

**FLORIDA BOARD OF MEDICINE
PROBATION COMMITTEE MEETING
MEETING MINUTES
DoubleTree Hotel Tampa Airport Westshore
4500 West Cypress Street
Tampa, FL 33607
813-879-4800**

**Friday, September 2, 2011
9:00 a.m.**

The meeting of the Florida Board of Medicine's Probationers Committee was called to order by Dr. Gary Winchester, Chair, at 9:00 a.m. on Friday, September 2, 2011.

Members Present:

Gary Winchester, M.D., Chair
Elisabeth Tucker, M.D.

Member Excused:

Merle Stringer, M.D.

Others Present:

Ed Tellechea, Esquire, Board Counsel, Attorney General's Office
Shaila Washington, Compliance Officer, Compliance Management
Elisa Floyd, Regulatory Program Administrator, Compliance Management
Veronica Donnelly, Esquire, Prosecution Services Unit, Medical Section Manager

Others Present:

Dr. Martha Brown, representing the Professionals Resource Network
Patricia K. Gough, CVR, Court Reporter

Approval of June 10, 2011 Meeting Minutes

A motion was made; seconded and carried that approved the June 10, 2011 minutes from the Probationers Committee.

First Appearances with Monitor

Ida Gagliardi, M.D. – Case Number 2010-04926 1

Dr. Gagliardi made her first appearance before the Probation Committee accompanied by her proposed monitor, Dr. Gregory Krill for final approval. Dr. Krill was asked a series of questions. He agreed there is no financial relationship between him and Dr. Gagliardi. His office is located approximately 30 miles from Dr. Gagliardi's office. The Board Counsel advised that there is a rule concerning supervision, the rule requires that the supervising physician be within 20 miles of the respondents practice. Dr. Gagliardi stated that the previous proposed monitor was denied because he was a D.O.; she is having trouble locating someone to serve as her monitor. Her practice is located in Port Charlotte on 41. The Compliance Officer advised the Committee that Dr. Gagliardi is in compliance with the terms of the Final Order. The Board Counsel advised the Committee that an exception will have to be made to approve the monitor. Dr. Krill stated that he has read the Final Order and understands his requirements as a monitor. The Chair stated that the Board and the State of Florida appreciate his willingness to serve as monitor.

A motion was made, seconded and carried that Dr. Krill be approved as Dr. Gagliardi's monitor.

Alan Schwartz, M.D. – Case Number 2007-33856 2

Dr. Schwartz was not present at the Probation Committee meeting. The Compliance Officer advised the Committee that Dr. Schwartz will not be in attendance at this meeting.

No other motions were made.

Appearances with Monitor

Abbey Strauss, M.D. - Case Number 2005-58180 3

Dr. Strauss made an appearance before the Probation Committee accompanied by his proposed monitor, Dr. Jamie Rejtman for final approval. At the previous meeting there was discussion concerning financial relationships. Dr. Strauss stated at the time he was not aware of the rule concerning financial relationships. Immediately following the meeting, he informed Dr. Rejtman that he could not pay him for his services. He then contacted his Compliance Officer, she provided him with Affiliated Monitors contact information. He contacted Affiliated Monitors and entered a contract with them. In the course of talking with them, Vincent and another gentleman by the name of James Anliot who is apparently an attorney them; asked if he was comfortable his monitor, they brought up the option of Dr. Rejtman continue being his monitor if he is willing to work with them. At which time they contacted Dr. Rejtman and they have been in correspondence. They are now waiting on the Committee to make a decision as to if he can continue as monitor. Dr. Strauss practice is located in Boca Raton. Dr. Strauss was asked if he has attempted to contact any other doctors to be his monitor. Dr. Strauss stated that he has contacted three other doctors. The doctors contacted did not like the idea of serving as monitor with no reimbursement, because it is time consuming. Board counsel advised that the way the rule reads, it generally says that you can not have any type of financial relationship; you can not compensate your monitors. It creates an exception for instances where the physician has made an attempt to find monitors and have been unsuccessful and they provide some type of documentation demonstrating that they have been unsuccessful. Under those circumstances it allows for a physician to contract with an agency, such as Affiliated Monitors, to provide monitors. This rule explicitly came into place because Affiliated Monitors came before the Board and offered there services, the Board decided under limited circumstance it would be acceptable. It is up to the Committee to decide whether Dr. Strauss has documented or demonstrated to the Committees liking that he has made some type of attempt to obtain another monitor and was unable to. If you believe he has, under those circumstances you can go ahead and approve the use of this monitor from Affiliated Monitors. Dr. Strauss stated that he spoke with two local psychiatrists; one turned out to be a D.O. The Committee found that Dr. Strauss is here under oath testifying that he has attempted to make other arrangements. It appears that he has done due diligence going through Affiliated Monitors. The Chair stated that going forward he would like to see documentation that respondents have attempted to obtain other monitors, he can easily see this changing the whole direction.

