

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

August 10-11, 2007

Friday, August 10, 2007

8:00 a.m. Roll Call

Members Present:

H. Frank Farmer, M.D., Chair
Robert Cline, M.D., Vice-Chair
Mammen Zachariah, M.D.
John Beebe, Consumer Member
Tully Patrowicz, M.D.
George Thomas, M.D.
Steven Rosenberg, M.D.
Carmel Barrau, M.D.
Onelia Lage, M.D.
Fred Bearison, M.D.
Michael Chizner, M.D.

Members Absent:

Laurie Davies, M.D.
Monique Long, Consumer Member
Gary Winchester, M.D.

Staff Present:

Larry McPherson, Jr., J.D., Executive Director
Ed Tellechea, J.D., Board Counsel
Deborah Loucks, J.D., Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations
Administrator
Chandra Prine, Program Operations
Administrator
Eulinda Jackson, Public Information Officer
LaShonda Knight, Board Staff

Others Present:

Raymond Pomm, M.D., Director
Practitioners Resource
Network

Suzette Bragg Peterson, American
Court Reporting

Prosecution Services Unit:

Ephraim Livingston, J.D.
Diane Kiesling, J.D.
Warren Pearson, J.D.
Matthew Casey, J.D.
Staci Braswell, J.D.

DISCIPLINARY CASE SCHEDULE:

Tab 1 - Mikhail Radivilov, M.D., Lakeland, FL – Settlement Agreement

Dr. Radivilov was present and represented by Ted Copeland, Esquire.

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

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

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

Penalty imposed: letter of concern, \$7,500 fine, \$3,674.85 costs, 50 hours community service, 5 hours CME in risk management, 5 hours CME in diagnosis of gastrointestinal problems

Tab 2 - Mark H. Sutherland, P.A., Gulf Breeze & Pensacola, FL – Settlement Agreement

Mr. Sutherland was not present when called.

A motion was made, seconded and carried unanimously to table this matter until the end of the day.

Tab 3 - William R. Crumbley, M.D., Tampa & Redington, FL – Settlement Agreement

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

Dr. Cline and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t), by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; violation of

Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalization; violation of Florida Statutes 458.331(1)(q) by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent; and violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: letter of concern, \$12,500 fine, \$8,060.07, laws and rules course, USF's prescribing course, 50 hours community service, 5 hours CME in risk management

Tab 4 - Kevin F. Browne, M.D., Lakeland, FL – Settlement Agreement

Dr. Browne was present and represented by Edward Copeland, IV, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Mr. Casey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t), by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances

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

Penalty imposed: letter of concern, \$7,500 fine, \$3,404.65 costs, 50 hours community service, 5 hours CME in risk management

Tab 5 - David B. Danzer, M.D., Westport, CT – Recommended Order

Dr. Danzer was present and represented by John Buchanan, Jr., Esquire.

Dr. Cline read the Recommended Order remarks and confirmed all participating members had read the complete record.

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

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

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

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

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

A motion was made, seconded and carried unanimously to assess costs at \$567.79.

Penalty Imposed: \$3,000 fine, \$567.79 costs, reprimand

Tab 6 - Ronnie Arad, M.D., Hollywood, FL – Settlement Agreement

Dr. Arad was present and represented by Mark Dresnick, Esquire.

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

Mr. Casey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

A motion was made and seconded to dismiss the case; however, the motion failed with one (1) member in favor.

A motion was made, seconded and carried within three (3) opposed to offer a counter proposal to impose a letter of concern and \$3,000.79 costs.

The Respondent accepted on the record.

Penalty imposed: letter of concern, \$3,000.79 costs

Tab 34 - Joseph T. Wingard, M.D., Jacksonville, FL – Settlement Agreement

Dr. Wingard was present and represented by John R. Saalfield, Esquire.

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

Mr. Casey represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 456.072(1)(bb) by leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.

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

Penalty imposed: reprimand, \$5,000 fine, \$2,877.39 costs, FMA recordkeeping course, and dismissal of count I, alleging violation of s. 456.072 (1)(bb), F.S.

Tab 7 - Marissa Magsino, M.D., Orlando, FL – Settlement Agreement

Dr. Magsino was present and represented by Mary J. Hall, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a

reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$5,000 fine, \$3,500 costs, 50 hours community service, 5 hours CME in issues in internal medicine, and dismissal of count I, alleging violation of s. 458.331(1)(m), F.S..

Tab 8 - Robert C. Fields, M.D., Miramar, FL – Settlement Agreement

Dr. Fields was present and represented by Jason Glusman, Esquire.

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

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

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

A motion was made and seconded to offer a counter proposal to impose the same terms in the Settlement Agreement but to lower the fine to \$2,500 and to omit the CME.

An amendment was offered to delete the community service. This amendment was accepted.

The motion carried unanimously.

Penalty imposed: letter of concern, \$2,500 fine, \$6,061.34 costs

Tab 9 - Arshad Ahad, M.D., Port Charlotte, FL – Settlement Agreement

Dr. Ahad was present and represented by Wendy Accardi, Esquire. The patient's wife was present and her attorney addressed the Board on her behalf.

Dr. Farmer was recused due to participation on the probable cause panel. Dr. Cline chaired this tab.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing medical malpractice.

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

Penalty imposed: letter of concern, \$5,000 fine, \$4,680.19 costs, FMA laws and rules course, FMA medical recordkeeping course, 50 hours community service, 5 hours CME in risk management

Dr. Farmer introduced several Department of Health investigators representing multiple offices that were present in the audience:

Ft. Lauderdale office

Enrique Torres

Tony Spina

Peter Gonzalez

Katherine Rosenblatt

Heidi Schaffer, Manager

Ft. Myers office

Jean Clyne, Manager

Miami office

Ruth Molina

Tab 10 - Howard B. London, M.D., Miami & Key Biscayne, FL – Hearing Not Involving Disputed Issues of Material Fact

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

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

Ms. Kiesling advised the Board that Dr. London has suffered a brain injury and that his counsel, Raul Lorado, had advised her to move forward on the case without his presence.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(x) by violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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

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

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

A motion was made and seconded to suspend the Respondent's license until such time as he has complied with the previous Final Order. The motion failed.

A motion was made and seconded to revoke the Respondent's license. This motion also failed.

Another motion was made and seconded to impose an indefinite suspension. This motion passed unanimously.

A motion was made, seconded and carried with one (1) opposed to assess costs.

Penalty imposed: suspension, \$1,294.83 costs.

Tab 11 - Jose Rey, M.D., Coral Gables, FL – Settlement Agreement

Dr. Rey was present and represented by Anthony Vitale, Esquire.

