

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **Friday, June 3, 2011**

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

3

4 **Members Present:**

5 George Thomas, M.D., Acting Chair

6 Merle Stringer, M.D.

7 Trina Espinola, M.D.

8 Donald Mullins, Consumer Member

9 Robert Nuss, M.D.

10 Jason Rosenberg, M.D., 2nd Vice-Chair

11 Nabil El Sanadi, M.D.

12 Gary Winchester, M.D.

13 Brigitte Goersch, Consumer Member

14 Elisabeth Tucker, M.D.

15 Onelia Lage, M.D. (arrived 8:08 am)

16 Zachariah P. Zachariah, M.D.

17

18 **Staff Present:**

19 Joy A. Tootle, J.D., Executive Director

20 Ed Tellechea, J.D., Board Counsel

21 Donna McNulty, J.D., Board Counsel

22 Nancy Murphy, Paralegal

23 Crystal Sanford, CPM, Program Operations Administrator

24 Chandra Prine, Program Operations Administrator

25 Whitney Bowen, Regulatory Specialist II

26 Jennifer Hirst, Public Information Officer

27

28 **Prosecuting Attorneys Present:**

29 Veronica Donnelly, J.D., Medical Section Lead

30 Yolonda Green, J.D.

31 Gavin Burgess, J.D.

32 Carol Gregg, J.D.

33 Diane Kiesling, J.D.

34

35 Dr. Thomas introduced and welcomed the new members to the Board:

36 Dr. Stringer

37 Dr. Orr

Members Absent:

Fred Bearison, M.D.

James Orr, M.D.

Bradley Levine, Consumer Member

Others Present:

American Court Reporting

Cindy Green

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1 Dr. El Sanadi

2 Dr. Zachariah

3

4 **ELECTIONS:**

5 A motion was made, seconded and carried unanimously to elect Dr. Thomas as Chair of the Board.

6

7 A motion was made, seconded and carried unanimously to elect Dr. Rosenberg as Vice Chair of the
8 Board.

9

10 A motion was made, seconded and carried unanimously to elect Dr. Zachariah as 1st Vice Chair of
11 the Board.

12

13 A motion was made, seconded and carried unanimously to elect Dr. Tucker as 2nd Vice Chair of the
14 Board.

15

16 **DISCIPLINARY CASE SCHEDULE:**

17

18 Ms. Tootle provided opening remarks and described the hearings scheduled on the agenda.

19

20 Ms. Sanford read the Settlement Agreement list and determined which cases would be presented to
21 the Board.

22

23 **Bernard Mark Tortorice, M.D., Sarasota, FL – Settlement Agreement4**

24 Dr. Lage 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. 458.331(1)(t), FS
27 (2004) – Gross or repeated malpractice or the failure to practice medicine with that level of care,
28 skill, and treatment which is recognized by a reasonably prudent similar physician as being
29 acceptable under similar conditions and circumstances and s. 458.331(1)(m), FS (2004) – Failing to
30 keep legible, as defined by department rule in consultation with the board, medical records that
31 identify the licensed physician or the physician extender and supervising physician by name and
32 professional title who is or are responsible for rendering, ordering, supervising, or billing for each
33 diagnostic or treatment procedure and that justify the course of treatment of the patient, including,
34 but not limited to, patient histories; examination results; test results; records of drugs prescribed,
35 dispensed, or administered; and reports of consultations and hospitalizations.

36

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

Minutes prepared by Crystal Sanford

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1
2 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 5 hours CME in
3 risk management, 5 hours CME in anticoagulants and insertion of epidural catheters

4
5 **Karlene Elloreen Sinclair, M.D., Davenport, FL – Settlement Agreement.....6**

6 Ms. Goersch was 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), FS
9 (2008) - Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or
10 other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the
11 purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the
12 best interest of the patient and is not within the standard of care of the profession, regardless of the
13 intent of the professional.

14
15 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

16
17 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 1-hour lecture

18
19 **Janice Brown McCall, M.D., Tampa, FL - Settlement Agreement.....7**

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

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

26
27 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

28
29 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 8 hours CME in
30 diagnostic pathology, 5 hours CME in risk management

31
32 **Colleen Rebecca McQuade, M.D., Lady Lake, FL - Settlement Agreement10**

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

34
35 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g), FS
36 (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician and s.

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

3
4 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

5
6 **Penalty imposed:** letter of concern, \$1,500 fine, costs, Laws & Rules course, 25 hours community
7 service, provide medical records to all patients on list within four months, provide affidavit
8 confirming such to Probation Committee

9
10 **Howard William Popp, M.D., Miami, FL - Settlement Agreement11**

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

12
13 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS
14 (2006) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
15 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
16 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
17 of this paragraph, performing or attempting to perform health care services includes the preparation
18 of the patient.

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

21
22 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 30 hours community service, 5 hours CME in
23 risk management, 1-hour lecture

24
25 **David Michael Mellman, M.D., Sunrise & Aventura, FL- Settlement Agreement ...12**

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

27 Allegations of Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2009) -
28 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
29 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
30 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
31 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
32 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
33 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
34 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
35 construed to require that a physician be incompetent to practice medicine in order to be disciplined
36 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of

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June 3-4, 2011

1 the board finding a violation under this paragraph shall specify whether the licensee was found to
2 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
3 malpractice," or any combination thereof, and any publication by the board must so specify.

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

5

6 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 50 hours community service, 5 hours CME in
7 risk management

8

9 **Immacula Michel, M.D., Boynton Beach, FL & Davie, LA - Settlement Agreement17**

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

11

12 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(nn), FS
13 (2005) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
14 thereto.

15

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

17

18 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and Rules course, 100 hours community
19 service, 5 hours CME in ethics

20

21 **Corliss Yvette Oliver, M.D., Saint Cloud, FL - Settlement Agreement18**

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

23

24 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(m), FS
25 (2006) – Failing to keep legible, as defined by department rule in consultation with the board,
26 medical records that identify the licensed physician or the physician extender and supervising
27 physician by name and professional title who is or are responsible for rendering, ordering,
28 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
29 treatment of the patient, including, but not limited to, patient histories; examination results; test
30 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
31 hospitalizations and s. 458.331(1)(t), FS (2006) – s. 458.331(1)(t), FS - Notwithstanding s.
32 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
33 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this
34 paragraph. Medical malpractice shall not be construed to require more than one instance, event, or
35 act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
36 defined in s. 456.50. A person found by the board to have committed repeated medical malpractice

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June 3-4, 2011

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

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

10
11 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA recordkeeping course, 20 hours
12 community service,

13
14 **Anthony James Hall, M.D., Tamarac & North Miami Beach, FL - Settlement Agreement**

1520

16 Dr. Nuss was recused due to participation on the probable cause panel. Dr. El Sanadi recused
17 himself from the case because he knows the physician.

18
19 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS
20 (2008) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
21 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
22 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
23 of this paragraph, performing or attempting to perform health care services includes the preparation
24 of the patient.

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

27
28 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 25 hours community service, 5 hours CME
29 in risk management, 1-hour lecture

30
31 **Enrique Puig, M.D., Winter Haven, FL - Recommended Order**1

32 Dr. Puig was not present, but he was represented by Jon Pellet, Esquire.

33
34 Dr. Thomas was recused due to participation on the probable cause panel. Dr. Rosenberg chaired
35 this tab. He confirmed all participating members had read the complete record.

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June 3-4, 2011

1 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2008)
2 - Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
3 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
4 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
5 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
6 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
7 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
8 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
9 construed to require that a physician be incompetent to practice medicine in order to be disciplined
10 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
11 the board finding a violation under this paragraph shall specify whether the licensee was found to
12 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
13 malpractice," or any combination thereof, and any publication by the board must so specify.

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

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

17
18 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

19
20 Action taken: Administrative Complaint dismissed

21
22 **Ida Joann Gagliardi, M.D., Ft. Myers, FL - Settlement Agreement.....2**

23 Dr. Gagliardi was present, but not represented by counsel.

24
25 Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

26 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
27 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) -
28 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
29 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
30 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
31 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
32 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
33 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
34 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
35 construed to require that a physician be incompetent to practice medicine in order to be disciplined

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June 3-4, 2011

1 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
2 the board finding a violation under this paragraph shall specify whether the licensee was found to
3 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
4 malpractice," or any combination thereof, and any publication by the board must so specify; s.
5 458.331(1)(q), FS (2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a
6 legend drug, including any controlled substance, other than in the course of the physician's
7 professional practice. For the purposes of this paragraph, it shall be legally presumed that
8 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
9 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
10 interest of the patient and is not in the course of the physician's professional practice, without regard
11 to his or her intent; and s. 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or
12 chapter 456, or any rules adopted pursuant thereto.