A motion was made, seconded and carried that Dr. Rejtman be approved as Dr. Strauss monitor. Also, a motion was made, seconded, and carried to approve his community service.

James O'Mailia, M.D. - Case Number 2005-68242..... 4

Moved – Case heard after Tab 32

Jose Coba, M.D. – Case Number 2009-20685 5

Dr. Coba made an appearance before the Probation Committee without his proposed monitor, Dr. Jack Michel. Dr. Coba explained that his monitor was unable to attend due to difficulty; the monitor submitted a letter to the Committee. He stated that his monitor would be able to attend the next meeting. The Compliance Officer advised the Committee that Dr. Coba is out of compliance with the payment plan previously approved. Dr. Coba stated that the work he is doing now, he is just seeing insurance patients, there is really no money coming in. He is working on a different thing, a real estate thing, to come up with the money. He is currently behind on everything. The Chair asked if he has asked for a modification of the payment plan. Dr. Coba stated no, he will be able to make a payment next week. Dr. Coba's probation is currently active because the temporary approval is in place. The Board Counsel advised the Committee that if they withdraw the temporary approval of the monitor then the probation will be tolled; he can not practice without a monitor. The Committee asked that if Dr. Coba does not make a payment next week, as he has said under oath, the he be turned over for further investigation and remove the temporary approval of the monitor. The Committee advised respondent they are willing to allow temporary approval to continue, however, this is the last time. Dr. Coba was given until Friday, September 9th at 5:00 p.m., to make payment of \$5,000.00 and submit a request for a new payment plan. If this is not done, he will be in violation of the Final Order and subject to further discipline.

No other motions were made, probation continues.

Carlos Fleming – Case Number 2004-20640 6

Dr. Fleming made an appearance before the Probation Committee accompanied by his proposed monitor, Dr. Hatem A. Mourad for final approval. Dr. Brown was also present representing PRN. Dr. Mourad was asked a series of questions. Dr. Mourad stated that there is no financial relationship between him and Dr. Fleming. He and Dr. Fleming practice in the same office and both practice family practice and urgent care. Dr. Brown with PRN, advised that the Committee that Dr. Fleming has been under contract with PRN since November of 2009. He has been in compliance with everything they have asked him to do. Dr. Fleming stated that he is doing fine, his practice is busy. Dr. Fleming was reminded that his QA has not been submitted. The Chair stated that the Board and the State of Florida appreciate your willingness to serve in this capacity.

A motion was made, seconded and carried that Dr. Mourad be approved as Dr. Fleming monitor.

Quarterly Appearances

Mario Diaz, M.D. – Case Number 2003-24005..... 7

Dr. Diaz appeared before the Probation Committee for his quarterly appearance. Dr. Diaz stated that he is doing very well. There are currently no issues, he currently works at a cosmetic surgery center, called Strax Rejuvenation in Lauderhill, Florida. Dr. Diaz is an anesthesiologist; he has been in practice for 29 years. For the first 24 years, he was in hospital anesthesia care, Hialeah Hospital where he served for 10 years as Chief of the anesthesia department. He has a limitation in his Medicare and Medicaid billing rights, which will probably be restored next year. He will probably return to hospital service. Dr. Diaz only provides anesthesia services.

No other motions were made; probation continues.

William Leach, M.D. – Case Number 1999-59766..... 8

Dr. Leach made his quarterly appearance before the Probation Committee accompanied with Dr. Brown representing PRN. Dr. Leach stated that he is doing very well. Dr. Brown representing PRN reported he has been under contact since July of 2010; he has been compliant and is in compliance with his contract.

No other motions were made; probation continues.

Timothy Eastburn, P.A. – Case Number 2005-08314..... 9

Mr. Eastburn made his quarterly appearance before the Probation Committee along with Dr. Brown representing PRN. Mr. Eastburn submitted his monitor's report. The Compliance Officer advised the Committee that Mr. Eastburn's probation is scheduled to terminate November of 2012. Dr. Brown representing PRN reported he is in compliance with his contract, all drug screens are negative and he is doing well. The Compliance Officer advised the Committee that the minutes from the August 2011 full Board meeting, the restriction was lifted; however, an order has not been filed with the Department. The Compliance Officer will check in to the states of the order lifting the restriction.

No other motions were made; probation continues.

