4

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

7

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

9

10 A motion was made, seconded and carried unanimously to assess costs in the amount of \$298.29.

11

12 **Penalty imposed:** revocation, costs

13

14 **Susan Marie Parker, E.O., Jacksonville, FL – Determination of Waiver12**

15 Ms. Parker was not present nor was she represented by counsel.

16

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

18

19 Ms. Green represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2009) - Violating a
21 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
22 the department.

23

24 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
25 to a hearing.

26

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

28

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

30

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

33

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

35

36 A motion was made, seconded and carried unanimously to assess costs in the amount of \$293.24.

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Penalty imposed: revocation, costs

Kiersten Arnsten, E.O., Tampa, FL – Determination of Waiver13

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

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 478.52(1)(l), FS (2008) - Failing to perform any statutory or legal obligation placed upon an electrologist.

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

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

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

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

A motion was made and seconded to impose a reprimand and \$1,500 fine.

An amendment was offered to withdraw the fine. This amendment was accepted.

The Department suggested imposing a reprimand and to require the Respondent pay the assessment within six (6) months. This was also added to the penalty.

Mr. Mullins put the find back into his motion.

Ms. Goersch offered an amendment to make the fine \$250. This amendment was rejected.

The motion carried with two (2) opposed.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$477.65.

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1
2 **Penalty imposed:** reprimand, \$1,500 fine, must pay assessment fee within 6 months, reprimand

3
4 **Barbara Jean DeCavalcanti, E.O., North Palm Beach, FL – Determination of Waiver 14**

5 Ms. DeCavalcanti was not present nor was she represented by counsel.

6
7 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

8
9 Ms. Green represented the Department and presented the case to the Board. Allegations of the
10 Administrative Complaint: Violation of Florida Statutes s. 478.52(1)(l), FS (2007) - Failing to
11 perform any statutory or legal obligation placed upon an electrologist.

12
13 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
14 to a hearing.

15
16 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

17
18 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

19
20 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
21 Statutes as charged in the Administrative Complaint.

22
23 A motion was made, seconded and carried unanimously to impose a reprimand, \$1,500 fine, and
24 require the Respondent to pay the assessment fee.

25
26 A motion was made, seconded and carried unanimously to assess costs in the amount of \$441.71.

27
28 **Penalty imposed:** reprimand, \$1,500 fine, costs, required to pay the assessment fee

29
30 **Dulce Maria Rivero Moran, E.O., Miami, FL – Determination of Waiver15**

31 Ms. Moran was not present nor was she represented by counsel.

32
33 Dr. Nuss was recused due to participation on the probable cause panel.

34
35 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
36 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2009) - Violating a

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1 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
2 the department.

3
4 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
5 to a hearing.

6
7 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

8
9 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

10
11 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
12 Statutes as charged in the Administrative Complaint.

13
14 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

15
16 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,337.04.

17
18 **Penalty imposed:** revocation, costs

19
20 **Lauren E. Chabaud, E.O., Deerfield Beach, FL – Determination of Waiver16**

21 Ms. Chabaud was not present nor was she represented by counsel.

22
23 Dr. Nuss was recused due to participation on the probable cause panel.

24
25 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2009) - Violating a
27 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
28 the department.

29
30 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
31 to a hearing.

32
33 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

34
35 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

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

3
4 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

5
6 A motion was made, seconded and carried unanimously to assess costs in the amount of \$320.86.

7
8 **Penalty imposed:** revocation, costs

9
10 **Alice Cathleen Guyer, E.O., Pensacola, FL – Determination of Waiver17**

11 Ms. Guyer was not present nor was she represented by counsel.

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

14
15 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2008) - Violating a
17 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
18 the department.

19
20 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
21 to a hearing.

22
23 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

24
25 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

26
27 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
28 Statutes as charged in the Administrative Complaint.

29
30 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

31
32 A motion was made, seconded and carried unanimously to assess costs in the amount of \$866.60.

33
34 **Penalty imposed:** revocation, costs

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1 **Christopher John Carlisle, P.A., Vero Beach, FL – Hearing Not Involving Disputed Issues of**
2 **Material Fact18**

3 Mr. Carlisle was not present nor was he represented by counsel.
4

5 Mr. Mullins was recused due to participation on the probable cause panel.
6

7 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
8 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2010) - Being
9 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
10 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
11 medicine.
12

13 A motion was made, seconded and carried unanimously to accept the Findings of Fact.
14

15 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.
16

17 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
18 Statutes as charged in the Administrative Complaint.
19