13 Both parties agreed to the clarification that the drug course is now offered by the University of the
14 Florida.

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

17
18 A motion was made, seconded and carried unanimously to offer a counter proposal to impose the
19 same terms with the following changes: 100 hours community service, risk management review
20 within 6 months, logs must be included with the quarterly reports and presented the Probation
21 Committee.

22
23 The Respondent and the Department accepted the counter proposal.

24
25 **Penalty imposed:** reprimand, \$20,000 fine, costs, UF drug course, FMA records course, 100 hours
26 community service, risk management review within 6 months, probation for one year under indirect
27 supervision with 25% chart review, review of all charts where Schedule II-IV controlled substances
28 were prescribed, receive and review all Schedule II-IV prescriptions, consult on all pain
29 management cases, first appearance and quarter reports from monitor, first and last appearances and
30 quarterly reports from respondent, must maintain log of all controlled substances prescribed which
31 shall be submitted with quarterly reports and presented to the Probation Committee

32
33 **DEPARTMENT OF HEALTH GENERAL COUNSEL REMARKS:**

34 Nicholas Romanello, J.D. was introduced and addressed the Board. He provided an overview of the
35 General Counsel's Office and described recent enhancements to the Prosecuting Services Unit.

36

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1 Dr. Thomas introduced the following investigators from the Miami field office present in the
2 audience:
3 Jennifer Macias, Luis Nieves, Frank Figorero, Neil Downs, Eric Perez, Chris Knox, Lidia Steele,
4 Candido Certa and Kira Misdraji.

5

6 **Mayra Louise Freeman-Ladd, M.D., Houston, TX & Sunrise, FL - Settlement Agreement**

73

8 Dr. Freeman-Ladd was present and represented by Marc Ganz, Esquire.

9

10 Dr. Lage and Ms. Goersch were recused due to participation on the probable cause panel. Dr.
11 Tucker recused herself from the case.

12 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
13 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2008) -
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 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

27

28 A motion was made and seconded to offer a counter proposal to impose the same terms but to
29 increase the community service to 200 hours.

30

31 An amendment was offered to require two hours CME in pediatric chest radiology. The amendment
32 was accepted.

33

34 Another amendment was offered to require the Respondent to undergo a Florida CARES evaluation.
35 This amendment was rejected.

Minutes prepared by Crystal Sanford

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June 3-4, 2011

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The motion carried 6-2.

The Respondent and the Department accepted the counter offer.

Penalty imposed: letter of concern, \$7500 fine, costs, Laws & Rules course, 200 hours community service, 5 hours CME in risk management, 1-hour lecture, 2 hours CME in pediatric chest radiology

Mark Allan Seldes, M.D., Tampa, FL – Settlement Agreement.....5

Dr. Seldes was present and represented by Kenneth Haber, Esquire. Dr. Rivenbark was also present and addressed the Board. The Respondent’s wife was given permission to sit with her husband at the table.

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

A motion was made, seconded and carried unanimously to approve Mr. Haber as a qualified representative.

Ms. Gregg represented the Department and presented the case to the Board. Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS (2007) - Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

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 including PRN and compliance with their recommendations for the Respondent.

An amendment was offered to require 300 hours community service. This amendment was accepted.

The motion carried 8-3. The Respondent and the Department accepted the counter proposal.

Penalty imposed: suspended and cannot practice in Florida until he has undergone a PRN evaluation and complied with the recommendations, \$10,000 fine, costs, 300 hours community service, 5 hours CME in risk management; required to practice in a governmental facility

**Department of Health
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June 3-4, 2011

1 **Brian Everett Haycock, M.D., St. Augustine, FL - Settlement Agreement.....8**

2 Dr. Haycock was present and represented by Scott Ross, Esquire.

3
4 Ms. Goersch was recused due to participation on the probable cause panel.

5
6 Mr. Burgess represented the Department and presented the case to the Board. Allegations of the
7 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(aa), FS (2005) – Performing or
8 attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
9 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
10 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
11 performing or attempting to perform health care services includes the preparation of the patient and
12 s. 458.331(1)(nn), FS (2005) – Violating any provision of this chapter or chapter 456, or any rules
13 adopted pursuant thereto.

14
15 Mr. Burgess indicated that one page of the medical records was inadvertently left out of the
16 materials presented to the Board and received approval to hand out the document to the members.

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

19
20 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$8,000 fine,
21 costs, FME recordkeeping course, 100 hours community service and a risk management assessment.

22
23 An amendment was offered to impose a \$10,000 fine and 200 hours community service. The
24 amendment was accepted.

25
26 The motion carried unanimously.

27
28 The Respondent and the Department accepted the counter proposal.

29
30 **Penalty imposed:** reprimand, \$10,000 fine, costs, FMA Recordkeeping course, 200 hours
31 community service, risk management assessment

32
33 **Mazhar G. Nawaz, M.D., Kissimmee, FL - Settlement Agreement9**

34 Dr. Nawaz was present and represented by Gregory Chaires, Esquire.

35
36 Ms. Goersch was recused due to participation on the probable cause panel.

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1 Mr. Burgess represented the Department and presented the case to the Board. Allegations of the
2 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS (2009) – Performing or
3 attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
4 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
5 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
6 performing or attempting to perform health care services includes the preparation of the patient.
7

8 Dr. Zachariah clarified the dates referenced in the Administrative Complaint were 2009 not 2010 as
9 indicated.
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 a counter proposal to impose a reprimand, \$10,000 fine,
14 costs, risk management course, 1-hour lecture, and 200 hours community service.
15

16 An amendment was offered to impose a three month stayed suspension. This was accepted.
17

18 Another amendment was offered to require 5 hours CME in communication. This amendment was
19 accepted.
20

21 Another amendment was offered to change the communication course to the communication course
22 or a course in ethics. This amendment was accepted.
23

24 The motion carried 8-3. The Respondent took seven days to accept or reject the counter offer.
25

26 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$10,000 fine,
27 costs, 200 hours community service, 5 hours CME in risk management, 1-hour lecture, 5 hour course
28 in ethics or communication; three month stayed suspension
29

30 **Mazhar Rasul, M.D., Lexington, KY - Settlement Agreement.....13**

31 Dr. Rasul was present but not represented by counsel.
32

33 No present members were recused due to participation on the probable cause panel.
34

35 Ms. Green represented the Department and presented the case to the Board. Allegations of the
36 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2009) – Having a
37 license or the authority to practice medicine revoked, suspended, or otherwise acted against,

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June 3-4, 2011

1 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
2 or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
3 stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of
4 administrative charges against the physician's license, shall be construed as action against the
5 physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing,
6 within 30 days if action as defined in paragraph (b) has been taken against one's license to practice
7 medicine in another state, territory, or country.

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

10
11 A motion was made and seconded to table this hearing and to suggest the Respondent obtain a PRN
12 evaluation and return to the Board at a later date. This motion was later withdrawn.

13
14 A motion was made and seconded to offer a counter proposal to impose the same terms plus a PRN
15 evaluation which will be presented to the Probation Committee and to reserve jurisdiction to impose
16 additional terms at that time.

17
18 An amendment was offered to impose the actual costs in the case. The amendment was accepted.

19
20 Another amendment was offered to restrict the Respondent from practice in Florida until he
21 undergoes the PRN evaluation. This amendment was rejected.

22
23 The motion carried with three opposed. The Respondent took seven days to accept or reject the
24 counter proposal.

25
26 **Action taken:** letter of concern, \$3,000 fine, actual costs, Laws and Rules course, a PRN evaluation
27 which will be presented to the Probation Committee and to reserve jurisdiction to impose additional
28 terms at that time

29
30 **Minna Ruth Selub, M.D., Southwest Ranches, FL - Settlement Agreement14**

31 This hearing was continued until the next Board Meeting.

32
33 **Action taken:** continued

34
35 **Jennifer Lee Webb, M.D., Bloomfield Hills, MI - Settlement Agreement16**

36 Dr. Webb was present but not represented by counsel.

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

2
3 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(q), FS (2008) – Violating a
5 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
6 the department.

7
8 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

9
10 A motion was made, seconded and carried with one opposed to require the same terms but the fine
11 and costs are due within thirty days.

12
13 The Respondent accepted the counter proposal.

