

**Department of Health
Florida Board of Medicine Meeting
MEETING MINUTES**

**Wyndham Tampa Westshore
700 N Westshore Blvd
Tampa, FL 33609
(813) 289-8200**

September 30-October 1, 2011

1 **Friday, September 30, 2011**

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

3

4 **Members Present:**

Members Absent:

5 George Thomas, M.D., Chair
6 Jason Rosenberg, M.D., Vice Chair
7 Z.P. Zachariah, M.D., 1st Vice Chair
8 Elisabeth Tucker, M.D., 2nd Vice Chair
9 Merle Stringer, M.D.
10 Trina Espinola, M.D.
11 Donald Mullins, Consumer Member
12 Robert Nuss, M.D.
13 Fred Bearison, M.D.
14 James Orr, M.D.
15 Gary Winchester, M.D.
16 Brigitte Goersch, Consumer Member
17 Onelia Lage, M.D.
18 Bradley Levine, Consumer Member
19 Nabil El Sanadi, M.D.

20
21 **Staff Present:**

22 Joy A. Tootle, J.D., Executive Director
23 Ed Tellechea, Board Counsel
24 Donna McNulty, Board Counsel
25 Nancy Murphy, Paralegal
26 Chandra Prine, Program Operations Administrator
27 Crystal A. Sanford, CPM, Program Operations Administrator
28 Whitney Bowen, Regulatory Specialist II

Others Present:

Argus Bay Reporting and Legal
Stephanie Walters
4010 West State St
Tampa, FL 33609
(813) 490-0003
Martha E. Brown, M.D., Assist. Med. Dir.
Practitioners Recovery Network

29
30 **Prosecuting Attorneys Present:**

31 Veronica Donnelly
32 Carol Gregg
33 Yolanda Green
34 Diane Kiesling

35

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1 The Board, at the direction of the Chair, took a moment of silence in remembrance of John Beebe,
2 former Consumer Member on the Board, who recently passed away.

3
4 Ms. Tootle provided opening remarks regarding the types of hearings the audience would hear
5 through the day.

6
7 Ms. Sanford read the Settlement Agreement list and determined which hearings would be heard by
8 the Board.

9
10 **DISCIPLINARY CASE SCHEDULE:**

11
12 **Candace Giddings Koney-Laryea, M.D., Lutz & New Port Richey, FL – Settlement**
13 **Agreement2**

14 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

15 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
16 (2005-2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
17 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.
18 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more
19 than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated
20 medical malpractice as defined in s. 456.50. A person found by the board to have committed
21 repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by
22 this state to provide health care services as a medical doctor in this state. Nothing in this paragraph
23 shall be construed to require that a physician be incompetent to practice medicine in order to be
24 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
25 final order of the board finding a violation under this paragraph shall specify whether the licensee
26 was found to have committed "gross medical malpractice," "repeated medical malpractice," or
27 "medical malpractice," or any combination thereof, and any publication by the board must so specify
28 and s. 458.3311(m), FS (2005-2006) – Failing to keep legible, as defined by department rule in
29 consultation with the board, medical records that identify the licensed physician or the physician
30 extender and supervising physician by name and professional title who is or are responsible for
31 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
32 the course of treatment of the patient, including, but not limited to, patient histories; examination
33 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
34 consultations and hospitalizations.

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

2

3

4 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course, 50 hours community
5 service, 5 hours CME in risk management, 5 hours CME in resuscitative measures, 10 hours CME in
6 intra-operative treatment

7

8 **Richard Skibicki, M.D., Newark, OH – Settlement Agreement.....8**

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

10

11 Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s.
12 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked,
13 suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of
14 any jurisdiction, including its agencies or subdivisions.

15

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

17

18 **Penalty imposed in Amended Settlement Agreement:** letter of concern, \$2,500 fine, costs, Laws
19 & Rules course, suspension until all licenses are clear, PRN, dismiss counts 2 and 4

20

21 **Gilberto Sanchez, M.D., Montgomery, AL – Settlement Agreement9**

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

23

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

30

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

32

33 **Penalty imposed:** reprimand, \$2,500 fine, costs, Laws & Rules course, dismiss count 2 (kk)

34

35 **Manish Sahni, M.D., Leesburg, FL – Settlement Agreement34**

36 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause pane.

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1
2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS
3 (2009) – Failing to keep legible, as defined by department rule in consultation with the board,
4 medical records that identify the licensed physician or the physician extender and supervising
5 physician by name and professional title who is or are responsible for rendering, ordering,
6 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
7 treatment of the patient, including, but not limited to, patient histories; examination results; test
8 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
9 hospitalizations and s. 458.331(1)(t), FS (2009) – Notwithstanding s. 456.072(2) but as specified in
10 s. 456.50 (2): 1.Committing medical malpractice as defined in s. 456.50. The board shall give great
11 weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not
12 be construed to require more than one instance, event, or act. 2. Committing gross medical
13 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by
14 the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
15 continue to be licensed by this state to provide health care services as a medical doctor in this state.
16 Nothing in this paragraph shall be construed to require that a physician be incompetent to practice
17 medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
18 administrative law judge or a final order of the board finding a violation under this paragraph shall
19 specify whether the licensee was found to have committed “gross medical malpractice,” “repeated
20 medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by
21 the board must so specify.

22
23 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
24

25 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 12 hours CME
26 in recognition and treatment hemorrhagic shock, 5 hours CME in risk management
27

28 **Derrick John Martin, M.D., Lady Lake, FL – Settlement Agreement40**

29 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.
30

31 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
32 (2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1.Committing medical
33 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
34 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
35 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
36 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical

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

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

10
11 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 10 hours CME in surgery skills, 5 hours
12 CME in risk management

13
14 **Karen Marlise Cowles, EO, Seminole & Largo, FL – Settlement Agreement79**

15 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

16
17 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(o), FS
18 (2008) – Practicing or offering to practice beyond the scope permitted by law or accepting and
19 performing professional responsibilities the licensee knows, or has reason to know, the licensee is
20 not competent to perform.

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

23
24 **Penalty imposed:** letter of concern, \$1,000 fine, costs, 1 year suspension stayed with 1 year
25 probation with indirect supervision and 10% chart review

26
27 **Melissa Carla Smith-Horn, M.D., Orlando & Satellite Beach, FL – Settlement**
28 **Agreement1**

29 Dr. Smith-Horn was present and represented by Allen Grossman, Esquire.

30
31 No current members were recused due to participation on the probable cause panel.

32
33 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
34 Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) –
35 Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and
36 treatment which is recognized by a reasonably prudent similar physician as being acceptable under

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1 similar conditions and circumstances; s. 458.331(1)(m), FS (2004) – Failing to keep legible, as
2 defined by department rule in consultation with the board, medical records that identify the licensed
3 physician or the physician extender and supervising physician by name and professional title who is
4 or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment
5 procedure and that justify the course of treatment of the patient, including, but not limited to, patient
6 histories; examination results; test results; records of drugs prescribed, dispensed, or administered;
7 and reports of consultations and hospitalizations; and s. 458.331(1)(q), FS (2004) – Prescribing,
8 dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled
9 substance, other than in the course of the physician's professional practice. For the purposes of this
10 paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or
11 otherwise preparing legend drugs, including all controlled substances, inappropriately or in
12 excessive or inappropriate quantities is not in the best interest of the patient and is not in the course
13 of the physician's professional practice, without regard to his or her intent.

14
15 Both parties agreed to correct the Settlement Agreement in that the drug course is presented by the
16 University of Florida, not the University of South Florida.

17
18 A motion was made, seconded and carried 10-5 to accept the Settlement Agreement.

19
20 **Penalty imposed:** reprimand, \$7,500 fine, costs, Laws and Rules course, UF drug course, FMA
21 records course, 50 hours community service

22
23 **David Vernon Poole, M.D., Altamonte Springs, FL – Settlement Agreement78**

24 Dr. Poole was present and represented by Randolph Collette, Esquire. The complainant was also
25 presented and addressed the Board.

26
27 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.
28 Ms. Green represented the Department and presented the case to the Board. Allegations of the
29 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007-2008) –
30 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
31 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
32 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
33 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
34 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
35 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
36 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be

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1 construed to require that a physician be incompetent to practice medicine in order to be disciplined
2 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
3 the board finding a violation under this paragraph shall specify whether the licensee was found to
4 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
5 malpractice," or any combination thereof, and any publication by the board must so specify.
6 s. 458.331(1)(m), FS (2007-2008) – Failing to keep legible, as defined by department rule in
7 consultation with the board, medical records that identify the licensed physician or the physician
8 extender and supervising physician by name and professional title who is or are responsible for
9 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
10 the course of treatment of the patient, including, but not limited to, patient histories; examination
11 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
12 consultations and hospitalizations

13
14 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

15
16 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$20,000 fine,
17 100 hours community service, UF drug course, PRN evaluation within two months and present to
18 the Probation Committee with the Board reserving jurisdiction to impose additional terms based on
19 the evaluation.

20
21 An amendment was offered to impose an ethics course and the FMA records course. This
22 amendment was accepted.

23
24 Another amendment was offered to impose full costs. This amendment was also accepted.

25
26 Mr. Tellechea clarified the due dates for the quality assessment evaluation as 6 months and 30 days.

27
28 The motion passed 8-5. The Respondent took 7 days to accept or reject the counter offer.

29
30 **Action taken:** Settlement Agreement rejected; counter to impose reprimand, \$20,000 fine,
31 \$16,745.14 costs, FMA records course, Laws and Rules course, ethics course, UF drug course, 100
32 hours community service, QA assessment, PRN evaluation to be presented to Probationers
33 Committee where additional terms can be added

34
35 **Evelyn Rentas, M.D., Waynesville, NC & Vero Beach, FL – Settlement Agreement 3**

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1 Dr. Rentas was present and represented by Bruce Lamb, Esquire. Dr. Brown also addressed the
2 Board.