20 A motion was made, seconded and carried unanimously to revoke the Respondent's license.
21

22 A motion was made, seconded and carried unanimously to assess costs in the amount of \$5,157.92.
23

24 **Penalty imposed:** revocation, costs
25

26 **Abbey Strauss, M.D., Boca Raton, FL – Settlement Agreement19**

27 Dr. Strauss was present and represented by Lawrence E. Brownstein, Esquire.
28

29 Dr. Winchester was recused due to participation on the probable cause panel.
30

31 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
32 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2006) – Violating
33 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and violation of
34 Florida Statutes s. 458.331(1)(m), FS (2006) – Failing to keep legible, as defined by department rule
35 in consultation with the board, medical records that identify the licensed physician or the physician
36 extender and supervising physician by name and professional title who is or are responsible for

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1 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
2 the course of treatment of the patient, including, but not limited to, patient histories; examination
3 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
4 consultations and hospitalizations.

5
6 A motion was made, seconded and carried with one (1) opposed to accept the Settlement Agreement.

7
8 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and Rules course, 100 hours community
9 service, probation for one (1) year with indirect supervision, review of all records involving patients
10 treated for pain with Schedule II and III controlled substances, review copies of all Schedule II and
11 III prescriptions, quarterly reports

12
13 **Julio Froilan Zavala, Jr., M.D., University Park & Sarasota, FL – Determination of**
14 **Waiver21**

15 Dr. Zavala was not present nor was he represented by counsel.

16
17 No present members were recused due to participation on the probable cause panel.

18
19 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS (2006) - Being unable
21 to practice medicine with reasonable skill and safety to patients by reason of illness or use of
22 alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or
23 physical condition.

24
25 A motion was made, seconded and carried unanimously to find the Respondent has waived his right
26 to a hearing.

27
28 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

29
30 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

31
32 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
33 Statutes as charged in the Administrative Complaint.

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1 A motion was made, seconded and carried unanimously to suspend the Respondent’s license until he
2 appears and demonstrates his ability to practice with reasonable skill and safety, \$5,000 fine and the
3 Board reserves jurisdiction to impose additional terms at reinstatement.
4

5 A motion was made, seconded and carried unanimously to assess costs in the amount of \$3,872.29.
6

7 **Penalty imposed:** suspended until he appears and demonstrates his ability to practice with
8 reasonable skill and safety, \$5,000 fine, Board reserved jurisdiction to impose additional terms at
9 reinstatement

10
11 **Estaban Antonio Genao, M.D., Miami, FL – Recommended Order.....22**

12 Dr. Genao was not present nor was he represented by counsel.
13

14 Dr. J. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel.
15

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

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1 Statute s. 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any
2 rules adopted pursuant thereto.

3
4 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

5
6 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

7
8 A motion was made, seconded and carried unanimously to accept the Recommended Order.

9
10 **Action taken:** Administrative Complaint dismissed

11
12 **Michael Donald Paul, M.D., Port St. Lucie, FL – Hearing Not Involving Disputed Issues of**
13 **Material Fact23**

14 Dr. Paul was present and represented by counsel.

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

17
18 Ms. Kim represented the Department and presented the case to the Board. Allegations of the
19 Administrative Complaint: Violation of Florida Statutes s.456.072(1)(cc), FS (2009) – Leaving a
20 foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia
21 commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this
22 paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of
23 the patient and is not within the standard of care of the profession, regardless of the intent of the
24 professional.

25
26 A motion was made, seconded and carried unanimously to accept the Findings of Fact.

27
28 A motion was made, seconded and carried unanimously to accept the Conclusions of Law.

29
30 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
31 Statutes as charged in the Administrative Complaint.

32
33 A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500 fine,
34 and a 1-hour lecture.

35
36 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,172.51.

Minutes prepared by Crystal Sanford

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1
2 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 1-hour lecture
3

4 **Eric Scott Brecher, M.D., Marieta, PA & Wellington, New Zealand – Settlement**
5 **Agreement.....24**

6 Dr. Brecher was not present nor was he represented by counsel. The Board received correspondence
7 indicating Dr. Brecher was out of the country and requesting his appearance be waived.
8

9 A motion was made, seconded and carried to waive his appearance.
10

11 Ms. Goersch was recused due to participation on the probable cause panel.
12

13 Ms. Kim represented the Department and presented the case to the Board. Allegations of the
14 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2009) - Having a
15 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
16 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
17 or subdivisions
18

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

21 **Penalty imposed:** letter of concern, \$1,000 fine, costs
22

23 **Ruben Inocente Canizales, M.D., San Juan Del Sur, Rivas Nicaragua – Determination of**
24 **Waiver25**

25 Dr. Canizales was not present nor was he represented by counsel.
26

27 Dr. Chizner and Mr. Levine were recused due to participation on the probable cause panel. Dr.
28 Thomas chaired this hearing.
29

30 Ms. Kim represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2009) - Failing to
32 perform any statutory or legal obligation placed upon a licensed physician
33

34 A motion was made, seconded and carried unanimously to find the Respondent has waived his right
35 to a hearing.
36

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

2

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

4

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

7

8 A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,000 fine,
9 suspended until CME are complete and he must update his profile.

