

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

**Embassy Suites
1100 SW 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 4-5, 2010

1 **Friday, June 4, 2010**

2 **10:25 a.m. ROLL CALL**

3

4 **Members Present:**

5 Onelia Lage, M.D., Chair

6 Michael Chizner, M.D.

7 H. Frank Farmer, Jr., M.D.

8 Donald Mullins, Consumer Member

9 Tully Patrowicz, M.D.

10 Jason Rosenberg, M.D.

11 George Thomas, M.D.

12 Steven Rosenberg, M.D.

13 Gary Winchester, M.D.

14 Brigitte Goersch, Consumer Member

15 Elisabeth Tucker, M.D.

16 Bradley Levine, Consumer Member

17

18 **Staff Present:**

19 Larry McPherson, Executive Director

20 Ed Tellechea, Board Counsel

21 Donna McNulty, Board Counsel

22 Nancy Murphy, Paralegal

23 Crystal Sanford, Administrator

24 Whitney Bowen, Board Staff

25 Eulinda Smith, Public Information Officer

26

27 **PROSECUTING ATTORNEY'S PRESENT:**

28 Kathryn Price, Chief, Prosecuting Services Unit

29 Veronica Donnelly, Medical Section Head, Prosecuting Services Unit

30 Elana Jones, Prosecuting Attorney

31 Diane Kiesling, Prosecuting Attorney

32 Carol Gregg, Prosecuting Attorney

33

34 Mr. McPherson recognized the following individuals from area Investigative Field Offices who were
35 present in the audience:

- 36
 - Jean Clyne

Members Absent:

Fred Bearison, M.D.

Trina Espinola, M.D.

Robert Nuss, M.D.

Others Present:

American Court Reporting

Judy Rivenbark, Director, PRN

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- 1 • Brad Jones
- 2 • Carl Rodriguez
- 3 • Jennifer Macias
- 4 • Luis Nieves
- 5 • Chris Knox
- 6 • Frank Ashlire

7

8 He also introduced DDC Agents also present in the room:

- 9 • Bill Rogers
- 10 • Ingrid Cheesborough
- 11 • Richard Sands

12

13 The Board acknowledged their efforts with a round of applause.

14

15 Mr. McPherson provided opening remarks to the audience explaining the types of hearings that
16 would be heard throughout the day.

17

18 Ms. Sanford read the Settlement Agreement List and confirmed the Settlements Agreements the
19 Board wished to hear.

20

21 **DISCIPLINARY CASE SCHEDULE:**

22

23 **Myles R. Samotin, MD, Naples, FL – Settlement Agreement3**

24

25 Dr. S. Rosenberg was recused due to participation on the probable cause panel.

26

27 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(k)(2004) -
28 Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or
29 employing a trick or scheme in the practice of medicine.

30

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

32

33 **Penalty imposed:** reprimand, \$10,000 fine, costs, laws and rules course, 50 hours community
34 service, 5 hours CME in ethics

35

36 **Donald J. Weidler, MD, Columbia, KY – Settlement Agreement4**

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1
2 Dr. Chizner and Mr. Mullins were recused due to participation on the probable cause panel.

3
4 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b)(2009) –
5 Having a license or the authority to practice medicine revoked, suspended, or otherwise acted
6 against, including the denial of licensure, by the licensing authority of any jurisdiction, including its
7 agencies or subdivisions and violation of Florida Statute s. 458.331(1)(kk)(2009) - Failing to report
8 to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against
9 one's license to practice medicine in another state, territory, or country.

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

12
13 **Penalty imposed:** letter of concern, \$2,500 fine, costs, laws and rules course, USF drug course,
14 FMA records course, suspended until all licenses are clear; board reserves jurisdiction

15
16 **Agustin C. Sanz, MD, Port St. Lucie, FL – Settlement Agreement.....8**

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

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

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

33

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1 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 3 hours CME in
2 the care of special needs patients, 5 hours CME in risk management

3
4 **Antonio Mannarino, EO, Boca Raton, FL – Settlement Agreement.....15**

5
6 Dr. J. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel.

7
8 Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(l)(2007) -
9 Failing to perform any statutory or legal obligation placed upon an electrologist.

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

12
13 **Penalty imposed:** letter of concern, \$250 fine, costs, laws and rules course, complete delinquent CE

14
15 **Samuel B. Keeley, MD, Pittsburgh, PA – Settlement Agreement18**

16
17 Dr. Keeley was not present nor was he represented by counsel.

18
19 Mr. Levine was recused due to participation on the probable cause panel.

20
21 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b)(2009) –
22 Having a license or the authority to practice medicine revoked, suspended, or otherwise acted
23 against, including the denial of licensure, by the licensing authority of any jurisdiction, including its
24 agencies or subdivisions and violation of Florida Statute s. 458.331(1)(kk)(2009) – Failing to report
25 to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against
26 one's license to practice medicine in another state, territory, or country.

27
28 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

29
30 A motion was made, seconded and carried unanimously to reconsider the previous action.

31
32 The Board was concerned about the suspension language. A motion was made, seconded and
33 carried unanimously to reject the Settlement Agreement.

34

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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 to clarify the suspension language to mean all other licenses must be unencumbered
3 before he can apply for reinstatement.

4
5 **Penalty imposed:** letter of concern, \$2,000 fine, costs, Laws and Rules course, Restriction: PRN,
6 suspension until all licenses clear

7
8 **Melissa C. Smith-Horn, MD, Orlando, FL – Hearing not Involving Disputed Issues of**
9 **Material Fact.....1**

10
11 Dr. Smith-Horn was present, but not represented by counsel.

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

14
15 Ms. Jones represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g)(2009) - Failing to perform
17 any statutory or legal obligation placed upon a licensed physician.

18
19 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

20
21 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

22
23 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
24 Statutes as charged in the Administrative Complaint.

25
26 A motion was made, seconded and carried unanimously to a impose a \$3,800 fine, costs, letter of
27 concern, laws and rules course, and 75 hours community service.

28
29 A motion was made, seconded and carried unanimously to assess costs in the amount of \$482.45.

30
31 **Penalty imposed:** \$3,800 fine, costs, letter of concern, laws and rules course, and 75 hours
32 community service, costs

33
34 **Miguel Antonio Montejo, MD, Winter Haven, FL – Settlement Agreement2**

35 This matter was withdrawn prior to the meeting.

36

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1 **Najikamal Baddoura MD, Tampa, FL – Settlement Agreement5**

2
3 Dr. Baddoura was present and represented by Jason Azzone, Esquire.