14
15 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws and Rules course, comply with terms
16 of the citation

17
18 **Jeffrey Alan Zipper, M.D., Delray Beach & Boca Raton, FL - Settlement Agreement19**

19 Dr. Zipper was present and represented by Gregory Chaires, Esquire.

20
21 Dr. J. Rosenberg and Mr. Mullins were 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)(q), FS (2008) – Prescribing,
25 dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled
26 substance, other than in the course of the physician's professional practice. For the purposes of this
27 paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or
28 otherwise preparing legend drugs, including all controlled substances, inappropriately or in
29 excessive or inappropriate quantities is not in the best interest of the patient and is not in the course
30 of the physician's professional practice, without regard to his or her intent and s. 458.331(1)(t), FS -
31 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
32 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
33 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
34 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
35 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
36 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
37 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

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

9 **Penalty imposed:** letter of concern, \$10,000 fine, costs, UF drug course, 50 hours community
10 service
11

12 **Alberto Gonzalez-Gomez, M.D., Sunny Isles & Coral Gables, FL - Hearing Not Involving**
13 **Disputed Issues of Material Fact22**

14 Dr. Gonzalez-Gomez was present and represented by Javier Talamo, Esquire.
15

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

18 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
19 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2008-2009) – Being
20 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
21 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
22 medicine; s. 456.072(1)(x), FS (2008-2009) – Failing to report to the board, or the department if
23 there is no board, in writing within 30 days after the licensee has been convicted or found guilty of,
24 or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.
25 Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph
26 must be reported in writing to the board, or department if there is no board, on or before October 1,
27 1999; and s. 456.042, FS (2008-2009) – A practitioner must submit updates of required information
28 within 15 days after the final activity that renders such information a fact. The Department of Health
29 shall update each practitioner's practitioner profile periodically. An updated profile is subject to the
30 same requirements as an original profile.
31

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

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

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

Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

- 1
- 2 A motion was made revoke the Respondent’s license and to impose a \$10,000 fine.
- 3
- 4 A motion was made, seconded and carried to assess costs.
- 5
- 6 **Penalty imposed:** revocation, \$10,000 fine, costs
- 7
- 8 **Ian Anthony Concilio, M.D., Port St. Lucie & Ft. Worth, FL - Hearing Not Involving Disputed**
- 9 **Issues of Material Fact.....24**
- 10 Dr. Concilio was present but not represented by counsel.
- 11
- 12 Dr. Lage was recused due to participation on the probable cause panel.
- 13
- 14 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
- 15 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2009) – Having a
- 16 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
- 17 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
- 18 or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
- 19 stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of
- 20 administrative charges against the physician's license, shall be construed as action against the
- 21 physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing,
- 22 within 30 days if action as defined in paragraph (b) has been taken against one's license to practice
- 23 medicine in another state, territory, or country.
- 24
- 25 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.
- 26
- 27 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
- 28
- 29 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
- 30 Statutes as charged in the Administrative Complaint.
- 31
- 32 A motion was made, seconded and carried 8-3 to impose a letter of concern, \$2,500 fine, costs,
- 33 suspension until all licenses are unencumbered and the Laws and Rules course.
- 34
- 35 A motion was made, seconded and carried unanimously to assess costs.
- 36

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **Penalty imposed:** letter of concern, \$2,500 fine, costs, suspension until all licenses are
2 unencumbered and the Laws and Rules course

3
4 **Ramon Antonio Pichardo, M.D., Miami, FL & Estill, SC - Hearing Not Involving Disputed**
5 **Issues of Material Fact.....25**

6 Dr. Pichardo was not present nor was he represented by counsel.

7
8 Dr. Nuss was recused due to participation on the probable cause panel.

9
10 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
11 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS (2008) – Being
12 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
13 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
14 medicine.

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

17
18 A motion was made, seconded and carried unanimously to adopt 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 revoke the Respondent’s license.

24
25 A motion was made, seconded and carried unanimously to assess costs.

26
27 **Penalty imposed:** revocation, costs

28
29 Lunch 12:26 p.m. – 2:00 pm

30
31 Michael Chizner, M.D. received his Board Member plaque and addressed the Board.

32
33 **Melanie Anne Abrams, P.A., Wellington, FL - Determination of Waiver26**

34 Ms. Abrams was not present nor was she represented by counsel.

35
36 No present members were recused due to participation on the probable cause panel.

37
Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
2 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(q), FS (2008-2009) – Violating
3 a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena
4 of the department.

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

8
9 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

10
11 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

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

15
16 A motion was made and seconded to impose a letter of concern, \$2,000 fine, Laws and Rules course,
17 25 hours community service and compliance with the previous Final Order.

18
19 An amendment was offered to impose a suspension until she has complied with the previous Final
20 Order. The amendment was accepted.

21
22 Mr. Tellechea asked the members to cite to aggravating factors that would lead them to go outside of
23 their disciplinary guidelines.

24
25 The amendment was withdrawn.

26
27 The motion carried unanimously.

28
29 A motion was made, seconded and carried unanimously to assess costs.
30 Costs, Laws and Rules course, 25 hours community service, compliance with the previous Final
31 Order

32
33 Mr. Tellechea suggested the Physician Assistant Council take a look at their disciplinary guidelines
34 related to this charge.

35
36 **Ekaterini Cathy Katechis, E.O., Boca Raton, FL - Determination of Waiver27**

37 Ms. Katechis was not present nor was she represented by counsel.

Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 Dr. Winchester was recused due to participation on the probable cause panel.
3

4 Ms. Green represented the Department and presented the case to the Board. Allegations of the
5 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(q), FS (2009) – Violating a
6 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
7 the department.
8

9 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
10 to a hearing.
11

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

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

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

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

21 A motion was made, seconded and carried unanimously to assess costs.
22

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

25 **Elaine Westman, E.O., Lake Worth, FL - Determination of Waiver (case # 2008-22693)**

26 **.....28**

27 Ms. Westman was not present nor was she represented by counsel.
28

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

31 Ms. Green represented the Department and presented the case to the Board. Allegations of the
32 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(dd), FS (2007) - Violating any
33 provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.
34

35 A motion was made, seconded and carried unanimously to find the Respondent has waived her right
36 to a hearing.
37

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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 unanimously to impose a reprimand, \$500 fine, and a
9 suspension until all CME are complete.

10

11 A motion was made, seconded and carried unanimously to assess costs.

12

13 **Penalty imposed:** reprimand, \$500 fine, and a suspension until all CME are complete, costs

14

15 **Elaine Westman, E.O., Lake Worth, FL - Determination of Waiver (case # 2009-24239)**

16

1729

18

19 Ms. Westman was not present nor was she represented by counsel.

20

21 Dr. Nuss was recused due to participation on the probable cause panel.
22 Ms. Green represented the Department and presented the case to the Board. Allegations of the
23 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(q), FS (2009) – Violating a
24 lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of
25 the department.

26

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

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 unanimously to find the Respondent has violated Florida
35 Statutes as charged in the Administrative Complaint.

36

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

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 A motion was made, seconded and carried unanimously to assess costs.

2
3 **Penalty imposed:** revocation, costs

4
5 **Maximo Christian Diamond, M.D., Dana Point, CA & Monarch Beach, CA - Determination**
6 **of Waiver.....30**

7 Dr. Diamond was not present nor was he represented by counsel.

8
9 Mr. Mullins was recused due to participation on the probable cause panel.

10
11 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
12 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2008) – Having a
13 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
14 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
15 or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
16 stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of
17 administrative charges against the physician's license, shall be construed as action against the
18 physician's license and s. 458.331(1)(kk), FS (2008) – Failing to report to the board, in writing,
19 within 30 days if action as defined in paragraph (b) has been taken against one's license to practice
20 medicine in another state, territory, or country.

21
22 A motion was made, seconded and carried unanimously to find the Respondent has waived his right
23 to a hearing.

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

26
27 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

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

31
32 A motion was made, seconded and carried unanimously to impose a letter of concern, \$3,000 fine,
33 and the Laws and Rules course.

34
35 A motion was made, seconded and carried unanimously to assess costs.

36
37 **Penalty imposed:** letter of concern, \$3,000 fine, Laws and Rules course, costs

Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 **Weixing Guo, M.D., Plattsburgh, NY - Determination of Waiver31**

3 Dr. Guo 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)(b), FS (2009) – Having a
9 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
10 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
11 or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,
12 stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of
13 administrative charges against the physician's license, shall be construed as action against the
14 physician's license and s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing,
15 within 30 days if action as defined in paragraph (b) has been taken against one's license to practice
16 medicine in another state, territory, or country.

17
18 A motion was made, seconded and carried unanimously to find the Respondent has waived his right
19 to a hearing.

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

22
23 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

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

27
28 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

29
30 A motion was made, seconded and carried unanimously to assess costs.

31
32 **Penalty imposed:** revocation, costs

33
34 **Martin Pinto, M.D., Ontario, Canada & Ft. Myers, FL - Settlement Agreement32**

35 Dr. Pinto was not present or represented by counsel.

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 Ms. Kiesling advised the Board that Dr. Pinto has requested a formal hearing as he is contesting the
2 facts in correspondence received and placed in the Board's addendum. She withdrew the Settlement
3 Agreement.