10

11 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,958.01.

12

13 **Penalty imposed:** suspended until CME complete, update profile, \$2,000 fine, costs, letter of
14 concern.

15

16 **Alberto Gonzalez-Gomez, M.D., Sunny Isles & Coral Gables, FL – Hearing Not Involving**
17 **Disputed Issues of Material Fact26**

18 Dr. Gonzalez-Gomez was present and represented by Javier Talamo, Esquire. The Respondent
19 requested a continuance until the next meeting. Mr. Talamo explained there are factors involved in
20 the investigation that revealing may put the investigation in jeopardy. He explained he was waiting
21 for clarification from the Department of Justice and believes he will have an answer prior to the June
22 Board Meeting.

23

24 Dr. Gonzalez-Gomez agreed not to practice medicine between this meeting and the June Board
25 Meeting.

26

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

28

29 A motion was made, seconded and carried unanimously to continue this hearing until the June Board
30 Meeting with the verbal agreement that he cease practice.

31

32 **Action taken:** continued until June Board Meeting

33

34 **James Denson Godwin, III, M.D., Lynn Haven, FL – Settlement Agreement.....28**

35 Dr. Godwin was not present nor was he represented by counsel.

36

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

2
3 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statutes
5 s. 458.331(1)(x), FS (2009) - Violating a lawful order of the board or department previously entered
6 in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department
7

8 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
9

10 The Board requested PSU bring this case back to the Board prior to the Respondent's reinstatement
11 of license.
12

13 **Action taken:** Settlement Agreement rejected; requested case be brought before the Board prior to
14 reinstatement
15

16 **INTRODUCTIONS:**

17 Dr. Chizner introduced the following who were present in the audience:

18 Lucy Gee, M.S., Director, Division of Medical Quality Assurance

19 Renee Alsobrook, J.D., Acting General Counsel, Department of Health
20

21 **Myrdalis Diaz-Ramirez, M.D., Sarasota, FL – Recommended Order.....30**

22 Dr. Diaz-Ramirez was not present nor was she represented by counsel.
23

24 No current Board members were recused due to participation on the probable cause panel.
25

26 Dr. Chizner read the Recommended Order remarks and confirmed all participating members had
27 read the complete record in this case.
28

29 Ms. Green represented the Department and presented the case to the Board. Allegations of the
30 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2008) - Performing
31 or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
32 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
33 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
34 performing or attempting to perform health care services includes the preparation of the patient.
35

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

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1
2 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

3
4 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

5
6 **Penalty imposed:** Administrative Complaint dismissed

7
8 **VOLUNTARY RELINQUISHMENTS:**

9
10 **Carl Francis Dennison, M.D. – Ft. Lauderdale, FL31**

11 Dr. Dennison was not present nor was he represented by counsel.

12
13 Probable cause was waived in this case.

14
15 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331 (1)(k), FS
16 (2009) - Making deceptive, untrue, or fraudulent representations in or related to the practice of
17 medicine or employing a trick or scheme in the practice of medicine.

18
19 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of
20 license.

21
22 **Penalty imposed:** license relinquished

23
24 **Miranda Whitworth Davis, E.O. – Navarre, FL32**

25 Ms. Davis was not present nor was she represented by counsel

26
27 Dr. Winchester was recused due to participation on the probable cause panel.

28
29 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS
30 (2007) - Violating a lawful order of the department or the board, or failing to comply with a
31 lawfully issued subpoena of the department.

32
33 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of
34 license.

35
36 **Penalty imposed:** license relinquished

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1
2 **Jody Lee Alexander, M.D. – Naples, FL.....33**

3 Ms. Alexander was not present nor was she represented by counsel.
4

5 Dr. Espinola and Ms. Goersch were recused due to participation on the probable cause panel.
6

7 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
8 (2007) -Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
9 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
10 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
11 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
12 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
13 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
14 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
15 construed to require that a physician be incompetent to practice medicine in order to be disciplined
16 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
17 the board finding a violation under this paragraph shall specify whether the licensee was found to
18 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
19 malpractice," or any combination thereof, and any publication by the board must so specify.
20 AC – failed to obtain past med records on high risk pt; failed to obtain consult; failed to order
21 increased surveillance of pt given high risk condition; failed to provide adequate care for pt; pt
22 remained in hospital for 7 weeks before being txfd for long term care in a vegetable state.
23