3

4 Dr. Lage and Ms. Goersch were recused due to participation on the probable cause panel.

5

6 Ms. Green represented the Department and presented the case t the Board. Allegations of the
7 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS (2006-2008) – Making
8 deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing
9 a trick or scheme in the practice of medicine; s. 458.331(1)(g), FS (2006-2008) – Failing to perform
10 any statutory or legal obligation placed upon a licensed physician; and s. 458.331(1)(r), FS (2006-
11 2008) – Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set
12 forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or
13 administered to the physician by another practitioner authorized to prescribe, dispense, or administer
14 medicinal drugs.

15

16 After discussion, Mr. Lamb agreed on behalf of his client to waive probable cause on a s.
17 458.331(1)(c), FS charge to amend the Administrative Complaint.

18

19 A motion was made and seconded to accept the Settlement Agreement. The motion failed 6-7.

20

21 A motion was made, seconded and carried within two opposed to reject the Settlement Agreement.

22

23 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$5,000 fine,
24 costs, 25 hours community service, ethics course and the Laws and Rules course.

25

26 An amendment was offered to increase the fine to \$7,000 in lieu of imposing community service.
27 This amendment was accepted.

28

29 An amendment was offered that the Laws and Rules course covers the ethics so no additional
30 coursework is required. The amendment was accepted.

31

32 The motion carried within one opposed. The Respondent took 7 days to accept or reject the counter
33 offer.

34

35 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$7,000 fine, costs,
36 Laws and Rules course

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1
2 **Carl C. F. Gittens, M.D., Palm City & Port St. Lucie, FL – Hearing Not Involving**
3 **Disputed Issues of Material F4**

4 Dr. Gittens was present and represented by Susan St. John, Esquire.

5
6 Dr. Lage and Ms. Goersch were recused due to participation on the probable cause panel.

7
8 Ms. Green represented the Department and presented the case to the Board. Allegations of the
9 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(jj), FS (2009-2010) – Failing
10 to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final
11 order, judgment, or stipulation or settlement and s. 456.072(1)(kk), FS (2009-2010) – Being
12 terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid
13 program, or the federal Medicare program, unless eligibility to participate in the program from
14 which the practitioner was terminated has been restored.

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

17
18 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

19
20 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
21 Statutes as charged in the Administrative Complaint.

22
23 A motion was made and seconded to impose a letter of concern, \$7,500 fine, probation for one year
24 with indirect supervision and required to make a payment arrangement with the Agency for Health
25 Care Administration (AHCA) within 60 days.

26
27 The motion was later withdrawn.

28
29 A motion was made and seconded to impose a letter of concern, \$5,000 fine, Laws and Rules course,
30 and required to make a payment arrangement with the AHCA within 60 days.

31
32 An amendment was offered to require the Respondent to work out terms for paying the fine with the
33 Probation Committee. The amendment was rejected since that is always an option.

34
35 An amendment was offered to allow the Respondent to pay the fine within one year. The
36 amendment was accepted.

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The motion carried unanimously.

The Respondent requested the costs be waived.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,184.48 to be paid within one year.

Penalty imposed: letter of concern, \$5,000 fine, Laws and Rules course, required to make a payment arrangement with the AHCA within 60 days, costs

Nathan Bernard Hill, M.D., Orlando, FL – Settlement Agreement6

Dr. Hill was present and represented by William B. Taylor, Esquire.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) – 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 and s. 458.331(1)(nn), FS (2009) – 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, seconded and carried unanimously to offer a counter proposal to impose a reprimand, \$20,000 fine, costs and a risk management assessment.

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

Action taken: Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine, costs, risk management assessment

Pelayo Ranulfo Torres, M.D., Miami, FL – Settlement Agreement7

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1 Dr. Torres was present but not represented by counsel.

2
3 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.
4 The Department presented the case to the Board. Allegations of the Administrative Complaint:
5 Violation of Florida Statutes s. 458.331(1)(t), FS (2010) – Notwithstanding s. 456.072(2) but as
6 specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board
7 shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical
8 malpractice shall not be construed to require more than one instance, event, or act. 2. Committing
9 gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A
10 person found by the board to have committed repeated medical malpractice based on s. 456.50 may
11 not be licensed or continue to be licensed by this state to provide health care services as a medical
12 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be
13 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A
14 recommended order by an administrative law judge or a final order of the board finding a violation
15 under this paragraph shall specify whether the licensee was found to have committed "gross medical
16 malpractice," "repeated medical malpractice," or "medical malpractice," or any combination thereof,
17 and any publication by the board must so specify.

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

20
21 A motion was made and seconded to offer a counter proposal to impose a letter of concern, \$5,000
22 fine, the Laws and Rules course, and a suspension until he undergoes the UF CARES evaluation.

23
24 An amendment was offered to impose probation with direct supervision in lieu of a suspension. The
25 amendment was accepted as modified to require direct supervision but not probation.

26
27 The modified counter offer includes the following penalties: letter of concern, \$5,000 fine, costs,
28 direct supervision until he undergoes a UF CARES evaluation.

29
30 An amendment was offered to impose the above penalty without direct supervision. This was
31 accepted.

32
33 Another amendment was offered to require that he work only the dayshift (7am – 7pm) until he
34 undergoes the evaluation which must be done within 6 months. The amendment was also accepted.

35
36 The motion carried unanimously. The Respondent took 7 days to accept or reject the counter offer.

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1
2 **Action taken:** Settlement Agreement rejected; counter offer to impose letter of concern, \$5,000 fine,
3 costs, must work dayshift until undergoes UF CARES evaluation
4

5 **Juan C. Richards, M.D., Orlando, FL – Settlement Agreement10**

6 Dr. Richards was present and represented by William Furlow, Esquire.
7

8 Dr. Lage and Mr. Levine were recused due to participation on the probable cause panel.
9

10 Ms. Green represented the Department and presented the case to the Board. Allegations of the
11 Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS (2007) -
12 Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or
13 employing a trick or scheme in the practice of medicine; s. 458.331(1)(d), FS (2007) - False,
14 deceptive, or misleading advertising; and s. 458.331(1)(II), FS (2007) - Advertising or holding
15 oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this
16 chapter.
17

18 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
19

20 A motion was made, seconded and carried with four opposed to offer a counter proposal to impose
21 the terms of the original agreement with the following modifications: reprimand, \$30,000 fine, costs,
22 community service, the Laws and Rules course, 5 hours CME in ethics, suspension for six months
23 followed by two years of probation with indirect supervision, 25% chart review, quarterly reports
24 and appearances.
25

26 The Respondent took seven days to accept or reject the counter offer.
27

28 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$30,000 fine,
29 costs, 100 hours community service, Laws and Rules course, 5 hours CME in risk management, 5
30 hours CME in ethics, suspension for six months followed by probation for 2 years with indirect
31 supervision, 25% review of charts, quarterly reports, first and last appearances, PRN, restriction in
32 that he may only practice in compliance with PRN, permanently restricted from practicing pain
33 medicine or practice in a pain-management clinic
34

35 **Chistina Marie Tomasino, P.A., Seminole & St. Petersburg, FL –**
36 **Settlement Agreement11**

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1 Ms. Tomasino was present but not represented by counsel.

2

3 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

4

5

6 Ms. Green represented the Department and presented the case to the Board. Allegations of the
7 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(r), FS (2007-2009) –
8 Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in
9 chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered
10 to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal
11 drugs; s. 458.331(1)(k), FS (2007-2009) – Making deceptive, untrue, or fraudulent representations in
12 or related to the practice of medicine or employing a trick or scheme in the practice of medicine; and
13 s. 458.331(1)(g), FS (2007 – 2009) – Failing to perform any statutory or legal obligation placed upon
14 a licensed physician.

15

16 The parties agreed to amend the Settlement Agreement to state “. . . Board determines” her ability to
17 return to practice.

18

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

21

22 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws and Rules course, UF drug course, 75 hours
23 community service, suspended indefinitely until appears and demonstrates her ability to practice
24 with skill and safety including a PRN evaluation, board retains jurisdiction to impose additional
25 terms

26

27 **Felipe Ruben Valencia, M.D., Miami, FL – Settlement Agreement.....12**

28

29 Dr. Valencia was present but not represented by counsel.

30

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

32

33 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
34 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2010) – Violating
35 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

36

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

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A motion was made and seconded to dismiss the case. The motion failed 3-9.

A motion was made and seconded to offer a counter proposal to impose a letter of concern, \$1,000 fine, costs and a 5 hours risk management course.

An amendment was offered to not require the risk management course. This amendment was rejected.

Another amendment was offered to lower the fine to \$500. The amendment was accepted.

A final amendment was offered to require a risk management assessment. After discussion, this amendment was withdrawn.

The motion carried 8-4. The Respondent took seven days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose letter of concern, \$500 fine, costs, 5 hours CME in risk management

Daniel Jose Fernandez, M.D., Miami, FL – Settlement Agreement.....13

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

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

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004-2005) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. 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. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to

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1 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
2 malpractice," or any combination thereof, and any publication by the board must so specify; s.
3 458.331(1)(q), FS (2005) – Prescribing, dispensing, administering, mixing, or otherwise preparing a
4 legend drug, including any controlled substance, other than in the course of the physician's
5 professional practice. For the purposes of this paragraph, it shall be legally presumed that
6 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
7 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
8 interest of the patient and is not in the course of the physician's professional practice, without regard
9 to his or her intent; and s. 458.331(1)(m), FS (2005) – Failing to keep legible, as defined by
10 department rule in consultation with the board, medical records that identify the licensed physician
11 or the physician extender and supervising physician by name and professional title who is or are
12 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
13 and that justify the course of treatment of the patient, including, but not limited to, patient histories;
14 examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
15 of consultations and hospitalizations.

16 Both parties agreed to amend the Settlement Agreement to reflect the Respondent is restricted from
17 providing HIV medical treatment to patients.

