

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Friday, December 2, 2011
8:00 a.m. ROLL CALL

MEMBERS PRESENT:

George Thomas, M.D., Chair
Jason Rosenberg, M.D., Vice Chair
Zachariah P. Zachariah, M.D., 1st Vice Chair (arrived at 8:15 am)
Merle Stringer, M.D.
Trina Espinola, M.D.
Donald Mullins, Consumer Member
Robert Nuss, M.D.
Fred Bearison, M.D.
James Orr, M.D.
Gary Winchester, M.D.
Brigitte Goersch, Consumer Member
Bradley Levine, Consumer Member
Nabil El Sanadi, M.D.

MEMBERS NOT PRESENT:

Elisabeth Tucker, M.D., 2nd Vice Chair
Onelia Lage, M.D.

STAFF PRESENT:

Joy A. Tootle, JD, Executive Director
Ed Tellechea, Board Counsel
Donna McNulty, Board Counsel
Nancy Murphy, Paralegal
Crystal Sanford, CPM, Program Operations Administrator
Chandra Prine, Program Operations Administrator
Whitney Bowen, Regulatory Specialist II
Jennifer Hirst, Public Information Officer
Shaila Washington, Compliance Officer

OTHERS PRESENT:

Judy Rivenbark, M.D., Director
Practitioners Recovery Network
American Court Reporting

PROSECUTING ATTORNEYS PRESENT:

Diane Kiesling
Sharmin Hibbert
Carol Gregg

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Dr. Thomas thanked the members and staff for their hard work the day before in committee
2 meetings.

3
4 Ms. Tootle read the opening remarks and summarized the types of hearings scheduled for the day.
5

6 **DISCIPLINARY CASE SCHEDULE:**

7
8 Ms. Sanford read the Settlement Agreement list and the members approved agreements in cases
9 where the members were satisfied with the penalty set forth.

10
11 **Caridad Govea, P.A., Miami, FL - Settlement Agreement1**

12 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

13
14 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(g), FS
15 (2009) - Failing to perform any statutory or legal obligation placed upon a licensed physician.

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

18
19 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws & Rules course, submit affidavit that
20 Respondent has read all laws and rules related to PA's

21
22 **Alan D. Mendelsohn, M.D., Hollywood, FL - Settlement Agreement3**

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

25
26 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(c), FS
27 (2010) – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to,
28 regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability
29 to practice, a licensee's profession and s. 456.072(1)(l), FS (2010) – Making or filing a report which
30 the licensee knows to be false, intentionally or negligently failing to file a report or record required
31 by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or
32 records shall include only those that are signed in the capacity of a licensee.

33
34 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

35

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 **Penalty imposed:** reprimand, \$20,000 fine, costs, Laws & Rules course, 10 hours CME in ethics,
2 upon release from prison, suspension for 1 year with credit given for 2 months under ESO, probation
3 upon reinstatement for 3 years with indirect supervision, monthly visits by monitor with quarterly
4 reports, quarterly reports from Respondent, quarterly appearances
5

6 **William J. Romanos, Jr., M.D., Jupiter, FL - Settlement Agreement 6, Addendum**

7 Mr. Mullins was 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 (2000, 2004, 2005-2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):

11 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the
12 provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed
13 to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3.
14 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to
15 have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to
16 be licensed by this state to provide health care services as a medical doctor in this state. Nothing in
17 this paragraph shall be construed to require that a physician be incompetent to practice medicine in
18 order to be disciplined pursuant to this paragraph. A recommended order by an administrative law
19 judge or a final order of the board finding a violation under this paragraph shall specify whether the
20 licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,”
21 or “medical malpractice,” or any combination thereof, and any publication by the board must so
22 specify; s. 458.331(1)(m), FS (2000-2009) – Failing to keep legible, as defined by department rule in
23 consultation with the board, medical records that identify the licensed physician or the physician
24 extender and supervising physician by name and professional title who is or are responsible for
25 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
26 the course of treatment of the patient, including, but not limited to, patient histories; examination
27 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
28 consultations and hospitalizations; and s. 458.331(1)(k), FS (2006) – Making deceptive, untrue, or
29 fraudulent representations in or related to the practice of medicine or employing a trick or scheme in
30 the practice of medicine.
31

32 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.
33

34 **Penalty imposed:** reprimand, \$10,000 fine, costs, FMA records course, 50 hours community
35 service, 5 hours CME in risk management, 10 hours CME in long term treatment of psychiatric
36 patients; 3 hours CME in ethics

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 **Mary Jean Lee Pazos, M.D., Miami, FL - Settlement Agreement8**

3 Dr. Espinola 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. 456.072(1)(bb), FS
6 (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
7 thereto and s. 458.331(1)(nn), FS (2010) – Performing or attempting to perform health care services
8 on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a
9 procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical
10 condition. For the purposes of this paragraph, performing or attempting to perform health care
11 services includes the preparation of the patient.

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

14
15 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 25 hours community service, 5 hours CME in
16 risk management, 1-hour lecture

17
18 **Jonathan Steven Daitch, M.D., Fort Myers, FL - Settlement Agreement12**

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

20
21 Allegations of the Administrative Complaint: Violation of Florida Statute s. 456.072(1)(bb), FS
22 (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site
23 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
24 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes
25 of this paragraph, performing or attempting to perform health care services includes the preparation
26 of the patient.

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

29
30 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 50 hours community service, 5 hours CME in
31 risk management, 1-hour lecture

32
33 **David Tindel Cummins, M.D., Ormond Beach, FL - Settlement Agreement26**

34 Dr. Zachariah and Mr. Levine were recused due to participation on the probable cause panel.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Allegations of the Amended Administrative Complaint: Violation of Florida Statute s.
2 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules
3 adopted pursuant thereto.

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

6
7 **Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws and Rules course

8
9 **Edgardo Javier Rivera-Rivera, M.D., Gotha & Ocoee, FL - Settlement Agreement....**
10 **.....32**

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

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

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

26
27 **Penalty imposed:** letter of concern, \$7,500 fine, costs, 6 hours CME in emergency medicine, 5
28 hours CME in risk management

29
30 **Alex Ignacio Garriga, M.D., Lakeland, FL - Settlement Agreement****34**

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Dr. Orr and Mr. Levine were recused due to participation on the probable cause panel.