4
5 **Action taken:** Settlement Agreement withdrawn

6
7 **VOLUNTARY RELINQUISHMENTS:**

8 **Rajan K. Raj, M.D., Oak Brook, IL & Lakeland, FL33**

9 Dr. Raj was not present nor was he represented by counsel.

10
11 No present members were recused due to participation on the probable cause panel.

12
13 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(f), FS
14 (2007) – Aiding, assisting, procuring, or advising any unlicensed person to practice medicine
15 contrary to this chapter or to a rule of the department or the board; s. 458.331(1)(m), FS (2007) –
16 Failing to keep legible, as defined by department rule in consultation with the board, medical records
17 that identify the licensed physician or the physician extender and supervising physician by name and
18 professional title who is or are responsible for rendering, ordering, supervising, or billing for each
19 diagnostic or treatment procedure and that justify the course of treatment of the patient, including,
20 but not limited to, patient histories; examination results; test results; records of drugs prescribed,
21 dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(t), FS
22 (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
23 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
24 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
25 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
26 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
27 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
28 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
29 construed to require that a physician be incompetent to practice medicine in order to be disciplined
30 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
31 the board finding a violation under this paragraph shall specify whether the licensee was found to
32 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
33 malpractice," or any combination thereof, and any publication by the board must so specify; s.
34 458.331(1)(kk), FS (2007) – Failing to report to the board, in writing, within 30 days if action as
35 defined in paragraph (b) has been taken against one's license to practice medicine in another state,
36 territory, or country; s. 458.331(1)(x), FS (2007) – Violating a lawful order of the board or
37 department previously entered in a disciplinary hearing or failing to comply with a lawfully issued

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 subpoena of the department; s. 456.072(1)(bb), FS (2008) – Performing or attempting to perform
2 health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an
3 unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the
4 patient's diagnosis or medical condition. For the purposes of this paragraph, performing or
5 attempting to perform health care services includes the preparation of the patient; and s.
6 458.331(1)(b), FS (2007) – Having a license or the authority to practice medicine revoked,
7 suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of
8 any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a
9 physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in
10 response to or in anticipation of the filing of administrative charges against the physician's license,
11 shall be construed as action against the physician's license
12

13 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
14 License.
15

16 **Penalty imposed:** license relinquished
17

18 **Angelo V. Pace, M.D., Riviera Beach, FL34**

19 Dr. Pace was not present nor was he represented by counsel.
20

21 Probable cause was waived in this case.
22

23 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(j), FS (2009)
24 – Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a
25 profession contrary to this chapter, the chapter regulating the profession, or the rules of the
26 department or the board and s. 458.331(1)(g), FS (2009) – Failing to perform any statutory or legal
27 obligation placed upon a licensed physician.
28

29 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
30 License.
31

32 **Penalty imposed:** license relinquished
33

34 **Jorge Desiderio Hernandez, M.D., Loris, SC35**

35 Dr. Hernandez was
36

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

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS
3 (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
4 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
5 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
6 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
7 in anticipation of the filing of administrative charges against the physician's license, shall be
8 construed as action against the physician's license.

9
10 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
11 License.

12
13 **Penalty imposed:** license relinquished

14
15 **Edward John Herba, M.D., Glenview, IL.....36**
16 Dr. Herba was

17
18 Ms. Goersch was recused due to participation on the probable cause panel.

19
20 Allegations of Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2008) –
21 Having a license or the authority to practice medicine revoked, suspended, or otherwise acted
22 against, including the denial of licensure, by the licensing authority of any jurisdiction, including its
23 agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a
24 license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the
25 filing of administrative charges against the physician's license, shall be construed as action against
26 the physician's license and s. 458.331(1)(kk), FS (2008) – Failing to report to the board, in writing,
27 within 30 days if action as defined in paragraph (b) has been taken against one's license to practice
28 medicine in another state, territory, or country.

29
30 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
31 License.

32
33 **Penalty imposed:** license relinquished

34
35 **Dennis George Gay, P.A., Orlando, FL37**
36 Mr. Gay was

37

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 Probable cause was waived in this case.

2
3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(f), FS
4 (2009) – Aiding, assisting, procuring, or advising any unlicensed person to practice medicine
5 contrary to this chapter or to a rule of the department or the board; s. 458.331(1)(g), FS (2009) –
6 Failing to perform any statutory or legal obligation placed upon a licensed physician; s.
7 458.331(1)(k), FS (2009) – Making deceptive, untrue, or fraudulent representations in or related to
8 the practice of medicine or employing a trick or scheme in the practice of medicine; s.
9 458.331(1)(q), FS (2009) – Prescribing, dispensing, administering, mixing, or otherwise preparing a
10 legend drug, including any controlled substance, other than in the course of the physician's
11 professional practice. For the purposes of this paragraph, it shall be legally presumed that
12 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
13 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
14 interest of the patient and is not in the course of the physician's professional practice, without regard
15 to his or her intent; s. 458.331(1)(v), FS (2009) – Practicing or offering to practice beyond the scope
16 permitted by law or accepting and performing professional responsibilities which the licensee knows
17 or has reason to know that he or she is not competent to perform; s. 458.331(1)(w), FS (2009) –
18 Delegating professional responsibilities to a person when the licensee delegating such
19 responsibilities knows or has reason to know that such person is not qualified by training,
20 experience, or licensure to perform them; s. 458.331(1)(aa), FS (2009) – Presigning blank
21 prescription forms; and s. 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or
22 chapter 456, or any rules adopted pursuant thereto.

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 **Joseph A. Bergnes, Jr., M.D., Winter Haven, FL38**
30 Dr. Bergnes was

31
32 No present members were recused due to participation on the probable cause panel.

33
34 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS
35 (2010) - Being unable to practice medicine with reasonable skill and safety to patients by reason of
36 illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of
37 any mental or physical condition

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
3 License.

4
5 **Penalty imposed:** license relinquished

6
7 **Wayne Anthony Rahming, M.D., Lake City & High Springs, FL39**

8 Dr. Rahming was

9
10 Probable cause was waived in this case.

11
12 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(f), FS
13 (2009-2010) – Aiding, assisting, procuring, or advising any unlicensed person to practice medicine
14 contrary to this chapter or to a rule of the department or the board; s. 458.331(1)(g), FS (2009-2010)
15 – Failing to perform any statutory or legal obligation placed upon a licensed physician; s.
16 458.331(1)(k), FS (2009-2010) – Making deceptive, untrue, or fraudulent representations in or
17 related to the practice of medicine or employing a trick or scheme in the practice of medicine; s.
18 458.331(1)(q), FS (2009-2010) – Prescribing, dispensing, administering, mixing, or otherwise
19 preparing a legend drug, including any controlled substance, other than in the course of the
20 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that
21 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
22 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
23 interest of the patient and is not in the course of the physician's professional practice, without regard
24 to his or her intent; s. 458.331(1)(w), FS (2009-2010) – Delegating professional responsibilities to a
25 person when the licensee delegating such responsibilities knows or has reason to know that such
26 person is not qualified by training, experience, or licensure to perform them; s. 458.331(1)(nn), FS
27 (2009-2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
28 thereto; s. 458.331(1)(r), FS (2009-2010) – Prescribing, dispensing, or administering any medicinal
29 drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except
30 one prescribed, dispensed, or administered to the physician by another practitioner authorized to
31 prescribe, dispense, or administer medicinal drugs; s. 458.331(1)(h), FS (2009-2010) – Making or
32 filing a report which the licensee knows to be false, intentionally or negligently failing to file a
33 report or record required by state or federal law, willfully impeding or obstructing such filing or
34 inducing another person to do so. Such reports or records shall include only those which are signed
35 in the capacity as a licensed physician; and s. 458.331(1)(t), FS (2009-2010) – Notwithstanding s.
36 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.
37 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

11
12 A motion was made, seconded and carried unanimously to accept the Voluntary Relinquishment of
13 License.

14
15 **Penalty imposed:** license relinquished

16
17 **Susan Parker, E.O. – Motion for Reconsideration and Voluntary Relinquishment .62**

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

19
20 Allegations from the previous action: Violation of Florida Statute s. 456.072(1)(q), FS (2009) -
21 Violating a lawful order of the department or the board, or failing to comply with a lawfully issued
22 subpoena of the department.

23
24 At the April Board Meeting, the Board voted to revoke the Respondent’s license. However, on April
25 1, 2011, the day of the hearing, Ms. Parker signed a voluntary relinquishment of license. Mr.
26 Burgess advised the Voluntary Relinquishment was received at or around noon and was past the
27 time the Board revoked her license.

28
29 A motion was, made seconded and carried unanimously to deny the request for reconsideration.

30
31 **Action taken:** request denied

32
33 **FINAL ORDER COMPLIANCE ISSUES:**

34
35 **Jose Valladares, M.D. – Request for Approval of Alternate Practice Plan.....66**

36 Dr. Valladares was present and represented by Allen Grossman, Esquire. Also present was Dr.
37 Rivenbark and Dr. Suarez, Dr. Valladares’ proposed monitor.