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

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. [766.102](#) when enforcing this paragraph and violation of Florida Statute 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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

Penalty imposed: reprimand, \$20,000 fine, \$19,520.88 costs, 20 hours CME in infectious disease and treatment of HIV patients, laws and rules course, 50 hours community service, restriction from prescribing, administering Neupogen and/or Procrit or engage in any practice in which intravenous Neupogen and/or Procrit are administered or prescribed, restricted from treating patients for the HIV/AIDS condition, probation for six (6) months with indirect supervision and other probationary terms

Tab 12 - Samuel Cox, M.D., Ft. Lauderdale, FL – Recommended Order

This matter was moved to Saturday, August 11, 2007.

Tab 13 - Mario Diaz, M.D., Boynton Beach & Miami, FL – Settlement Agreement

Dr. Diaz was not present, but was represented by Monica Rodriguez, Esquire.

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

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(c) by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

A motion was made, seconded and carried with three (3) opposed to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose a suspension that is effective now and will run until one (1) year after his release from prison. He must report when he is released. He is never allowed to prescribe on the Internet again. Upon reinstatement he will be placed on two (2) years probation with terms and direct supervision of which he may petition for indirect supervision after one (1) year. In addition, the counter offer included 100 hours community service, reprimand, \$10,000 fine, \$6,311.95 costs, 50 hours community service, laws and rules course, and USF's prescribing course. The motion passed with 3 opposed.

Ms. Rodriguez took 7 days to consult with her client regarding accepting or rejecting the counter offer.

Action taken: The above counter offer was made to Respondent. Pending response.

Tab 14 - Francisco Vazquez, M.D., Ft. Myers, FL – Recommended Order

Dr. Vazquez was not present, but he was represented by Michael Gennett, Esquire.

No present members were recused due to participation on the probable cause panel. Dr. Farmer read the Recommended Order remarks and confirmed all members, except Dr. Lage, had read the complete record. Dr. Lage had technical problems reading the agenda materials on the CD and had to recuse herself.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(jj) by Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

A motion was made, seconded and carried unanimously to accept the Petitioner's first exception for reasons set forth in their written argument.

A motion was made, seconded and carried unanimously to accept the Petitioner's second exception for reasons set forth in their written argument.

A motion was made, seconded and carried unanimously to remand this case back to the Division of Administrative Hearings (DOAH) based on the acceptance of the Petitioner's Exceptions.

Mr. Gennett did not oppose.

Action taken: case remanded back to DOAH.

Tab 15 - Ricardo Sabates , M.D., Miami, FL – Settlement Agreement

Dr. Sabates was present and represented by Anthony C. Vitale, Esquire.

Dr. Farmer was recused due to participation on the probable cause panel. Dr. Cline chaired this case.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(g) by failing to perform any statutory or legal obligation placed upon a licensed physician; violation of Florida Statutes 458.331(1)(f) by aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board; violation of Florida Statutes 456.072(1)(k) by failing to perform any statutory or legal obligation placed upon a licensee; and violation of Florida Statutes 456.072(1)(j) by aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

Both parties agreed that pursuant to the proposed Settlement Agreement, the Respondent is to report to the Board of Medicine Compliance Officer in lieu of the Pharmacy Compliance Officer.

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

Penalty imposed: reprimand, \$10,000 fine, \$4,107.97, FMA laws and rules course, USF's prescribing course, 25 hours community service, 10 hours CME in responsibilities of dispensing physicians, probation for one (1) year with terms including office inspections.

Dr. Farmer recognized the investigators of the Unlicensed Activity Office who were present in the audience.

Tab 16 - Karl M. Hagen, M.D., Ocoee, FL – Settlement Agreement

This hearing was continued until the next Board Meeting.

Tab 17 - Ricardo Castro, M.D., Miami, FL – Determination of Waiver Hearing

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

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

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative complaint: Violation of Florida Statutes 458.331(1)(g) by failing to perform any statutory or legal obligation placed upon a licensed physician and violation of Florida Statutes 458.331(1)(x) by violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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

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

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

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

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

A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,208.58.

Penalty imposed: revocation. \$1,208.58 costs

Tab 18 - Howard L. Kahen, M.D., New Port Richey, FL – Settlement Agreement

Dr. Kahen was present and represented by Tyler E. Batteese, Esquire.

Mr. Beebe and Dr. Barreau were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$10,000 fine, \$2,458.38 costs, 50 hours community service, 5 hours CME in diagnostic radiology and/pr imaging technique and interpretation

Tab 19 - Jack B. Sewell, M.D., Sarasota, FL – Settlement Agreement

Dr. Sewell was not present, nor was he represented by counsel. He withdrew his Settlement Agreement and submitted a voluntary relinquishment.

Mr. Beebe and Dr. Bearison were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

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

Penalty imposed: voluntary relinquishment.

Tab 20 - Norma J. Roche, M.D., Homestead, FL – Settlement Agreement

Dr. Roche was present and represented by Sean Ellsworth, Esquire.

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

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(c) by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

A motion was made, seconded and carried with four (4) opposed to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose a letter of concern, \$5,000 fine, costs, ethics course, and 100 hours community service.

An amendment was offered to require a 1 hour lecture on the laws and rules affecting a medical director and a physician's office. This amendment was accepted.

Another amendment was offered to require 200 hours of community service. This amendment was accepted.

An amendment was offered to remove the ethics course. This amendment was also accepted.

Another motion was offered to reduce the community service hours to 100 hours. This amendment was accepted.

The motion carried unanimously.

The Respondent accepted the counter offer on the record.

Penalty imposed: letter of concern, \$5,000 fine, \$1,171.47 costs, 100 hours community service, 1-hour lecture on the laws and rules affecting a medical director and a physician's office

Tab 21 - Allan Del Rosario, M.D., Bradenton, FL – Settlement Agreement

Dr. Del Rosario was present and represented by Jon Pellett, Esquire.

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

Ms. Braswell represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

A motion was made to reject the Settlement Agreement; however, the motion failed due to a lack of a second.

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

Penalty imposed: letter of concern, \$5,000 fine, \$2,544.49 costs, 50 hours community service, 5 hours CME in risk management, 1-hour lecture, dismissal of count 2, alleged violation of s. 458.331(1)(nn), F.S.

Tab 22 - Craig Berger, M.D., Tampa, FL – Settlement Agreement

Dr. Berger was present and represented by Bruce Lamb, Esquire.

Dr. Barrau and Mr. Beebe were recused due to participation on the probable cause panel. Dr. Patrowicz also recused himself because he knows a close member of the family.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; and violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

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

Penalty imposed: letter of concern, \$10,000 fine, \$3,161.91 costs, 50 hours community service, 5 hours CME in risk management, 1-hour lecture.