18

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

20

21 **Penalty imposed:** suspension for 6 months; reprimand, \$20,000 fine, costs, Laws and Rules course,
22 FMA records course, 100 hours community service, restriction – permanently restricted from doing
23 infusion therapy; permanently restricted from treating HIV pts

24

25 **Dennis Joseph Pevarski, M.D., St. Petersburg, FL – Settlement Agreement.....14**

26 Dr. Pevarski was present and represented by William B. Taylor, IV, Esquire.

27

28 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

29

30 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) – Performing
32 or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
33 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
34 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
35 performing or attempting to perform health care services includes the preparation of the patient.

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

3
4 **Penalty imposed:** letter of concern, \$4,000 fine, costs, 25 hours community service, 1-hour lecture,
5 5 hours CME in risk management

6
7 **George Steven Webb, M.D., Jacksonville, FL – Settlement Agreement.....15**

8 Dr. Webb was present and represented by Kelly B. Mathis, Esquire.

9
10 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

11
12 The Department presented the case to the Board. Allegations of the Administrative Complaint:
13 Violation of Florida Statutes s. 456.072(1)(cc), FS (2009) – Leaving a foreign body in a patient,
14 such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical,
15 examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally
16 presumed that retention of a foreign body is not in the best interest of the patient and is not within
17 the standard of care of the profession, regardless of the intent of the professional.

18
19 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

20
21 **Penalty imposed:** letter of concern, \$3,000 fine, costs, 5 hours CME in risk management, 1-hour
22 lecture

23
24 **Horace David Brannon, M.D., Pensacola, FL – Settlement Agreement.....16**

25 Dr. Brannon was present and represented by Thomas Gonzalez, Esquire.

26
27 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel. Dr. Tucker
28 recused herself because she and Dr. Brannon refer patients to each other.

29
30 Ms. Green represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006-2007) -
32 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
33 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
34 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
35 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
36 malpractice as defined in s. 456.50. A person found by the board to have committed repeated

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1 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
2 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
3 construed to require that a physician be incompetent to practice medicine in order to be disciplined
4 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
5 the board finding a violation under this paragraph shall specify whether the licensee was found to
6 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
7 malpractice," or any combination thereof, and any publication by the board must so specify; s.
8 458.331(1)(q), FS (2009) - Prescribing, dispensing, administering, mixing, or otherwise preparing a
9 legend drug, including any controlled substance, other than in the course of the physician's
10 professional practice. For the purposes of this paragraph, it shall be legally presumed that
11 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
12 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
13 interest of the patient and is not in the course of the physician's professional practice, without regard
14 to his or her intent; and s. 458.331(1)(m), FS (2009) - Failing to keep legible, as defined by
15 department rule in consultation with the board, medical records that identify the licensed physician
16 or the physician extender and supervising physician by name and professional title who is or are
17 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
18 and that justify the course of treatment of the patient, including, but not limited to, patient histories;
19 examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
20 of consultations and hospitalizations.

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

23
24 **Penalty imposed:** letter of concern, \$10,000 fine, costs, UF drug course, FMA records course, 40
25 hours community service, QA assessment

26
27 **Perez Beauvil, M.D., Lake Worth, FL – Settlement Agreement17**

28 Dr. Beauvil was present and represented by David Spicer, Esquire.

29
30 Dr. Rosenberg and Mr. Mullins were recused due to participation on the probable cause panel.

31
32 Ms. Green represented the Department and presented the case to the Board. Allegations of the
33 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005-2007) -
34 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
35 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
36 enforcing this paragraph. Medical malpractice shall not be construed to require more than one

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1 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
2 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
3 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
4 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
5 construed to require that a physician be incompetent to practice medicine in order to be disciplined
6 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
7 the board finding a violation under this paragraph shall specify whether the licensee was found to
8 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
9 malpractice," or any combination thereof, and any publication by the board must so specify; s.
10 458.331(1)(q), FS (2005-2007) - Prescribing, dispensing, administering, mixing, or otherwise
11 preparing a legend drug, including any controlled substance, other than in the course of the
12 physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that
13 prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all
14 controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
15 interest of the patient and is not in the course of the physician's professional practice, without regard
16 to his or her intent; s. 458.331(1)(m), FS (2005-2007) - Failing to keep legible, as defined by
17 department rule in consultation with the board, medical records that identify the licensed physician
18 or the physician extender and supervising physician by name and professional title who is or are
19 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
20 and that justify the course of treatment of the patient, including, but not limited to, patient histories;
21 examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
22 of consultations and hospitalizations; and s. 458.331(1)(w), FS (2005-2007) - Delegating
23 professional responsibilities to a person when the licensee delegating such responsibilities knows or
24 has reason to know that such person is not qualified by training, experience, or licensure to perform
25 them.

26

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

28

29 A motion was made and seconded to offer a counter proposal to impose revocation. The motion
30 failed 5-7.

31

32 The Board requested PSU determine who regulates the entity "Meditox" so this complaint can be
33 forwarded for investigation.

34

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1 A motion was made and seconded to offer another counter offer to impose the terms of the original
2 agreement with the following changes: reprimand, \$40,000 fine, costs, Laws and Rules course, UF
3 drug course, all the remaining CME, and one year suspension.
4

5 An amendment was offered to impose a suspension until the Respondent undergoes the UF CARES
6 evaluation and appearance before the Board. The amendment was accepted.
7

8 The motion carried with two opposed.
9

10 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine,
11 costs, Laws and Rules course, FMA records course, UF drug course, 10 hours CME in appropriate
12 prescribing, 5 hours CME in general detox or pain management diagnosis and treatment, 75 hours
13 community service, 5 hours CME in risk management, suspension until undergoes UF CARES
14 evaluation and appears before the Board.
15

16 **Adib Antoine Chidiac, M.D., Lighthouse Point, FL – Settlement Agreement18**

17 Dr. Chidiac was present and was represented by Julia Ingle, Esquire.
18

19 Dr. Nuss and Mr. Levine were recused due to participation on the probable cause panel. Dr.
20 Zachariah recused himself because he works with the Respondent at the hospital and are friends.
21

22 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
23 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) –
24 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
25 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
26 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
27 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
28 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
29 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
30 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
31 construed to require that a physician be incompetent to practice medicine in order to be disciplined
32 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
33 the board finding a violation under this paragraph shall specify whether the licensee was found to
34 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
35 malpractice," or any combination thereof, and any publication by the board must so specify.
36

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

2

3 A motion was made, seconded, and carried to offer a counter proposal to impose a letter of concern,
4 full costs, the FMA records course, 5 hours CME in ectopic pregnancies and 5 hours CME in risk
5 management.

6

7 The Respondent accepted the counter offer.

8

9 **Penalty imposed:** letter of concern, full costs, the FMA records course, 5 hours CME in risk
10 management, 5 hours CME in ectopic pregnancies

11

12 **Albert Zamek, M.D., Surfside, FL – Recommended Order19**

13 This case was continued until the December Board Meeting. Dr. Zamek waived the 90 days in
14 writing.

15

16 **PETITION FOR DECLARATORY STATEMENT:**

17

18 **Florida Hospices and Palliative Care, Inc. - Approval of Final Order**

19

20 Mr. Tellechea presented the draft Final Order for the petition for declaratory statement presented at
21 the August Board Meeting.

22

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

24

25 **Action taken:** Final Order approved

26

27 **Thomas Van Holland, M.D., Milton, FL – Hearing Not Involving Disputed Issues of**
28 **Material Fact35**

29 Dr. Van Holland was present but not represented by counsel.

30

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

32

33 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
34 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2010) – Being
35 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a

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1 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
2 medicine.

3
4 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

5
6 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

7
8 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
9 Statutes as charged in the Administrative Complaint.

10
11 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

12
13 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,834.13.

14
15 **Penalty imposed:** revocation, costs

16
17 **UPDATE ON TRAVEL**

18 Lola Pouncey, Bureau Chief of Operations with the Division of Medical Quality Assurance,
19 addressed the Board and introduced meeting planner, Terry Goodwin.

20
21 Ms. Goodwin provided an update on travel policies and provided the members with a packet of
22 information of filing for reimbursement.

23
24 **Robert Davis Williams, M.D., Ft. Lauderdale & Venice, FL – Motion to Deny For Formal**
25 **Hearing and for Final Order by Hearing Not Involving Disputed Issues of Material Fact 20**

26 This hearing was withdrawn from the schedule by the Prosecution Services Unit.

27
28 **Alberto Sant Antonio, M.D., Weston, FL – Settlement Agreement81**

29 Dr. Sant Antonio was present and represented by Ariel Sofro, Esquire.

30
31 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

32
33 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
34 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2010) – Violating
35 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and s.
36 458.331(1)(t), FS (2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50 (2):

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

13
14 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

15
16 A motion was made and seconded to offer a counter proposal to impose the same terms in the
17 original agreement with the following changes: no probation, UF CARES evaluation and appear
18 before the Board where the Board may impose additional terms.

19
20 An amendment was offered to impose a permanent restriction from performing office surgery. This
21 amendment was accepted.

22
23 The motion carried unanimously. The Respondent took seven days to accept or reject the counter
24 offer.