4
5 Dr. Chizner and Mr. Mullins were recused due to participation on the probable cause panel.

6
7 Ms. Jones represented the Department and presented the case to the Board. Allegations of the
8 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb)(2005) - Leaving a foreign
9 body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia
10 commonly used in surgical, examination, or other diagnostic procedures.

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

13
14 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 50 hours community service, 5 hours risk
15 management CME, lecture

16
17 **Harvey A. Fleisher, MD, Aventura, FL – Settlement Agreement6**

18
19 Dr. Fleisher was present and represented by Sean Ellsworth, Esquire

20
21 Dr. Patrowicz was recused due to participation on the probable cause panel.

22
23 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
24 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2003) – Gross or repeated
25 malpractice or the failure to practice medicine with that level of care, skill, and treatment which is
26 recognized by a reasonably prudent similar physician as being acceptable under similar conditions
27 and circumstances; violation of Florida Statute s. 458.331(1)(q)(2003) – Prescribing, dispensing,
28 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,
29 other than in the course of the physician's professional practice and violation of Florida Statute s.
30 458.331(1)(m)(2003) – Failing to keep legible, as defined by department rule in consultation with
31 the board, medical records that identify the licensed physician or the physician extender and
32 supervising physician by name and professional title who is or are responsible for rendering,
33 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
34 of treatment of the patient, including, but not limited to, patient histories; examination results; test
35 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
36 hospitalizations.

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1
2 A motion was made and seconded to reject the Settlement Agreement. The motion carried 8-3.

3
4 A motion was made and seconded to offer a counter proposal to impose a \$40,000 fine, 50 hours
5 community service, the laws and rules course, a reprimand, costs and restricted from Internet
6 prescribing.

7
8 An amendment was offered to require the laws and rules course be completed within 18 months
9 since it is only offered once per year. This amendment was accepted. Another amendment was
10 offered to lower the fine to \$30,000 and this amendment was accepted.

11
12 Another amendment was offered to require the medical records course and this amendment was also
13 accepted.

14
15 The motion carried 7-4.

16
17 The Respondent took 7 days to decide whether to accept or reject the counter offer.

18
19 **Action taken:** Settlement Agreement rejected; counter offer to impose \$30,000 fine, 50 hours
20 community service, the laws and rules course, a reprimand, costs and restricted from Internet
21 prescribing, medical records course

22
23 **Thomas Ladin McKenzie, PA, Miramar, FL – Determination of Waiver7**

24
25 Mr. McKenzie was not present, nor was he represented by counsel.

26
27 Dr. Nuss and Mr. Levine were recused due to participation on the probable cause panel.

28
29 Ms. Jones represented the Department and presented the case to the Board. Allegations of the
30 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c)(2004) - Being convicted or
31 found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any
32 jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

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

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

2

3 A motion was made, seconded and carried unanimously to adopt 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 to impose a \$10,000 fine and revocation of his license.

9

10 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,002.53

11

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

13

14 **Ladapo O. Shyngle, MD, Valrico, FL – Settlement Agreement9**

15

16 Dr. Shyngle was not present nor was he represented by counsel.

17

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

19

20 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c)(2008) -
21 Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of
22 adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the
23 ability to practice medicine.

24

25 A motion was made, seconded and carried unanimously to table this matter until the August Board
26 Meeting and to require a strongly written letter be sent to him regarding his appearance.

27

28 After discussion, a motion was made, seconded and carried unanimously to reconsider the previous
29 action.

30

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

32

33 Staff is to determine how his second application file was destroyed and discuss what measure has
34 been taken to ensure this does not happen again.

35

36 **Action taken:** Settlement Agreement rejected

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1
2 **Jacob Tangir, MD, Hollywood, FL – Settlement Agreement10**
3

4 Dr. Tangir was present and represented by Monica Rodriguez, Esquire.
5

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

8 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(cc)(2008) -
9 Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other
10 paraphernalia commonly used in surgical, examination, or other diagnostic procedures.
11

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

14 **Penalty imposed:** letter of concern, \$2000 fine, costs, 50 hours community service, 5 hours CME in
15 risk management, lecture
16

17 **Henry L. Hill, MD, Tallahassee, FL – Hearing Not Involving Disputed Issues of**
18 **Material Fact13**
19

20 Dr. Hill was present and represented by Jesse Suber, Esquire.
21

22 No current members were recused due to participation on the probable cause panel. Dr. Winchester
23 recused himself because Dr. Hill is a personal friend and he could not be objective in voting.
24

25 Ms. Jones represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(cc)(2006) - Leaving a foreign
27 body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia
28 commonly used in surgical, examination, or other diagnostic procedures.
29

30 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
31

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

34 A motion was made, seconded and carried with one opposed to find the Respondent violated Florida
35 Statutes as charged in the Administrative Complaint.
36

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1 Dr. Hill agreed to waive attorney fees and costs if the complaint was dismissed.

2
3 A motion was made and seconded to dismiss the case. The motion failed 5-6.

4
5 A motion was made, seconded and carried with one opposed to impose no penalty.

6
7 The Respondent withdrew his objection to the costs.

8
9 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,570.68.

10
11 **Penalty imposed: costs**

12
13 **Randall G. Lorenz, MD, Oro Valley, AZ & Moscow, IN – Settlement Agreement...11**

14
15 Dr. Lorenz was not present, but he was represented by Craig Dennis, Esquire.

16
17 Dr. Thomas was recused due to participation on the probable cause panel.

18
19 Ms. Jones represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2004) - Gross or repeated
21 malpractice or the failure to practice medicine with that level of care, skill, and treatment which is
22 recognized by a reasonably prudent similar physician as being acceptable under similar conditions
23 and circumstances.

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

26
27 The Board requested review whether a companion case should be opened against the ARNP in this
28 complaint.

29
30 A motion was made and seconded to offer a counter proposal to impose \$5,000 fine, costs and the
31 Respondent agrees to never reapply for licensure in Florida.

32
33 An amendment was offered to increase the fine to \$10,000. The amendment was rejected.

34
35 The motion carried unanimously.

36

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1 The attorney requested 7 days to speak to his client regarding accepting or rejecting the counter
2 offer.