Tab 23 - Daniel Z. Silverstone, M.D., Newton, MA – Settlement Agreement

Dr. Silverstone was not present when called. The matter was tabled until the end of the day.

Tab 24 - J. Spence Thompson, M.D., Edmond, OK – Hearing Not Involving Disputed Issues of Material Fact

Dr. Thompson was present and represented by Jeffrey Sneed, Esquire. Dr. Pomm was also present.

Dr. Barrau and Mr. Beebe were recused due to participation on the probable cause panel.

Ms. Braswell represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(b) by having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions and violation of Florida Statutes

458.331(1)(kk) by failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

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

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

A motion was made, seconded and carried unanimously to impose a letter of concern, \$1,000 fine and \$1,836.77 costs.

Penalty imposed: letter of concern, \$1,000 fine, \$1,836.77 costs

Tab 25 - Douglas Addison Dorsay, M.D., Sarasota, FL - Hearing Not Involving Disputed Issues of Material Fact

Dr. Dorsay was present, but not represented by counsel.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Ms. Braswell represented the Department and presented the case to the Board.
Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

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

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

A motion was made, seconded and carried unanimously to impose a letter of concern, \$5,000 fine, \$1,930.42 costs, 5 hours CME in risk management, 50 hours community service and a 1-hour lecture.

Penalty imposed: letter of concern, \$5,000 fine, \$1,930.42 costs, 5 hours CME in risk management, 50 hours community service, a 1-hour lecture

Tab 26 - Jose A. Gutierrez , M.D., Helotes, TX – Settlement Agreement

Dr. Gutierrez was not present, nor was he represented by counsel. He requested a continuance which was denied; however, the Board waived his appearance.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(x) by violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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

Penalty imposed: reprimand, \$5,000 fine, \$884.27 costs, suspension until Respondent complies with the previous Final Order

Tab 27 - James H. Howitt, M.D., Miami, FL – Settlement Agreement

This case was moved until later in the day.

Tab 28 - David Blyweiss, M.D., Ft. Lauderdale, FL – Settlement Agreement

This case was moved until later in the day.

Tab 29 - Robert M. Livingston, M.D., Boca Raton, FL – Settlement Agreement

This case was moved until Saturday, August 11, 2007.

Tab 30 - Paul B. Eclavea, M.D., Laurens, SC – Settlement Agreement

Dr. Eclavea was present, but not represented.

Dr. Cline and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida statutes 456.072(1)(q) by violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

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

Penalty imposed: letter of concern, \$2,500 fine, \$1,466.38 costs, completion of the required CME not completed for renewal of his license

Tab 31 - Alberto Dominguez-Bali, M.D., Aventura, FL – Settlement Agreement

Dr. Dominguez-Bali was present and represented by Rodnie Marquinez, Esquire.

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

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

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

Penalty imposed: letter of concern, \$5,000 fine, \$4,094.11 costs, FMA recordkeeping course, 50 hours community service, 5 hours CME in obstetric and gynecological sonography

Tab 32 - Gwenevere E. Williams, M.D., Kingwood, TX – Determination of Waiver and Final Order by Hearing Not Involving Disputed Issues of Material Fact

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

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

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(b) by having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions; violation of Florida Statutes 458.331(1)(kk) by failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country; and violation of Florida Statutes 456.072(1)(w) by failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

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

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

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

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

A motion was made, seconded and carried unanimously to suspend the Respondent's license until she has updated her practitioner profile and appears before the Board to demonstrate her licenses in all jurisdictions are free from all encumbrances.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$\$2,279.59.

Penalty imposed: suspension until Respondent has updated her practitioner profile and appears before the Board to demonstrate her licenses in all jurisdictions are free from all encumbrances, \$2,279.59 costs

Tab 59 - William R. Burkey, M.D., Ft. Myers, FL – Settlement Agreement

Dr. Burkey was present and represented by Bruce Stanley, Esquire.

For case numbers 2003-10697 and 2006-38725, probable cause was waived. No present members were recused in case number 2004-22840.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by filing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; violation of Florida Statutes 458.331(1)(q) by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice; violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; violation of Florida Statutes 456.072(1)(bb) by leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures; and violation of Florida Statutes 458.331(1)(s) by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

Penalty imposed: letter of concern, \$20,000 fine, \$13,500 costs, USF prescribing course, FMA medical recordkeeping course, 100 hours of community service, 5 hours CME in risk management, restricted to practice in accordance with PRN, probation, with terms to include direct supervision, to run concurrent with PRN.

Lunch 12:30 - 2:00 p.m.

Tab 37 - Mokenge P. Malafa, M.D., Tampa, FL – Settlement Agreement

Dr. Malafa was present and represented by Bruce Lamb, Esquire. The patient's son and daughter were present and addressed the Board on the case including a concern that an autopsy was not performed..

Mr. Beebe and Dr. Lage were recused due to due to participation on the probable cause panel.

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; violation of Florida Statutes 458.331(1)(p) by Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13; and violation of Florida Statutes 458.331(1)(t) by notwithstanding s. 456.072(2) but as specified in s. 456.50(2), committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act.

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

Penalty imposed: letter of concern, \$10,000 fine, \$5,500 costs, 50 hours community service, 5 hours CME in risk management

Prosecution Services was directed to refer the autopsy issue to the Agency for Health Care Administration.

Tab 33 - John C. Dali , M.D., Niceville, FL – Recommended Order

Dr. Dali was present and represented by Thomas Gonzalez, Esquire.

Dr. Bearison and Mr. Beebe were reused due to participation on the probable cause panel.

Dr. Farmer read the Recommended Order remarks and confirmed that all participating members had read the complete record.

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

A motion was made, seconded and carried with one (1) opposed to accept the Findings of Fact.

A motion was made, seconded and carried with one (1) opposed to accept the Conclusions of Law.

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

A motion was made, seconded and carried unanimously to require the CME be completed in the area of risk management.

A motion was made, seconded and with three (3) opposed to assess costs in the amount of \$22,344.76.

Penalty imposed: letter of concern, \$10,000 fine, \$22,344.76 costs, 5 hours CME in risk management

Tab 35 - Leslie Crescimano, M.D., Ft. Lauderdale, FL – Settlement Agreement

Dr. Crescimano was present and represented by Britt Thomas, Esquire.

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

Mr. Casey represented the Department and presented the case to the Board. Allegations of the Amended Administrative complaint: Violation of Florida Statutes 458.331(1)(t) by

committing Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

A motion was made, seconded and carried with one (1) opposed to reject the Amended Settlement Agreement.