25
26 **Action taken:** Settlement Agreement rejected; counter proposal to impose reprimand, \$20,000 fine,
27 costs, 6 months suspension, Laws and Rules course, 100 hours community service, QA assessment,
28 FL CARES evaluation, appearance before the Board where additional terms may be imposed;
29 permanently restricted from office surgery

30
31 **Hector Labrada, M.D., Miami, FL – Settlement Agreement22**

32 Dr. Labrada was present and represented by Moises Kaba, III, Esquire.

33
34 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

35

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1 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
2 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2009) – Failing to
3 perform any statutory or legal obligation placed upon a licensed physician and s. 458.331(1)(dd), FS
4 (2009) – Failing to supervise adequately the activities of those physician assistants, paramedics,
5 emergency medical technicians, advanced registered nurse practitioners, or anesthesiologist
6 assistants acting under the supervision of the physician.
7

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

10 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws and Rules course, 5 hours CME in risk
11 management, affidavit attesting respondent has read L&R related to supervising PA’s
12

13 **Reginald Mortimer Sutton, M.D., Cave Creek, AZ – Settlement Agreement23**

14 Dr. Sutton was not present, but he was represented by Michael McKeon, Esquire.
15

16 No current members were recused due to participation on the probable cause panel.
17

18 A motion was made, seconded and carried unanimously to waive the Respondent’s appearance.
19

20 The Department and presented the case to the Board. Allegations of the Administrative Complaint:
21 Violation of Florida Statutes s. 458.331(1)(b), FS (2008) – Having a license or the authority to
22 practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure,
23 by the licensing authority of any jurisdiction, including its agencies or subdivisions and s.
24 458.331(1)(kk), FS (2008) – Failing to report to the board, in writing, within 30 days if action as
25 defined in paragraph (b) has been taken against one's license to practice medicine in another state,
26 territory, or country.
27

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

30 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws and Rules course, 5 hours CME in risk
31 management
32

33 **Kwame Asante-Nkansa, M.D., Pensacola, FL – Settlement Agreement24**

34 Dr. Asante-Kansa was present but not represented by counsel.
35

36 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

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

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

11
12 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws and Rules course

13
14 **Claire Denise Godfrey, M.D., Lake Mary, FL – Settlement Agreement25**

15 This hearing was withdrawn from the schedule by the Prosecution Services Unit.

16
17 Dr. Thomas requested the appropriate regulatory entity be made aware of the Allyne Clinic
18 complaint.

19
20 **Heather Elise Houck, M.D., West Palm Beach, FL – Settlement Agreement26**

21 Dr. Houck was present and represented by Philip Sprinkle, Esquire and Tim Cerio, Esquire. Dr.
22 Brown also addressed the Board.

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

25
26 The Department and presented the case to the Board. Allegations of the Administrative Complaint:
27 Violation of Florida Statutes s. 458.331(1)(c), FS (2010) – Being convicted or found guilty of, or
28 entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which
29 directly relates to the practice of medicine or to the ability to practice medicine.

30
31 A motion was made and seconded to reject the Settlement Agreement. The motion failed 6-6.

32
33 A motion was made and seconded to accept the Settlement Agreement. The motion failed 6-6.

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1 Dr. Zachariah requested Ms. Kiesling send him an email with a list of physicians who were
2 convicted of a third degree felony and used drugs for themselves and the Board imposed a letter of
3 concern.

4
5 A motion was made and seconded to accept the Settlement Agreement. The motion carried 7-5.

6
7 A motion was made, seconded and carried unanimously to grant reinstatement.

8
9 **Penalty taken/Action imposed:** letter of concern, \$10,000 fine, costs, UF drug course, 100 hours
10 community service, suspended until appears and demonstrates ability to practice with skill and safety
11 including a PRN evaluation, board retains jurisdiction to impose additional terms; license reinstated

12
13 **Basil Mangra, M.D., Lauderdale Lakes, FL – Settlement Agreement27**

14 Dr. Mangra was present and represented by Gregory Chaires, Esquire.

15
16 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel. Dr. El
17 Sanadi recused himself because the Respondent takes call for him.

18
19 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2008) –
21 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
22 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
23 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
24 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
25 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
26 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
27 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
28 construed to require that a physician be incompetent to practice medicine in order to be disciplined
29 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
30 the board finding a violation under this paragraph shall specify whether the licensee was found to
31 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
32 malpractice," or any combination thereof, and any publication by the board must so specify and s.
33 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in consultation
34 with the board, medical records that identify the licensed physician or the physician extender and
35 supervising physician by name and professional title who is or are responsible for rendering,
36 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course

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1 of treatment of the patient, including, but not limited to, patient histories; examination results; test
2 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
3 hospitalizations.

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

6
7 **Penalty imposed:** reprimand, \$10,000 fine, costs, FMA records course, 5 hours CME in risk
8 management

9
10 **Kambam Raja Reddy, M.D., Ft. Pierce, FL – Settlement Agreement29**

11 Dr. Reddy was present and represented by Allen Grossman, Esquire.

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

14
15 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) –
17 Notwithstanding s. 456.072(2) but as specified in s. 456.50 (2): 1. Committing medical malpractice as
18 defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing
19 this paragraph. Medical malpractice shall not be construed to require more than one instance, event,
20 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as
21 defined in s. 456.50. A person found by the board to have committed repeated medical malpractice
22 based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care
23 services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that
24 a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.
25 A recommended order by an administrative law judge or a final order of the board finding a
26 violation under this paragraph shall specify whether the licensee was found to have committed
27 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any
28 combination thereof, and any publication by the board must so specify.

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

31
32 A motion was made and seconded to dismiss the Administrative Complaint.

33
34 The Respondent agreed to waive attorney fees and costs.

35
36 The motion carried unanimously.

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Action taken: Administrative Complaint dismissed

Charles S. Eby, Jr., M.D., Ft. Myers, FL – Settlement Agreement37

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

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

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2008-2010) - Failing to perform any statutory or legal obligation placed upon a licensed physician and s. 458.331(1)(q), FS (2008-2010) – 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: reprimand, \$5000 fine, costs

Wille-Ebert Andre, P.A., Jacksonville, FL – Determination of Waiver38

This hearing was withdrawn from the schedule by the Prosecution Services Unit.

Dennis M. Varel, M.D., Lake Wales, FL – Settlement Agreement42

Dr. Varel was present but not represented by counsel.

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

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. 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. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as

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1 defined in s. 456.50. A person found by the board to have committed repeated medical malpractice
2 based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care
3 services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that
4 a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.
5 A recommended order by an administrative law judge or a final order of the board finding a
6 violation under this paragraph shall specify whether the licensee was found to have committed
7 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any
8 combination thereof, and any publication by the board must so specify and s. 458.331(1)(m), FS
9 (2007) – Failing to keep legible, as defined by department rule in consultation with the board,
10 medical records that identify the licensed physician or the physician extender and supervising
11 physician by name and professional title who is or are responsible for rendering, ordering,
12 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
13 treatment of the patient, including, but not limited to, patient histories; examination results; test
14 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
15 hospitalizations.

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

18
19 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 5 hours CME in
20 risk management

21
22 **Patricia A. Masse, M.D., Loxahatchee, FL – Settlement Agreement21**

23 Dr. Masse was present and represented by counsel. The complainant’s also addressed the Board.

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

26
27 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS (2008-2010) - Making
29 deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing
30 a trick or scheme in the practice of medicine; s. 458.331(1)(m), FS (2008-2010) - Failing to keep
31 legible, as defined by department rule in consultation with the board, medical records that identify
32 the licensed physician or the physician extender and supervising physician by name and professional
33 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
34 treatment procedure and that justify the course of treatment of the patient, including, but not limited
35 to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or

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1 administered; and reports of consultations and hospitalizations; and s. 458.331(1)(g), FS (2007-
2 2010) - Failing to perform any statutory or legal obligation placed upon a licensed physician.

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

5
6 A motion was made, seconded and carried unanimously to offer a counter proposal to impose the
7 same terms in the original agreement with the following changes: \$20,000 fine.

8
9 The Respondent took seven days to accept or reject the counter offer.

10
11 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine,
12 costs, Laws and Rules course, FMA records course, 5 hours CME in ethics, QA assessment, 50
13 hours community service, 5 hours CME in risk management

14
15 **VOLUNTARY RELINQUISHMENTS:**

16 **Lawrence H. Tydings, M.D., Laurel Hollow & Hicksville, NY44**

17 Dr. Tydings was not present nor was he represented by counsel.

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

20
21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
22 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
23 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
24 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
25 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
26 in anticipation of the filing of administrative charges against the physician’s license, shall be
27 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
28 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
29 against one’s license to practice medicine in another state, territory, or country.

30
31 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

32
33 **Penalty imposed:** license relinquished

34
35 **Joseph R. Goggin, M.D., Port Charlotte, FL45**

36 Dr. Goggin was not present nor was he represented by counsel.

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

3
4 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
5 (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50 (2): 1. Committing medical
6 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
7 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
8 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
9 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical
10 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
11 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
12 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
13 this paragraph. A recommended order by an administrative law judge or a final order of the board
14 finding a violation under this paragraph shall specify whether the licensee was found to have
15 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
16 or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m),
17 FS (2007) – Failing to keep legible, as defined by department rule in consultation with the board,
18 medical records that identify the licensed physician or the physician extender and supervising
19 physician by name and professional title who is or are responsible for rendering, ordering,
20 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
21 treatment of the patient, including, but not limited to, patient histories; examination results; test
22 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
23 hospitalizations.

24
25 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

26
27 **Penalty imposed:** license relinquished

28
29 **Keith F. Whitfield Russell, M.D., Miami, FL46**

30 Dr. Russell was not present nor was he represented by counsel.

31
32 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

33
34 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS
35 (2008) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of

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1 adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the
2 ability to practice medicine.

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

5
6 **Penalty imposed:** license relinquished

7
8 **Henry Blady, M.D., Delray Beach, FL47**

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

10
11
12 Dr. Espinola, Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause
13 panel.

14
15 Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s.
16 458.331(1)(s), FS (2009) - Being unable to practice medicine with reasonable skill and safety to
17 patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of
18 material or as a result of any mental or physical condition; s. 458.331(1)(k), FS (2009) - Making
19 deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing
20 a trick or scheme in the practice of medicine; s. 458.331(1)(m), FS (2009) - Failing to keep legible,
21 as defined by department rule in consultation with the board, medical records that identify the
22 licensed physician or the physician extender and supervising physician by name and professional
23 title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or
24 treatment procedure and that justify the course of treatment of the patient, including, but not limited
25 to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or
26 administered; and reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2009) -
27 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any
28 controlled substance, other than in the course of the physician's professional practice. For the
29 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering,
30 mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or
31 in excessive or inappropriate quantities is not in the best interest of the patient and is not in the
32 course of the physician's professional practice, without regard to his or her intent; and s.
33 458.331(1)(c), FS (2009) - Being convicted or found guilty of, or entering a plea of nolo contendere
34 to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of
35 medicine or to the ability to practice medicine.
36

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

2

3 **Penalty imposed:** license relinquished

4

5 **Caridad Oliveros Pe, P.A, Palm Harbor, FL48**

6 Ms. Pe was not present nor was she represented by counsel.

7

8 Probable cause was waived in this case.

9

10 Allegations of the Administrative Complaint: Violation of Florida Statutes

11 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
12 (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician and s.
13 458.331(1)(nn), FS (2009) – Violating any provision of this chapter or chapter 456, or any rules
14 adopted pursuant thereto.