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

23
24 **Penalty imposed:** letter of concern, \$8,000 fine, costs, 5 hours CME in risk management

25
26 **Alicia Chilito, M.D., Miami, FL - Settlement Agreement39**

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS
2 (2009-2010) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

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

5
6 **Penalty imposed:** letter of concern, \$5,000 fine, costs, Laws and Rules course, 12 hours CME
7 which shall cover: lawful dispensing of drugs, legal requirements for writing of prescriptions, legal
8 prohibitions pertaining to adulterated drugs and legal requirements for the receipt of wholesale
9 prescriptions drugs – however, she is exempt from the CME if she permanently relinquishes her
10 dispensing registration, 5 hours CME in risk management

11
12 **Brummitte Dale Wilson, M.D., Hamburg, NY - Settlement Agreement40**

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

14
15 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS
16 (2009-2010) – a license or the authority to practice medicine revoked, suspended, or otherwise acted
17 against, including the denial of licensure, by the licensing authority of any jurisdiction, including its
18 agencies or subdivisions. The licensing authority’s acceptance of a physician’s relinquishment of a
19 license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the
20 filing of administrative charges against the physician’s license, shall be construed as action against
21 the physician’s license and s. 458.331(1)(kk), FS (2009-2010) – Failing to report to the board, in
22 writing, within 30 days if action as defined in paragraph (b) has been taken against one’s license to
23 practice medicine in another state, territory, or country.

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

26
27 **Penalty imposed:** letter of concern, \$4,000 fine, letter of concern, QA assessment and compliance,
28 probation until NY requirements met and discharged from probation, indirect supervision, 20%
29 review of charts, quarterly reports from monitor and probationer, appearances, if he fails to satisfy
30 NY requirements he must immediately notify us and cannot practice in Florida until Board reviews
31 the new circumstances, board retains jurisdiction to impose additional terms

32
33 **Roger Gordon, M.D., Ft. Lauderdale & Plantation, FL - Recommended Order18**

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
3 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2004) – Gross or
4 repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment
5 which is recognized by a reasonably prudent similar physician as being acceptable under similar
6 conditions and circumstances and s. 458.331(1)(m), FS (2004) – Failing to keep legible, as defined
7 by department rule in consultation with the board, medical records that identify the licensed
8 physician or the physician extender and supervising physician by name and professional title who is
9 or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment
10 procedure and that justify the course of treatment of the patient, including, but not limited to, patient
11 histories; examination results; test results; records of drugs prescribed, dispensed, or administered;
12 and reports of consultations and hospitalizations.

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

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

17
18 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.

19
20 **Action taken:** Complaint dismissed

21
22 **DOH, Board of Medicine vs. Roger L. Gordon, M.D. – Final Order Denying Respondent’s**
23 **Motion for Attorney Fees74**

24 No action necessary.

25
26 **Robert B. Sperrazza, M.D., Leesburg, GA & Panama City Beach, FL – Settlement Agreement**
27 **..... 5**

28 Dr. Sperrazza was present and represented by Allen Grossman, Esquire. Dr. Rivenbark also
29 addressed the Board.

30
31 Dr. Nuss 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 Complaints: Violation of Florida Statutes s. 458.331(1)(g), FS (2010) – Failing to
35 perform any statutory or legal obligation placed upon a licensed physician; s. 458.331(1)(k), FS
36 (2010) – Making deceptive, untrue, or fraudulent representations in or related to the practice of

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 medicine or employing a trick or scheme in the practice of medicine; s. 458.331(1)(q), FS (2010) –
2 Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any
3 controlled substance, other than in the course of the physician’s professional practice. For the
4 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering,
5 mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or
6 in excessive or inappropriate quantities is not in the best interest of the patient and is not in the
7 course of the physician’s professional practice, without regard to his or her intent; s. 458.331(1)(nn),
8 FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant
9 thereto; and s. 458.331(1)(t), FS (2010) – Notwithstanding s. 456.072(2) but as specified in s.
10 456.50(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 reject the Settlement Agreement.

24

25 A motion was made and seconded to offer a counter proposal to impose the same terms but removed
26 the stay on the suspension and imposed a permanent restriction on prescribing controlled substances.

27

28 An amendment was offered to permanently restrict the Respondent from prescribing Schedule II and
29 III controlled substances and a \$10,000 fine. The restriction was accepted and the fine was rejected.

30

31 Another amendment was offered to allow the Respondent to petition to have the restriction lifted
32 after three years. This amendment was accepted.

33

34 The motion carried unanimously.

35

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 **Action taken:** Settlement Agreement rejected; counter offer to imposed reprimand, \$30,000 fine,
3 costs, Laws & Rules course, UF Drug Course, FMA records course, 10 hours CME in pain
4 management, 5 hours CME in risk management, restriction – restricted from prescribing Schedule II
5 and II controlled substances, but may petition to have the restriction lifted after three years, 1 year
6 suspension, 3 year probation with indirect supervision, 25% review of charts, review all charts for
7 pain patients, review all controlled substance prescriptions, quarterly reports from monitor, quarterly
8 reports from Respondent, first and last appearances
9

10 **Leila Ilmanovna Kump, M.D., Gaithersburg, MD - Hearing Not Involving Disputed Issues of**
11 **Material Fact7**

12 Dr. Kump was present but not represented by counsel.
13

14 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.
15

16 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
17 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(b), FS (2010) – Having a
18 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
19 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
20 or subdivisions.
21

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

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

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

29 A motion was made and seconded to impose a letter of concern, \$1,000 fine and the Laws and Rules
30 course.
31

32 An amendment was offered to impose only the fine and the letter of concern. This amendment was
33 accepted.
34

35 Another amendment was offered to impose just a letter of concern. This amendment was accepted.
36

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 The motion carried unanimously.

2

3 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,154.20.

4

5 **Penalty imposed:** letter of concern, costs

6

7 **Revisited Robert B. Sperrazza, M.D., Leesburg, GA & Panama City Beach, FL – Settlement**
8 **Agreement..... 5**

9 Mr. Grossman addressed the Board and advised his client accepted the counter offer.

10

11 **Penalty imposed:** reprimand, \$30,000 fine, costs, Laws & Rules course, UF Drug Course, FMA
12 records course, 10 hours CME in pain management, 5 hours CME in risk management, restriction –
13 restricted from prescribing Schedule II and II controlled substances, but may petition to have the
14 restriction lifted after three years, 1 year suspension, 3 year probation with indirect supervision, 25%
15 review of charts, review all charts for pain patients, review all controlled substance prescriptions,
16 quarterly reports from monitor, quarterly reports from Respondent, first and last appearances

17

18 Dr. Thomas recognized Frank Farmer, M.D., State Surgeon General, present in the audience.

19

20 **Donald Freeman Westra, Jr, M.D., Morganton, NC – Voluntary Relinquishment9**

21 Dr. Westra was not present, nor was he represented by counsel.

22

23 No current members 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 voluntary relinquishment of
36 license.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Penalty imposed: relinquished

Robert Davis Williams, M.D., Ft. Lauderdale & Venice, FL - Settlement Agreement.
..... 10, Addendum

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

Ms. Sanford read a letter from the Respondent’s attorney into the record concerning his inability to appear before the Board due to being incarcerated.