Final Appearance

Gold Dorval, M.D. – Case Number 2003-29906 10

Dr. Dorval made his final appearance before the Probation Committee. Dr. Dorval stated that he is fine. The Compliance Officer advised the Committee that Dr. Dorval is missing the report that was due by January 28, 2011 from his monitor. Dr. Dorval stated that he provided the report to his attorney and she stated that she faxed it in. The Compliance Officer advised Dr. Dorval that the report received was the respondent report not the monitor report.

A motion was made, seconded, and approved to contingently approve Dr. Dorval's probation provided that Dr. Dorval's January monitor report is approved and probation will end after the final approval of termination.

Mary Stegman, M.D. – Case Number 2004-02427, 2005-00285 11

Dr. Stegman made her final appearance before the Probation Committee. Dr. Stegman stated that she is doing well. Dr. Stegman stated that she has completed the Laws and Rules course and community service, proof of completion was provided to the Compliance Officer at the meeting. The Committee advised Dr. Stegman that she is behind on a couple reports. The respondent report from January has not been received, nor have the July reports from the monitor and respondent been received. The Compliance Officer advised that that the July monitor report was received on August 10th. Dr. Stegman stated that she was not aware that she was required to submit reports. The Committee advised Dr. Stegman that she previously provided a respondent report in May that was actually due in April. The Compliance Officer advised that she was sent a reminder concerning the respondent and monitor reports due in July. The Final Order outlines exactly what the report should include, please feel free to contact the Compliance Officer if you have any questions.

A motion was made, seconded, and approved to allow Dr. Stegman's probation to terminate on October 13, 2011, pending receipt of the respondent reports due by January 13th and July 13th. All reports must be approved by the Chair.

Request for Termination of Probation

Edwin Kulubya, M.D. – Case Number 2004-20921 12

Dr. Kulubya was not present at the Probation Committee meeting for consideration of early termination of probation. Probation has been terminated in California; Dr. Kulubya is requesting that the Committee terminate his probation. The Compliance Officer advised the Committee that it appears that Dr. Kulubya has not practiced in Florida, the fine and cost have been paid in full. Dr. Kulubya has not made an appearance before the Board nor has he notified the Department of his return to practice. The Final Order states that if he ever comes back to Florida he has to do a term of probation. At this time, Dr. Kulubya would not be able to relinquish his license because of the conditions of his license, unless it is done so through the disciplinary process.

A motion was made, seconded and carried to deny Dr. Kulubya request for termination of probation.

Extension Requests

Ernesto Porrás-Polo, M.D. – Case Number 2008-15277 31

Dr. Porrás-Polo made an appearance before the Probation Committee at which his extension requests to complete the continuing medical education requirement was presented for consideration. Dr. Porrás-Polo stated that he has three hours of CME he has to complete entitled Caring for Special Need Patients. He has not been able to find the course, when he finally located a course; it was a six hour course in Hudson Valley, New York. He paid for the course; temporary approval was granted to complete the courses however it was cancelled. The course is supposed to be rescheduled for March 2012. He has been contact with the Nancy with the FMA she was unable to assist him. He has called several places and searched over 3,000 websites, with no success. The Committee stated that this is a problem that we sometime run into, the Final Orders and consent agreements have CME that can be a little difficult to find and we are not aware they are difficult to find.

A motion was made, seconded, and carried unanimously to approve an extension until end of March 2012.

Quality Assurance Review

Debra Dube, M.D. – Case Number 2007-08976 13

Dr. Dube was not required to attend this Probation Committee meeting at which her quality assurance review was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Dube's quality assurance review.

Ismael Labrador, M.D. – Case Number 2007-08731, 2007-28543 14

Dr. Labrador was not required to attend this Probation Committee meeting at which his quality assurance review was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Labrador's quality assurance review.

Community Service Plans

Mark Romney, M.D. – Case Number 2006-04619 15

Dr. Romney was not required to attend this Probation Committee meeting at which his community service plan at Seminole Community Volunteer Program, Inc and continuing medical education request were presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Romney's community service plan and continuing education request.

James Banta, M.D. – Case Number 2009-24163 16

Dr. Banta was not required to attend this Probation Committee meeting at which his community service plan at Big Bothers Big Sisters and lecture outline were presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Banta's community service plan and lecture outline.

Thomas Bass, M.D. – Case Number 2009-17175 17

Dr. Bass was not required to attend this Probation Committee meeting at which his community service plan at Habitat for Humanity was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Bass' community service plan.

Mayra Freeman-Ladd, M.D. – Case Number 2009-00254..... 18

Dr. Freeman-Ladd was not required to attend this Probation Committee meeting at which her community service plan at New Jerusalem Full Gospel Ministries, Inc. and continuing education request were presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Freeman-Ladd's community service plan and continuing education request.