Following a full discussion of the facts of the case, a motion was made, seconded and carried with one (1) opposed to dismiss the Amended Administrative Complaint and the Respondent agreed to waive attorney fees and costs.

Action taken: case dismissed

Tab 36 - Hisham M. Hanai, M.D., St. Petersburg, FL – Settlement Agreement

Dr. Hanai was present and represented by Bruce Lamb, Esquire. Dr. Pomm was also present.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(s) by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; violation of Florida Statutes 456.072(1)(hh) by being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program; and violation of Florida Statutes 456.072(1)(k) by failing to perform any statutory or legal obligation placed upon a licensee.

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

Penalty imposed: suspension until Respondent appears before the Board and demonstrates his ability to practice with skill and safety which includes a recommendation from PRN, \$5,022.12 costs, reprimand, compliance with PRN, laws and rules course, 200 hours community service

Tab 39 - Kieron Nisbet, M.D., Miami, FL – Determination of Waiver and Final Order by Hearing Not Involving Disputed Issues of Material Fact

Dr. Nisbet was not present, nor was he represented by counsel.

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

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative complaint: Violation of Florida Statutes 458.331(1)(g) by failing to perform any statutory or legal obligation placed upon a licensed physician; violation of Florida Statutes 458.331(1)(a) by attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board; and violation of Florida Statutes 458.331(1)(v) by practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

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

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

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

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

A motion was made, seconded and carried unanimously to assess costs in the amount of \$3,246.39.

Penalty impose: revocation, \$3,246.39 costs

Tab 40 - Mario Nanes, M.D., Miami Beach, FL – Settlement Agreement

Dr. Nanes was present, but not represented by counsel.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$10,000 fine, \$5,205.83 costs, USF prescribing course, 5 hours CME in risk management

Tab 41 - Joseph Sterling, M.D., Orlando, FL – Settlement Agreement

Dr. Sterling was present and represented by Gregory Chaires, Esquire.

Dr. Barrau and Mr. Beebe were recused due to participation on the probable cause panel.

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Amended Administrative complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Following a full discussion of the facts of the case, a motion was made, seconded and carried unanimously to dismiss the case and the Respondent waived attorney fees and costs.

Action taken: case dismissed

Dr. Farmer presented a certificate of appreciation to Nancy Murphy for her work on the Board's rules and Orders.

CHAIR'S RECOGNITION AWARD

Dr. Farmer recognized Michel Doddard, M.D., for his outstanding work with the Center for Haitian Studies and for helping to bring volunteers to serve those in need of medical services in Florida.

Tab 42 - Rameshbhai Patel, M.D., Titusville, FL –Recommended Order

Dr. Patel was present and represented by Gregory Chaires, Esquire.

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

Dr. Farmer read the Recommended Order remarks and confirmed all participating members had read the complete record.

Mr. Livingston represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

A motion was made, seconded and carried unanimously to deny Respondent's first exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's second exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's third exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's fourth exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's fifth exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's sixth exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's seventh exception for reasons outlined in the Petitioner's written response.

A motion was made, seconded and carried unanimously to deny Respondent's eighth exception because the Board has no substantive jurisdiction to rule.

The Respondent's 9th exception was withdrawn by Mr. Chaires.

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

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

Mr. Chaires withdrew his exceptions 10-14 and made the exceptions his argument against the penalty.

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

A motion was made, seconded and carried unanimously to set probation terms to include first and last appearances with 25% chart review.

A motion was made, seconded and carried with one (1) opposed to assess costs at \$25,318.31.

A motion was made, seconded and carried unanimously to require costs be paid within 30 days.

Penalty imposed: probation for one (1) year under indirect supervision with first and last appearances and 25% chart review, 5 hours CME in risk management, \$1,000 fine, \$25,318.31.

Tab 43 - Deborah Jean Mendoza, P.A., Weston & Maitland, FL – Settlement Agreement

Ms. Mendoza was present and represented by Albert Peacock, Esquire.

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

Mr. Livingston represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances and violation of Florida Statutes 458.331(1)(f) by aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

A motion was made, seconded and carried with four (4) opposed to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose the same terms in the Settlement Agreement but to remove the fine and to require 100 hours of community service.

An amendment was offered to impose a \$1,000 fine. The amendment was accepted.

Another amendment was offered to require a 1-hour lecture regarding the laws and rules and the need to update supervision data forms. This amendment was also accepted.

The motion carried unanimously.

The Respondent accepted the counter offer on the record.

Penalty imposed: letter of concern, \$1,000 fine, \$1,194.31 costs, 100 hours community service, 1-hour lecture regarding the laws and rules and the need to update supervision data forms, 5 hours CME in risk management

Prosecution Services was asked to look into the supervisor at the organization involved in this complaint.

Tab 27 - James H. Howitt, M.D., Miami, FL – Settlement Agreement

Dr. Howitt was present and represented by Marc Ganz, Esquire.

Dr. Farmer was recused due to participation on the probable cause panel. Dr. Cline chaired the tab.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

Penalty imposed: letter of concern, \$5,000 fine, \$1,813.90 costs, 50 hours community service, 5 hours CME in risk management, 1-hour lecture

David Blyweiss, M.D., Ft. Lauderdale, FL – Settlement Agreement

Dr. Blyweiss was present and represented by Marc Ganz, Esquire.

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

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and violation of Florida Statutes 458.331(1)(q) by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice.

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

Penalty imposed: letter of concern, \$20,000 fine, \$4,607.30 costs, FMA's recordkeeping course, 50 hours community service, 5 hours CME in risk management, restriction from practicing chronic pain management until approved by the Board

VOLUNTARY RELINQUISHMENTS:

Tab 44 - John B. Graham, M.D., Vero Beach, FL

Dr. Graham was not present, nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(g) by failing to perform any statutory or legal obligation placed upon a licensed physician and violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: voluntary relinquishment

Tab 45 - Pedro A. Cuni, M.D., Hialeah, FL & Springfield, MO

Dr. Cuni was not present, nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(c) by 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 with one (1) opposed to accept the voluntary relinquishment of license.

Penalty imposed: voluntary relinquishment

Tab 46 - James W. Hendrick, M.D., Jacksonville, FL

Dr. Hendrick was not present, nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(g) by failing to perform any statutory or legal obligation placed upon a licensed physician and violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: voluntary relinquishment

Tab 47 - George Albert Pyke, M.D., Anna Maria Island, FL

Dr. Pyke was not present, nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 448.331(1)(c) by 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 accept the voluntary relinquishment of license.

Penalty imposed: voluntary relinquishment

Tab 48 - Michael Stevens, M.D., Russellville, KY

Dr. Stevens was not present, nor was he represented by counsel.

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

Probable cause was waived in this case.