15

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

17

18 **Penalty imposed:** license relinquished

19

20 **Dane Kent Wukich, M.D., Pittsburgh, PA49**

21 Dr. Blady was not present nor was he represented by counsel.

22

23 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
24 Rosenberg chaired this hearing.

25

26 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
27 (2005-2007) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

28

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

30

31 **Penalty imposed:** license relinquished

32

33 **Bertram Royce Russell, M.D., Gladwyne, PA & Bruceton Mills, WV50**

34 Dr. Russell was not present nor was he represented by counsel.

35

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

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1
2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
3 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
4 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
5 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
6 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
7 in anticipation of the filing of administrative charges against the physician’s license, shall be
8 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
9 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
10 against one’s license to practice medicine in another state, territory, or country.

11
12 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.
13

14 **Penalty imposed:** license relinquished

15
16 **Edward Gallagher, M.D., Port St. Lucie, FL51**

17 Dr. Gallagher was not present nor was he represented by counsel.
18

19 Probable cause was waived in this case.
20

21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
22 (2010) - Failing to perform any statutory or legal obligation placed upon a licensed physician; s.
23 458.331(1)(r), FS (2010) - Prescribing, dispensing, or administering any medicinal drug appearing
24 on any schedule set forth in chapter 893 by the physician to himself or herself, except one
25 prescribed, dispensed, or administered to the physician by another practitioner authorized to
26 prescribe, dispense, or administer medicinal drugs; s. 458.331(1)(s), FS (2010) - Being unable to
27 practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol,
28 drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical
29 condition; and s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456,
30 or any rules adopted pursuant thereto.

31
32 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.
33

34 **Penalty imposed:** license relinquished

35
36 **Miriam Michaeli, E.O., Lighthouse Point, FL52**

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1 Ms. Michaeli was not present nor was she represented by counsel.

2

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

4

5 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 478.52(1)(v), FS
6 (2005) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
7 thereto and s. 478.52(1)(f), FS (2005) – Unprofessional conduct, including any departure from, or
8 failure to conform to, acceptable standards related to the delivery of electrolysis services.

9

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

11

12 **Penalty imposed:** license relinquished

13

14 **Swapnadip Lahiri, M.D., Saddle Brook, NJ53**

15 Dr. Lahiri was not present nor was he represented by counsel.

16

17 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

18

19 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
20 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
21 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
22 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
23 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
24 in anticipation of the filing of administrative charges against the physician’s license, shall be
25 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
26 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
27 against one’s license to practice medicine in another state, territory, or country.

28

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

30

31 **Penalty imposed:** license relinquished

32

33 **Peter Blodemir Ruy, M.D., Peachtree City, GA54**

34 Dr. Ruy was not present nor was he represented by counsel.

35

36 Probable cause was waived in this case.

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2 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
3 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
4 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
5 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
6 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
7 in anticipation of the filing of administrative charges against the physician’s license, shall be
8 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
9 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
10 against one’s license to practice medicine in another state, territory, or country.

11
12 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

13
14 **Penalty imposed:** license relinquished

15
16 **John L. Rodgers, M.D., Vero Beach, FL55**

17 Dr. Rodgers was not present nor was he represented by counsel.

18
19 Probable cause was waived in this case.

20
21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
22 (2009) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

23
24 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

25
26 **Penalty imposed:** license relinquished

27
28 **Dan William Joachim, M.D., Covington & Chalmette, LA56**

29 Dr. Joachim was not present nor was he represented by counsel.

30
31 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

32
33 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
34 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
35 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
36 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s

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1 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
2 in anticipation of the filing of administrative charges against the physician’s license, shall be
3 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
4 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
5 against one’s license to practice medicine in another state, territory, or country.

6
7 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

8
9 **Penalty imposed:** license relinquished

10
11 **Julio M. Rueda, M.D., Miami, FL82**

12 Dr. Rueda was not present nor was he represented by counsel.

13
14 Probable cause was waived in this case.

15
16 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS
17 (2010) – Being unable to practice medicine with reasonable skill and safety to patients by reason of
18 illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of
19 any mental or physical condition.

20
21 Mr. Tellechea advised the Board the language in the signed relinquishment was not the proper
22 language in that it did not include language regarding never reapplying for licensure in Florida again.

23
24 Ms. Donnelly advised they sent an investigator to have Dr. Rueda sign the correct relinquishment.
25 He was found in a nursing home with severe medical conditions and not of sound mind to sign the
26 relinquishment with the correct language.

27
28 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment.

29
30 **Penalty imposed:** license relinquished

31
32 **Vernon Atreidis, M.D., Jupiter, FL**

33 Dr. Atreidis was not present nor was he represented by counsel.

34 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
35 (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
36 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102

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1 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
2 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
3 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
4 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
5 to provide health care services as a medical doctor in this stat. Nothing in this paragraph shall be
6 construed to require that a physician be incompetent to practice medicine in order to be disciplined
7 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
8 the board finding a violation under this paragraph shall specify whether the licensee was found to
9 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
10 malpractice," or any combination thereof, and any publication by the board must so specify; s.
11 458.331(1)(m), FS (2009) – Failing to keep legible, as defined by department rule in consultation
12 with the board, medical records that identify the licensed physician or the physician extender and
13 supervising physician by name and professional title who is or are responsible for rendering,
14 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course
15 of treatment of the patient, including, but not limited to, patient histories; examination results; test
16 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
17 hospitalizations; and s. 458.331(1)(q), FS (2009) – Prescribing, dispensing, administering, mixing, or
18 otherwise preparing a legend drug, including any controlled substance, other than in the course of
19 the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed
20 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including
21 all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
22 interest of the patient and is not in the course of the physician's professional practice, without regard
23 to his or her intent.

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

25
26 **Penalty imposed:** license relinquished

27
28 **LICENSURE ISSUES:**

29
30 **Sofya Pugach, M.D. – Discuss Supervisor Request61**

31 Dr. Pugach was present and represented by Allen Grossman, Esquire. She was requesting the Board
32 accept her practice as meeting the requirement of the Notice of Intent o Approve with Conditions.

33
34 A motion was made, seconded and carried unanimously to vacate the Notice of Intent and to allow
35 Dr. Pugach 14 days to withdraw her application for licensure in Florida.

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1 **Action taken:** Notice of Intent withdrawn; allowed 14 days to withdraw application

2
3 **FINAL ORDER COMPLIANCE ISSUES:**

4
5 **Norman Moskowitz, M.D. – Petition for Reinstatement.....57**

6 Dr. Moskowitz was present and represented by Bradford Bailey, Esquire.

7
8 A motion was made, seconded and carried unanimously to reject the petition for reinstatement and to
9 require Dr. Moskowitz undergo a PRN approved evaluation, complete a 6-9 month mini-residency
10 and another appearance before the Board.

11
12 Mr. Tellechea will contact the UF CARES program to determine what information they need to
13 assist Dr. Moskowitz and he will report back to the Board.

14
15 **Action taken:** petition denied

16
17 **Ladapo O. Shyngle, M.D. – Motion for Reconsideration.....59**

18 Dr. Shyngle was present and represented by counsel. Jurisdiction in this matter was relinquished to
19 the Board by the District Court of Appeals.

20
21 A motion was made, seconded and carried unanimously to reconsider the case.

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

24
25 Ms. Green represented the Department and presented the case to the Board. Allegations of the
26 Administrative Complaint: Violation of Florida Statutes s. - Being convicted or found guilty of, or
27 entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which
28 directly relates to the practice of medicine or to the ability to practice medicine.

29
30 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

31
32 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

33
34 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
35 Statutes as charged in the Administrative Complaint.

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1 A motion was made, seconded and carried 9-3 to impose a reprimand, Laws and Rules course,
2 \$7,500 fine, and 50 hours community service.

3

4 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,300.48

5

6 **Penalty imposed:** reprimand, Laws and Rules course, \$7,500 fine, costs, 50 hours community
7 service

8

9 **Grace Valente Guastella, M.D. – Request to Lift Restriction.....60**

10 Dr. Guastella was present, but not represented by counsel. After discussion, she indicated she
11 wished to withdrawn her request to lift the restriction and asked the Board for assistance in locating
12 a physician she could shadow until she completes the UF CARES evaluation and reappears before
13 the Board.

14

15 Dr. Brown indicated Dr. Guastella was in compliance with PRN.

16

17 **Action taken:** none

18

19 **Mazhar Rasul, M.D. – Motion for Reconsideration of Voluntary Relinquishment ..72**

20 Dr. Rasul was present and represented by Allen Grossman, Esquire.

21

22 A motion was made and seconded to reject the motion for reconsideration. The motion failed 6-8.

23

24 A motion was made and seconded to accept the motion for reconsideration. The motion carried 9-5.

25

26 The Respondent agreed to pay the full costs in the case.

27

28 A motion was made and seconded to accept the previous counter offer to the Respondent with full
29 costs and \$4,000 fine. The motion carried 9-5.

30

31 The Respondent accepted the previous counter offer as modified.

32

33 **Penalty imposed:** Relinquishment reconsidered; imposed letter of concern, \$4,000 fine, full costs,
34 Laws and Rules course, PRN evaluation, Board reserves right to impose additional terms

35

36 **Rossetta V. Cannata, M.D – Petition for Reconsideration of Voluntary Relinquishment. 73**

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1 Dr. Cannata was present and represented by Jeffrey Myers, Esquire.