Dr. Nuss, Dr. Orr and Ms. Goersch were all 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)(b), FS (2009) – Case number 2010-07428 – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license; s. 458.331(1)(kk), FS (2009) – Case number 2010-07428 – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country; and s. 456.072(1)(c), FS (2010) – Case number 2010-01730 – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

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

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

A motion was made, seconded and carried unanimously to offer a counter proposal to impose revocation.

The Respondent and his attorney were not present so the Respondent was given seven days to accept or reject the counter offer.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 **Action taken:** Settlement Agreement rejected; counter offer to impose revocation

2
3 **Rajan Kumar Sareen, M.D., Fort Myers, FL - Hearing Not Involving Disputed Issues of**

4 **Material Fact..... 11**

5 Dr. Sareen was present, but not represented by counsel.

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

8
9 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
10 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2005-2006) –
11 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
12 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
13 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 and s. 458.331(1)(m),
23 FS (2005-2006) – Failing to keep legible, as defined by department rule in consultation with the
24 board, 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.

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

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 A motion was made, seconded and carried unanimously to impose a letter of concern, \$5,000 fine, 5
3 hours CME in recognizing acute cardiovascular disease and the FMA records course.
4

5 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,510.76.
6

7 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in recognizing acute
8 cardiovascular disease, FMA records course
9

10 **Mazhar G. Nawaz, M.D., Kissimmee, FL - Settlement Agreement 13, Addendum**

11 Dr. Nawaz was present and represented by Michael D'Lugo, Esquire and Gregory Chaires, Esquire.
12

13 Dr. Bearison, Ms. Goersch and Mr. Levine were all recused due to participation on the probable
14 cause panel.
15

16 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
17 Amended Administrative Complaint in Case number 2004-40729: Violation of Florida Statutes s.
18 458.331(1)(m), FS (2003-2004) – Failing to keep legible, as defined by department rule in
19 consultation with the board, medical records that identify the licensed physician or the physician
20 extender and supervising physician by name and professional title who is or are responsible for
21 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
22 the course of treatment of the patient, including, but not limited to, patient histories; examination
23 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
24 consultations and hospitalizations; s. 458.331(1)(q), FS (2003-2004) – Prescribing, dispensing,
25 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,
26 other than in the course of the physician's professional practice. For the purposes of this paragraph, it
27 shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing
28 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate
29 quantities is not in the best interest of the patient and is not in the course of the physician's
30 professional practice, without regard to his or her intent; s. 458.331(1)(t), FS (2003-2004) –
31 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
32 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
33 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
34 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
35 malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical
36 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to
2 require that a physician be incompetent to practice medicine in order to be disciplined pursuant to
3 this paragraph. A recommended order by an administrative law judge or a final order of the board
4 finding a violation under this paragraph shall specify whether the licensee was found to have
5 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,”
6 or any combination thereof, and any publication by the board must so specify; and s. 458.331(1)(x),
7 FS (2004) – Violating a lawful order of the board or department previously entered in a disciplinary
8 hearing or failing to comply with a lawfully issued subpoena of the department.

9
10 Allegations of the Administrative Complaint in Case number 2009-22147: 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:** reprimand, \$18,000 fine, costs, UF drug course, FMA records course, 5 hours
20 CME in ethics and communication, 5 hours CME in risk management, 1-hour lecture, suspension,
21 probation for one year with indirect supervision, 25% chart review, quarterly reports, Respondent
22 appearances

23
24 **Albert Zamek, M.D., Surfside, FL - Recommended Order14**

25 Dr. Zamek was not present but was represented by Mark Bakay, Esquire.

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

28
29 Dr. Thomas read the Recommended Order remarks and confirmed all participating members had
30 read the complete record.

31
32 Ms. Keisling represented the Department and presented the case to the Board. Allegations of the
33 Second Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(k), FS
34 (2004) – Making deceptive, untrue, or fraudulent representations in or related to the practice of
35 medicine or employing a trick or scheme in the practice of medicine and s. 458.331(1)(m), FS
36 (2004) – Failing to keep legible, as defined by department rule in consultation with the board,

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 medical records that identify the licensed physician or the physician extender and supervising
2 physician by name and professional title who is or are responsible for rendering, ordering,
3 supervising, or billing for each diagnostic or treatment procedure and that justify the course of
4 treatment of the patient, including, but not limited to, patient histories; examination results; test
5 results; records of drugs prescribed, dispensed, or administered; and reports of consultations and
6 hospitalizations.

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

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

11
12 A motion was made, seconded and carried unanimously to adopt the Recommended Order.

13
14 The Respondent objected to the Motion for Costs; however, his filed motion was not included in the
15 agenda materials.

16
17 A motion was made, seconded and carried unanimously to table the Motion for Costs until the next
18 meeting.

19
20 **Penalty imposed:** letter of concern, \$5,000 fine, 6 hours CME in ethics, FMA records course;
21 Motion for Costs tabled until next meeting

22
23 Dr. Farmer addressed the Board. He thanked the Board for this hard work. He discussed changes he
24 has been making at the Department and his new policies. He asked the Board to be patient and to
25 continue working with the Department as they make the changes. He thanked the Department staff
26 for their hard work and the consumer members on the Board for this work on the probable cause
27 panel.

28
29 **Raymond Richard Schultetus, M.D., Gainesville, FL - Settlement Agreement15**

30 Dr. Schultetus was present and represented by Gregory Chaires, Esquire.

31
32 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

33
34 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2008) –

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

14 The Respondent agreed to waive attorney's fees and costs if the case was dismissed.

15 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.
16
17
18

19 **Action taken:** dismissed

20
21 **ELECTIONS No tab**

22 A motion was made, seconded and carried unanimously to elect Dr. Rosenberg as Chair for 2012.
23

24 A motion was made, seconded and carried unanimously to elect Dr. Zachariah as Vice Chair for
25 2012.
26

27 A motion was made, seconded and carried unanimously to elect Dr. El Sanadi as First Vice Chair for
28 2012.
29

30 **Action taken:** Dr. Rosenberg, Chair; Dr. Zachariah, Vice Chair; Dr. El Sanadi, First Vice Chair
31

32 **Abdon Borges, M.D., Miami, FL - Settlement Agreement17**

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Dr. Borges was present and represented by Javier Banos`, Esquire.

2
3 Mr. Mullins was recused due to participation on the probable cause panel.

4
5 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
6 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(w), FS (2010) – Delegating
7 professional responsibilities to a person when the licensee delegating such responsibilities knows or
8 has reason to know that such person is not qualified by training, experience, or licensure to perform
9 them; s. 458.331(1)(f), FS (2010) – Aiding, assisting, procuring, or advising any unlicensed person
10 to practice medicine contrary to this chapter or to a rule of the department or the board; s.
11 458.331(1)(g), FS (2010) – Failing to perform any statutory or legal obligation placed upon a
12 licensed physician; and s. 458.331(1)(gg), FS (2010) – Misrepresenting or concealing a material fact
13 at any time during any phase of a licensing or disciplinary process or procedure.