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

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

Penalty imposed: voluntary relinquishment

Tab 49 - Christine Calderon Alvarado, M.D., Owensboro, KY

Dr. Alvarado was not present, nor was she represented by counsel.

Dr Barrau and Mr. Beebe were recused due to their participation in the probable cause determination..

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: voluntary relinquishment

Tab 50 - Jaime Cuartas, M.D., Miami Beach, FL

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

Probable cause was waived in this case.

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

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

Penalty imposed: voluntary relinquishment

Tab 51 - Samuel M. Leb, M.D., Miami, FL

Dr. Leb was not present, nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(f) by aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board and violation of Florida Statutes 458.331(1)(w) by delegating professional responsibilities to a person when the

licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

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

Penalty imposed: voluntary relinquishment

Revisited Tab 2 - Mark H. Sutherland, P.A., Gulf Breeze & Pensacola, FL – Settlement Agreement

Mr. Sutherland was not present, nor was he represented by counsel.

Dr. Cline and Mr. Beebe were recused due to participation on the probable cause panel.

A motion was made, seconded and carried unanimously to waive Mr. Sutherland's appearance.

Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(hh) by Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. [456.076](#), for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

Penalty imposed: letter of concern, \$2,500 fine, \$1,406.87 costs, suspended until he is in compliance with his monitoring contract and he appears before the Board to demonstrate his ability to practice with reasonable skill and safety, probation upon reinstatement with terms to be set at that time

Revisited Tab 23 - Daniel Z. Silverstone, M.D., Newton, MA – Settlement Agreement

Dr. Silverstone was not present, nor was he represented by counsel.

Dr. Barrau and Mr. Beebe were recused due to participation on the probable cause panel.

A motion was made and seconded to waive Dr. Silverstone's appearance; however, the motion failed with 7 opposed.

A motion was made, seconded and carried with 1 opposed to table until the October Board Meeting.

Action taken: case tabled until the October Board Meeting

The meeting was adjourned at 5:25 p.m.

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

August 10-11, 2007

Saturday, August 11, 2007

8:00 a.m. Roll Call

Members Present:

H. Frank Farmer, M.D., Chair
Robert Cline, M.D., Vice-Chair
Mammen Zachariah, M.D.
Tully Patrowicz, M.D.
George Thomas, M.D.
John Beebe, Consumer Member
Steven Rosenberg, M.D.
Carmel Barrau, M.D.
Onelia Lage, M.D.
Fred Bearison, M.D.
Michael Chizner, M.D.
Gary Winchester, M.D.

Members Absent:

Laurie Davies, M.D.
Monique Long, Consumer Member

Staff Present:

Larry McPherson, Jr., J.D., Executive Director
Ed Tellechea, J.D., Board Counsel
Deborah Loucks, J.D., Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations
Administrator
Chandra Prine, Program Operations
Administrator
Eulinda Jackson, Public Information Officer

Others Present:

Raymond Pomm, M.D., Director
Practitioners Resource
Network

Suzette Bragg Peterson,
American Court Reporting

Prosecution Services Unit:

Ephraim Livingston, J.D.
Diane Kiesling, J.D.
Warren Pearson, J.D.
Matthew Casey, J.D.
Staci Braswell, J.D.

DISCIPLINARY CASE SCHEDULE CONTINUED:

Tab 52 - Ann St. John, M.D., Clearwater, FL – Settlement Agreement

Dr. St. John was present and represented by Jon Pellett, Esquire.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes 455.331(1)(m) by filing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$10,000 fine, \$4,519.91 costs, 10 hours CME in delivery of high risk patients and first time mothers, 1-hour lecture

Tab 53 - Tatjana Webster, M.D., St. Petersburg, FL – Settlement Agreement

Dr. Webster was present and represented by Randolph Collette, Esquire.

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

Mr. Livingston represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

A motion was made and seconded to table this matter until the next Board Meeting since the Respondent had fallen the night before and spent most of the night in the emergency room and was currently under Percocet for broken shoulder. After discussion, the Respondent advised she wanted to move forward. The motion failed with 7 opposed.

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

Penalty imposed: letter of concern, \$5,000 fine, \$5,017.65 costs, 25 hours community service, 5 hours CME in risk management

Tab 54 - Luis F. Narvaez, M.D., Davie, FL – Settlement Agreement

Dr. Narvaez was present and represented by Randolph Collette, Esquire.

Dr. Farmer was recused due to participation on the probable cause panel. Dr. Cline chaired the case.

Mr. Livingston represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$2,500 fine, \$3,902.02 costs, 50 hours community service, 5 hours CME in medical errors

Tab 55 - Frank L. Denoff, M.D., Deland, FL – Settlement Agreement

Dr. Denoff was present and represented by Randolph Collette, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(aa) by performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

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

Penalty imposed: letter of concern, \$10,000 fine, \$1,423.83 costs, 50 hours community service, 5 hours CME in risk management, 1-hour lecture

Tab 56 - Owen E. McDonough, Jr., P.A.-C., Orange Park, FL – Hearing Not Involving Disputed Issues of Material Fact

Mr. McDonough was present and represented by Jerry Jacobson, Esquire.

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

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(k) by failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan or failing to comply with service scholarship obligations shall be considered a failure to perform a statutory or legal obligation, and the minimum disciplinary action imposed shall be a suspension of the license until new payment terms are agreed upon or the scholarship obligation is resumed, followed by probation for the duration of the student loan or remaining scholarship obligation period, and a fine equal to 10 percent of the defaulted loan amount and violation of Florida Statutes 456.072(1)(v) by failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

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

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

A motion was made and seconded to impose a letter of concern, \$1,250 fine, \$3,787.28 costs, and the FMA's laws and rules course.

An amendment was offered to decrease the costs to \$2,307.41. This amendment was accepted.

Another amendment was offered to withdraw the original motion. No action was taken on this amendment.

The original motion as amended failed with only two (2) members in favor.

Another motion was made and seconded to impose a letter of concern, \$500 fine, and \$1,354 costs.

An amendment was offered to require 100 hours of community service. This amendment was rejected.

The motion passed with two (2) opposed.

Penalty imposed: letter of concern, \$500 fine, \$1,354 costs

Tab 57 - Harry V. Eisenberg, M.D., Maitland, FL – Settlement Agreement

Dr. Eisenberg was present and represented by Juan Ruiz, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: reprimand, \$15,000 fine, \$6,440.05 costs, FMA recordkeeping course, 50 hours community service, course in the prevention of medical errors, if Respondent returns to the practice of medicine (from retired status), his license will be suspended for 6 months.

Tab 58 - William James Tingle, M.D., Sarasota, FL – Settlement Agreement

Dr. Tingle was present and represented by Jeffrey L. Myers, Esquire.