3

4 **Action taken:** Settlement Agreement rejected; counter to impose \$5,000 fine, costs, Respondent
5 agrees to never reapply for licensure in Florida

6

7 Lunch

8

9 **Bernard J. Zaragoza, MD, Coral Springs, FL – Recommended Order12**

10

11 Dr. Zaragoza was present and represented by Rolando Diaz, Esquire.

12

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

14

15 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb)(2007) - Performing or
17 attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
18 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
19 unrelated to the patient's diagnosis or medical condition.

20

21 Dr. Lage read the Recommended Order Remarks and confirmed all members had read the complete
22 record. Ms. Goersch was out of the room and did not participate in this hearing.

23

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

25

26 A motion was made, seconded and carried with one opposed to adopt the Conclusions of Law.

27

28 A motion was made, seconded and carried with one opposed to find the Respondent has violated
29 Florida Statutes as charged in the Administrative Complaint.

30

31 A motion was made, seconded and carried with three opposed to adopt the Recommended Order.

32

33 Mr. Diaz summarized his client's objection to the costs.

34

35 The Department responded and explained all costs were incurred by following procedure and that all
36 records were included with the agenda materials that support the final costs.

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1
2 A motion was made, seconded and carried unanimously to assess costs in the amount of \$25,912.24.
3
4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 50 hours
5 community service

6
7 **Carmen J. Pagan, MD, Weslaco, TX – Settlement Agreement14**

8
9 Dr. Pagan was not present nor was she represented by counsel.

10
11 Ms. Sanford explained she received an email from Dr. Pagan explaining the circumstances
12 surrounding the Administrative Complaint and requested her appearance be waived. She explained
13 Mr. Tellechea stated the Board would have to respond to the request for waiver.

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

16
17 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b)(2008) –
18 Having a license or the authority to practice medicine revoked, suspended, or otherwise acted
19 against, including the denial of licensure, by the licensing authority of any jurisdiction, including its
20 agencies or subdivisions and violation of Florida Statute s. 458.331(1)(kk)(2008) - Failing to report
21 to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against
22 one's license to practice medicine in another state, territory, or country.

23
24 A motion was made, seconded and carried unanimously to table until the August Board Meeting.

25
26 **Action taken:** tabled until August Board Meeting

27
28 **Mohamad R. Samiian, MD, Jacksonville, FL – Settlement Agreement20**

29
30 Dr. Samiian was not present, but represented by Allen Grossman, Esquire.

31
32 Dr. Bearison was recused due to participation on the probable cause panel.

33
34 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
35 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2003) – Gross or repeated
36 malpractice or the failure to practice medicine with that level of care, skill, and treatment which is

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1 recognized by a reasonably prudent similar physician as being acceptable under similar conditions
2 and circumstances; violation of Florida Statute s. 458.331(1)(m)(2003) – Failing to keep legible, as
3 defined by department rule in consultation with the board, medical records that identify the licensed
4 physician or the physician extender and supervising physician by name and professional title who is
5 or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment
6 procedure and that justify the course of treatment of the patient, including, but not limited to, patient
7 histories; examination results; test results; records of drugs prescribed, dispensed, or administered;
8 and reports of consultations and hospitalizations; and violation of Florida Statute s.
9 458.331(1)(w)(2003) – Delegating professional responsibilities to a person when the licensee
10 delegating such responsibilities knows or has reason to know that such person is not qualified by
11 training, experience, or licensure to perform them.

12
13 Both parties agreed to a change in the Settlement Agreement which would require the Respondent to
14 comply with the Florida Cares Evaluation and the probation years and terms will be set based upon
15 the results of the evaluation.

16
17 A motion was made and seconded to accept the verbally amended Settlement Agreement. The
18 motion carried unanimously.

19
20 **Penalty imposed:** reprimand, costs, to reactivate his retired license, must pay \$30,000 fine, FL
21 CARES evaluation and compliance; if licensee reactivates then 5 hours CME in managing post-
22 operative complications, 100 hours community service, probation, terms and number of years to be
23 determined at the time he returns to practice.

24
25 **VOLUNTARY RELINQUISHMENTS:**

26
27 **Patricia A Gannon, EO – Clarks Summit, PA22**

28
29 Ms. Gannon was not present, nor was she represented by counsel.

30
31 Dr. Espinola was recused due to participation on the probable cause panel.

32
33 Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(1)(2007) -
34 Failing to perform any statutory or legal obligation placed upon an electrologist

35

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

3

4 **Penalty imposed:** relinquishment accepted

5

6 **Marilyn G. Bissell, EO – Mims, FL.....23**

7

8 Ms. Bissell was not present, nor was she represented by counsel.

9

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

11

12 Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(l)(2007) -
13 Failing to perform any statutory or legal obligation placed upon an electrologist.

14

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

17

18 **Penalty imposed:** relinquishment accepted

19

20 **Barnie L. Vanzant, MD – Lake City, FL24**

21

22 Dr. Vanzant was not present, nor was he represented by counsel.

23

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

25 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2005-
26 2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
27 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
28 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
29 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
30 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
31 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
32 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
33 construed to require that a physician be incompetent to practice medicine in order to be disciplined
34 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
35 the board finding a violation under this paragraph shall specify whether the licensee was found to

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1 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
2 malpractice," or any combination thereof, and any publication by the board must so specify;
3 violation of Florida Statute s. 458.331(1)(q)(2005-2007) – Prescribing, dispensing, administering,
4 mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the
5 course of the physician's professional practice; and violation of Florida Statute s.
6 458.331(1)(m)(2005-2007) – Failing to keep legible, as defined by department rule in consultation
7 with the board, medical records that identify the licensed physician or the physician extender and
8 supervising physician by name and professional title who is or are responsible for rendering,
9 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
10 of treatment of the patient, including, but not limited to, patient histories; examination results; test
11 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
12 hospitalizations.

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

15

16 **Penalty imposed:** relinquishment accepted

17

18

19 **Belinda Wharton Soltz, PA – Pensacola, FL25**

20

21 Ms. Soltz was not present, nor was she represented by counsel.

22

23 Probable cause was waived in this case.

24

25 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.347(7)(g)(2009) –
26 The Board of Medicine may impose any of the penalties authorized under ss. 456.072 and 458.331(2)
27 upon a physician assistant if the physician assistant or the supervising physician has been found
28 guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter
29 456; violation of Florida Statute s. 458.331(1)(g)(2009) – Failing to perform any statutory or legal
30 obligation placed upon a licensed physician; violation of Florida Statute s. 458.331(1)(s)(2009) –
31 Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or
32 use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental
33 or physical condition; violation of Florida Statute s. 458.331(1)(x)(2009) – Violating a lawful order
34 of the board or department previously entered in a disciplinary hearing or failing to comply with a
35 lawfully issued subpoena of the department; violation of Florida Statute s. 458.331(1)(nn)(2009) –

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1 Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and
2 violation of Florida Statute s. 458.331(1)(hh)(2009) – Improperly interfering with an investigation or
3 with any disciplinary proceeding.