24 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of
25 license.
26

27 **Penalty imposed:** license relinquished
28

29 **Lloyd Elliot Reich, M.D., West Palm Beach, FL.....34**

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

32 Probable cause was waived in this case.
33

34 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS
35 (2010) - Failing to keep legible, as defined by department rule in consultation with the board,
36 medical records that identify the licensed physician or the physician extender and supervising

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1 physician by name and professional title who is or are responsible for rendering, ordering,
2 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
3 treatment of the patient, including, but not limited to, patient histories; examination results; test
4 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
5 hospitalizations; violation of Florida Statutes s. 458.331(1)(q), FS (2010) - Prescribing, dispensing,
6 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,
7 other than in the course of the physician's professional practice. For the purposes of this paragraph,
8 it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise
9 preparing legend drugs, including all controlled substances, inappropriately or in excessive or
10 inappropriate quantities is not in the best interest of the patient and is not in the course of the
11 physician's professional practice, without regard to his or her intent; and violation of Florida Statutes
12 s. 458.331(1)(s), FS (2010) - unable to practice medicine with reasonable skill and safety to patients
13 by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as
14 a result of any mental or physical condition.

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

18
19 **Penalty imposed:** license relinquished

20
21 **PETITION FOR DECLARATORY STATEMENT:**

22
23 **Rogério S. Faillace, M.D. - Approval of Draft Final Order35**

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

25
26 Mr. Tellechea explained the Board acted on this petition at the last meeting. He was requesting
27 approval of the draft Final Order; however pages were missing.

28
29 A motion was made, seconded and carried unanimously to table this matter until the June Board
30 Meeting.

31
32 **Action taken:** table until June Board Meeting

33
34 **Elizabeth F. Callahan, M.D. RE: s. 458.348, F.S.36**

35 This petition was withdrawn prior to the meeting.

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1 **Action taken:** petition withdrawn

2
3 **AHCA EXEMPTION REQUEST:**

4
5 **Elizabeth Ennis, P.A.37**

6 Ms. Ennis was present and represented by Julie Gallagher, Esquire.

7
8 A motion was made, seconded and carried unanimously to grant the exemption.

9
10 **Action taken:** exemption granted

11
12 **FINAL ORDER COMPLIANCE ISSUE:**

13
14 **Nancy Peritore-Neal, E.O. – Joint Motion to Modify Final Order38**

15 Ms. Peritore-Neal was present but not represented by counsel. She submitted a joint motion with the
16 prosecuting attorney who prosecuted her original case. This motion requested that her discipline be
17 modified to be more consistent with other penalties imposed in these types of cases.

18
19 The motion was not signed or filed and Mr. Tellechea would not allow the Board to act on it.

20
21 A motion was made and seconded to table this matter until the next meeting and to waive Ms.
22 Peritore-Neal's appearance. The motion was withdrawn.

23
24 A motion was made and seconded to send this to the Probation Committee and to waive Ms.
25 Peritore-Neal's appearance. This motion was also withdrawn.

26
27 After discussion, another motion was made and seconded to send this to the Probation Committee
28 and to waive Ms. Peritore-Neal's appearance.

29
30 An amendment was offered to give the Probation Committee authority to act on this petition. This
31 amendment was accepted.

32
33 The motion carried unanimously.

34
35 **Action taken:** waive appearance, signed and filed version of petition to go before the Probation
36 Committee who have been granted authority to act on the petition

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1
2 **Vinson Albert Smith, M.D. – Request to Vacate Citation.....54**

3 Mr. Smith was not present nor was he represented by counsel.

4
5 The Department was requesting the citation issued against Mr. Smith be vacated for technical
6 reasons.

7
8 A motion was made, seconded and carried unanimously to vacate the citation.

9
10 **Action taken:** citation vacated

11
12 **Mario Masserano, M.D. – Request to Vacate Citation.....55**

13 Mr. Masserano was not present nor was he represented by counsel.

14
15 The Department was requesting the citation issued against Mr. Masserano be vacated for technical
16 reasons.

17
18 A motion was made, seconded and carried unanimously to vacate the citation.

19
20 **Action taken:** citation vacated

21
22 **Allen J. Jones, M.D. – Request for Modification of the Final Order56**

23 Dr. Jones was not present but was represented by counsel. He was requesting the Board modify the
24 Final Order to accept Dr. Jones’ Board recertification in lieu of the requirement to complete a
25 Florida CARES evaluation. The basis of the request is UF’s inability to conduct the evaluation.