Dr. Barrau and Mr. Beebe were recused due to participation on the probable cause panel.

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$10,000 fine, \$1,083.81 costs, FMA's recordkeeping course, 50 hours community service, 5 hours CME in ethics

Tab 60 - Franklin D. Clontz, M.D., Sanford, FL – Settlement Agreement

Dr. Clontz was present and represented by Paul Nugent, Esquire.

Dr. Cline and Mr. Beebe were recused due to participation on the probable cause panel.

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances.

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

Following a full discussion of the facts, a motion was made and seconded to offer a counter proposal to dismiss the case if the Respondent waives attorney fees and costs. The Respondent waived attorney fees and costs and the motion passed unanimously.

Action taken: case dismissed

Tab 61 - Laszlo Csury, M.D., Wappingers Fall, NY – Settlement Agreement

Dr. Csury was present and represented by Juan Ruiz, Esquire.

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

Mr. Levine represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$5,000 fine, \$3,732.76 costs, 5 hours CME in risk management

Tab 62 - Jerome W. Craft, M.D., Wellington, FL – Settlement Agreement

Dr. Craft's attorney had requested and was granted a continuance due to the physician being admitted to the intensive care unit. Subsequently, the Board was notified of the physician's death. Prosecution Services withdrew the case and advised the Board the information would be verified and if correct, the case will be closed.

Tab 63 - Michael Fox, M.D., Jacksonville, FL – Recommended Order

The case was continued until the October Board Meeting.

Tab 64 - Melissa Smith-Horn, M.D., Satellite Beach, FL – Settlement Agreement

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

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

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

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

Dr. Smith-Horn verbally requested reinstatement of her license since she had documentation with her that Vermont had issued a reprimand and she voluntarily relinquished her license.

The Board advised the Respondent to submit the document and it would be reviewed at the next Board Meeting.

Penalty imposed: letter of concern, \$5,000 fine, \$906.88 costs, 50 hours community service, suspended until she appears and demonstrates all licenses are unencumbered

Tab 65 - Mary Ellen Luchetti, M.D., Smyrna & Acworth, GA – Settlement Agreement

Dr. Luchetti was not present, but she was represented by Allen Grossman, Esquire.

Probable cause was waived in this case.

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

A motion was made, seconded and carried unanimously to offer a counter proposal to impose the same terms of the original Settlement Agreement, but to require no community service.

Action taken: counter proposal includes letter of concern, \$2,500 fine, \$700 costs, FMA's laws and rules course

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

Tab 66 - Usha S. Toprani, M.D., Holiday, FL – Settlement Agreement

Dr. Toprani was present and represented by Donald R. Peyton, Esquire. Dr. Pomm was also present.

Probable cause was waived in this case.

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(s) by being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

A motion was made and seconded to offer a counter proposal to impose the same terms in the original Settlement Agreement, but to impose a letter of concern in lieu of a reprimand. The motion carried unanimously.

The Respondent accepted the counter offer on the record.

Penalty imposed: suspended until she appears before the Board and demonstrates her ability to practice with reasonable skill and safety including support from PRN, probation upon reinstatement for a minimum of five (5) years with terms to be determined at that time, \$1,500 fine, \$3,945.27 costs

Tab 67 - Jorge Alsina, M.D., Hialeah, FL – Settlement Agreement

Dr. Alsina was present and represented by Anthony C. Vitale, Esquire.

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

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; violation of Florida Statutes 458.331(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances; and violation of Florida Statutes 458.331(1)(q) by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement. Both parties agreed on the record to allow the risk management review to be completed within 90 days.

Penalty imposed: reprimand, \$15,000 fine, \$4,559.68 costs, FMA's laws and rules and recordkeeping course, USF's prescribing course, 50 hours community service, risk management assessment, 5 hours CME in risk management

Tab 68 - Philip K. Springer, M.D., Gainesville & Raiford, FL – Settlement Agreement

This case was continued until the October Board Meeting.

Tab 69 - Celina Poy-Wing, M.D., Plantation, FL – Settlement Agreement

Dr. Poy-Wing was not present when called. The Board tabled the matter until later in the day.

Tab 70 - Jeffrey L. Mesuk, M.D., Delray Beach, FL – Settlement Agreement

Dr. Mesuk was present and represented by Lydia Mayer, Esquire.

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

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes 458.331(1)(bb) by prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

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

A motion was made and seconded to offer a counter proposal to impose the same terms in the original Settlement Agreement, but to increase the fine to \$5,000 and to add 50 hours of community service. The motion carried unanimously.

The Respondent accepted the counter offer on the record.

Penalty imposed: letter of concern, \$5,000 fine, \$3,383.89 costs, 50 hours community service, 1-hour lecture

Tab 71 - Emilio Bernardo Rives, P.A., Miami Springs, FL – Settlement Agreement

This case was continued until the October Board Meeting.

Tab 72 - James H. Pennington, M.D., Pensacola, FL – Settlement Agreement

Dr. Pennington was present and represented by Gregory Chaires, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances.

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

Penalty imposed: letter of concern, \$7,500 fine, \$2,457.30 costs, 50 hours community service, 5 hours CME in risk management

Tab 73 - Richard E. Wood, M.D., Middleburg, FL – Settlement Agreement

Dr. Wood was present and represented by Gregory Chaires, Esquire.

Dr. Bearison and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t), by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances; violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalization; and violation of Florida Statutes 458.331(1)(q) by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

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

Penalty imposed: letter of concern, \$5,000 fine, \$3,704.55 costs, 50 hours community service, 5 hours CME in risk management

Tab 29 - Robert M. Livingston, M.D., Boca Raton, FL – Settlement Agreement

Dr. Livingston was present and represented by Lester Perling. Dr. Pomm was also present.

Probable cause was waived in this case.

Mr. Pearson represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 456.072(1)(hh) by being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

A motion was made to reject the Settlement Agreement; however, the motion failed due to lack of a second.

A motion was made, seconded and carried with one (1) opposed to accept the Settlement Agreement. The scrivener's error in paragraph 6 of the stipulated disposition should state paragraph 5 was agreed to by both parties.

Penalty imposed: letter of concern, \$5,289.88 costs, USF's prescribing course, 5 hours CME in risk management, Florida CARES evaluation, suspended until completion of the Florida CARES program and compliance with PRN and until he demonstrates to the Board he can practice with skill and safety, upon reinstatement, the Board may impose additional terms, compliance with PRN, restrictions on controlled substance prescribing, if Respondent leaves the practice of medicine for more than one (1) year, he may be required to reappear before the Board to demonstrate his ability to practice, Respondent shall not consume, inject or ingest any controlled substance unless duly prescribed by another duly licensed practitioner, restrictions on practice

Tab 89 - Heather Paddock, M.D., Columbus, OH & Jacksonville, FL - Settlement Agreement

This matter was tabled until after lunch to allow the members that could not access the CD to read the case.