4
5 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of
6 license.

7
8 **Penalty imposed:** relinquishment accepted

9
10 **Nancy Shea Dowe, EO – Bradenton, FL.....26**

11
12 Ms. Dowe was not present, nor was she represented by counsel.

13
14 Dr. Espinola was recused due to participation on the probable cause panel.

15
16 Allegations of the Administrative Complaint: Violation of Florida Statute s. 478.52(1)(l)(2007) -
17 Failing to perform any statutory or legal obligation placed upon an electrologist.

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

21
22 **Penalty imposed:** relinquishment accepted

23
24 **Donald A. Hill, MD – Ft. Myers, FL27**

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

27
28 Probable cause was waived in this case.

29
30 Allegations of Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c)(2009) –
31 Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of
32 adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the
33 ability to practice medicine.

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

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1
2 **Penalty imposed:** relinquishment accepted
3

4 **Omar J. Brito Marin, M.D. – Pembroke Pines, FL55**
5

6 Dr. Marin was not present, nor was he represented by counsel.
7

8 Dr. S. Rosenberg and Mr. Levine were recused in case #2007-20072. Probable cause was waived in
9 case #2009-24278.
10

11 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2009) –
12 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
13 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
14 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
15 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
16 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
17 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
18 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
19 construed to require that a physician be incompetent to practice medicine in order to be disciplined
20 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
21 the board finding a violation under this paragraph shall specify whether the licensee was found to
22 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
23 malpractice," or any combination thereof, and any publication by the board must so specify;
24 violation of Florida Statute s. 458.331(1)(q)(2009) – Prescribing, dispensing, administering, mixing,
25 or otherwise preparing a legend drug, including any controlled substance, other than in the course of
26 the physician's professional practice; violation of Florida Statute s. 458.331(1)(m)(2009) – Failing to
27 keep legible, as defined by department rule in consultation with the board, medical records that
28 identify the licensed physician or the physician extender and supervising physician by name and
29 professional title who is or are responsible for rendering, ordering, supervising, or billing for each
30 diagnostic or treatment procedure and that justify the course of treatment of the patient, including,
31 but not limited to, patient histories; examination results; test results; records of drugs prescribed,
32 dispensed, or administered; and reports of consultations and hospitalizations; violation of Florida
33 Statute s. 458.331(1)(v)(2009) – Practicing or offering to practice beyond the scope permitted by law
34 or accepting and performing professional responsibilities which the licensee knows or has reason to
35 know that he or she is not competent to perform; and violation of Florida Statute s.

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1 458.331(1)(nn)(2009) – Violating any provision of this chapter or chapter 456, or any rules adopted
2 pursuant thereto.

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

5

6 **Penalty imposed:** relinquishment accepted

7

8 **Michael Lazzopina, M.D. - Davie, FL**

9

10 Dr. Lazzopina was not present, nor was he represented by counsel.

11

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

13 Allegations of the Administrative Complaint: Violation of Florida Statute 458.331(1)(m) – 2005-
14 2009 – Failing to keep legible, as defined by department rule in consultation with the board, medical
15 records that identify the licensed physician or the physician extender and supervising physician by
16 name and professional title who is or are responsible for rendering, ordering, supervising, or billing
17 for each diagnostic or treatment procedure and that justify the course of treatment of the patient,
18 including, but not limited to, patient histories; examination results; test results; records of drugs
19 prescribed, dispensed, or administered; and reports of consultations and hospitalizations; violation of
20 Florida Statutes 458.331(1)(q) – 2005-2009 – Prescribing, dispensing, administering, mixing, or
21 otherwise preparing a legend drug, including any controlled substance, other than in the course of
22 the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed
23 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including
24 all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
25 interest of the patient and is not in the course of the physician's professional practice, without regard
26 to his or her intent; violation of Florida Statute 458.331(1)(nn) – 2005-2009 – Violating any
27 provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and violation of
28 Florida Statute 458.331(1)(t) – 2005-2009 – Notwithstanding s. 456.072(2) but as specified in s.
29 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great
30 weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not
31 be construed to require more than one instance, event, or act. 2. Committing gross medical
32 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by
33 the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
34 continue to be licensed by this state to provide health care services as a medical doctor in this state.

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

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

9

10 **Penalty imposed:** relinquishment accepted

11

12 **FINAL ORDER COMPLIANCE ISSUES:**

13 **Alan G. Schwartz, M.D. – Petition for Reinstatement28**

14

15 Dr. Schwartz was present and represented by Allen Grossman, Esquire and Dr. Rivenbark, Director
16 of PRN. He was requesting reinstatement of his license.

17

18 After discussion, a motion was made, seconded and carried unanimously to reinstate his license.

19

20 **Action taken:** license reinstated

21

22 **Arthur W. Sweat, M.D. – Petition for Waiver or Reduction in Fine60**

23

24 Dr. Sweat was present with his grandson, David Aronson. Mr. Aronson explained Dr. Sweat's
25 request to the Board. He stated he could afford to pay \$10 per month due to his restricted income as
26 evidenced by the financial documents he submitted to the Board.

27

28 After discussion, a motion was made, seconded and carried unanimously to allow Dr. Sweat to pay
29 \$5 per year until his financial obligation is completed. The first payment is due June 3, 2011.

30

31 **Action taken:** Final Order modified to allow him to pay \$5 per year until paid with first payment
32 due June 3, 2011.

33

34 **Mabel Hernandez, M.D. – Petition for Reinstatement61**

35

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1 Dr. Hernandez was present but not represented by counsel. She explained her request for
2 reinstatement.

3

4 After discussion, it was determined that Dr. Hernandez' license had previously been revoked. As a
5 result, she is not eligible for reinstatement.

6

7 **Action taken:** none

8

9 **UPDATE FROM PRN: Judy Rivenbark, Director:.....63**

10

11 Dr. Rivenbark provided an update to the Board. She discussed continued collaboration with Florida
12 medical schools in getting medical students under contract if necessary. She also discussed their
13 new electronic medical system which will prevent the loss of files. She advised that PRN remains
14 the standard for impairment programs in the United States.