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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A motion was made and seconded to approve the practice plan. The motion failed 6-6.

Another motion was made and seconded to approve the practice plan and to restrict him from seeing patients under the age of 18 and to require a chaperone when treating all female patients over the age of 18.

An amendment was offered to accept the Respondent’s agreement to limit his practice to an outpatient geriatric setting and to allow him to obtain staff privileges at Larkin Hospital, but not permitted to practice there. This amendment was accepted.

The motion failed 6-6.

Action taken: none

Mario Diaz, M.D. – Referral from Probation Committee

Dr. Diaz was present and represented by Monica Rodriquez, Esquire.

A motion was made, seconded and carried unanimously to allow Dr. Diaz to go from direct to indirect supervision for the remainder of his probation.

Action taken: indirect supervision approved

PETITION FOR DECLARATORY STATEMENT:

Rogelio S. Faillace, M.D. - Approval of Draft Final Order40

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

At a previous meeting, the Board voted to issue a declaratory statement.

A motion was made, seconded and carried unanimously to approve the draft Final Order on Declaratory Statement.

Action taken: draft Final Order approved

AHCA EXEMPTION:

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **Eduardo Acle, M.D.64**

2 Dr. Acle withdrew his request prior to the meeting.

3

4 **Action taken:** request withdrawn

5

6 **Jose Menendez, M.D.65**

7 Dr. Menendez was not present nor was he represented by counsel.

8

9 A motion was made, seconded and carried unanimously to deny the exemption.

10

11 **Action taken:** exemption denied

12

13 **2012 LEGISLATIVE PROPOSALS:.....63**

14 The Board reviewed their past legislative proposals. Ms. Tootle suggested the Board select their top
15 three proposals.

16

17 The Board selected the following proposals:

18

- CME
- Medical licensure with the exception of the language requiring participation and use of the Federation Credentials Verification System.
- Fine caps

21

22
23 The Board sent the topic of fine caps to the Rules/Legislative Committee to select specific violations
24 for which a \$25,000 fine cap could be imposed.

25

26 **Action taken:** Legislative proposals selected for the 2012 Session include CME, medical licensure
27 and fine caps.

28

29 Dr. Zachariah left at 4:30 p.m.

30

31 **FEDERATION OF STATE MEDICAL BOARDS:**

32 Ms. Tootle provided the report for the FSMB Annual Meeting held in April, 2011.

33

34 **Action taken:** none

35

36 **BOARD DIRECTOR'S REMARKS:**

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 Ms. Tootle advised the Board that, thanks to Mr. Mullins, the state room rate (or a discounted rate)
2 will be extended to the Respondents, their attorneys and the general public who are attending the
3 meetings. She stated Ms. Sanford's staff changed their process to ensure the hearing notices are sent
4 earlier to accommodate the hotel's request that all reservations be made two weeks prior to the
5 meeting date.

6
7 Ms. Tootle advised the Legislature will be sweeping the MQA Trust Fund. She said she will know
8 more after the end of the fiscal year and will report back to the Board at the August Board Meeting.

9
10 Mr. Mullins requested the Board place a hold on the rule which would lower the renewal fee from
11 \$360 – 342 to ensure the sweep and this change would not create a hardship on the budget.

12
13 A motion was made, seconded and carried unanimously to place a hold on Rule 64B8-3.003, FAC
14 related to the renewal fee.

15
16 **Action taken:** hold placed on Rule 64B8-3.003, FAC related to the renewal fee

17
18 **2012 – 2013 Board Meeting Dates58**

19 After discussion, a motion was made and seconded to set up meetings for 2012 as follows:

- 20 • 2 meetings in Tampa
- 21 • 2 meetings in Orlando
- 22 • 1 meeting in Pensacola
- 23 • 1 meeting in Ft. Lauderdale

24
25 An amendment was offered to hold one meeting in Tallahassee. The amendment was rejected.

26
27 The motion carried unanimously.

28
29 A motion was made, seconded and carried unanimously to set the April 2012 meeting for April 13-
30 14, 2012.

31
32 **Action taken:** 2012 meetings to include 2 in Tampa, 2 in Orlando, 1 in Pensacola and 1 in Ft.
33 Lauderdale; April meeting will be April 13-14, 2012

34
35 **BOARD COUNSEL'S REMARKS: No tab**
36 Pain Pumps:

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 Mr. Tellechea asked the Board to clarify whether pain pumps are considered dispensing or
2 administering in the office.

3
4 After discussion, Mr. Tellechea was advised to have the requesting physician submit a petition for
5 declaratory statement.

6
7 **Action taken:** Mr. Tellechea directed to have physician submit petition for declaratory statement

8
9 **PCP Enforcement Cases:**

10 Mr. Tellechea explained the 3 in 5 cases and asked the Board for direction on how to handle these
11 cases at the probable cause panel level. He requested guidance from the Board related to statute of
12 limitations.

13
14 The Board felt cases that have met the statute of limitations should not be considered.

15
16 **Action taken:** Mr. Tellechea report to the PCP Chairs not to consider 3 in 5 cases that have met the
17 statute of limitations.

18
19 **DEPARTMENT REMARKS: No tab**

20 Ms. Donnelly provided an update on cases at DOAH and an update on prosecution of older cases.

21
22 **Action taken:** none

23
24 **CITATION REPORT.....59**

25 This report was provided for information only.

26
27 **Action taken:** none

28
29 **RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.61**

30 A motion was made, seconded and carried unanimously to ratify the licensure lists with the
31 exception of David Winchester, M.D.

32
33 A motion was made, seconded and carried unanimously to ratify the license of David Winchester,
34 M.D.

35
36 **Action taken:** lists ratified

37
38 **APPROVAL OF MEETING MINUTES:**

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **April 1-2, 2011 Meeting60**

2
3 A motion was made, seconded and approved the minutes as written.

4
5 **Action taken:** minutes approved

6
7 **COMMITTEE REPORTS:**

8
9 **Credentials Committee MeetingNo Tab**

10 Dr. Tucker provided the report for the meeting held June 2, 2011.

11
12 A motion was made, seconded and carried unanimously to approve the report.

13
14 **Action taken:** report approved

15
16 **COUNCIL ON PHYSICIAN ASSISTANTS:**

17 Dr. Espinola provided the report for the meeting held June 2, 2011.

18
19 A motion was made, seconded and carried unanimously to approve the report.

20
21 **Action taken:** report approved

22
23 **Rules/Legislative Committee MeetingNo tab**

24 Dr. J. Rosenberg provided the report for the meeting held June 2, 2011.

25
26 Mr. Tellechea advised HB 7095 provides new violations related to the prescribing of controlled
27 substances and requires the Board to establish disciplinary guidelines for those violations. He asked
28 the Board to allow him to draft disciplinary guidelines and bring the language back to the Board for
29 approval at the August Board Meeting and to make this rule part of the Board's regulatory plan.

30
31 A motion was made, seconded and carried unanimously to allow Mr. Tellechea to draft disciplinary
32 guidelines for review at the August Meeting and to include this rule in the Board's regulatory plan.

33
34 A motion was made, seconded and carried unanimously to approve the report.

35
36 **Action taken:** report approved

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **Expert Witness Committee No tab**

2

3 Dr. Nuss provided the report for the meeting held June 2, 2011.

4

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

6

7 **Action taken:** report approved

8

9 **Anesthesiology Assistants Committee No tab**

10 Dr. Espinola provided the report for the meeting held June 2, 2011.

11

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

13

14 **Action taken:** report approved

15

16 **NEW BUSINESS:**

17 Mr. Mullins asked the Board if they were interested in bringing back the Sunshine Fund.

18

19 After discussion, the Board decided not to restart the Sunshine Fund, but to allow Dr. Rosenberg and
20 Dr. Tucker to establish a social committee for the purpose of discussing refreshments at the
21 meetings.