Tab 12 - Samuel Cox, M.D., Ft. Lauderdale, FL – Recommended Order

Dr. Cox was present and represented by Jonathan Lynn, Esquire.

Dr. Farmer was recused due to participation on the probable cause panel. Dr. Cline Chaired this tab. He read the Recommended Order remarks and confirmed all participating members had read the complete record.

Mr. Livingston represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(m) by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient

histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and violation of Florida Statutes 458.331(1)(t) by failing to practice medicine within the standard of care which would be recognized by a reasonably prudent medical professional under similar conditions and circumstances.

The Board addressed the Respondent's exceptions.

A motion was made, seconded and carried unanimously to deny the Respondent's first exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's second exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's third exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's fourth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's fifth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's sixth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's seventh exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's eighth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's ninth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's tenth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's eleventh exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's twelfth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's thirteenth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's fourteenth exception based on the Department's written response.

A motion was made, seconded and carried unanimously to deny the Respondent's fifteenth exception based on the Department's written response.

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

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

A motion was made, seconded and carried unanimously to deny the Respondent's last exception based on the Department's written response.

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

A motion was made, seconded and carried unanimously to set probationary terms to include indirect supervision, first, last and quarterly appearances with 25% chart review.

A motion was made, seconded and carried unanimously to table the cost issue until after lunch to allow the Department and the defense counsel to discuss the final amount.

Penalty imposed: reprimand, \$15,000 fine, probation for two (2) years with terms to include indirect supervision, first, last and quarterly appearances with 25% chart review

BOARD COUNSEL'S REMARKS

Rule 64B8-9.015, FAC – Qualifications of Physicians Who Evaluate and Treat Sex Offenders

Mr. Tellechea advised the Board that the rule outlining the qualifications of physicians to evaluate and treat sex offenders will be withdrawn since legislation has passed that defined "qualified practitioner" and the rule is no longer necessary.

Board of Medicine & Electrolysis Council vs. Laserderm Medspa and Sherry O'Hara-Bennett

Mr. Tellechea explained the Rules/Legislative Committee granted him authority to negotiate a non-rule policy and attorney fees and costs as it is related to this matter. He explained the Electrolysis Council had already voted to grant Ms. O'Hara-Bennett approval to teach laser training.

Tab 83 - Review of Draft Final Order on Declaratory Statement – Paul J. Befanis, Esquire

Mr. Tellechea asked the Board to review the draft version of the declaratory statement considered at the June Board Meeting.

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

Action taken: Final Order approved

Tab 84 - Corliss Rupp, M.D. vs. Board of Medicine

Ms. Loucks explained the Order in this case has been issued and sanctions are no longer being sought in this matter against Mr. Tellechea and Mr. Monty. However, they are still seeking attorney fees and costs. She explained that Mr. Peters in the Attorney General's office reviewed the case and said there may be an argument for appeal that the motion for costs was not timely filed.

A motion was made, seconded and carried unanimously not to appeal the Order.

Action taken: Order will not be appealed

DEPARTMENT REMARKS

Mr. Livingston advised the Board he drafted a letter to be sent with the voluntary relinquishments that clearly explains the consequences of signing a relinquishment.

After discussion, the Board asked Mr. Livingston to include the explanation in the body of the voluntary relinquishment form rather than sending a separate letter.

Mr. Livingston stated he would make the changes and present at the October Board Meeting.

BOARD DIRECTOR'S REMARKS

Mr. McPherson provided an update on the Board's budget. He explained the Department of Health submitted the budget in two parts: part one has a 4% reduction and part two has a 6% reduction. He said he would continue to keep the Board updated.

Mr. McPherson also addressed the meeting chart included in the agenda material which outlined the costs for all Board Meetings held in fiscal year 2006-2007. The Board Members requested a comparison of the August 2007 Board meeting with the proposed cost for the October 2007 meeting.

Mr. McPherson recognized the Prosecution Services Unit for the volume of cases presented. Mr. Livingston accepted the recognition and thanked the Board and the Attorney General's office staff for their professionalism when conducting the hearings.

The Board suggested a press release be issued regarding the number of cases the Board has been addressing.

Mr. McPherson also reminded the Board that we will be transitioning to the use of DVDs instead of CDs for the agenda material. This move will avoid problems such as multiple changes of the CD during hearings and the fact that DVDs hold more information than CDs. He stated the Board office was also working with Prosecution Services to tighten the notice process to avoid continuances.

COMMITTEE REPORTS:

Expert Witness Committee Conference Call

Dr. Barrau provided the meeting report for the meeting held August 1, 2007.

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

Action taken: report approved

Credentials Committee Meeting

Dr. Cline provided the meeting report for the meeting held July 20, 2007.

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

A motion was made, seconded and carried unanimously to have the Probation Committee, instead of the Credentials Committee, handle licensure compliance files. Mr. Tellechea reminded the Board the order will need to reflect the Probation Committee.

Action taken: report approved; Probation Committee will handle licensure compliance issues

RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.

A motion was made, seconded and carried unanimously to approve the licensure lists.

Action taken: licensure lists ratified

Rules/Legislative Committee Meeting

Dr. Lage provided the meeting report for the meeting held August 9, 2007.

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

Action taken: report approved

Dietetic-Nutrition/Electrolysis Committee Meeting

Dr. Lage provided the meeting report for the meeting held August 10, 2007.

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

Action taken: report approved

Revisited Tab 69 - Celina Poy-Wing, M.D., Plantation, FL – Settlement Agreement

Dr. Poy-Wing was not present when called again.

A motion was made, seconded and carried unanimously to continue this case until the October Board Meeting at which time the case will be heard.

Action taken: case continued

Surgical Care and Quality Assurance Committee

Dr. Cline provided the meeting report for the meeting held August 9, 2007.

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

Action taken: report approved

Anesthesiologist Assistant Committee Conference Call

Dr. Cline provided the meeting report for the meeting held July 30, 2007.

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

Action taken: report approved

COUNCIL ON PHYSICIAN ASSISTANTS (Dr. Farmer)

Dr. Farmer provided the meeting report for the meeting held August 9, 2007.

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

Action taken: report approved

APPROVAL OF MEETING MINUTES:

A motion was made, seconded and carried unanimously to approve the minutes for the meeting held July 21-22, 2007.