2
3 Mr. Myers advised Dr. Cannata wished to withdraw her petition and wait on the court ruling. If the
4 ruling is in her favor, she will petition again at that time.

5
6 **Action taken:** none

7
8 **Albert R. Cioffi, M.D. – Request for Reconsideration of Informal Hearing.....75**

9 Dr. Cioffi was present and represented by Julie Gallagher, Esquire.

10
11 A motion was made, seconded and carried with one opposed to reconsider both of the previous
12 cases.

13
14 Case number 2010-14582

15 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x), FS (2009) - Violating a
17 lawful order of the board or department previously entered in a disciplinary hearing or failing to
18 comply with a lawfully issued subpoena of the department.

19
20 Case number 2010-20824

21 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
22 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x), FS (2009) - Violating a
23 lawful order of the board or department previously entered in a disciplinary hearing or failing to
24 comply with a lawfully issued subpoena of the department.

25
26 A motion was made, seconded and carried unanimously to adopt the Findings of Fact in both cases.

27
28 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law in both
29 cases.

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

33
34 A motion was made, seconded and carried unanimously to impose \$1,000 fine and to require
35 completion of all outstanding requirements from previous Final Orders.

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1 A motion was made, seconded and carried unanimously to assess costs in the amount of \$566.13 and
2 818.43 (already been paid).

3

4 **Penalty imposed:** \$1,000 fine, required to complete all outstanding requirements from previous
5 Final Orders; costs paid

6

7 **Aryama D. Sharma, M.D. vs. Department of Health – Attorney fees/costs76**

8 Dr. Sharma nor counsel was present.

9

10 Mr. Tellechea explained this was a Recommended Order in which the Department failed to prove
11 their case and lost at the Division of Administrative Hearings (DOAH). DOAH ordered the Board to
12 pay attorney fees and costs in the amount of \$45,700.

13

14 A motion was made, seconded and carried unanimously to pay the required amount.

15

16 Ms. Kiesling indicated she had all the required paperwork and would ensure Dr. Sharma is paid.

17

18 Mr. Tellechea expressed concern regarding how this case was handled. He advised he would discuss
19 with the Department and report back to the Board.

20

21 **PETITION FOR DECLARATORY STATEMENT:**

22

23 **Alexis P. Henderson, M.D. RE: s. 458.327, FS, s. 465.0276, FS, s. 465.017, FS, s.**

24 **803.03, FS.....63**

25 Dr. Henderson was present, but not represented by counsel.

26

27 After discussion, a motion was made, seconded and carried unanimously to find the prohibition on
28 dispensing of Schedule II and II controlled substances is based on Florida law which does not
29 supercede federal law and therefore, is not applicable to her specific situation.

30

31 **Action taken:** draft Final Order for presentation at December Board meeting

32

33 **Gino J. Sedillo, M.D. RE: s. 458.331, FS, s. 456.053, FS64**

34 Dr. Sedillo, Cathleen O’Dowdy, Esquire and Erin Aebel, Esquire appeared before the Board. Allen
35 Grossman, Esquire, also appeared to intervene in opposition to the request.

36

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1 Dr. Thomas recused himself from participation in the discussion because the request concerns his
2 medical group. Dr. Rosenberg chaired this hearing.

3
4 A motion was made, seconded and carried unanimously to grant intervention status.

5
6 A motion was made, seconded and carried unanimously to deny the petition for declaratory
7 statement on the basis of pending litigation that would resolve the issue.

8
9 **Action taken:** petition denied; draft Final Order for presentation at December Board meeting

10
11 **Mladen Antolic, M.D., Orlando, FL – Determination of Waiver36**

12 Dr. Antolic was not present nor was he represented by counsel.

13
14 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
15 Rosenberg chaired this hearing.

16
17 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
18 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(l), FS (2006-2010) - Soliciting
19 patients, either personally or through an agent, through the use of fraud, intimidation, undue
20 influence, or a form of overreaching or vexatious conduct. A solicitation is any communication
21 which directly or implicitly requests an immediate oral response from the recipient; s. 458.331(1)(j),
22 FS (2006-2010) - Exercising influence within a patient-physician relationship for purposes of
23 engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full,
24 and informed consent to sexual activity with his or her physician; s. 458.331(1)(k), FS (2006-2010) -
25 Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or
26 employing a trick or scheme in the practice of medicine; s. 458.331(1)(q), FS (2006-2010) -
27 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any
28 controlled substance, other than in the course of the physician's professional practice. For the
29 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering,
30 mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or
31 in excessive or inappropriate quantities is not in the best interest of the patient and is not in the
32 course of the physician's professional practice, without regard to his or her intent; s. 458.331(1)(r),
33 FS (2006-2010) - Prescribing, dispensing, or administering any medicinal drug appearing on any
34 schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed,
35 dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense,

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1 or administer medicinal drugs; and s. 458.331(1)(nn), FS (2006-2010) - Violating any provision of
2 this chapter or chapter 456, or any rules adopted pursuant thereto.

3
4 A motion was made, seconded and carried unanimously to find the Respondent waived his right to a
5 hearing.

6
7 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

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

10
11 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
12 Statutes as charged in the Administrative Complaint.

13
14 A motion was made, seconded and carried unanimously to revoke the Respondent's license and
15 impose a \$95,000 fine.

16
17 A motion was made, seconded and carried unanimously to assess costs in the amount of \$24,487.36.

18
19 **Penalty imposed:** revocation, \$95,000 fine, costs

20
21 **Robert Eugene Bourlier, M.D., Ft. Walton Beach & Pensacola, FL – Determination of**
22 **Waiver..... 31**

23 Dr. Bourlier was not present nor was he represented by counsel.

24
25 Dr. Zachariah was recused due to participation on the probable cause panel.

26
27 Ms. Green represented the Department and presented the case to the Board. Allegations of the
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2010) – Being
29 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
30 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
31 medicine.

32
33 A motion was made, seconded and carried unanimously to find the Respondent waived his right to a
34 hearing.

35
36 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

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- 1 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.
2
3 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
4 Statutes as charged in the Administrative Complaint.
5
6 A motion was made, seconded and carried unanimously to revoke the Respondent’s license and
7 impose a \$10,000 fine.
8
9 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,905.21.
10
11 **Penalty imposed:** revocation, \$10,000 fine, costs
12
13 **Mario G. Diaz, M.D., Miami, FL – Determination of Waiver32**
14 This case was continued, without objection by the Prosecution Services Unit, until the December
15 Board Meeting.
16
17 **Michael Scott Curtiss, M.D., Springfield, IL – Determination of Waiver39**
18 This case was continued, without objection by the Prosecution Services Unit, until the December
19 Board Meeting.
20
21 **Jonathan Steven Daitch, M.D., Fort Myers, FL – Settlement Agreement41**
22 This case was continued until the December Board Meeting.
23
24 **Anna Maria Alvarez, M.D., Miami & Tallahassee, FL – Determination of Wavier**
25 **.....80**
26 This case was continued, without objection by the Prosecution Services Unit, until the December
27 Board Meeting.
28
29 The meeting adjourned at 7:41 p.m.

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1 **Saturday, October 1, 2011**

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

3

4 **Members Present:**

5 George Thomas, M.D., Chair
6 Jason Rosenberg, M.D., Vice Chair
7 Z.P. Zachariah, M.D., 1st Vice Chair
8 Elisabeth Tucker, M.D., 2nd Vice Chair
9 Merle Stringer, M.D.
10 Trina Espinola, M.D.
11 Robert Nuss, M.D.
12 Fred Bearison, M.D. (arrived at 8:30 am)
13 Brigitte Goersch, Consumer Member
14 Onelia Lage, M.D.
15 Bradley Levine, Consumer Member
16 Nabil El Sanadi, M.D.

17

18 **Staff Present:**

19 Joy A. Tootle, J.D., Executive Director
20 Ed Tellechea, Board Counsel
21 Donna McNulty, Board Counsel
22 Nancy Murphy, Paralegal
23 Chandra Prine, Program Operations Administrator
24 Crystal A. Sanford, CPM, Program Operations Administrator
25 Whitney Bowen, Regulatory Specialist II

26

27

28 **Prosecuting Attorneys Present:**

29 Veronica Donnelly
30 Carol Gregg
31 Yolanda Green
32 Diane Kiesling

33

34 Ms. Tootle provided opening remarks regarding the types of hearings the audience would hear
35 through the day.

36

Members Absent:

Gary Winchester, M.D.
James Orr, M.D.
Donald Mullins, Consumer Member

Others Present:

Argus Bay Reporting and Legal
Stephanie Walters
4010 West State St
Tampa, FL 33609
(813) 490-0003
Martha E. Brown, M.D., Assist. Med. Dir.
Practitioners Recovery Network
Deborah Troupe, PRN

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1 Ms. Sanford read the Settlement Agreement list and determined which hearings would be heard by
2 the Board.

3
4 **DISCIPLINARY CASE SCHEDULE CONTINUED:**

5
6 **Maria-Isabel Zapata, M.D., Houston, TX & Orlando, FL – Settlement Agreement 66**

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

8
9 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
10 (2005) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical
11 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
12 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
13 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
14 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical
15 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
16 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
17 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
18 this paragraph. A recommended order by an administrative law judge or a final order of the board
19 finding a violation under this paragraph shall specify whether the licensee was found to have
20 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
21 or any combination thereof, and any publication by the board must so specify.