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

16
17 A motion was made and seconded to offer a counter proposal to impose revocation. This motion
18 was later withdrawn.

19
20 A motion was made and seconded to impose the same terms in the original agreement but to increase
21 the fine to \$20,000 and to suspend the license until the Respondent undergoes and complies with a
22 UF CARES evaluation and the Board reserved jurisdiction to impose additional terms at
23 reinstatement.

24
25 An amendment was offered to remove the community service. This amendment was accepted.

26
27 Another amendment was offered to require five hours CME in ethics. This amendment was also
28 accepted.

29
30 The motion carried with one opposed.

31
32 The Respondent took seven days to accept or reject the counter offer.

33
34 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine,
35 costs, Laws and Rules course, 5 hours CME in ethics, 10 hours CME ‘in generally “Appropriate
36 Practice Management” and/or “Legal Issues In the Practice of Medicine”’, QA assessment and

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 compliance, 5 hours CME in risk management; suspension until he undergoes the UF CARES
2 evaluation and complies, jurisdiction reserved

3
4 **Rosa Maria Herrera, M.D., Weston, FL - Settlement Agreement19**

5 This hearing was continued until the next Board Meeting.

6
7 **Lowell Anthony Adkins, M.D. Ft. Lauderdale, FL – Recommended Order
8 20, Addendum**

9 Dr. Adkins was present and represented by Jeffrey Shaffer, Esquire.

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

12
13 Dr. Thomas read the Recommended Order remarks and confirmed all participating members had
14 read the complete record.

15
16 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
17 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007) –
18 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
19 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
20 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
21 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
22 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
23 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
24 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
25 construed to require that a physician be incompetent to practice medicine in order to be disciplined
26 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
27 the board finding a violation under this paragraph shall specify whether the licensee was found to
28 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
29 malpractice," or any combination thereof, and any publication by the board must so specify; s.
30 458.331(1)(nn), FS (2007) – Violating any provision of this chapter or chapter 456, or any rules
adopted pursuant thereto; and s. 458.331(1)(m), FS (2007) – Failing to keep legible, as defined by

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 department rule in consultation with the board, medical records that identify the licensed physician
2 or the physician extender and supervising physician by name and professional title who is or are
3 responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure
4 and that justify the course of treatment of the patient, including, but not limited to, patient histories;
5 examination results; test results; records of drugs prescribed, dispensed, or administered; and reports
6 of consultations and hospitalizations.

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 adopt the Recommended Order.

12
13 A motion was made and seconded to assess costs in the amount of \$51,457.26.

14
15 The Respondent's attorney raised concerns regarding the costs.

16
17 No action was taken on the previous motion.

18
19 A motion was made, seconded and carried unanimously to assess costs in the amount of \$17,152.42.

20
21 **Penalty imposed:** found not guilty on counts 1 and 2; found guilty of the (m) violation only:
22 reprimand, \$1,000 fine, FMA records course, costs

23
24 **Engin G. Aksu, M.D., Hallandale, FL - Hearing Not Involving Disputed Issues of Material Fact**
25 **..... 21, Addendum**

26 Dr. Aksu was not present nor was he represented by counsel.

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

29
30 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2010) – Failing to
32 perform any statutory or legal obligation placed upon a licensed physician.

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

Minutes prepared by Crystal Sanford

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

3
4 A motion was made, seconded and carried unanimously to find the Respondent has violated Florida
5 Statutes as charged in the Administrative Complaint.

6
7 A motion was made, seconded and carried unanimously to impose a reprimand, suspension until he
8 complies with the AHCA Order, \$5,000 fine, and the Laws and Rules course.

9
10 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,466.02.

11
12 **Penalty imposed:** reprimand, suspension until he complies with the AHCA Order, \$5,000 fine,
13 costs, Laws and Rules course

14
15 **John Robert Joseph, M.D., Boynton Beach, FL - Settlement Agreement22**

16 Dr. Joseph was present and represented by Gregory Chaires, Esquire.

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

19
20 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
21 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006-2007) –
22 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice
23 as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when
24 enforcing this paragraph. Medical malpractice shall not be construed to require more than one
25 instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical
26 malpractice as defined in s. 456.50. A person found by the board to have committed repeated
27 medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state
28 to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be
29 construed to require that a physician be incompetent to practice medicine in order to be disciplined
30 pursuant to this paragraph. A recommended order by an administrative law judge or a final order of
31 the board finding a violation under this paragraph shall specify whether the licensee was found to
have committed "gross medical malpractice," "repeated medical malpractice," or "medical

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 malpractice," or any combination thereof, and any publication by the board must so specify and s.
2 458.331(1)(m), FS (2006-2007) – Failing to keep legible, as defined by department rule in
3 consultation with the board, medical records that identify the licensed physician or the physician
4 extender and supervising physician by name and professional title who is or are responsible for
5 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
6 the course of treatment of the patient, including, but not limited to, patient histories; examination
7 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
8 consultations and hospitalizations.

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

10
11 **Penalty imposed:** letter of concern, \$15,000 fine, costs, 6 hours CME in interaction to drugs during
12 surgery, 5 hours CME in risk management

13
14 **Victor Joseph Genchi, M.D., Key West & Loxahatchee, FL - Settlement Agreement 23**

15 Dr. Genchi was present but not represented by counsel.

16
17 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

18
19 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), FS (2006) –
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
pursuant to this paragraph. A recommended order by an administrative law judge or a final order of

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

5
6 A motion was made and seconded to offer a counter proposal to impose the same terms in the
7 original agreement, but to remove the community service and CME requirements.

8
9 The motion carried unanimously.

10
11 The Respondent accepted the counter proposal.

12
13 **Penalty imposed:** letter of concern, \$5,000 fine, costs

14
15 **Syed Imran Ali, M.D., Orlando, FL - Settlement Agreement24**

16 Dr. Ali was present and represented by Gregory Chaires, Esquire.

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 have committed "gross medical malpractice," "repeated medical malpractice," or "medical
2 malpractice," or any combination thereof, and any publication by the board must so specify.

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

5 A motion was made and seconded to offer a counter proposal to impose a reprimand, \$10,000 fine,
6 an ethics course and costs.
7

8 An amendment was offered to suspend the Respondent's license for one month. The amendment
9 was accepted.
10

11 The motion carried 7-4.
12

13 The Respondent took seven days to accept or reject the counter offer.
14

15 **Action taken:** Settlement Agreement rejected; counter proposal to impose reprimand, \$10,000 fine,
16 costs, 5 hours CME in ethics, suspension for one month
17

18 **Guillermo Achong, M.D., Miami, FL - Hearing Not Involving Disputed Issues of**
19 **Material Fact25**

20 Dr. Achong was not present nor was he represented by counsel.
21

22 Mr. Mullins was recused due to participation on the probable cause panel.
23

24 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
25 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(x), FS (2009) – Violating a
26 lawful order of the board or department previously entered in a disciplinary hearing or failing to
27 comply with a lawfully issued subpoena of the department.
28

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

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 A motion was made, seconded and carried to impose a suspension until the Respondent appears and
2 demonstrates his compliance with the previous Final Orders.