15

16 **Action taken:** none

17

18 **PETITION FOR DECLARATORY STATEMENT:**

19 **US Health Works Medical Group of Florida, Inc – s. 458.053(h), F.S.56**

20

21 Karen Putnal, Esquire and Leonard Oaken, M.D. (phonetic) appeared before the Board to request
22 clarification of whether his occupational medical facilities would be in violation of s. 458.053(h),
23 F.S.

24

25 After discussion, a motion was made, seconded and carried unanimously to find this situation does
26 not constitute a violation of Florida Statutes 458.053(h).

27

28 Mr. Tellechea advised he would draft a Final Order to be reviewed at the August Board Meeting.

29

30 **Action taken:** Found not in violation of s. 458.053(h), F.S.; draft Final Order to next Board Meeting

31

32 Mr. Levine left at 4:00 p.m.

33

34 **BOARD COUNSEL'S REMARKS..... No tab**

35

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1 Mr. Tellechea updated the Board regarding Isabella Sharpe, M.D. vs. the Board. He advised this had
2 to do with the costs imposed and that he had filed a Motion to Dismiss. He is waiting to hear the
3 ruling.

4
5 Mr. Tellechea stated the Women’s Presidential Group vs. the Board is still ongoing.

6
7 Mr. Tellechea announced Ms. McNulty was selected as Deputy of the Law Section. The Board
8 applauded her promotion.

9
10 Ms. Sanford pointed out that Mr. Tellechea had been selected by Florida Trend’s Florida Legal Elite
11 as one of the Top Governmental Attorneys in Florida for the third time. The Board applauded Mr.
12 Tellechea’s accomplishment. Mr. Tellechea thanked Ms. Murphy for all her hard work that
13 contributes to his success.

14
15 **DEPARTMENT REMARKS:**

16
17 **Prosecutors Reports.....Hand out at meeting**

18 Ms. Price updated the Board on case statistics.

19
20 Dr. Lage thanked Ms. Price for including the CVs on expert witnesses in case materials. She did
21 express some concern regarding the inconsistencies in some Board Memos and explained the
22 importance of this memo for the members.

23
24 Mr. Mullins expressed concern that sometimes, on the PCP meetings, it is him and the PCP Chair
25 with no current member present. He also expressed concern, as well as other members, regarding
26 receiving PCP materials late.

27
28 Ms. Price agreed they should be receiving the materials at least 3 days prior to meetings, with
29 Emergency Suspension/Restriction Orders (ESO/ERO) being an exception due to statutory time
30 limits.

31
32 Dr. Lage asked for an update regarding “pain” cases.

33
34 Mr. Tellechea stated he was seeing the cases flow through PCP. He also stated the previous
35 concerns mentioned are training issues.

36

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1 Ms. Price stated the Board should be seeing an increase in ESO’s related to “pain” cases and this
2 may require special PCP meetings to handle.

3
4 **COMMITTEE REPORTS:**
5 **Probation Committee Meeting**

6
7 Dr. Winchester provided the report for the meeting held May 1, 2010.

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

10
11 **Action taken:** report approved

12
13 **APPROVAL OF MEETING MINUTES:**

14
15 **April 9-10, 2010 Meeting43**

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

18
19 **Action taken:** minutes approved

20
21 **April 10, 2010 Rule Hearing44**

22
23 A motion was made, seconded and carried unanimously to approve the minutes.

24
25 **Action taken:** minutes approved

26
27 **May 5, 2010 Conference Call**

28
29 A motion was made, seconded and carried unanimously to approve the minutes.

30
31 **Action taken:** minutes approved

32
33 **BOARD DIRECTOR’S REMARKS**

34
35 **Legislative Update (2010 Session)40**

36 Mr. McPherson provided an update regarding the status of SB 2272, HB 573 and HB 5311.

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1
2 **Action taken:** none

3
4 **2011 Meeting dates.....41**

5
6 A motion was made, seconded and carried unanimously to hold the February 2011 meeting in
7 Orlando.

8
9 Dr. Tucker suggested holding a joint meeting at some point with the Boards in Alabama and in
10 Georgia to encourage collaborative efforts in our region of the country.

11
12 Dr. Lage agreed and stated the Federation of State Medical Boards also encouraged states to meet
13 together because they generally share the same types of problems.

14
15 After discussion, a motion was made, seconded and carried unanimously to hold one meeting in
16 south Florida, one meeting in North Florida, two meetings in Orlando and two meetings in Tampa
17 with the February Meeting to be scheduled in Orlando.

18
19 **Action taken:** 1 meeting in south Florida, 1 meeting in north Florida, 2 in Tampa and 2 in Orlando,
20 one of which is the February, 2011 meeting

21
22 **RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.45**

23
24 A motion was made, seconded and carried unanimously to ratify the licensure lists.

25
26 **Action taken:** licenses ratified

27
28 **BOARD CHAIR'S REMARKS**

29 **FSMB Annual Meeting Report.....37**

30
31 Dr. Lage discussed the issues discussed at the 2010 Annual FSMB Meeting. She stated that Dr.
32 Crane would be present at the August Board Meeting and she would have a Power Point
33 Presentation. She said she shared the issues with Dr. Butler from FMA as well. She said that she
34 voted to support the process of ongoing learning and maintenance of licensure was accepted by
35 FSMB. However, the states will have jurisdiction over implementation.
36

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1 Dr. Lage went on to say that she addressed the Board's concern regarding the Administrative
2 Complaints being placed online with the State Surgeon General and Lucy Gee, Director of MQA.
3 She said this was one of the Governor's initiatives and these Administrative Complaints have always
4 been available to the public. She stated it does take 24-72 hours to remove dismissals from the web
5 page.

6

7 Dr. Patrowicz reiterated the maintenance of licensure issue and said the even though it is up to the
8 states to implement, FSMB will give them tools to accomplish the task. He also advised he was re-
9 elected to the FSMB Executive Committee. The Board applauded his accomplishments.

10

11 **OTHER BUSINESS:**

12

13 The Board applauded Dr. Winchester who was the recipient of the Outstanding Physician Award.

14

15 Ms. Sanford pointed out the Dr. Lage had been admitted to the Miami Dade College Alumni Hall of
16 Fame. The Board applauded her accomplishment as well.