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

24
25 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in diagnosis and treatment of
26 pulmonary conditions, 5 hours CME in risk management

27
28 **Ricky L. Bellard, M.D., Pensacola, FL – Settlement Agreement68**

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

30
31 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
32 (2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50 (2): 1. Committing medical
33 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
34 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
35 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
36 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical

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1 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
2 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
3 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
4 this paragraph. A recommended order by an administrative law judge or a final order of the board
5 finding a violation under this paragraph shall specify whether the licensee was found to have
6 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
7 or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(nn), FS
8 (2007) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
9 thereto; and s. 458.331(1)(m), FS (2007) – Failing to keep legible, as defined by department rule in
10 consultation with the board, medical records that identify the licensed physician or the physician
11 extender and supervising physician by name and professional title who is or are responsible for
12 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
13 the course of treatment of the patient, including, but not limited to, patient histories; examination
14 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
15 consultations and hospitalizations.

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

18
19 **Penalty imposed:** letter of concern, \$10,000 fine, costs, UF drug course, FMA records course, 40
20 hours community service, 5 hours CME in risk management

21
22 **Raul Juan Rodriguez-Sora, M.D., Tucson, AZ – Settlement Agreement69**

23 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

24
25 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
26 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise
27 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,
28 including its agencies or subdivisions. The licensing authority’s acceptance of a physician’s
29 relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or
30 in anticipation of the filing of administrative charges against the physician’s license, shall be
31 construed as action against the physician’s license and s. 458.331(1)(kk), FS (2010) – Failing to
32 report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken
33 against one’s license to practice medicine in another state, territory, or country.

34
35 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

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1 **Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws and Rules course, suspended
2 indefinitely until appears and demonstrates ability to practice with reasonable skill and safety
3 including a PRN evaluation, board retains jurisdiction to impose additional terms, licenses must be
4 clear in other jurisdictions

5
6 **James F. Farrell, M.D., Orlando & Winter Park, FL – Settlement Agreement70**

7 Dr. Winchester, Dr. Lage and Ms. Goersch were recused due to participation on the probable cause
8 panel.

9
10 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
11 (2004-2005) - Notwithstanding s. 456.072(2) but as specified in s. 456.50 (2): 1. Committing medical
12 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102
13 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one
14 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
15 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical
16 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide
17 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
18 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
19 this paragraph. A recommended order by an administrative law judge or a final order of the board
20 finding a violation under this paragraph shall specify whether the licensee was found to have
21 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
22 or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m), FS
23 (2004-2005) - Failing to keep legible, as defined by department rule in consultation with the board,
24 medical records that identify the licensed physician or the physician extender and supervising
25 physician by name and professional title who is or are responsible for rendering, ordering,
26 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
27 treatment of the patient, including, but not limited to, patient histories; examination results; test
28 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
29 hospitalizations; and s. 458.331(1)(q), FS (2005) - Prescribing, dispensing, administering, mixing, or
30 otherwise preparing a legend drug, including any controlled substance, other than in the course of
31 the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed
32 that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including
33 all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best
34 interest of the patient and is not in the course of the physician’s professional practice, without regard
35 to his or her intent
36

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

2

3 **Penalty imposed:** reprimand, \$20,000 fine, costs, FMA records course, Laws and Rules course, 20
4 hours CME in post-op infections, 5 hours CME in risk management

5

6 **Eugene Anderson Ward, M.D., Tampa, FL - Settlement Agreement.....5**

7 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
8 Rosenberg chaired this hearing.

9

10 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
11 (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
12 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
13 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
14 of this paragraph, performing or attempting to perform health care services includes the preparation
15 of the patient.

16

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

18

19 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 5 hours CME in
20 risk management, 1-hour lecture

21

22 **Stanley William Tenenbaum, M.D., Coral Springs, FL – Settlement Agreement33**

23 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
24 Rosenberg chaired this hearing. Dr. El Sanadi recused himself because he works with this physician.

25

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

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1 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
2 or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m),
3 FS (2005) – Failing to keep legible, as defined by department rule in consultation with the board,
4 medical records that identify the licensed physician or the physician extender and supervising
5 physician by name and professional title who is or are responsible for rendering, ordering,
6 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
7 treatment of the patient, including, but not limited to, patient histories; examination results; test
8 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
9 hospitalizations.

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

12
13 **Penalty imposed:** letter of concern, \$8,000 fine, costs, 50 hours community service, 7 hours CME in
14 transient ischemic attacks, 5 hours CME in risk management

15
16 **Edwin William Maldonado Burdette, M.D., Ft. Pierce, FL – Settlement Agreement 28**

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

18
19 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS
20 (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
21 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
22 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes
23 of this paragraph, performing or attempting to perform health care services includes the preparation
24 of the patient.

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

27
28 **Penalty imposed:** letter of concern, \$3,000 fine, costs, 5 hours CME in risk management, 1-hour
29 lecture

30
31 **Lucy Stansbury Tyler, M.D., Palmetto Bay, FL – Hearing Not Involving Disputed Issues**
32 **of Material Fact.....65**

33 Dr. Tyler was not present, but was represented by Marshall Louis, Esquire.

34
35 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

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1 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
2 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2008) - Violating any
3 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
4

5 Mr. Louis advised the Board that Dr. Tyler requested a waiver of her appearance due to health
6 issues.
7

8 Mr. Tellechea advised her appearance is not required.
9

10 Mr. Louis indicated there were two paragraphs in dispute:

- 11 1. Paragraph 4: Mr. Campos was the owner of True Care Medical Services and he made the
12 Respondent President.
- 13 2. Paragraph 5: The practice ended in November 2008.
14

15 Both parties agreed to the clarifications.
16

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

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

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

24 A motion was made, seconded and carried unanimously to impose a letter of concern, the Laws and
25 Rules course and 5 hours CME in risk management.
26

27 A motion was made, seconded and carried unanimously to assess costs in the amount of \$7,896.37.
28

29 **Penalty imposed:** letter of concern, the Laws and Rules course, 5 hours CME in risk management,
30 costs
31

32 **Bruce Brient, M.D., Gainesville, FL – Settlement Agreement67**

33 Dr. Brient was present and represented by Gregory Chaires, Esquire. The complainant addressed the
34 Board.
35

36 Dr. Rosenberg chaired this hearing.

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Case number 2009-07041:
Ms. Goersch was recused due to participation on the probable cause panel.
The Department and presented the case to the Board. Allegations of the Administrative Complaint:
Violation of Florida Statutes s. 456.072(1)(cc), FS (2009) – 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. For the purposes of this paragraph, it shall be legally
presumed that retention of a foreign body is not in the best interest of the patient and is not within
the standard of care of the profession, regardless of the intent of the professional.

Case number 2010-11933:
Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.
The Department and presented the case to the Board. Allegations of the Administrative Complaint:
Violation of Florida Statutes s. 458.331(1)(t), FS (2006) – Notwithstanding s. 456.072(2) but as
specified in s. 456.50 (2): 1. 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. 2. Committing gross medical
malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by
the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or
continue to be licensed by this state to provide health care services as a medical doctor in this state.
Nothing in this paragraph shall be construed to require that a physician be incompetent to practice
medicine in order to be disciplined pursuant to this paragraph. A recommended order by an
administrative law judge or a final order of the board finding a violation under this paragraph shall
specify whether the licensee was found to have committed “gross medical malpractice,” “repeated
medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by
the board must so specify and s. 458.331(1)(m), FS (2009) – Failing to keep legible, as defined by
department rule in consultation with the board, medical records that identify the licensed physician
or the physician extender and supervising physician by name and professional title who is or are
responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
and that justify the course of treatment of the patient, including, but not limited to, patient histories;
examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
of consultations and hospitalizations.

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

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1 **Penalty imposed:** letter of concern, \$15,000 fine, costs, FMA records course, 50 hours community
2 service, 1-hour lecture, 5 hours CME in risk management

3

4 **Michael J. Benjamin, M.D., Tamarac, FL – Settlement Agreement30**

5 Dr. Benjamin was present and represented by David Spicer, Esquire.

6

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

8

9 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
10 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2009-2010) – Failing
11 to perform any statutory or legal obligation placed upon a licensed physician.

12

13 A motion was made and seconded to accept the Settlement Agreement. However the motion failed
14 4-6.

15

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

17

18 A motion was made and seconded to offer a counter proposal to impose a reprimand, suspension
19 until undergoes FL CARES evaluation and appear before the Board to demonstrate ability to practice
20 with reasonable skill and safety, \$10,000 fine, costs, 100 hours community service, the Laws and
21 Rules course, risk management assessment, and the Board reserves jurisdiction to impose additional
22 terms after completion of the evaluation.

23

24 An amendment was offered to require a 1-week, or otherwise approved by the Board, course in child
25 abuse. The amendment was accepted.

26

27 The motion carried with one opposed.

28

29 The Respondent rejected the counter offer and stated he was going to hearing.

30

31 **Ravi Xavier, M.D., North Palm Beach, FL - Settlement Agreement43**

32 Dr. Xavier was present and represented by Gregory Chaires, Esquire.

33

34 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

35

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

22
23 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.
24

25 A motion was made, seconded and carried unanimously to impose the same terms in the original
26 agreement but with a \$5,000 fine.
27

28 The Respondent accepted the counter offer.
29

30 **Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course
31

32 **RETREAT DISCUSSION ITEMS:**
33

34 **Re-Entry into Practice – John S. Curran, M.D.....71**

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1 Dr. Curran provided the Board with an update regarding physician re-entry into practice after being
2 out of practice for a significant period of time. He also provided information reading material to the
3 members.

4
5 **Action taken:** none

6
7 **FINAL ORDER COMPLIANCE ISSUES:**

8
9 **Shaheed Kalloo, M.D. – Petition for Lifting of License Restriction.....58**

10 Dr. Kalloo was present and represented by Alex Barker, Esquire. Dr. Brown and Ms. Troupe also
11 addressed the Board.

12
13 A motion was made and seconded to lift the restriction under the conditions outlined by PRN
14 including logs and a chaperone. The motion was later withdrawn.

15
16 A motion was made and seconded to reject the petition on the basis the evaluation was not
17 performed by a Board approved provider. The motion failed 5-7.