3
4 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,346.48.

5
6 **Penalty imposed:** suspension until appears and demonstrates compliance with previous Final Order,
7 costs

8
9 **William Herman Hass, M.D., Pensacola, FL - Settlement Agreement27**

10 This hearing was continued until the next Board Meeting.

11
12 **Joseph Piotrowski, P.A., Cross City, FL – Recommended Order.....Separate CD**

13 Mr. Piotrowski was not present or represented by counsel.

14
15 Mr. Levine was recused due to participation on the probable cause panel.

16
17 Dr. Thomas read the Recommended Order remarks and confirmed all participating members had
18 read the complete record.

19
20 Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s.
21 458.331(1)(c), FS (2002) – Being convicted or found guilty of, or entering a plea of nolo contendere
22 to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of
23 medicine or to the ability to practice medicine and s. 456.072(1)(w), FS (2202) – Failing to report to
24 the board, or the department if there is no board, in writing within 30 days after the licensee has been
25 convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a
26 crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the
27 enactment of this paragraph must be reported in writing to the board, or department if there is no
28 board, on or before October 1, 1999.

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 adopt the Recommended Order.

35
36 A motion was made, seconded and carried unanimously to assess costs in the amount of \$643.79.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Penalty imposed: Revocation, costs

NEW BUSINESS:

Dr. Thomas advised he had been asked to revisit the February Board Meeting currently scheduled for Pensacola, Florida. He said he had been advised the case load may be small due to the distance of Respondent's and their attorneys having to travel to Pensacola.

A motion was made, seconded and carried with two opposed to move the February Board Meeting venue to Orlando, Tampa or Ft. Lauderdale.

Action taken: move February Board meeting to Tampa, Orlando or Ft. Lauderdale

The Board took a one hour lunch at this time.

Jose Abalos Torres, M.D., Pompano Beach, FL - Settlement Agreement28

This matter was withdrawn prior to the hearing.

Claire Denise Godfrey, M.D., Lake Mary, FL - Settlement Agreement29

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

No present members were recused due to participation on the probable cause panel. Dr. Espinola recused herself because she has privileged the Respondent at her hospital.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(c), FS (2006) – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

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

A motion was made and seconded to offer a counter proposal to impose the same terms but to remove the requirement for community service. The motion carried 7-3.

The Respondent accepted the counter offer.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 **Penalty imposed:** letter of concern, \$10,000 fine, costs, Laws and Rules course, UF drug course,
3 FMA records course
4

5 **Enock Joseph, M.D., Pembroke Pines, FL - Hearing Not Involving Disputed Issues of Material**
6 **Fact30**

7 Dr. Joseph was present but not represented by counsel.
8

9 Dr. Zachariah was recused due to participation on the probable cause panel.
10

11 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
12 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(x), FS (2009) – Violating a
13 lawful order of the board or department previously entered in a disciplinary hearing or failing to
14 comply with a lawfully issued subpoena of the department.
15

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

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

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

23 A motion was made, seconded and carried unanimously to impose a suspension until the Respondent
24 complies with the previous Final Order and appears before the Board. The Board reserved
25 jurisdiction to impose additional terms at reinstatement.
26

27 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,504.69.
28

29 **Penalty imposed:** suspension until complies with previous Final Orders and appears; jurisdiction
30 reserved
31

32 **Samantha W. Gee, M.D., Gainesville, FL & Dublin, OH - Settlement Agreement**
33 **..... 31, Addendum**

34 Dr. Gee was present and represented by Gregory Chaires, Esquire.
35

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

16 The Respondent agreed to waive attorney fees and costs if the case was dismissed.

17 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.

18
19 **Action taken:** dismissed

20
21 **Michael E. Pohlod, M.D., Winter Park, FL - Settlement Agreement35**

22 Dr. Pohlod was present and represented by Gregory Chaires, Esquire.

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

25
26 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
27 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) – Performing
28 or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong
29 procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise
30
31

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph,
2 performing or attempting to perform health care services includes the preparation of the patient.

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

5
6 The Respondent agreed to waive attorney fees and costs if the Administrative Complaint was
7 dismissed.

8
9 A motion was made, seconded and carried with three opposed to dismiss the Administrative
10 Complaint and to refer the facility for a risk assessment.

11
12 **Action taken:** dismissed; refer facility for risk assessment

13
14 **Cecile Saint Paul, M.D., Fort Myers - Settlement Agreement.....4**

15 Dr. Saint Paul was present and represented by Britt Thomas, Esquire.

16
17 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

18
19 Ms. Gregg 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 (2000) – Gross or
21 repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment
22 which is recognized by a reasonably prudent similar physician as being acceptable under similar
23 conditions and circumstances and s. 458.331(1)(k), FS (2000) – Making deceptive, untrue, or
24 fraudulent representations in or related to the practice of medicine or employing a trick or scheme in
25 the practice of medicine.

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

28
29 A motion was made, seconded and carried with one opposed to offer a counter proposal to impose a
30 reprimand, \$10,000 fine, costs, a risk management course, an ethics course and the Laws and Rules
31 course.

32
33 The Respondent took seven days to accept or reject the counter offer.

34
35 **Action taken:** reprimand, \$10,000 fine, costs, 5 hours CME in ethics, 5 hours CME in risk
36 management, Laws and Rules course

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 **Ana Maria Alvarez, M.D., Miami & Tallahassee, FL - Determination of Waiver ...41**

3 Dr. Alvarez was not present nor was she represented by counsel.

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

6
7 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
8 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS (2008) – Being
9 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
10 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
11 medicine.

12
13 A motion was made, seconded and carried unanimously to find the Respondent waived her right to a
14 hearing.

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

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

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

22
23 A motion was made, seconded and carried unanimously to revoke the Respondent's license and to
24 impose a fine of \$10,000.

25
26 A motion was made, seconded and carried unanimously to assess costs in the amount of \$981.59.

27
28 **Penalty imposed:** revocation, \$10,000 fine, costs

29
30 **Mario G. Diaz, M.D., Miami & Boynton Beach, FL - Determination of Waiver42**

31 Dr. Diaz was not present nor was he represented by counsel.

32
33 Dr. Orr and Ms. Georsch were recused due to participation on the probable cause panel.

34
35 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
36 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(jj), FS (2010) – Failing to

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final
2 order, judgment, or stipulation or settlement and s. 456.072(1)(kk), FS (2010) – Being terminated
3 from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the
4 federal Medicare program, unless eligibility to participate in the program from which the practitioner
5 was terminated has been restored.