17

18 The meeting adjourned at 4:45 p.m.

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1 **Saturday, June 5, 2010**

2 **8:05 a.m. ROLL CALL**

3

4 **Members Present:**

5 Onelia Lage, M.D., Chair

6 Michael Chizner, M.D.

7 H. Frank Farmer, Jr., M.D.

8 Donald Mullins, Consumer Member

9 Tully Patrowicz, M.D.

10 Jason Rosenberg, M.D.

11 George Thomas, M.D.

12 Steven Rosenberg, M.D.

13 Gary Winchester, M.D.

14 Brigitte Goersch, Consumer Member

15 Elisabeth Tucker, M.D.

16

17 **Staff Present:**

18 Larry McPherson, Executive Director

19 Ed Tellechea, Board Counsel

20 Donna McNulty, Board Counsel

21 Nancy Murphy, Paralegal

22 Crystal Sanford, Administrator

23 Whitney Bowen, Board Staff

24 Eulinda Smith, Public Information Officer

25

26 **PROSECUTING ATTORNEY'S PRESENT:**

27 Kathryn Price, Chief, Prosecuting Services Unit

28 Veronica Donnelly, Medical Section Head, Prosecuting Services Unit

29 Diane Kiesling, Prosecuting Attorney

30 Carol Gregg, Prosecuting Attorney

31

32 Mr. McPherson provided opening remarks to the audience explaining the types of hearings that
33 would be heard throughout the day.

34

35 Ms. Sanford read the Settlement Agreement List and confirmed the Settlements Agreements the
36 Board wished to hear.

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1
2 **DISCIPLINARY CASE SCHEDULE:**
3

4 **Peter W. Orobello, MD, St. Petersburg, FL – Settlement Agreement16**
5

6 Dr. S. Rosenberg and Mr. Levine were recused due to participation on the probable cause panel.
7

8 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb)(2007) –
9 Performing or attempting to perform health care services on the wrong patient, a wrong-site
10 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
11 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition and violation of
12 Florida Statute s. 458.331(1)(nn)(2007) – Violating any provision of this chapter or chapter 456, or
13 any rules adopted pursuant thereto.
14

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

17 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 50 hours community service, 4 hours CME in
18 risk management, 1 hour lecture
19

20 **Marla M. Mathis, PA, Stuart, FL – Settlement Agreement30**
21

22 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.
23

24 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g) - Failing
25 to perform any statutory or legal obligation placed upon a licensed physician and violation of Florida
26 Statute s. 458.331(1)(r) - Prescribing, dispensing, or administering any medicinal drug appearing on
27 any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed,
28 dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense,
29 or administer medicinal drugs
30

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

33 **Penalty imposed:** letter of concern, \$1000 fine, costs, laws and rules course, 50 hours community
34 service, PRN
35

36 **CHAIR'S RECOGNITION AWARD:**

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Raymond Pomm, M.D.39

Dr. Pomm was recognized by the Board for his accomplishments with PRN. He addressed the Board and thanked them for their support.

David I. Lubetkin, MD, Boca Raton, FL – Settlement Agreement31

Dr. Lubetkin was present and represented by Rose Marie Antonacci-Pollock, Esquire. The patient was also present and addressed the Board.

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

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2004) – 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 and violation of Florida Statute s. 458.331(1)(m)(2006-2009) – 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.

The patient was present and addressed the board concerning the impact this has had on her life and recounted her efforts to bring this matter to a final resolution.

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

A motion was made and seconded to offer a counter proposal to impose the same terms in the original agreement, but to increase the fine to \$20,000.

An amendment was offered to require a risk management review and compliance with the outcome and to increase the community service to 100 hours. Both amendments were accepted.

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1 Another amendment was offered to require an ACOG course or a course in abnormal pap smears.
2 After discussion, this amendment was withdrawn.

3
4 The motion carried unanimously. The Respondent accepted the counter offer.

5
6 **Penalty imposed:** letter of concern, \$20,000 fine, costs, laws and rules course, FMA records course,
7 100 hours community service, 5 hours CME in risk management, risk management review and
8 compliance with recommendations

9
10 After the case was completed, a Board member expressed some concern regarding the number of
11 times physicians have mentioned problems with electronic medical record system. The member
12 suggested physicians be notified about fully understanding the “default systems” within the
13 programs to avoid problems later. Another board member suggested whether there could be a way to
14 address best practices. The Chair stated that the Board may be able to discuss this later.

15
16 **FINAL ORDER COMPLIANCE ISSUES:**

17 **John J. Crittenden, M.D. – Petition for Permission to Seek Reinstatement58**

18
19 Dr. Crittenden was present and represented by Allen Grossman, Esquire. He explained that Dr.
20 Crittenden was found in violation of 458.331(1)(s), F.S. which gives express rights for reinstatement
21 of a revoked license. However, subsequent to this action, SB 1986 passed which prevents physicians
22 with certain 893, F.S. violations from being able to reapply for licensure until at least 15 years have
23 passed since the conviction.

24
25 After a lengthy discussion, a motion was made, seconded and carried unanimously to grant
26 permission to seek reinstatement.

27
28 The Department objected and opined this physician has only one option and that is to reapply for
29 licensure. They felt the only other option would be for the physician to seek waiver or variance of
30 the Board’s rule on this issue.

31
32 Mr. Grossman advised they had planned to do that if the Board was willing to allow him to seek for
33 reinstatement. He advised that Dr. Crittenden also needed the Board’s approval to take the SPEX
34 exam since he has been out of practice.

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1 It was made clear that allowing the physician to seek reinstatement did not mean he would be
2 reinstated by the Board.

3

4 A motion was made, seconded and carried unanimously to allow Dr. Crittenden to sit for the SPEX
5 examination.

6

7 **Action taken:** permission granted to seek reinstatement; permission granted to take SPEX

8

9 Mr. McPherson introduced Robert Katims, M.D. present in the audience. He was a past Board
10 Member and Chair and now serves as a consultant to the Prosecuting Services Unit.

11

12 **Mark Holder, M.D. – Request for Modificaiton of Final Order, Document Compliance and to**
13 **Resume Practice in Florida59**

14

15 Dr. Holder was present, but not represented by counsel. He advised he had been to PRN, evaluated
16 and under contract. He said he would like the Board to modify his payment of the fine. He was
17 advised of the proper method for requesting a payment plan.