26
27 A motion was made, seconded and carried unanimously to

28
29 **Action taken:** Board recertification accepted in lieu of FL CARES evaluation

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1
2 **Sanjeev Grover, M.D. – Motion for Reconsideration**

3 Dr. Grover was present and represented by Allen Grossman, Esquire.
4

5 A motion was made, seconded and carried unanimously to reconsider the Board’s previous action.
6

7 A motion was made, seconded and carried unanimously to vacate the Final Order.
8

9 A motion was made, seconded and carried unanimously to impose a letter of concern, \$500 fine, the
10 Laws and Rules course and the Board maintains their ruling on costs.
11

12 **Action taken:** previous action reconsidered, Final Order vacated; imposed a letter of concern, \$500
13 fine, Laws and Rules course, costs as imposed in the original ruling
14

15 **John D. Campbell, M.D. – Petition for Reinstatement**

16 Dr. Campbell was present but not represented by counsel.
17

18 Ms. Kiesling, representing the Department, opposed this petition on the grounds that insufficient
19 evidence had been submitted to prove he was safe to practice. She further recommended if the
20 Board reinstated his license, that he be placed on probation with direct supervision.
21

22 A motion was made, seconded and carried unanimously to deny the petition.
23

24 The Board suggested that Dr. Campbell meet with PRN.
25

26 **Action taken:** petition denied
27

28 **Mario A. Diaz, M.D. – Referral from the Probation Committee**

29 Dr. Diaz was not present nor was he represented by counsel. He was requesting modification of the
30 Final Order to take him from direct supervision to indirect supervision.
31

32 After discussion, a motion was made, seconded and carried unanimously to require Dr. Diaz
33 complete the CME as ordered in the Final Order and then the Board will consider his request.
34

35 **Action taken:** request denied; must complete CME then request can be resubmitted for
36 consideration

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1
2 **COMMITTEE REPORTS:**

3
4 **Credentials Committee Meeting**

5 Dr. Tucker provided the report for the meeting held March 31, 2011.

6
7 A motion was made, seconded and carried unanimously to approve the report.

8
9 **Action taken:** report approved

10
11 **Probation Committee Meeting**

12 Dr. Winchester provided the report for the meeting held March 4, 2011.

13
14 A motion was made, seconded and carried unanimously to approve the report.

15
16 **Action taken:** report approved

17
18 **APPROVAL OF MEETING MINUTES:**

19
20 **February 4-5, 2011 Meeting**

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

22
23 **Action taken:** minutes approved

24
25 **RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.53**

26
27 A motion was made, seconded and carried unanimously to ratify the licensure lists.

28
29 **Action taken:** lists ratified

30
31 **FEDERATION OF STATE MEDICAL BOARDS:**

32 **Proposed Resolution from Washington State Medical Quality Assurance51**

33
34 Dr. Patrowicz advised the Board he would be attending his last FSMB Annual Meeting as a member
35 of their Board of Directors. He said the big issue continues to be maintenance of licensure and that
36 he would be presenting to the Florida Medical Association the following day.

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21

A motion was made, seconded and carried unanimously to support Washington’s proposed resolution.

Action taken: support Washington’s proposed resolution

DISCUSSION:

Reactivation of Retired License to Limited License (Dr. Patrowicz).....57

Dr. Patrowicz explained a colleague had asked him how to become licensed, from a retired status, so that he could volunteer. When Dr. Patrowicz discussed this with the Board Office, he found that his colleague would be required to demonstrate a number of CME and pay a reactivation fee. He said the colleague could not produce the CME.

Dr. Winchester suggested referring this matter, re-entry into practice, to the retreat meeting for discussion.

The Board suggested Dr. Patrowicz’ colleague call Ms. Prine and that she would assist him with his status.

Action taken: refer matter to retreat for discussion

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1 **Correspondence from Charles T. Price, M.D., FAAP, University of Central Florida College of**
2 **Medicine**

3 This was provided for information only.

4
5 No action taken.

6
7 **OPPAGA Report**

8 This was provided for information only.

9
10 No action taken.

11
12 **Public Citizen Correspondence**

13 This was provided for information only.

14
15 No action taken.

16
17 **DEPARTMENT REMARKS:**

18 Ms. Donnelly addressed the Board regarding several items:

- 19 • There are a number of cases at the Division of Administrative Hearings and the Board will be
20 seeing more Recommended Orders.
21 • Old cases are moving forward as quickly as possible
22 • Recently lost a position
23 • Next PCP Meeting has 105 cases scheduled

24
25 No action taken.

26
27 **BOARD COUNSEL'S REMARKS:**

28 Mr. Tellechea provided the Board with an update on pain management clinic related bills in the
29 Legislature. He also updated them regarding pending litigation on a non-rule policy arising out of a
30 foreign body case. He said he believes the case will be settled soon to the Board's ruling. Mr.
31 Tellechea stated he would keep the Board apprised of the situation.

32
33 No action taken.