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

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

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

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

16
17 A motion was made, seconded and carried to suspend the Respondent’s license until he complies
18 with the AHCA Order.

19
20 A motion was made, seconded and carried unanimously to assess costs in the amount of \$945.93.

21
22 **Penalty imposed:** suspension until complies with AHCA Order, costs

23
24 Ms. Goersch left at 2:55 p.m.

25
26 **Michael Scott Curtiss, M.D., Springfield, FL - Determination of Waiver43**

27 Dr. Curtiss was not present nor was he represented by counsel.

28
29 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
30 Rosenberg chaired this hearing. Dr. Rosenberg chaired this hearing.

31
32 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
33 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2009) – Having a
34 license or the authority to practice medicine revoked, suspended, or otherwise acted against,
35 including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies
36 or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license,

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of
2 administrative charges against the physician's license, shall be construed as action against the
3 physician's license; s. 458.331(1)(kk), FS (2009) – Failing to report to the board, in writing, within
4 30 days if action as defined in paragraph (b) has been taken against one's license to practice
5 medicine in another state, territory, or country; and s. 458.331(1)(g), FS (2009) – Failing to perform
6 any statutory or legal obligation placed upon a licensed physician.

7
8 A motion was made, seconded and carried unanimously to find the Respondent waived his right to a
9 hearing.

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

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

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

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

19
20 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,843.

21
22 **Penalty imposed:** revocation, costs

23
24 **David Allen Wand, P.A., Boca Raton, FL - Determination of Waiver44**

25 Mr. Wand was not present nor was he represented by counsel.

26
27 Mr. Mullins was recused due to participation on the probable cause panel.

28
29
30 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
31 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(v), FS (2010) – Engaging or
32 attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1) and s.
33 458.331(1)(j), FS (2010) – Exercising influence within a patient-physician relationship for purposes
34 of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free,
35 full, and informed consent to sexual activity with his or her physician.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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 \$5,275.93.

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

16
17 **Sharona Arviv, EO, Tampa, FL - Determination of Waiver45**

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

19
20 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

21
22 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
23 Administrative Complaint: Violation of Florida Statutes s. 478.52(1)(v), FS (2007) – Violating any
24 provision of this chapter or chapter 456, or any rules adopted pursuant thereto and s. 456.072(1)(o),
25 FS (2006-2007) – Practicing or offering to practice beyond the scope permitted by law or accepting
26 and performing professional responsibilities the licensee knows, or has reason to know, the licensee
27 is not competent to perform.

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

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

3
4 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

5
6 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,175.48.

7
8 **Penalty imposed:** revocation, costs

9
10 **Michael Oliver Stick, M.D., Madison, FL - Determination of Waiver46**

11 Dr. Stick was not present nor was he represented by counsel.

12
13 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.

14
15 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
16 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(x), FS (2008) - 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 A motion was made, seconded and carried unanimously to find the Respondent waived his right to a
21 hearing.

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

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

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

29
30 A motion was made, seconded and carried unanimously to suspend the Respondent's license until he
31 complies with the previous Final Order.

32
33 A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,167.04.

34
35 **Penalty imposed:** suspension until complies with previous Final order, costs

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

John Francis Coughlan, P.A., Naples, FL - Determination of Waiver47

Mr. Coughlan was not present nor was he represented by counsel.

Dr. Nuss 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. 456.072(1)(m), FS (2010-2011) – Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession; s. 456.072(1)(o), FS (2010-2011) – Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform; and s. 458.331(1)(r), FS (2010)- Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

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

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

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

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

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

A motion was made, seconded and carried unanimously to assess costs in the amount of \$6,569.76.

Penalty imposed: revocation, costs

Michael Kogan, E.O., Tampa, FL - Determination of Waiver48

Mr. Kogan was

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the
3 Administrative Complaint: Violations of Florida Statutes s. 456.072(1)(o), FS (2005-2007) –
4 Practicing or offering to practice beyond the scope permitted by law or accepting and performing
5 professional responsibilities the licensee knows, or has reason to know, the licensee is not competent
6 to perform; s. 456.072(1)(cc), FS (2005) – Violating any provision of this chapter, the applicable
7 practice act, or any rules adopted pursuant thereto; s. 456.072(1)(dd), FS (2005-2007) – Violating
8 any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto; and
9 s. 456.072(1)(a), FS (2005-2007) – Making misleading, deceptive, or fraudulent representations in or
10 related to the practice of the licensee's profession.

11
12 A motion was made, seconded and carried unanimously to find the Respondent waived his right to a
13 hearing.

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

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

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

21
22 A motion was made, seconded and carried unanimously to revoke the Respondent's license.

23
24 A motion was made, seconded and carried unanimously to assess costs in the amount of \$3,478.32.

25
26 **Penalty imposed:** revocation, costs

27
28 **Tara Littlejohn Gonzales, M.D., Pensacola, FL – Determination of Waiver49**

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

30
31 Dr. El Sanadi and Ms. Goersch 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. 456.072(1)(jj), FS (2010) – Failing to
35 remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final
36 order, judgment, or stipulation or settlement and s. 456.072(1)(kk), FS (2010) – Being terminated

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the
2 federal Medicare program, unless eligibility to participate in the program from which the practitioner
3 was terminated has been restored.

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

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

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

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

14
15 After discussion, a motion was made, seconded and carried unanimously to table this hearing.

16
17 **Action taken:** hearing tabled

18
19 **Aileen Norgell, M.D., Orlando, FL - Determination of Waiver82**

20 Dr. Norgell was not present nor was she represented by counsel.

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

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

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

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

3

4 A motion was made and seconded to impose a \$10,000 fine.

5

6 An amendment was offered to impose a six months stayed suspension. The amendment was rejected.

7

8 The motion carried with one opposed.

9

10 A motion was made, seconded and carried unanimously to assess costs in the amount of \$2,898.03.

11

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

13

14 **FINAL ORDER COMPLIANCE ISSUES:**

15

15 **Edwin Kulubya, M.D. – Request for Early Termination of Probation58**

16

16 Dr. Kulubya was present but not represented by counsel.

17

18 After discussion, Mr. Grossman addressed the Board and explained why the Final Order imposed a
19 five year probation which was to keep the Respondent from moving to Florida and avoiding the
20 probation imposed in California.

21

22 A motion was made to waive probation if the Respondent agrees to immediately voluntarily
23 relinquish his license. The motion failed due to a lack of a second.

24

25 A motion was made, seconded and carried unanimously to waive probation.

26

27 **Action taken:** probation waived

28

29 **Gregory Saric, M.D. – Petition for Reinstatement59**

30

30 This petition was withdrawn.

31

32 **Jorge Valido, M.D. – Request for Reconsideration79**

33

33 This petition was withdrawn.

34

35 **Katherine Hoover, M.D. – Request for Reconsideration80**

36

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

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

Action taken: petition denied

Norman Moskowitz, M.D. – Request for Reinstatement Addendum

This petition was withdrawn.