18

19 Dr. Rivenbark advised PRN was not advocating for reinstatement at this time.

20

21 A motion was made, seconded and carried unanimously to deny the request for modification of the
22 Final Order.

23

24 A motion was made, seconded and carried unanimously to table reinstatement.

25

26 **Action taken:** modification of Final Order denied; reinstatement tabled

27

28 **Jose Valladares, M.D. – Petition for Reinstatement29**

29

30 Dr. Valladares was present and represented by Allen Grossman, Esquire. Dr. Rivenbark was also
31 present.

32

33 After discussion, a motion was made and seconded to allow reinstatement but he cannot practice
34 until he has appeared before the Board with a practice plan; at that time the Board will set
35 probationary terms.

36

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1 An amendment was offered to ensure that language is placed in the Final Order and it is clear he will
2 be on probation. Mr. Tellechea advised this was not necessary as it is already in the Final Order.

3
4 Another amendment was offered to put page 11167 and 11168 of the agenda materials and “sexual
5 predator” on his profile. No action was taken on this amendment.

6
7 The Board made some suggestions regarding his reinstatement including that he not be allowed to
8 treat patients under 18 years of age and that when treating other patients, a health care practitioner
9 must be present in the room.

10
11 The motion carried 7-3.

12
13 **Action taken:** reinstated, not permitted to practice until appears before the Board with a practice
14 plan; and probation terms may be established; transcript ordered

15
16 **CHAIR’S RECOGNITION AWARD:**

17 **Anit Anil Rastogi, - Florida International University Medical Student38**

18
19 Dr. Lage recognized Mr. Rastogi for exemplifying professionalism, moral character, compassion and
20 intellect essential to the future leaders of our medical profession.

21
22 **Ernesto Porrás-Polo, MD, Boca Raton & Ft. Pierce, FL – Settlement Agreement ...32**

23
24 Dr. Porrás-Polo was present and represented by Michael Burt, Esquire and Danielle Suarez, Esquire.

25
26 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

27 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
28 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t)(2005-2007) -
29 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
30 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
31 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
32 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
33 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
34 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
35 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be

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1 construed to require that a physician be incompetent to practice medicine in order to be disciplined
2 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
3 the board finding a violation under this paragraph shall specify whether the licensee was found to
4 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
5 malpractice," or any combination thereof, and any publication by the board must so specify.

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

7 **Penalty imposed:** letter of concern, \$5000 fine, costs, 50 hours community service, 3 hours CME in
8 special needs patients, 5 hours CME in risk management

9

10 **Manuel Carrasco-Santiago, MD, Big Spring, TX – Settlement Agreement.....21**

11

12 Dr. Carrasco-Santiago was present and represented by counsel.

13

14 Dr. S. Rosenberg and Mr. Levine 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 Statute s. 458.331(1)(b)(2008) – Having a license or
18 the authority to practice medicine revoked, suspended, or otherwise acted against, including the
19 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or
20 subdivisions and violation of Florida Statute s. 458.331(1)(kk)(2008) – Failing to report to the board,
21 in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to
22 practice medicine in another state, territory, or country.

23

24 A motion was made and seconded to approve the Settlement Agreement. After discussion, the
25 motion was withdrawn.

26

27 A motion was made and seconded to reject the Settlement Agreement. This motion failed 4-5.

28

29 After discussion and amendment by the Department and the Respondent, a motion was made and
30 seconded to accept the amended Settlement Agreement. The motion carried 7-2.

31

32 **Penalty imposed:** letter of concern, \$1,000 fine, costs, suspended until licenses are clear

33

34 **Shaheed G. Kalloo, MD, West Palm Beach, FL – Settlement Agreement.....17**

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1
2 Dr. Kalloo was present and represented by Alex Barker, Esquire.

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

5
6 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
7 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(j)(2004) - Exercising influence
8 within a patient-physician relationship for purposes of engaging a patient in sexual activity. A
9 patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity
10 with his or her physician.

11
12 A motion was made and seconded to reject the Settlement Agreement. The motion failed 3-7.

13
14 After discussion, another motion was made and seconded to accept the Settlement Agreement. The
15 motion carried 6-4.

16
17 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and rules course, 5 hours CME in risk
18 management, restriction – cannot treat female patients until he undergoes PRN evaluation and they
19 say the restriction can be lifted, cannot petition to lift the restriction for at least one year; after
20 restriction is lifted, new restriction that he cannot treat female patients without a female health care
21 practitioner present in the room

22
23 **Robert J. Bowles, MD, Longwood, FL – Settlement Agreement.....19**

24
25 This hearing was continued.

26
27 **Action taken:** hearing continued

28
29 **Carlos S. Contreras, MD – Recommended Order51**

30
31 This hearing was tabled until the August Board Meeting.

32
33 **Action taken:** tabled until the August Board Meeting

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1 **FSMB PRESENTATION: Martin Crane, M.D. – Maintenance of Licensure..... - 33**

2
3 This matter was tabled until the August Board Meeting.

4
5 **Action taken:** tabled until August Board Meeting

6
7 **DISCIPLINARY TRAINING.....34**

8
9 Mr. McPherson introduced the PCP chairs: Dr. Leon, Dr. El-Bahri and Dr. Ashkar. He also
10 introduced the PCP PA's: Mr. Hulley, Ms. Mittan and Ms. Gerbert.

11
12 Mr. McPherson, Mr. Tellechea and Ms. Donnelly provided the annual disciplinary training to the
13 members as required by s. 458.307(4), F.S.

14
15 The following concerns were discussed in detail:

- 16 • adding community service to Settlement Agreements
- 17 • ensure adding CME to Settlement Agreement that are available
- 18 • requested PSU provide a summary of the penalty imposed in Settlement Agreements and
19 add to the Board Memo
- 20 • requested exceptions in Recommended Orders be outlined so it is easier for the members to
21 follow along (difficult to follow along with the current software because it is two separate
22 documents and members are not permitted to print documents from the software).
- 23 • Requested Mr. Tellechea provide a list of definitions of terms related to Recommended
24 Orders such as “competent substantial evidence. Mr. McPherson said he would follow up in
25 email regarding providing documents in electronic format versus paper format and we would
26 discuss this further at the August Board Meeting
- 27 • Requested when tabling cases at PCP meetings, the case comes back to the same panel (3 in
28 5 cases)
- 29 • Ms Kiesling was commended for always explaining why certain charging decisions are made
30 and not simply saying it was a matter of prosecutorial discretion. It was suggested that a
31 similar approach by all prosecutors would be much appreciated.