22

23 The meeting adjourned at 5:18 p.m.

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 **Saturday, June 4, 2011**

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

3

4 **Members Present:**

5 George Thomas, M.D., Chair

6 Merle Stringer, M.D.

7 Trina Espinola, M.D.

8 Robert Nuss, M.D.

9 James Orr, M.D.

10 Jason Rosenberg, M.D., Vice Chair

11 Gary Winchester, M.D.

12 Nabil El Sanadi, M.D.

13 Brigitte Goersch, Consumer Member

14 Onelia Lage, M.D.

15 Zachariah P. Zachariah, M.D.

16 Jayne Mittan, PA-C

17 Jeffrey Hulley, PA-C

18 Gustavo Leon, M.D.

19

20 **Staff Present:**

21 Joy A. Tootle, J.D., Executive Director

22 Ed Tellechea, J.D., Board Counsel

23 Donna McNulty, J.D., Board Counsel

24 Nancy Murphy, Paralegal

25 Crystal Sanford, CPM, Program Operations Administrator

26 Chandra Prine, Program Operations Administrator

27 Whitney Bowen, Regulatory Specialist II

28 Jennifer Hirst, Public Information Officer

29

30 **Prosecuting Attorneys Present:**

31 Veronica Donnelly, J.D., Medical Section Lead

32 Yolonda Green, J.D.

33 Gavin Burgess, J.D.

34 Carol Gregg, J.D.

35 Diane Kiesling, J.D.

36

37 **DISCIPLINARY CASE SCHEDULE CONTINUED:**

Minutes prepared by Crystal Sanford

Members Absent:

Donald Mullins, Consumer Member

Elisabeth Tucker, M.D.

Bradley Levine, Consumer Member

Fred Bearison, M.D.

Fuad Ashkar, M.D.

Georges El Bahri, M.D.

Others Present:

American Court Reporting

Cindy Green

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 Ms. Tootle provided opening remarks and described the hearings scheduled on the agenda.

3
4 Ms. Sanford read the Settlement Agreement list and it was determined which cases would be
5 presented to the Board.

6
7 Dr. Thomas welcomed new member, Dr. Orr.

8
9 **Mark Warren Cooper, M.D., Wynnewood, PA – Settlement Agreement.....42**

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

11
12 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
13 (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
14 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
15 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
16 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
17 in anticipation of the filing of administrative charges against the physician's license, shall be
18 construed as action against the physician's license and s. 458.331(1)(kk), FS (2009) – Failing to
19 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
20 against one's license to practice medicine in another state, territory, or country.

21
22 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

23
24 **Penalty imposed:** letter of concern, \$2,000 fine, costs

25
26 **Donald Melvin Dewey, M.D., Pensacola & Tallahassee, FL Settlement Agreement.45**

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

28
29 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
30 (2005) - Notwithstanding s. [456.072\(2\)](#) but as specified in s. [456.50\(2\)](#): 1. Committing medical
31 malpractice as defined in s. [456.50](#). The board shall give great weight to the provisions of s. [766.102](#)
32 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
33 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
34 malpractice as defined in s. [456.50](#). A person found by the board to have committed repeated medical
35 malpractice based on s. [456.50](#) may not be licensed or continue to be licensed by this state to provide
36 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
37 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 this paragraph. A recommended order by an administrative law judge or a final order of the board
2 finding a violation under this paragraph shall specify whether the licensee was found to have
3 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
4 or any combination thereof, and any publication by the board must so specify.

5
6 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

7
8 **Penalty imposed:** reprimand, \$10,000 fine, costs, 50 hours community service

9
10 **Peter P. Zabinski, M.D., Melbourne, FL - Settlement Agreement46**

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

12
13 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
14 (2006) - Performing or attempting to perform health care services on the wrong patient, a wrong-site
15 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
16 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
17 of this paragraph, performing or attempting to perform health care services includes the preparation
18 of the patient.

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

21
22 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 5 hours CME in
23 risk management, 1-hour lecture

24
25 **James Douglas Gay, M.D., Denver, CO – Settlement Agreement.....48**

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

27
28 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
29 (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
30 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
31 including its agencies or subdivisions. The licensing authority's acceptance of a physician's
32 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
33 in anticipation of the filing of administrative charges against the physician's license, shall be
34 construed as action against the physician's license and s. 458.331(1)(kk), FS (2009) – Failing to
35 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
36 against one's license to practice medicine in another state, territory, or country.

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

2

3 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws & Rules course, probation until all
4 licenses clear; restriction – must reactive his license and keep it current during period of probation,
5 PRN, appearances

6

7 **Brian Chivas James, M.D., Sarasota, FL - Settlement Agreement50**

8 Dr. Lage and Ms. Goesrch were recused due to participation on the probable cause panel.

9 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
10 (2007-2008) - Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
11 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
12 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more
13 than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated
14 medical malpractice as defined in s. 456.50. A person found by the board to have committed
15 repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by
16 this state to provide health care services as a medical doctor in this state. Nothing in this paragraph
17 shall be construed to require that a physician be incompetent to practice medicine in order to be
18 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
19 final order of the board finding a violation under this paragraph shall specify whether the licensee
20 was found to have committed "gross medical malpractice," "repeated medical malpractice," or
21 "medical malpractice," or any combination thereof, and any publication by the board must so
22 specify.

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

24 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws & Rules course, UF drug course, 50
25 hours community service, 5 hours CME in risk management

26 **Patrick Chery, M.D., Pleasant Valley, NY - Settlement Agreement52**

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

28 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
29 (2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
30 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
31 when 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

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

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

10

11 **Penalty imposed:** letter of concern, \$10,000 fine, costs, 5 hours CME in risk management

12

13 **Karen Dawn Todd, M.D., Vero Beach, FL - Settlement Agreement53**

14 Mr. Mullins was recused due to participation on the probable cause panel. Dr. Rosenberg recused
15 himself from consideration of this case.

16 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
17 (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
18 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
19 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
20 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
21 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
22 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
23 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
24 construed to require that a physician be incompetent to practice medicine in order to be disciplined
25 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
26 the board finding a violation under this paragraph shall specify whether the licensee was found to
27 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
28 malpractice," or any combination thereof, and any publication by the board must so specify.

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

30

31 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 5 hours CME in
32 risk management, 10 hours CME in proper surgical techniques and/or cauterizing tools

33

34 **Helen Elizabeth Watt, M.D., Scottsdale, AZ – Settlement Agreement54**

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

2
3 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
4 (2009) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
5 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
6 including its agencies or subdivisions and s. 458.331(1)(kk), FS (2009) – Failing to report to the
7 board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's
8 license to practice medicine in another state, territory, or country.

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

11
12 **Penalty imposed:** letter of concern, \$2,000 fine, costs, Laws and Rules course

13
14 Dr. Winchester gave his compliments to PSU stating the Board had never approved this many
15 Settlement Agreements in prior meetings.

16
17 Dr. Thomas introduced Bob Katims, M.D., former Board Member, who was present in the audience.

18
19 **Pedro Ernesto Montanez, M.D., -Settlement Agreement.....41**

20 Dr. Montanez was present and represented by Brian Newman, Esquire.

21
22 Dr. Espinola and Ms. Goersch were recused due to participation on the probable cause panel.

23
24 Mr. Burgess represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005-2008) –
26 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
27 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
28 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 medical
31 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
32 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
33 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
34 this paragraph. A recommended order by an administrative law judge or a final order of the board
35 finding a violation under this paragraph shall specify whether the licensee was found to have
36 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
37 or any combination thereof, and any publication by the board must so specify.

Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

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

3
4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 50 hours community service, 5 hours CME in
5 the area of kidney related diseases, 5 hours CME in risk management

6
7 **Tomas V. Factora, M.D., Ft. Myers, FL - Settlement Agreement.....43**

8 Dr. Factora was present and represented by Randolph Collette, Esquire

9
10 Dr. Winchester and Mr. Mullins were recused due to participation on the probable cause panel.

11
12 Mr. Burgess 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 (1990-2005) –
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 medical
19 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
20 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
21 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
22 this paragraph. A recommended order by an administrative law judge or a final order of the board
23 finding a violation under this paragraph shall specify whether the licensee was found to have
24 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
25 or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS
26 (1999-2005) – Failing to keep legible, as defined by department rule in consultation with the board,
27 medical records that identify the licensed physician or the physician extender and supervising
28 physician by name and professional title who is or are responsible for rendering, ordering,
29 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
30 treatment of the patient, including, but not limited to, patient histories; examination results; test
31 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
32 hospitalizations; and s. 458.331(1)(q), FS (1990-2005) – Prescribing, dispensing, administering,
33 mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the
34 course of the physician's professional practice. For the purposes of this paragraph, it shall be legally
35 presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs,
36 including all controlled substances, inappropriately or in excessive or inappropriate quantities is not

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
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Ft. Lauderdale, FL 33316
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June 3-4, 2011

1 in the best interest of the patient and is not in the course of the physician's professional practice,
2 without regard to his or her intent.

3
4 A motion was made, seconded and carried with one opposed to reject the Settlement Agreement.

5
6 A motion was made and seconded to offer a counter proposal to impose three months suspension,
7 \$12,500 fine, costs, the Laws and Rules course, the FMA recordkeeping course, 100 hours
8 community service, 5 hours CME in risk management and the UF drug course.

9
10 An amendment was offered to impose three years probation upon reinstatement with indirect
11 supervision, quarterly reports, 25% chart review, 100% review of charts where controlled substances
12 were prescribed with a report of said controlled substances to be provided to the Probation
13 Committee for review. The amendment was not accepted.