Action taken: minutes approved

Dr. Farmer introduced a mother-father physician team present in the audience. N. Henry Pevsner, M.D. and Deborah L. Pevsner, M.D. are both radiologists in Florida.

Dr. Patrowicz asked the Board to establish a committee that could look into how the Board can help reduce health care costs. Dr. Farmer advised he would talk to the Department to determine the Board's ability to establish such a committee.

Fred Whitson, J.D., representative of the Florida Medical Association (FMA), addressed the Board. He stated FMA could create an online course on dispensing laws and rules that would include an examination. He said the Board would not be able to require the course, but it would be a good resource for dispensing practitioners. He said FMA could develop online courses for other topics as well. The Board expressed interest and directed Mr. McPherson to draft a letter to FMA regarding this matter.

Lunch 12:20 pm – 1:20 pm

Revisited Tab 12 - Samuel Cox, M.D., Ft. Lauderdale, FL – Recommended Order

The Board revisited this case to resolve the cost issue.

A motion was made, seconded and carried unanimously to impose \$42,654.43 in costs.

Further penalty imposed: \$42,654.43 costs

DISCIPLINARY CASE SCHEDULE CONTINUED:

Heather Paddock, M.D., Columbus, OH & Jacksonville, FL - Settlement Agreement

Dr. Paddock was present and represented by Gregory Chaires, Esquire.

Dr. Lage and Mr. Beebe were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes 458.331(1)(t) by committing gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

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

A motion was made and seconded to offer a counter proposal to impose the same terms as the original agreement but to decrease the fine to \$500. The motion passed unanimously.

The Respondent accepted the counter offer.

Penalty imposed: letter of concern, \$500 fine, \$8,224.53 costs, 10 hours community service

LICENSURE ISSUES:

Heather Paddock, M.D. – Personal Appearance to Discuss Resident Registration Application

Dr. Paddock was present and represented by Gregory Chaires, Esquire.

A motion was made, seconded and carried unanimously to grant Dr. Paddock an unrestricted license.

Action taken: license granted

Tab 74 - Michael Sigler, M.D. – Informal Hearing

Dr. Sigler was not present, but he was presented by Allen Grossman, Esquire.

A motion was made, seconded and carried unanimously to allow Dr. Sigler to withdraw his application.

Action taken: allowed to withdraw application

Daniel P. Logan, M.D. – Petition for Removal of Restriction on License

Dr. Logan was present and represented by Allen Grossman, Esquire. Dr. Pomm was also present.

A motion was made, seconded and carried unanimously to lift the licensure restriction from Dr. Logan's license.

Action taken: restriction removed

Tab 75 - Ronald Myers, M.D. – Request for Reconsideration of Notice of Intent to Deny

Dr. Myers was present and represented by Julie Gallagher, Esquire.

A motion was made, seconded and carried unanimously to grant Dr. Myers an unrestricted license.

Action taken: license granted

Licensure Legislative Proposal Update

The Board reviewed draft legislative proposals related to the licensure language.

A motion was made, seconded and carried unanimously to approve the following language:

Nothing in this section limits the board's authority to grant licenses to physicians duly licensed in other states under conditions less restrictive than the requirements of this section. Notwithstanding any other provision of this section, the board may refuse to authorize a physician otherwise qualified to practice in the employ of any approved agency or institution if the agency or institution has caused or permitted violations of the provisions of this chapter which it knew or should have known were occurring.

Action taken: language approved

After discussion on possible other variations of this language, a motion was made, seconded and carried with one (1) opposed to leave the language as written.

A motion was made, seconded and carried unanimously to approve the following language:

As prescribed by board rule, the board may require an applicant who does not pass all aspects of the United States Medical Licensing Examination (USMLE) within 7 years from the date that the first step was passed to complete additional remedial education or training or retake the step of the examination that the applicant passed first.

Action taken: language approved

Maximilien R. Espinal Urena, M.D. – Temporary Certificate to Practice in Area of Critical Need – Ineligible Applicant

Dr. Urena was not present, nor was he represented by counsel.

A motion was made, seconded and carried unanimously to deny the license on the basis that he does not meet the statutory requirements.

Action taken: license denied

FINAL ORDER/COMPLIANCE ISSUES:

Tab 76 - Steven Mann, M.D. - Request for Reinstatement

Dr. Mann was present and represented by Jon Pellett, Esquire. Dr. Pomm was also present.

Mr. Pellett outlined his petition that includes the following modifications to the Final Order:

1) When Dr. Mann returns to Florida to practice, he will reappear before the Board with a practice plan and support from PRN.

2) Requirements that will be tolled include probation, payment of the fines and costs, monitoring and community service.

A motion was made, seconded and carried unanimously to grant the petition for reinstatement with the modifications listed.

Action taken: reinstatement granted with modifications

Rassan Tarabein, M.D. – Request for Reinstatement

Dr. Tarabein was present; however, his counsel had not yet arrived. The matter was tabled to allow time for Dr. Tarabein’s attorney to arrive.

Tab 78 - Umbrine Fatima, M.D. – Request for Modification of the Final Order

Dr. Fatima was not present, nor was she represented by counsel.

Ms. Sanford advised the Board she received a call from Dr. Fatima who lives in Canada. She stated Dr. Fatima advised she would not be able to attend the meeting and asked the Board to address her request in her absence.

A motion was made and seconded to allow Dr. Fatima to substitute a PGY-4 residency program in lieu of the Florida CARES evaluation. The motion failed.

A motion was made, seconded and carried to deny the request.

Action taken: request denied

Revisit Rassan Tarabein, M.D. – Request for Reinstatement

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

A motion was made, seconded and carried unanimously to reinstate Dr. Tarabein’s license.

Action taken: license reinstated

Mr. Tellechea asked the Board if a Respondent’s license is suspended until he/she can demonstrate all licenses in other jurisdictions are unencumbered, does the Board want the Respondent to reappear. The Board stated the appearance, for this circumstance, is not necessary.

PETITION FOR DECLARATORY STATEMENT:

Bay Area Renal Stone Center and Its Staff Physicians

This matter was withdrawn by the requestor.

PETITION FOR WAIVER/VARIANCE:

Bay Area Renal Stone Center and Its Staff Physicians

This matter was withdrawn by the requestor.

Tab 81 - Jesse Brancaleone

Mr. Brancaleone was not present, nor was he represented by counsel.

A motion was made, seconded and carried unanimously to approve the petition allowing Mr. Brancaleone one (1) year to complete his renewal CE requirements which may be taken in a format other than live, lecture format.

Action taken: give one (1) year to complete his renewal CE and may take courses that are not in a live, lecture format

Dr. Farmer thanked the Board members for their preparation, PSU for their hard work and the audience for attending the meeting.

The meeting adjourned at 2:30 p.m.