32
33 The members thanked PSU for the improvements in PCP meetings.

34
35 **CHAIR'S RECOGNITION AWARD:**

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1 Dr. Lage provided an award to Barth Green, M.D. for his long standing leadership and dedication to
2 providing humanitarian work. Dr. Green said a few words to the Board that he hoped inspired more
3 humanitarian work.
4

5 **WRONG SITE SURGERY DISCUSSION36**

6
7 The Board reviewed new statistics regarding wrong site surgeries and noticed that the overall case
8 count has gone down. He pointed out there are fewer ophthalmology cases due to the work of the
9 Society of Ophthalmologists.

10
11 **Action:** none

12
13 Mr. Mullins asked for an updated regarding Image API.

14
15 Ms. Bowen advised that Image API had won the contract for the new agenda software called
16 iViewer. She advised that the Board would be going through a transition over the next few months.
17

18 **COMMITTEE REPORTS:**

19
20 **Rules/Legislative Committee Meeting**

21
22 Dr. J. Rosenberg provided the report for the meeting held June 3, 2010.

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

25
26 **Action taken:** report approved

27
28 **Specialty Credentialing Committee Meeting**

29
30 Dr. Farmer provided the report for the meeting held June 4, 2010.

31
32 A motion was made, seconded and carried unanimously to approve the report.

33
34 **Action taken:** report approved

35
36 **Credentials Committee Meeting**

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1
2 Dr. Thomas provided the report for the meeting held June 3, 2010.

3
4 A motion was made, seconded and carried unanimously to approve the report.

5
6 Dr. Thomas advised that tab 14 from the Credentials Agenda has been referred to the full Board at
7 the August Board Meeting.

8
9 **Action taken:** report approved

10
11 **COUNCIL ON PHYSICIAN ASSISTANTS:**

12
13 Dr. S. Rosenberg provided the report for the meeting held June 3, 2010.

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

16
17 **Action taken:** report approved

18
19 **LEGISLATIVE PROPOSALS FOR 201135**
20 **2010 Legislative Proposals**

21
22 Mr. McPherson provided a summary of the 2010 legislative proposals which included Adverse
23 Incidents, CME, Medical Licensure and Expert Witnesses. He asked the members if they wanted to
24 put forth the same proposals for the 2011 session.

25
26 Mr. Mullins left at 2:20 pm

27
28 A motion was made, seconded and carried unanimously to keep the proposals regarding expert
29 witnesses.

30
31 Dr. Patrowicz asked about the medical licensure fee cap at \$1,000 as proposed in the medical
32 licensure portion.

33
34 Mr. McPherson stated he would speak with Mr. Mullins about giving a financial update to the
35 members at the next meetings.

36

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1 Dr. Patrowicz asked if the 5th pathway was still necessary and Mr. McPherson responded that it was
2 not.

3

4 Dr J. Rosenberg asked if this process was necessary.

5

6 Dr. Winchester opined that having board proposed legislative changes is important and sends the
7 right message.

8

9 Dr. S. Rosenberg pointed out that if the FMA knows the Board's proposals they can lobby on the
10 Board's behalf.

11

12 Mr. McPherson stated he would correct the medical license legislative proposal because the area of
13 critical need legislation has been changed this year.

14

15 Dr. J. Rosenberg asked if there has been any proposals to clean up the domestic violence CME
16 requirement to make it ok to take any time during the six year period, not just during the last 2 years
17 of the period.

18

19 Ms. Gerbert advised the PA's would help with this proposal as well.

20

21 After discussion, the Board determined the following items for 2011 legislative proposals in order of
22 priority:

23

- Expert witnesses
- CME
- Domestic violence
- Adverse incidents
- Medical licensure (after cleaned up)

28

29 **PRESENTATIONS:**

30

- Slideshow of pictures from Dr. Jason Rosenberg's trip to Haiti46
- Dr. S. Rosenberg's ethics presentation47

31

32 A motion was made, seconded and carried unanimously to continue these items to the August Board
33 Meeting.

34

35

36 **DISCUSSIONS:**

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1
2 **Rotating members through Credentials and Probation Committees rather than annual**
3 **commitments No tab**
4

5 Dr. S. Rosenberg asked the members how they felt about rotating members through the Credentials
6 and Probation Committee because it is a burden to serve on both of these committees due to the
7 amount of time commitment involved.

8
9 Dr. Thomas stated the Chair needs to remain on the Committee and not rotate for consistency and
10 education because when a member is new to a Committee there is a lack of understanding of how
11 that Committee functions. He suggested adding another member that rotates.

12
13 Dr. Winchester stated he was opposed to the suggestion for the Probation Committee. He said over
14 time the members get to know the Respondents appearing and can tell when there is a problem. He
15 said consistency in this Committee is vital.

16
17 Dr. Farmer said he agreed with Dr. Thomas and Dr. Winchester because there is a learning curve for
18 these Committees and that is important for a smooth running meeting.

19
20 The Board members suggested placing new members on these Committees for the experience.

21
22 **Filing complaints against Limited Licenses for failing to complete CME..... No tab**

23 Since this was Dr. Espinola's request and she was not present, the Board tabled this until the August
24 Meeting.

25
26 **CORRESPONDENCE:**

- 27 • Athletic Trainers – Tab 52
28 • Doctor of Nurse Practice Doctor of Nurse Practice – Tab 54
29

30 Mr. McPherson explained the correspondence was for the Board members information only.

31
32 Mr. McPherson thanked Ms. Sanford for her work in bringing these meetings together. He went on
33 to thank Ms. Bowen for handling the Credentials and PA Committee meetings and for her other
34 work as well particularly involving technology issues. He also thanked the legal team, Mr.
35 Tellechea, Ms. McNulty and Ms. Murphy for their excellent work which is the best in MQA. The
36 board recognized these individuals with a round of applause.

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- 1
- 2 Dr. Lage also thanked Mr. Tellechea and Mr. McPherson as well as the members for their work and
- 3 guidance.
- 4
- 5 Dr. Winchester thanked the members for their thoughts and prayers.
- 6
- 7 Dr. Chizner wished a speedy recovery to Ms. Prine.
- 8
- 9 Dr. Patrowicz stated he appreciated the human spirit she brings to what the members do.
- 10
- 11 The meeting adjourned at 2:51 p.m.