PETITION FOR DECLARATORY STATEMENT:

GMAC Indemnity Corporation RE: scope of practice of a licensed massage therapist operating in an automobile accident clinical setting60

Randall A. Wainoris, Esquire addressed the Board on behalf of GMAC and explained his petition.

A motion was made, seconded and carried unanimously to deny the petition on the basis that the Board has no jurisdiction over the scope of practice of a Massage Therapist and because GMAC does not have standing to bring forth the petition.

Action taken: petition denied

Pathwork Diagnostics, Inc RE: s. 458.303(1)(b), FS.....61

This matter was withdrawn by the Petitioner prior to the meeting.

No action necessary.

Integrated Community Oncology Network, LLC RE: ss. 458.331 & 456.053, FS83

This matter was withdrawn by the Petitioner prior to the meeting.

No action necessary.

Draft Final Order - Gino J. Sedillo, M.D. RE: ss. 458.331 & 456.053, FS.....62

This matter was considered by the Board at the October 2011 Board Meeting.

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

Action taken: draft Final Order approved

Draft Final Order – Alexis P. Henderson, M.D., RE: ss. 458.327, 465.0276, 465.017,

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

803.03, FS..... 63, Addendum

This matter was considered by the Board at the October 2011 Board Meeting.

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

Action taken: draft Final Order approved

Draft Final Order - Ara J. Deukmedjian, M.D. RE: s. 456.44, FS.....64

This matter was considered by the Board at the October 2011 Board Meeting.

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

Action taken: draft Final Order approved

Renewal of Delegations..... No tab

This matter was postponed until the February 2012 Board Meeting.

BOARD OF MEDICINE SEAL

Mr. Mullins expressed concern that the general public does not understand the difference between the Board of Medicine and the Department of Health. He said he approached Dr. Farmer and asked if it would be ok for the Board to develop their own brand and he was not opposed.

He presented the suggested seal that he designed to the Board. He asked the Board to refer the matter of fiscal impact to develop a web domain for the Board to the Finance and Statistics Committee.

A motion was made, seconded and carried unanimously to adopt the seal and to refer the matter of the fiscal impact study to the Finance and Statistics Committee.

Action taken: seal approved; refer fiscal impact study to Finance and Statistics Committee

Mr. Mullins then handled on lapel pins he designed to the members and to staff.

Dr. Thomas expressed his appreciation of Mr. Mullins for his ideas and work.

BOARD COUNSEL'S REMARKS:No tab

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

Fedeline Georges, C.N.A. vs. DOH, Board of Nursing Addendum

This matter was tabled.

Executive Order EO-11-211.....73

Mr. Tellechea reminded the Committee when the Governor issued Executive Order 11-01 which placed a moratorium on rulemaking and required all rules be reviewed by the Office of Fiscal Accountability and Regulatory Reform (OFARR). He said a lawsuit was filed challenging the Governor’s authority. The Florida Supreme Court ruled and limited the Governor’s ability to review rules.

Mr. Tellechea explained this Executive Order complies with the Supreme Court’s ruling and sets forth the standards for OFARR review. The Board can go into rulemaking and file with OFARR at the same time.

Mr. Tellechea stated this Order is directed at agencies that are under the control of the Governor and the Board of Medicine is not. He said in the past the Board has voluntarily complied with the Executive Order.

Mr. Tellechea reviewed Section 4 of the Order which requires the agency to appoint an individual to be the Fiscal Accountability Officer and Regulatory Reform Officer.

Mr. Tellechea explained Section 5 requires the agencies to develop program standards and to evaluate the agencies performance. He said the Department is already doing this and suggested the Board send a letter informing OFARR that the Board is in the process of gathering information and once that is completed, the information will be sent. He said this was due within 60 days.

Mr. Tellechea explained Section 6 requires annual review of the Board’s rules. He said this has already been done for this year and asked if the Committee wanted to voluntarily comply with this annual review.

Mr. Tellechea stated Section 7 requires the Board to submit an annual regulatory plan which outlines the rules the Board intends to revise in the coming year. He said this has already been done for this year and asked the Committee if they want to comply with this portion of the Order.

He advised the Rules/Legislative Committee reviewed the various sections and would be making the recommendation the Board continue to voluntarily comply with the Executive Order.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Order Granting Motion for Summary Judgment (north Florida Women’s Health and Counseling Services vs. Department of health, Board of Medicine, Dr. Farmer, Ms. Bondi)
..... Addendum

Mr. Tellechea explained this litigation to the Board and advised the Attorney General’s Office, representing the Board, succeeded on this motion. He said he would keep the Board posted on this case.

NEW BUSINESS

Mr. Tellechea advised he attended the Federation of State Medical Board’s (FSMB) Attorney Workshop with Ms. Tootle and Ms. Sanford. He said PSU had a couple of attorney’s present as well. He explained he did a presentation on ethics and would be incorporating that presentation in the Board’s annual disciplinary training.

BOARD DIRECTOR’S REMARKS:

Retreat discussion No tab

Ms. Tootle suggested the Board consider using the February Board Meeting to discuss retreat items since the case load may be lighter than normal. She said this would be a great opportunity for the new Chair to share his ideas and priorities.

Ms. Tootle also said she was looking into new ways to conduct the annual disciplinary training.

A motion was made, seconded and carried unanimously to schedule disciplinary cases on Friday and retreat items on Saturday for the February 2012 Board Meeting.

Action taken: schedule disciplinary cases on Friday and retreat items on Saturday for the February 2012 Board Meeting

Ms. Tootle stated PSU has been very busy with changes instituted by Dr. Farmer and Ms. Alsobrook and may not be able to provide requested information at the February Board Meeting.

Ms. Tootle advised the FSMB would be doing a presentation at the August 2012 Board Meeting.

Committee Discussion

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Ms. Tootle advised the new Chair would be looking at the committees to eliminate committees that
2 no longer meet and add other committees the Chair feels are necessary.

3
4 Dr. Rosenberg said the Board has expressed concerns about its ability to communicate effectively
5 with the public as well as the licensees. He said he wanted to put together a committee that would
6 deal with ways the Board can communicate information and activities. He said he would like
7 members to serve on the committee as well as Ms. Sanford and Ms. Hirst.

8
9 Dr. Rosenberg said he also wanted to look at processes and currently the Finance and Statistics
10 Committee has taken on this task.

11
12 Ms. Prine addressed the Board and brought them up to date on online applications. She explained
13 the next phase was going live soon but would not include the applications for the medical doctor,
14 medical faculty certificate, limited licenses or area of critical need licenses until those applications
15 have gone through the rulemaking process.

16
17 **COMMITTEE REPORTS:**

18
19 **Surgical Care/Quality Assurance Committee**

20 Dr. Rosenberg provided the report for the meeting held December 1, 2011.

21
22 A motion was made, seconded and carried unanimously to approve the report.

