



Rick Scott
Governor

MINUTES
PUBLIC PORTION OF THE
SOUTH PROBABLE CAUSE AGENDA
BOARD OF MEDICINE
SCHEDULED FOR April 15, 2011

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

Fuad Ashkar, M.D., Chairman, called the public portion of the meeting of the Probable Cause Panel to order at 2:00 P.M. Those present for the meeting included the following:

Members Present:

Fuad Ashkar, M.D., Chairperson
George Thomas, M.D., Panel Member
Bradley Levine, Panel Member
Deborah Gerbert, P.A., Panel Member

Others Present included:

Ed Tellechea, Esq. - Assistant Attorney General & Board Counsel
Elana Jones, Attorney, Department of Health
Yolonda Green, Attorney, Department of Health
Diane Kiesling, Attorney, Department of Health
Laura Glenn, Attorney, Department of Health
Grace Kim, Attorney, Department of Health
Geoffrey Rice, Attorney, Department of Health
Gavin Burgess, Attorney, Department of Health
Elin Erickson, Attorney, Department of Health
Jenifer Friedberg, Attorney, Department of Health
Carol Gregg, Attorney, Department of Health
David Pius, Attorney, Department of Health

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

Opening Remarks:

Mr. Tellechea, Assistant Attorney General, advised the panel if they have questions concerning the Medical Practice Act, Chapter 458, Chapter 456, Florida Statutes or Rules of the Board to direct those questions to him. If the panel members have questions regarding the investigation and the facts of the investigation or how the investigation was handled, those questions should be directed to the prosecuting attorney. Mr. Tellechea asked the panel what material they have been provided. Ms. Shirley Bates stated that the entire investigative files have been made available to the panel members and Counsel to the Board and other documents that are pertinent to the file including draft proposed administrative complaints and closing orders. Mr. Tellechea asked the panel members if they had received the materials and had sufficient time

to review the materials on the agenda prior to now. The panel members answered in the affirmative.

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

RECONSIDERATIONS

RN-01	<u>Subject Name:</u> Linda Lewallen, M.D.	<u>Case No.:</u> 2008-16577	<u>Action Taken:</u> Dismissal
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This case was previously brought before the probable cause panel as one count Administrative Complaint (AC) alleging violations of 456.072(1)(bb), F.S., involving wrong site surgery. The panel at that time found probable cause and the AC was filed. It was brought back before the panel for reconsideration due to additional information submitted by Respondent's counsel that was not previously provided to the panel during their initial consideration of the case. The Department recommended that the panel sustain their finding of probable cause. The panel discussed the circumstances of the case.

After discussion, a motion was made, seconded and carried unanimously to dismiss the case.

Action taken: the panel voted to dismiss the case

RN-02	<u>Subject Name:</u> Christopher Conavay, M.D.	<u>Case No.:</u> 2008-23001	<u>Action Taken:</u> Dismissal
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Prosecution Services presented this case involving an alleged violation of 456.072(1)(v), F.S., involving engaging or attempting to engage a patient in sexual misconduct; 458.331(1)(j)(nn)(t)(m)(q), F.S., involving exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity; violating any provision of Chapter 458 or 456; committing medical malpractice; failing to keep legible medical records justifying the course of treatment of the patient; prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled substances other than in the course of the physician's professional practice. This case was previously brought before the panel as an Administrative Complaint and was brought back as a reconsideration for dismissal due to the Respondent's license to practice medicine being revoked by the Board of Medicine in December 2010. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted to dismiss the case

RN-03	<u>Subject Name:</u> Christopher Conavay, M.D.	<u>Case No.:</u> 2008-02311	<u>Action Taken:</u> Dismissal
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Prosecution Services presented this case involving an alleged violation of 458.331(1)(t)(nn), F.S., involving medical malpractice; and by prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. This case was previously brought before the panel as an Administrative Complaint and was brought back as a reconsideration for dismissal due to the Respondent's license to practice medicine being revoked by the Board of Medicine in December 2010. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted to dismiss the case

RN-04 Jack Powell, Jr., M.D. 2010-11517 Dismissal

Prosecution Services presented this case involving an alleged violation of 458.331(1)(x), involving violating a Final Order of the Board of Medicine. This case was previously brought before the panel as an Administrative Complaint and was brought back as a reconsideration for dismissal due to the Respondent's untimely death on September 8, 2010. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted to dismiss the case

RN-05 Kenneth Berdick, M.D. 2009-11359 Dismissal

Prosecution Services presented this case involving an alleged violation of 458.331(1)(x), involving violating a Final Order of the Board of Medicine. This case was previously brought before the panel as an Administrative Complaint and was brought back as a reconsideration for dismissal due to the Respondent providing proof that he did in fact complete the required as outlined in the Final Order. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted to dismiss the case

The public portion of the meeting adjourned at 2:18 p.m.