34
35 **BOARD DIRECTOR'S REMARKS:**

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1 Ms. Tootle thanked the members for welcoming her and stated that it was an honor to work with the
2 Board. She also advised the Board she was 'floored' by the work of the staff; stating it was
3 fantastic. She advised the Board members to call her if they needed anything. The members asked
4 her to forward her contact information to them.

5

6 **BOARD CHAIR'S REMARKS:**

7 Dr. Chizner read his dedication to H. Frank Farmer, Jr., M.D., who was recently appointed by the
8 Governor as the State Surgeon General and Secretary of the Department of Health.

9

10 The meeting adjourned at 5:26 p.m.

11

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1 **Saturday, February 5, 2011**

2
3 **8:00 a.m. ROLL CALL**

4
5 **Members Present:**

6 Michael Chizner, M.D., Chair
7 George Thomas, M.D., Vice Chair
8 Steven P. Rosenberg, M.D., 1st Vice Chair
9 Jason Rosenberg, M.D., 2nd Vice Chair
10 .Fred Bearison, M.D.
11 Brigitte Goersch, Consumer Member
12 Gary Winchester, M.D.
13 Bradley Levine, Consumer Member
14 Robert Nuss, M.D.
15 Elisabeth Tucker, M.D.
16 Donald Mullins, Consumer Member

17
18 **Staff Present:**

19 Joy Tootle, J.D., Executive Director
20 Ed Tellechea, Board Counsel
21 Donna McNulty, Board Counsel
22 Nancy Murphy, Paralegal
23 Crystal Sanford, Program Operations Administrator
24 Chandra Prine, Program Operations Administrator
25 Whitney Bowen, Regulatory Specialist II
26 Jennifer Hirst, Deputy Press Secretary

27
28 **Prosecuting Attorneys Present:**

29 Veronica Donnelly, Medical Section Lead
30 Diane Kiesling
31 Sharmin Hibbert
32 Carol Gregg
33 Grace Kim
34 Yolonda Green

35
36 **DISCIPLINARY CASE SCHEDULE CONTINUED:**

Members Absent:

Onelia Lage, M.D.
Trina Espinola, M.D.
Tully Patrowicz, M.D.

Others Present:

American Court Reporting

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1 Ms. Tootle provided the opening remarks and explained the various hearings scheduled for the day.

2
3 Dr. Chizner read the Settlement Agreement list and confirmed the hearings that would be held
4 throughout the day.

5
6 **Oliver Martin Hasek, Jr., M.D., Panama City, FL – Settlement Agreement.....42**

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

8
9 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
10 (2008) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
11 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
12 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
13 of this paragraph, performing or attempting to perform health care services includes the preparation
14 of the patient and violation of Florida Statutes s. 458.331(1)(nn), FS (2008) – Violating any provision
15 of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

18
19 **Penalty imposed:** reprimand, \$5,000 fine, costs, 50 hours community service, 5 hours CME in risk
20 management, 1-hour lecture

21
22 **Martin Lynn Beggs, M.D., Colorado Springs, CO & Sarasota, FL – Settlement**
23 **Agreement.....43**

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

25
26 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
27 (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
28 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
29 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
30 of this paragraph, performing or attempting to perform health care services includes the preparation
31 of the patient.

32
33 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

34
35 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 1-hour lecture
36

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**Helen Elizabeth Watt, M.D., Scottsdale, AZ – Settlement Agreement
(case number 2010-03679).....45**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions and violation of Florida Statutes s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

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

Penalty imposed: letter of concern, \$3,000 fine, costs, Laws and Rules course

Aryama Devi Sharma, M.D., Plantation, FL – Recommended Order.....39

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

Dr. J. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel. Dr. Chizner recused himself from voting on the basis that he works with the physician and has known him for many years. Dr. Thomas chaired this hearing.

Dr. Thomas read the Recommended Order remarks and confirmed all participating members had read the complete record in this case.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2007) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and violation of Florida Statutes s. 456.072(1)(bb), FS (2007) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

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

2
3 A motion was made, seconded and carried unanimously to accept the Recommended Order.

4
5 **Action taken:** Administrative Complaint dismissed

6
7 **Vasanthi Raghavan, M.D., Kissimmee & Orlando, FL – Settlement Agreement....40**

8 Dr. Raghavan was present and represented by Brian Newman, Esquire.

9
10 Ms. Goerssch was recused due to participation on the probable cause panel.

11
12 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
13 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005) -
14 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
15 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
16 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
17 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
18 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
19 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
20 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
21 construed to require that a physician be incompetent to practice medicine in order to be disciplined
22 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
23 the board finding a violation under this paragraph shall specify whether the licensee was found to
24 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
25 malpractice," or any combination thereof, and any publication by the board must so specify.

26 Both parties agreed on the record to amend the CME required in the Settlement Agreement to
27 neurological emergencies.

