



MINUTES
PUBLIC PORTION OF THE
NORTH PROBABLE CAUSE AGENDA
BOARD OF MEDICINE
SCHEDULED FOR May 27, 2011

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

Dr. Georges El-Bahri, M.D., Chairman, called the public portion of the meeting of the Probable Cause Panel to order at 2:05 P.M. Those present for the meeting included the following:

Members Present:

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

Others Present included:

Ed Tellechea, Esq., Assistant Attorney General & Board Counsel
Veronica Donnelly, Department of Health
Shirley Bates, Attorney, Department of Health
Laura Glenn, Attorney, Department of Health
Jenifer Friedberg, Attorney, Department of Health
Sharmin Hibbert, Attorney, Department of Health
David Puis, Attorney, Department of Health
Jonathan Zachem, Attorney, Department of Health
Robert Milne, Attorney, Department of Health
Carol Gregg, Attorney, Department of Health
Gavin Burgess, 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. Bates stated the entire investigative files have been made available to the panel members and Counsel to the Board and other documents that are pertinent to the file including draft proposed administrative complaints and closing orders. Mr. Tellechea asked the panel members if they had received the materials and had sufficient time to review the materials on the agenda prior to now. The panel members answered in the affirmative.

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

RECONSIDERATIONS

Subject Name: Case No.: Action:

RN-01 Harvey Fleisher, M.D. 2004-10789 Dismissed
Prosecution Services presented this case involving an alleged violation of 458.331(1)(q)(t)(m), F.S., involving inappropriately prescribing, by failing to meet the standard of care and by failing to keep legible medical records justifying the course of treatment of patients. This case was previously brought before the panel as an AC and has been brought back as a reconsideration for dismissal based upon the Department no longer having adequate admissible evidence to prove by clear and convincing evidence the Respondent's violations as alleged in the Administrative Complaint. The Department recommended dismissal. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted the dismiss the case

RN-02 Emmanuel Johnson, M.D. 2006-10384 Dismissed
Prosecution Services presented this case involving an alleged violation of 458.331(1)(nn)(k), F.S., involving violating Rule 64B8-10.002(4), Florida Administrative Code (F.A.C.), and making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine. This case was previously brought before the panel as an AC and has been brought back as a reconsideration for dismissal due to the Respondent's death on February 14, 2011. The Department recommended dismissal. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted the dismiss the case

RN-03 Emmanuel Johnson, M.D. 2008-24696 Dismissed
Prosecution Services presented this case involving an alleged violation of 458.331(1)(s)(q), F.S., involving being unable to practice medicine with reasonable skill and safety to patients by reason of illness, and violating a lawful order of the department or board. This case was previously brought before the panel as an AC and has been brought back as a reconsideration for dismissal due to the Respondent's death on February 14, 2011. The Department recommended dismissal. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted the dismiss the case

RN-04 Monica Walker, M.D. 2003-09416 Dismissed
Prosecution Services presented this case involving an alleged violation of 458.331(1)(k), F.S., involving by making a deceptive and or untrue representations in the practice of medicine. This case was previously brought before the panel as an AC and has been brought back as a reconsideration for dismissal based upon the Respondent receiving pre-trial diversion with no

conviction. The Department recommended dismissal. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted the dismiss the case

~~**RN-05** **David Cummins** **2009-06533** **Withdrawn**~~
(This case was withdrawn and placed on the Probable Cause South Panel)

RN-06 **Miriam Michaeli, E.O.** **2007-40393** **Amended AC**
This case was previously brought before the Probable Cause North Panel on March 25, 2011 as a two count Administrative Complaint alleging violations of 478.52(1)(v), involving violating Rule 64B8-56.002, FAC which prohibits an electrologist from utilizing laser or light-based devices for hair removal or reduction unless she (a) has been certified in the use of laser and light-based devices' for the removal or reduction of hair by a national certification organization approved by the Council and the Board, (b) has completed a post-licensure education training course in laser and light-based hair removal or reduction approved by the Council pursuant to Rule 64BS-52.004, FAC, and (c) is operating under the direct supervision and responsibility of a physician properly trained in hair removal and licensed pursuant to the provisions of Chapter 458 or 459, F.S. and also requires that any licensed electrologist performing laser and light-based hair removal services shall enter into written protocols with a supervising physician; and by violating Section 478.46, F.S. which requires an electrologist to be supervised by a licensed electrologist. This case was brought back before the panel for reconsideration to amend the Administrative Complaint to include an additional violation for 478.52(1)(f), F.S., involving departing from or failing to conform to acceptable standards related to the delivery of electrolysis services. The panel discussed the circumstances of the case and amendment of the Administrative Complaint.

After discussion, a motion was made, seconded and carried unanimously to amend the Administrative Complaint.

Action taken: the panel voted to amend the Administrative Complaint

RN-07 **Geoffrey Lynn, M.D.** **2003-18928** **Dismissed**
Prosecution Services presented this case involving an alleged violation of 458.331(1)(t), F.S., involving failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. This case was previously brought before the panel as an AC and has been brought back as a reconsideration for dismissal based upon the Department's position that there is insufficient evidence to prove a violation of Section 458.331(1)(t), Florida Statutes (2003), by clear and convincing evidence. The Department recommended dismissal. The panel discussed the circumstances of the case and dismissal.

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

Action taken: the panel voted the dismiss the case