18
19 A motion was made and seconded to grant the petition with the following restrictions:

- 20 1 – Board approved sign with specific language
21 2 – Board approved written disclosure to each patient
22 3 – Licensed health care practitioner to serve as chaperone
23 4 – Remaining conditions outlined by PRN

24
25 The motion carried 9-2.

26
27 **Action taken:** restriction lifted with conditions

28
29 Dr. Brown asked the Board if they wanted the three programs to make a presentation before the
30 Board since they are not currently Board approved providers. The Board acknowledged they would
31 like the presentation.

32
33 **PRESENTATION:**

34
35 **Daniel Hernandez, Emergency Action Attorney83**

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1 Mr. Hernandez addressed the Board regarding program changes within PSU. He advised that 26
2 Emergency Suspension Orders (ESOs) had been issued against physicians from June through
3 September. He stated the unit is currently primarily focused on pill mill cases. He explained the
4 unit is working with law enforcement, but more attorneys were needed to handle the workload.
5

6 Dr. El Sanadi asked Mr. Hernandez to send information regarding the ESO process for educational
7 purposes.
8

9 **Action taken:** none

10
11 **PETITION FOR DECLARATORY STATEMENT:**

12
13 **Ara J. Deukmedjian, M.D. RE: s. 456.44(1)(d), FS, 456.44(2), FS74**

14 Dr. Patel was present in lieu of Dr. Deukmedjian and was accompanied by Allen Grossman, Esquire.
15

16 After discussion, a motion was made, seconded and carried unanimously to deny the petition for
17 declaratory statement on the basis of the information provided and the Board cannot determine if the
18 entity is prescribing controlled substances for non-malignant chronic pain.
19

20 **Action taken:** petition denied

21
22 **PETITION FOR WAIVER/VARIANCE:**

23
24 **National Laser Institute RE: Rule 64B8-51.006, FAC**

25 A representative from the institute was not present, nor was counsel on behalf of the institute
26 present.
27

28 Mr. Tellechea explained the petition to the Board and indicated the Board should approve the
29 petition because it is over 90 days old.
30

31 A motion was made, seconded and carried unanimously to approve the petition as long as the
32 institute remains in compliance with Arizona law and are therefore approved to provide education to
33 Florida licensees.
34

35 Ms. Tootle explained the lateness of the petition and that staff would work on better communication
36 between the Board of Medicine and Council on Electrology offices.

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Action taken: petition granted

Mr. Tellechea asked the Board if they wished to amend the rules to approve CE providers outside the State of Florida.

The Board agreed.

Action taken: amend rules to approve CE providers outside of Florida

The Board directed the Chair to send a letter to the Electrology Council staff.

COMMITTEE REPORTS:

Probation Committee Meeting

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

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

Action taken: report approved

Dietetic-Nutrition/Electrology Committee Meeting

Mr. Levine provided the report for the meeting held September 29, 2011.

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

Action taken: report approved

Ophthalmology Informed Consent Committee Meetings

Dr. El Sanadi provided the reports for the meetings held August 19, 2011 and September 29, 2011. He asked the Board's approval to send the final draft of the form to two University Chairs for review prior to finalizing with the Board in December.

A motion was made, seconded and carried unanimously to allow Dr. El Sanadi to present the form to two University Chairs for review and to approve the reports.

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1 **Action taken:** Dr. El Sanadi will get two University Chairs to review the form; reports approved

2
3 **Credentials Committee Meeting**

4 Dr. Tucker provided the report for the meeting held September 29, 2011.

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

7
8 **Action taken:** report approved

9
10 **Anesthesiologist Assistants Committee Meeting**

11 The meeting scheduled for September 29 2011 was cancelled.

12
13 **Action taken:** none

14
15 **Rules/Legislative Committee Meeting**

16 Dr. Nuss provided the report for the meeting held September 29, 2011.

17
18 A motion was made, seconded and carried unanimously to approve the report.

19
20 **Action taken:** report approved

21
22 **Expert Witness Committee Meeting**

23 Dr. Nuss provided the report for the meeting held September 29, 2011.

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

26
27 **Action taken:** report approved

28
29 **Finance & Statistics Committee Meeting**

30 Dr. El Sanadi provided the report for the meeting held September 29.

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

33
34 **Action taken:** report approved

35
36 **Surgical Care & Quality Assurance Committee Meeting**

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1 The meeting scheduled for September 29, 2011 was cancelled.

2

3 **Action taken:** none

4

5 **COUNCIL ON PHYSICIAN ASSISTANTS:**

6 Dr. Espinola provided the report for the meeting held September 29, 2011.

7

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

9

10 **Action taken:** report approved

11

12 **APPROVAL OF MEETING MINUTES:**

13

14 **August 5-6, 2011 Board of Medicine Meeting**

15

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

17

18 **Action taken:** minutes approved

19

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

21

22 A motion was made, seconded and carried unanimously to ratify the licenses presented.

23

24 **Action taken:** licenses ratified

25

26 **INFORMATION ONLY:**

27 **American Academy on Communication in Healthcare77**

28

29 **Action taken:** none

30

31 **BOARD COUNSEL'S REMARKS:**

32 Mr. Tellechea provided an update regarding Brnd Wollschleger, et al vs. Frank Farmer, M.D., et al.
33 He explained the federal court has enjoined and the requirements of the law will not be enforced by
34 the Board including the rules for disciplinary guidelines.

35

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1 A motion was made, seconded and carried unanimously to halt rulemaking on the disciplinary
2 guidelines related to this law.

3
4 **Action taken:** halt rulemaking on disciplinary guidelines

5
6 Mr. Tellechea advised the Board he has been asked by the Federation of State Medical Boards to
7 speak at their upcoming attorney conference in Miami regarding board member ethics. He said he
8 would be using a portion of the annual board member training presentation for this purpose.

9
10 **DEPARTMENT REMARKS:**

11 Ms. Donnelly address the Board regarding the year old case reports and changes to staffing to work
12 exclusively on these cases. She indicated 33% of the old cases have been resolved. After
13 discussion, it was determined the Finance & Statistics Committee will continue to work with PSU on
14 a plan for handling the old cases.

15
16 Ms. Donnelly advised the Board she held her first Expert Witness Training on Thursday night. She
17 stated she wants to develop a two day program and will be happy to address that at the next Expert
18 Witness Committee meeting.

19
20 Ms. Donnelly stated PSU will continue to work with the Board and staff on the scheduling of cases
21 and will have a better idea of the number of cases and how long they will take following her October
22 16th meeting with her staff.

23
24 Ms. Donnelly indicated that she and staff have been working on the costs issues identified by
25 members. She will be able to report to the Board in December regarding resolution.

26
27 Ms. Donnelly she will be working with investigators to ensure they have the most recent version of
28 the voluntary relinquishment form.

29
30 Dr. Thomas asked if staff could make the letter that is sent with relinquishments more clear.

31
32 Ms. Donnelly stated her attorneys were working closely with the Compliance Management Unit staff
33 to increase communication and to streamline the compliance cases.

34
35 **BOARD DIRECTOR'S REMARKS:**

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1 Ms. Tootle advised the Board that Ms. Gee has been downtown giving presentations to Legislative
2 Committees and Subcommittees. She said she would email this information to the members.

3
4 Florida Trauma System Plan Advisory Council – Ms. Tootle advised Dr. Farmer needs a member for
5 this committee and asked members to email her if interested. She would then get Dr. Thomas to
6 appoint the volunteer.

7
8 2013 Board Meeting Dates – Members were asked to review the dates and provide locations. The
9 following locations were suggested:

10 2 meetings in Ft. Lauderdale

11 2 meetings in Orlando

12 2 meetings in Tampa/Sarasota area

13
14 Ms. Goersch asked that the 2012 meeting dates and locations be sent to her.

15
16 Communication Plan/Update – Ms. Sanford updated the Board on activities related to the Board’s
17 communication plan. She advised subscription to the Mailman System had doubled since the last
18 Board Meeting. She explained a flyer had been created and shared with the FMA, FAPA and
19 several county medical societies. The flyers were sent to members to share with colleagues and to
20 bring with them when giving presentations. She also advised the first article from the Consumers
21 Corner was published on September 26th in the *Tampa Tribune* and was about medical records. She
22 said she was available to members to assist in the development of presentations.

23
24 Dr. Tucker asked to give a presentation at the December meeting on her visit to the *Center for*
25 *Personalized Education for Physicians*.

26
27 **BOARD CHAIR’S REMARKS:**

28 Dr. Thomas addressed the Board and outlined events from the Annual Board Chair’s Meeting
29 recently attended by him and Dr. Rosenberg. He said the most interesting item he learned was that
30 there were 10,000 fewer complaints against all health care practitioners during the last fiscal year.

31
32 Dr. Thomas asked members to continue reaching out to people to educate and communicate about
33 the Board’s work. He said he knows that if requested the email addresses from the Mailman listserv
34 must be provided, but at least they are not posted on the web page.

35

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- 1 Dr. Thomas asked the members to read the response provided by Ms. Tootle to the letter from *Public*
2 *Citizen* regarding hospital actions.
3
- 4 Ms. Tootle explained that a lot of the hospital actions were not reported to the Board but the letter
5 breaks down the information for the members.
6
- 7 Dr. Thomas stated the Board of Chiropractic Medicine requires all new licensees to attend one day
8 of a Board Meeting once. He said that he knows Medicine cannot do this due to the number of
9 licensees.
10
- 11 Dr. Thomas advised he will be going to the Senate Committee next week where PSU will be giving
12 a presentation. He said he was asked to be there as well and plans to attend.
13
- 14 Dr. Thomas asked the members if they liked working through lunch. The members did like that
15 option.
16
- 17 Dr. Rosenberg suggested handling untimed items during the lunch.
18
- 19 Mr. Tellechea the Board needs to make it clear when they will be having lunch so that the audience
20 can make arrangements as well.
21
- 22 Dr. Thomas thanked the Board for their long hours, PSU for allowing the Board to continue three
23 cases, and to staff for their hard work.
24
- 25 The meeting adjourned at 12:36 p.m