28 A motion was made, seconded and carried unanimously to accept the Settlement Agreement as
29 verbally amended.

30 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 1-hour lecture,
31 5 hours CME in neurological emergencies

32

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Thomas Joseph Katta, M.D., Orlando, FL – Settlement Agreement.....41

Dr. Katta was present and represented by Allen Grossman, Esquire.

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

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS (2002) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes s. 458.331(1)(t), FS (2002) – Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

The Respondent agreed to waive attorney fees and costs.

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

Action taken: Administrative Complaint dismissed

Helen Elizabeth Watt, M.D., Scottsdale, AZ – Hearing Not Involving Disputed Issues of Material Fact (case number 2009-08548)44

Dr. Watt was not present nor was she represented by counsel. She had requested a continuance of this hearing.

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

A motion was made, seconded and carried unanimously to continue this hearing until the June Board Meeting.

Action taken: continued until June Board Meeting

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1
2 **Celia Kay Nelson, M.D., Leesburg, FL – Settlement Agreement46**

3 Dr. Nelson was present and represented by J. Charles Ingram, Esquire.
4

5 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.
6

7 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
8 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) -
9 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
10 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
11 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
12 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
13 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
14 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
15 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
16 construed to require that a physician be incompetent to practice medicine in order to be disciplined
17 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
18 the board finding a violation under this paragraph shall specify whether the licensee was found to
19 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
20 malpractice," or any combination thereof, and any publication by the board must so specify.
21

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

24 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 5 hours CME in
25 risk management
26

27 **Jason Christopher Stibich, M.D., Apollo Beach, FL – Settlement Agreement47**

28 D. Stibich was present and represented by Louis LaCava, Esquire.
29

30 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.
31

32 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
33 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) -
34 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
35 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
36 enforcing this paragraph. Medical malpractice shall not be construed to require more than one

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1 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
2 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
3 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
4 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
5 construed to require that a physician be incompetent to practice medicine in order to be disciplined
6 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
7 the board finding a violation under this paragraph shall specify whether the licensee was found to
8 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
9 malpractice," or any combination thereof, and any publication by the board must so specify and
10 violation of Florida Statutes s. 458.331(1)(m), FS (2006) - Failing to keep legible, as defined by
11 department rule in consultation with the board, medical records that identify the licensed physician
12 or the physician extender and supervising physician by name and professional title who is or are
13 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
14 and that justify the course of treatment of the patient, including, but not limited to, patient histories;
15 examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
16 of consultations and hospitalizations.

17
18 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

19
20 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course, 50 hours community
21 service, 5 hours CME in risk management

22
23 **Ronald Lorin Shaw, M.D., Apopka, FL – Settlement Agreement48**

24 Dr. Shaw was present and represented by J. Charles Ingram, Esquire.

25
26 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

27
28 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
29 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) - Gross or
30 repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment
31 which is recognized by a reasonably prudent similar physician as being acceptable under similar
32 conditions and circumstances.

33
34 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

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1 A motion was made, seconded and carried unanimously to offer a counter proposal to impose the
2 same terms but require 20 hours of CME in the appropriate diagnosis and management of skin
3 cancer and restricted from removing skin lesions other than warts until CME is complete.
4

5 The Respondent and the Department accepted the counter offer.
6

7 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 20 hours CME
8 in diagnosis and management of skin cancer
9

10 **James Joseph O’Mailia, M.D., Ft. Myers, FL – Settlement Agreement.....49**

11 Dr. O’Mailia was present and represented by Bruce Lamb, Esquire.
12

13 Ms. Kiesling represented the Department and presented the case to the Board.
14

15 **Case 2005-68242 & 2009-18197**

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

18 Allegations of the Amended Administrative Complaint: Violation of Florida Statutes with multiple
19 counts: s. 458.331(1)(m), FS (2002-2005) – Failing to keep legible, as defined by department rule in
20 consultation with the board, medical records that identify the licensed physician or the physician
21 extender and supervising physician by name and professional title who is or are responsible for
22 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
23 the course of treatment of the patient, including, but not limited to, patient histories; examination
24 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
25 consultations and hospitalizations; violation of Florida Statutes s. 458.331(1)(q), FS (2002-2005) –
26 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any
27 controlled substance, other than in the course of the physician's professional practice. For the
28 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering,
29 mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or
30 in excessive or inappropriate quantities is not in the best interest of the patient and is not in the
31 course of the physician's professional practice, without regard to his or her intent;. violation of
32 Florida Statutes s. 458.331(1)(t), FS (2002-2005) – Notwithstanding s. [456.072](#)(2) but as specified in
33 s. [456.50](#)(2): 1. Committing medical malpractice as defined in s. [456.50](#). The board shall give great
34 weight to the provisions of s. [766.102](#) when enforcing this paragraph. Medical malpractice shall not
35 be construed to require more than one instance, event, or act. 2. Committing gross medical
36 malpractice. 3. Committing repeated medical malpractice as defined in s. [456.50](#). A person found by