14
15 Another amendment was offered to require an addictions course. This amendment was rejected.

16
17 The motion failed 5-6.

18
19 Another motion was made and seconded to offer a counter proposal to impose a reprimand,
20 \$12,5000 fine, costs, the Laws and Rules course, the FMA recordkeeping course, 100 hours
21 community service, 5 hours CME in risk management, the UF drug course, a risk management
22 review and probation as noted above.

23
24 An amendment was offered to require the Florida CARES evaluation. This amendment was
25 rejected.

26
27 Another amendment was offered to require no probation, no risk management CME and to impose a
28 permanent restriction from prescribing controlled substances. This amendment was accepted.

29
30 The motion carried unanimously. The Respondent took 7 days to accept or reject the counter offer.

31
32 **Action taken:** reprimand, \$12,500 fine, costs, Laws & Rules course, FMA recordkeeping course,
33 QA assessment and compliance, 100 hours community service, UF drug course, permanently
34 restricted from prescribing controlled substances

35
36 **Kurt Andrew Gasner, M.D., Winter Haven, FL - Settlement Agreement44**

37 Dr. Gasner was present and represented by Brian Newman, Esquire.

Minutes prepared by Crystal Sanford

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 No present members were recused due to participation on the probable cause panel.
3

4 Mr. Burgess represented the Department and presented the case to the Board. Allegations of the
5 Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS (2009) – Performing or
6 attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
7 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
8 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
9 performing or attempting to perform health care services includes the preparation of the patient.
10

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

13 The Respondent was asked to update his practitioner profile.
14

15 **Penalty imposed:** letter of concern, \$1,000 fine, costs, 5 hours CME in risk management, 1-hour
16 lecture
17

18 **Edward Lorenzo German, M.D., Ft. Myers & Lehigh, FL - Settlement Agreement 47**

19 Dr. German was present and represented by Kenneth Metzger, Esquire.
20

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

23 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
24 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2008) – Being
25 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
26 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
27 medicine and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in
28 consultation with the board, medical records that identify the licensed physician or the physician
29 extender and supervising physician by name and professional title who is or are responsible for
30 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
31 the course of treatment of the patient, including, but not limited to, patient histories; examination
32 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
33 consultations and hospitalizations.
34

35 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
36

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 A motion was made and seconded to revoke the Respondent’s license and to impose costs. The
2 motion carried 7-3.

3

4 The Respondent took 7 days to accept or reject the counter offer.

5

6 **Action taken:** Settlement Agreement rejected; counter offer to revoke the Respondent’s license,
7 costs

8

9 **Virgilio I. Beato, M.D., Coral Gables, FL - Settlement Agreement49**

10 Dr. Beato was present and represented by Benito Diaz, Esquire.

11

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

13

14 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
15 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005) –
16 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
17 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
18 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
19 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
20 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical
21 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
22 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
23 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
24 this paragraph. A recommended order by an administrative law judge or a final order of the board
25 finding a violation under this paragraph shall specify whether the licensee was found to have
26 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
27 or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m),
28 FS (2005) – Failing to keep legible, as defined by department rule in consultation with the board,
29 medical records that identify the licensed physician or the physician extender and supervising
30 physician by name and professional title who is or are responsible for rendering, ordering,
31 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
32 treatment of the patient, including, but not limited to, patient histories; examination results; test
33 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
34 hospitalizations.

35

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

37

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
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(954) 527-2700**

June 3-4, 2011

1 A motion was made, seconded and carried unanimously to add 4 hours CME in cerebralvascular
2 disease and the remaining terms of the original Settlement Agreement.

3
4 The Respondent and the Department accepted the counter offer.

5
6 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 25 hours community service, 5 hours CME in
7 risk management, 4 hours CME in cerebralvascular disease

8
9 **Imad E. Tarabishy, M.D., Brooksville, FL - Settlement Agreement.....51**

10 Dr. Tarabishy was present and represented by Bruce Lamb, Esquire.

11
12 No present members were recused due to participation on the probable cause panel.

13
14 Ms. Green represented the Department and presented the case to the Board. Allegations of the
15 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005) -
16 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
17 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
18 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
19 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
20 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
21 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
22 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
23 construed to require that a physician be incompetent to practice medicine in order to be disciplined
24 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
25 the board finding a violation under this paragraph shall specify whether the licensee was found to
26 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
27 malpractice," or any combination thereof, and any publication by the board must so specify and s.
28 458.331(1)(m), FS (2005) - Failing to keep legible, as defined by department rule in consultation
29 with the board, medical records that identify the licensed physician or the physician extender and
30 supervising physician by name and professional title who is or are responsible for rendering,
31 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
32 of treatment of the patient, including, but not limited to, patient histories; examination results; test
33 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
34 hospitalizations.

35
36 Mr. Lamb clarified the Administrative Complaint refers to a closed reduction surgery when in fact it
37 was an open reduction surgery.

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1
2 A motion was made, seconded and carried 7-4 to accept the Settlement Agreement.

3
4 **Penalty imposed:** reprimand, \$10,000 fine, costs, 100 hours community service, 5 hours CME in
5 risk management, FL CARES or its equivalent

6
7 Dr. Thomas introduced Jayne Mittan, PA who serves on the probable cause panel and Jeffrey
8 Hulley, PA-C, who serves on the probable cause panel and is the current Chair of the Physician
9 Assistant Council.

10
11 Dr. Thomas introduced Jennifer Hirst, the Board's Public Information Officer.

12
13 Dr. Lage introduced Sydney Pomenti, her medical student. Ms. Pomenti has just completed her first
14 year at the University of Miami Medical School.

15
16 **Annicol Marrocco, M.D., Mahwah, NJ & Naples, FL - Settlement Agreement15**

17 Dr. Marrocco was present and represented by George Indest, Esquire.

18
19 Dr. J. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel.

20
21 Ms. Green represented the Department and presented the case to the Board. Allegations of the
22 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2008) –
23 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
24 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
25 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
26 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
27 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
28 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
29 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
30 construed to require that a physician be incompetent to practice medicine in order to be disciplined
31 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
32 the board finding a violation under this paragraph shall specify whether the licensee was found to
33 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
34 malpractice," or any combination thereof, and any publication by the board must so specify; s.
35 458.331(1)(m), FS (2007-2009) – Failing to keep legible, as defined by department rule in
36 consultation with the board, medical records that identify the licensed physician or the physician
37 extender and supervising physician by name and professional title who is or are responsible for

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
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June 3-4, 2011

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; and s. 458.331(1)(q), FS (2007-2009) – Prescribing, dispensing,
5 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,
6 other than in the course of the physician's professional practice. For the purposes of this paragraph, it
7 shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing
8 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate
9 quantities is not in the best interest of the patient and is not in the course of the physician's
10 professional practice, without regard to his or her intent

11

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

13

14 A motion was made, seconded and carried unanimously to allow 18 months for Dr. Marrocco to pay
15 her fines and costs.

16

17 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 10 hours CME
18 in appropriate prescribing practices, 10 hours CME in proper medical record keeping, restricted from
19 prescribing to people with whom she has a relationship

20

21 **Katherine Anne Hoover, M.D., - Hearing Not Involving Disputed Issues of Material**
22 **Fact**21

23

Dr. Hoover was not present nor was she represented by counsel.

24

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

26

27 The Board received a request for a continuance and Mr. Tellechea read it into the record.

28

29 PSU opposed the continuance.

30

31 A motion was made and seconded to grant the continuance until the August Board meeting.

32

33 An amendment was offered to reject the request for continuance on the basis of the severity of this
34 case.

35

36 The motion was withdrawn.

37

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**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
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Ft. Lauderdale, FL 33316
(954) 527-2700**

June 3-4, 2011

1 A motion was made, seconded and carried unanimously to deny the request for continuance.

2

3 Ms. Green represented the Department and presented the case to the Board. Allegations of the
4 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2008) – Having a
5 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
6 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
7 or subdivisions and s. 458.331(1)(kk), FS (2008) – Failing to report to the board, in writing, within
8 30 days if action as defined in paragraph (b) has been taken against one's license to practice
9 medicine in another state, territory, or country.

10

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

12

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

14

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

17

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

19

20 A motion was made, seconded and carried unanimously to assess costs.

21

22 **Penalty imposed:** revocation, costs

23

24 **GOFARR REVIEW:**55

25 Mr. Tellechea reminded the Board the Governor issued an Executive Order in November 2010
26 regarding rulemaking. He said every agency under the control of the Governor's Office must file
27 rules with the Governor's Office of Fiscal Accountability and Regulatory Reform (GOFARR) to
28 determine the impact of the rule related to undue regulation or a financial impact. He advised the
29 Board was not directly under the Governor's control and did not have to comply with the Executive
30 Order; however, he recommended the Board voluntarily comply.