Corliss Oliver, M.D. – Case Number 2008-00841 19

Dr. Oliver was not required to attend this Probation Committee meeting at which her community service plan at Second Harvest was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Oliver's community service plan.

Fausto Castillo, M.D. – Case Number 2005-06586 20

Dr. Castillo was not required to attend this Probation Committee meeting at which his community service plan at Soldiers of the Cross of Christ International Evangelical Church was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Castillo's community service plan.

Jonathan Frantz, M.D. – Case Number 2008-18737 21

Dr. Frantz was not required to attend this Probation Committee meeting at which his community service plan at Community Cooperative Ministries Incorporated was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Frantz's community service plan.

Michael Bond, M.D. – Case Number 2007-32634 22

Dr. Bond was not required to attend this Probation Committee meeting at which his community service plan at the Celebrity Golf Challenge – Sponsored by the South Lakes Kiwanis was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Bond's community service plan.

Ikram Qureshi, M.D. – Case Number 2009-24838 23

Dr. Qureshi was not required to attend this Probation Committee meeting at which his community service plan at the Holmes County Health Department was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Qureshi's community service plan.

Shaukat Chowdhari, M.D. – Case Number 2006-34320 24

Dr. Chowdhari was not required to attend this Probation Committee meeting at which his community service plan at Red Crescent Clinic of Tampa Bay was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Chowdhari's community service plan.

Myles Samotin, M.D. – Case Number 2008-21409 25

Dr. Samotin was not required to attend this Probation Committee meeting at which his community service plan at Shy Wolf Sanctuary, Education and Experience Center, Inc. was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Samotin's community service plan.

Lecture Outlines

Martin Beggs, M.D. – Case Number 2009-22138 26

Dr. Beggs was not required to attend this Probation Committee meeting at which his lecture outline was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Beggs' lecture outline.

Andrew Davis, M.D. – Case Number 2010-01569..... 27

Dr. Davis was not required to attend this Probation Committee meeting at which his lecture outline was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Davis' lecture outline.

Peter Zabinski, M.D. – Case Number 2009-22149 28

Dr. Zabinski was not required to attend this Probation Committee meeting at which his lecture outline was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Zabinski's lecture outline.

Kenneth Taraszka, M.D. – Case Number 2009-14585..... 29

Dr. Taraszka was not required to attend this Probation Committee meeting at which his lecture outline was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Taraszka's lecture outline.

Payment Plans

Maximo Diamond, M.D. – Case Number 2009-23781 30

Dr. Diamond was not required to attend this Probation Committee meeting at which his payment plan was presented for consideration. The plan is outlined as follows:

1. \$500.00 August 1, 2011
2. \$500.00 September 1, 2011
3. \$500.00 October 1, 2011
4. \$800.00 November 1, 2011
5. \$800.00 December 1, 2011
6. \$821.51 January 1, 2012

A motion was made, seconded, and carried unanimously to approve Dr. Diamond's payment plan.

Extension Requests

Ernesto Porrás-Polo, M.D. – Case Number 2008-15277 31

Moved – Case heard after Tab 12

Continuing Medical Education Request

Helen Watts, M.D. – Case Number 2009-08548, 2010-03679 32

Dr. Watts was not required to attend this Probation Committee meeting at which her Continuing Medical Education request was presented for consideration.

A motion was made, seconded, and carried unanimously to approve Dr. Watt’s request that the Laws and Rules course completed June 25, 2011, satisfy the continuing education requirements for case numbers 2009-08548 and 2010-03679.

Appearances with Monitor

James O’Mailia, M.D. - Case Number 2005-68242..... 4

Dr. O’Mailia made an appearance before the Probation Committee accompanied by his attorney Bruce Lamb, for formal approval of his proposed monitor, Dr. David Gutstein. Regrettably Dr. Gutstein has not yet arrived; he was driving from Fort Myers this morning. He was delayed in obtaining coverage at the hospital and did not depart at the anticipated time. Dr. O’Mailia spoke with Dr. Gutstein about 40 minutes ago, and he was apparently he was in the Palmetto area where 275 and 75 meet. It was anticipated that he would be there by now; they appreciated the recess to allow him the opportunity to arrive. Mr. Lamb asked that the temporary approval be held over until the next meeting, so that Dr. Gutstein can appear. Dr. O’Mailia was asked a series of questions by the Committee. Dr. O’Mailia stated that he is doing very well. There is no financial relationship between him and his monitor. The office of the monitor and respondent are three to five miles apart. Last meeting there was a family emergency. Mr. Lamb advised the Committee that Dr. Gutstein was on his way to the meeting and had to return to Fort Myers.

A motion was made, seconded and carried that Dr. Gutstein temporary approval continues until the next meeting.

The meeting adjourned at 10:48 a.m.