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1 the board to have committed repeated medical malpractice based on s. [456.50](#) may not be licensed or
2 continue to be licensed by this state to provide health care services as a medical doctor in this state.
3 Nothing in this paragraph shall be construed to require that a physician be incompetent to practice
4 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
5 administrative law judge or a final order of the board finding a violation under this paragraph shall
6 specify whether the licensee was found to have committed "gross medical malpractice," "repeated
7 medical malpractice," or "medical malpractice," or any combination thereof, and any publication by
8 the board must so specify; violation of Florida Statutes s. 458.331(1)(k), FS (2002-2005) – Making
9 deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing
10 a trick or scheme in the practice of medicine; and violation of Florida Statutes s. 458.331(1)(c), FS
11 (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of
12 adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the
13 ability to practice medicine.

14
15 **Case 2007-01570**

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

17
18 Allegations of the Administrative Complaint: Violation of Florida Statutes with multiple counts:
19 s. 458.331(1)(nn), FS (2004-2006) – Violating any provision of this chapter or chapter 456, or any
20 rules adopted pursuant thereto; violation of Florida Statutes s. 458.331(1)(t), FS (2004-2006) –
21 Notwithstanding s. [456.072\(2\)](#) but as specified in s. [456.50\(2\)](#): 1. Committing medical malpractice
22 as defined in s. [456.50](#). The board shall give great weight to the provisions of s. [766.102](#) when
23 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
24 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
25 malpractice as defined in s. [456.50](#). A person found by the board to have committed repeated
26 medical malpractice based on s. [456.50](#) may not be licensed or continue to be licensed by this state
27 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
28 construed to require that a physician be incompetent to practice medicine in order to be disciplined
29 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
30 the board finding a violation under this paragraph shall specify whether the licensee was found to
31 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
32 malpractice," or any combination thereof, and any publication by the board must so specify;
33 violation of Florida Statutes s. 458.331(1)(m), FS (2004-2006) – Failing to keep legible, as defined
34 by department rule in consultation with the board, medical records that identify the licensed
35 physician or the physician extender and supervising physician by name and professional title who is
36 or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment

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1 procedure and that justify the course of treatment of the patient, including, but not limited to, patient
2 histories; examination results; test results; records of drugs prescribed, dispensed, or administered;
3 and reports of consultations and hospitalizations; and violation of Florida Statutes s. 458.331(1)(q),
4 FS (2004-2006) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend
5 drug, including any controlled substance, other than in the course of the physician's professional
6 practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,
7 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,
8 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and
9 is not in the course of the physician's professional practice, without regard to his or her intent.

10
11 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

12
13 A motion was made and seconded to offer the same terms but to add a risk management review and
14 to correct the CME requirement regarding the university that offers the drug course.

15
16 An amendment was offered to require the risk management review be conducted within six (6)
17 months and to require compliance with all recommendations. The amendment was accepted.

18
19 The motion carried unanimously.

20
21 The Respondent and the Department accepted the counter offer.

22
23 **Penalty imposed:** reprimand, \$30,000 fine, costs, Laws and Rules course, UF drug course, FMA
24 records course, 100 hours community service, 5 hours CME in risk management; restricted from
25 prescribing to family members; probation for three (3) year with indirect supervision, 10% record
26 review, quarterly reports; risk management review and compliance within six (6) months

27
28 **Clinton Christopher Pittman, M.D., Lakeland & Thonotosassa, FL – Settlement**
29 **Agreement.....50**

30 Dr. Pittman was present and represented by Bruce Lamb, Esquire.

31
32 Ms. Goersch was recused due to participation on the probable cause panel. Dr. Bearison recused
33 himself because he and the physician are friends.

34
35 Ms. Green represented the Department and presented the case to the Board. Allegations of the
36 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) – Performing

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1 or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
2 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
3 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
4 performing or attempting to perform health care services includes the preparation of the patient.
5

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

8 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 1-hour lecture,
9 5 hours CME in Risk Management

10
11 **COMMITTEE REPORTS:**

12
13 **Rules/Legislative Committee Meeting**

14 Dr. Bearison provided the report for the meeting held March 31, 2011.
15

16 A motion was made, seconded and carried unanimously to approve the report.
17

18 **Action taken:** report approved
19

20 Dr. Chizner thanked the Board members, the Board office staff, the staff of the Attorney General's
21 Office and the prosecuting attorneys for their hard work.
22

23 The meeting adjourned at 10:02 am.
24