31

32 The Board agreed to voluntarily comply with the Executive Order unless there was some reason not
33 to such as an emergency rule.

34

35 Mr. Tellechea explained the Board is required to file an Annual Regulatory Plan which outlines the
36 Board's activities in the coming year related to rulemaking. He said the report is due July 1, 2011.

37

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
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June 3-4, 2011

1 Ms. McNulty explained the Statement of Estimated Regulatory Costs (SERC) requires an authorized
2 signature. She asked the Board to consider authorizing Ms. Tootle to sign SERC's on their behalf.

3

4 A motion was made, seconded and carried unanimously to authorize Ms. Tootle to sign SERC's on
5 the Board's behalf.

6

7 **Action taken:** voluntary compliance with the Executive Order; Ms. Tootle authorized to sign
8 SERC's

9

10 Mr. Tellechea provided an overview of HB 7095.

11

12 Dr. Winchester suggested some type of communication be sent to all effected physicians.

13

14 Ms. Tootle advised the Department had drafted a letter that includes all pertinent bills that will be
15 sent to all physicians once the bills are signed.

16

17 Dr. El Sanadi suggested coordinating communications with the Florida Medical Association (FMA).

18

19 **ANNUAL STRATEGIC PLANNING:57**

20 Ms. Tootle explained the strategic planning process and advised the Chair would provide the
21 Board's response at the Annual Chair's Meeting. She went through each question on the survey and
22 received feedback from the Board.

23

24 **ANNUAL DISCIPLINARY TRAINING DISCUSSION TOPICS:56**

25 Wrong site (person, procedure) discussion

26 Foreign body discussion

27

28 Ms. Donnelly addressed the Board and advised these matters were referred from the February Board
29 meeting for additional discussion. She requested the Board provide guidance in these cases related
30 to the type of penalty they would like to see imposed.

31

32 Mr. Tellechea further explained there was a 'disconnect' between the Board and the probable cause
33 panel on these types of cases.

34

35 Dr. Espinola stated this task may be more difficult than planned because Code 15 reports are
36 reported differently. She said some foreign objects would harm the patient more if an attempt to
37 remove it was made and sometimes there are manufacturing flaws that result in a piece of the

**Department of Health
Florida Board of Medicine Meeting
Draft Meeting Minutes
Embassy Suites
1100 SE 17th St
Ft. Lauderdale, FL 33316
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June 3-4, 2011

1 equipment breaking off in the patient. She thought providing guidance on wrong site cases would be
2 easier to do. She suggested a surgeon be on the probable cause panel when these cases are
3 considered.

4
5 Dr. Stringer agreed and said it would be different if the physician never recognized a foreign body
6 existed in the patient.

7
8 Mr. Tellechea summarized the Board felt the probable cause panel needed to use their discretion
9 when reviewing these cases.

10
11 Dr. Orr agreed with the suggestion to have a surgeon serve on the probable cause panel.

12
13 Dr. Lage suggested that when the panel is in doubt, to send the case to the Board.

14
15 Ms. Goersch expressed concern since she was a consumer member on the panel and these decisions
16 are difficult. She said the panel struggles with things like was a foreign body left, was an X-ray
17 obtained, did the nurse state the sponge count was correct. She suggested partnering with the Board
18 of Nursing.

19
20 Dr. Rosenberg said that requiring an X-ray following all surgeries to confirm the absence of a
21 foreign body is a real issue and not something that can be done in reality. He provided an example
22 of a patient that died waiting for such X-ray to be performed. He suggested adding a Consumer's
23 Corner to the Message from the Chair, written by the consumer members to explain some of these
24 issues in laymen terms.

25
26 Ms. Goersch clarified some of the comments made:

- 27 • If there was an incorrect count, was an X-ray done
- 28 • Pieces of wire left in the patient – no probable cause

29 She also reiterated the need for a surgeon to be on the call.

30
31 Dr. Thomas stated that two of the three current Chairs are surgeons plus there are current members
32 that are surgeons. He had concerns that waiting for a surgeon to be on the panel could cause
33 unnecessary delays.

34
35 Ms. Goersch stated that sometimes one of the panel members cannot attend and it leaves one
36 consumer member and one other member. She stated she appreciated the addition of alternate
37 members for each panel, but still has concerns about this.

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June 3-4, 2011

- 1
2 Ms. Kiesling brought up another issue regarding items brought into the surgery that are not counted.
3 She wanted to know how the Board wanted those cases handled.
4
5 Dr. Orr stated that nothing should be brought into the surgical field that is not counted.
6
7 Ms. Goersch also suggested taking another look at the pause rule.
8
9 Mr. Tellechea agreed and said it was time to work on this rule again and suggested the Surgical Care
10 Committee take another look at this rule.
11
12 Ms. Kiesling asked about minor wrong site surgeries stating that she noticed changes in how the
13 Board is responding to these cases.
14
15 Dr. Espinola suggested presenting the case and letting the panel make the determination.
16
17 Dr. Nuss disagreed stating it was inappropriate to have PSU making these decisions.
18
19 Dr. Stringer stated he thought the Board should be taking a stronger stand on wrong site cases.
20
21 Dr. Rosenberg cited some circumstances:
22 • If the physician leaves the OR and returns and it results in a wrong site case, then an
23 Administrative Complaint should be issued.
24 • If the wrong injection is done, but caught and the family is notified, a letter of guidance
25 should be issued.
26 • If the physician is forthright with the family and the surgery was not completely started, then
27 a letter of guidance should be issued.
28 • If the surgery resulted in the wrong disk being worked on, then an Administrative Complaint
29 should be issued.
30
31 Dr. Lage added if there was a bad outcome, an Administrative Complaint should be issued. She
32 asked about the current workload.
33
34 Ms. Donnelly advised she sees two wrong site cases on average per week.
35
36 Dr. El Sanadi suggested referring this issue to the Surgical Care Committee.
37

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**Department of Health
Florida Board of Medicine Meeting
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June 3-4, 2011

1 Ms. Goersch asked for help with wrong sponge counts.

2
3 Dr. Lage said that is a systems error and suggested inviting a Board of Nursing representative and an
4 Agency for Healthcare Administration representative to the August Meeting to discuss.

5
6 Steven Rosenberg, M.D. received his Board Member plaque and addressed the Board.

7
8 **DISCIPLINARY TRAINING:**

9 Ms. Tootle, Mr. Tellechea and Ms. Donnelly provided the annual board member training as required
10 by s. 458.307(4), F.S.

11
12 Dr. Winchester reminded members to send any correspondence they receive from Respondent's or
13 Respondent attorneys to the Board Office for handling.

14
15 Mr. Tellechea reviewed the recent judicial cases that affect the Board's activities:

- 16 1. Abrams case – The outcome of this wrong site case was that the Board has discretion in
17 imposing discipline in these cases.
- 18
19 2. Thompson case – The outcome of this case is the probable cause panel must either discuss
20 the case before finding probable cause or acknowledge they have thoroughly read the
21 complete record.

22
23 Ms. Donnelly stated a positive outcome of the Thompson case is the panel discusses the cases at
24 length and it becomes a learning tool for the attorneys.

25
26 **BOARD CHAIR'S REMARKS: No tab**

27 Dr. Thomas stated there were five past chairs present at the meeting and all get to have more insight
28 into the behind the scenes activities with staff. He thanked Ms. Prine, Ms. Sanford and Ms. Tootle
29 for their hard work. He said he relies on Mr. Tellechea, Ms. McNulty and Ms. Murphy for
30 assistance with various issues he must handle.

31
32 Dr. Thomas asked PSU to look at the way the materials are presented and see if there is a better way.
33 He mentioned the new process for determining whether documents should be sent to the members in
34 an addendum or supplemental package and suggested the staff and attorneys work together to reduce
35 the number of documents that come late.

**Department of Health
Florida Board of Medicine Meeting
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June 3-4, 2011

1 Ms. Donnelly advised Dr. Thomas that PSU was looking at these issues but started at the probable
2 cause panel level. She said they have instituted a quality assurance aspect which will start in the
3 next week. She said late items are typically defense attorneys and they want their materials read as
4 well, so she believed they would be willing to work with the Board in this matter.

5

6 Dr. Thomas also wants to spend more time educating the licensees. He said Ms. Sanford has great
7 Power Point Presentations that can be used to educate in our communities and if members do that to
8 let the Board Office know. He stated he would be writing an article on behalf of the FMA.

9

10 Dr. Thomas reiterated the importance for all three probable cause members to be present on the calls.

11

12 Dr. Thomas then thanked the members for their support and hard work.

13

14 Dr. Lage congratulated Dr. Thomas on a successful first meeting.

15

16 The meeting adjourned at 1:36 p.m.

17