23
24 **Action taken:** report approved

25
26 **Dietetic-Nutrition/Electrology Committee**

27 Mr. Levine provided the report for the meeting held December 1, 2011.

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

30
31 **Action taken:** report approved

32
33 **Ophthalmology Informed Consent Committee Meeting**

34 Dr. El Sanadi provided the report for the meeting held November 7, 2011.

35
36 Dr. El Sanadi suggested some additional changes to the form:

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 1. Page 4 – first sentence now reads: I understand that I may need additional treatment with
2 medicines or surgery after my cataract removal.

3
4 2. Page 5 – Substitute Monofocal for monovision so the sentence now reads: I understand that if
5 during surgery, my ophthalmologist is unable to use any of the premium lenses; I consent to the
6 implantation of a Monofocal Intracocular Lens.

7
8 3. Page 4 – removal of the word there so the sentence now reads: One common occurrence after
9 cataract surgery is a clouding of the capsule . . .

10
11 Mr. Mullins asked to have a sentence added to the bottom of the form above the signature line: I am
12 aware that I have the right to report adverse incidents to the Florida Board of Medicine or the Florida
13 Board of Osteopathic Medicine.

14
15 A motion was made, seconded and carried 8-2 to approve all suggested language and the form.

16
17 Ms. McNulty introduced the rule that would accompany this form. She stated the web address and
18 form number will be added later.

19
20 A motion was made, seconded and carried unanimously to approve the draft language of the rule.

21
22 Ms. McNulty asked the Board if the rule would have an adverse impact on small business or be
23 likely to directly or indirectly increase regulatory costs to any entity in excess of \$200,000 in the
24 aggregate in Florida within one year after the implementation of this rule.

25
26 A motion was made, seconded and carried unanimously to find the proposed rule does not increase
27 regulatory costs since it is a voluntary form.

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

30
31 **Action taken:** report approved, form approved as amended, no SERC required

32
33 Dr. Thomas thanked Dr. El Sanadi for his work on the Committee.

34
35 **COUNCIL ON PHYSICIAN ASSISTANTS:**

36 Dr. Winchester provided the report for the meeting held December 1, 2011.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Dr. Winchester advised the Board the Council accepted as information the report from Juhan Mixon, representing the Florida Academy of Physician Assistants, regarding a bill that would remove a consumer member from the Board and replace it with a PA member.

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

Action taken: report approved

Finance & Statistics Committee

Mr. Mullins provided the reports for the meetings held October 24, 2011 and December 1, 2011.

A motion was made, seconded and carried unanimously to refer the citation and mediation rules for further review and to create a workgroup to work on process improvement with Board staff and staff from the Division of Medical Quality Assurance.

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

Action taken: report approved; refer mediation and citation rules for review; workgroup created to review process with the department and Board staff

The meeting adjourned at 5:55 p.m.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 **Saturday, December 3, 2011**

2

3

8:00 a.m. ROLL CALL

4

5

MEMBERS PRESENT:

6

George Thomas, M.D., Chair

7

Jason Rosenberg, M.D., Vice Chair

8

Zachariah P. Zachariah, M.D., 1st 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

Bradley Levine, Consumer Member

17

Nabil El Sanadi, M.D.

18

19

STAFF PRESENT:

20

Joy A. Tootle, JD, Executive Director

21

Ed Tellechea, Board Counsel

22

Donna McNulty, Board Counsel

23

Nancy Murphy, Paralegal

24

Crystal Sanford, CPM, Program Operations Administrator

25

Chandra Prine, Program Operations Administrator

26

Whitney Bowen, Regulatory Specialist II

27

Jennifer Hirst, Public Information Officer

28

Shaila Washington, Compliance Officer

29

30

PROSECUTING ATTORNEYS PRESENT:

31

Diane Kiesling

32

Sharmin Hibbert

33

Carol Gregg

34

35

Ms. Tootle read the opening remarks and summarized the types of hearings scheduled for the day.

36

Minutes prepared by Crystal Sanford

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

DISCIPLINARY CASE SCHEDULE:

Ms. Sanford read the Settlement Agreement list and the members approved agreements in cases where the members were satisfied with the penalty set forth.

Miguel Zabalgaitia-Reyes, M.D., Rancho Viejo, TX - Settlement Agreement67

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

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

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

Penalty imposed: Letter of concern, \$3000 fine, costs, Laws and Rules course

David Stanley Rothberg, M.D., Palm Harbor, FL - Settlement Agreement68

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

Allegations of the Administrative Complaint: Violation of Florida Statute 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 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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical
2 malpractice,” or any combination thereof, and any publication by the board must so specify.

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

5
6 **Penalty imposed:** Letter of concern, \$5000 fine, costs, 5 hrs CME in diagnosis & treatment of
7 glaucoma

8
9 **David Evan Burday, M.D., Tallahassee, FL - Settlement Agreement69**

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

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

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

27
28 **Penalty imposed:** Letter of concern, \$5000 fine, costs, 5 hrs CME in urological emergencies

29
30 **Subhash C. Gupta, M.D., Pompano Beach, FL - Settlement Agreement70**

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

32
33 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb)(2010),
34 F.S. - Performing or attempting to perform health care services on the wrong patient, a wrong-site
35 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically
36 unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 of this paragraph, performing or attempting to perform health care services includes the preparation
2 of the patient; s.458.331(1)(nn), F.S.(2010) - Violating any provision of this chapter or chapter 456,
3 or any rules adopted pursuant thereto; and s.458.331(1)(p), F.S.(2010) - Performing professional
4 services which have not been duly authorized by the patient or client, or his or her legal
5 representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

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

8
9 **Penalty imposed:** Letter of concern, \$12,000 fine, costs, Laws and Rules course, 5 hours risk
10 management CME, lecture

11
12 **Albert F. Fernandez-Bravo, M.D., Plantation, FL - Settlement Agreement33**

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

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

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

30
31 **Penalty imposed:** Letter of concern, \$5000 fine, costs, 5 hours CME in risk management

32
33 **Louis Witonsky, M.D., Boca Raton, FL - Settlement Agreement38**

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(k),
2 F.S.(2006-2009) - Making deceptive, untrue, or fraudulent representations in or related to the
3 practice of medicine or employing a trick or scheme in the practice of medicine.
4

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

7 **Penalty imposed:** Letter of concern, \$5000 fine, costs, 50 hours community service, Laws and
8 Rules course, six hours CME in ethics, 5 hours CME in risk management
9

10 **Richard Daniel Whitten, M.D., Clearwater & St. Petersburg, FL - Settlement Agreement**

1165

12 Dr. Whitten was present and represented by Jon Pellett, Esquire. Dr. Rivenbark also addressed the
13 Board.
14

15 Dr. El Sanadi was recused due to participation on the probable cause panel. Dr. Espinola advised
16 she practices in the same community as the Respondent, but feels she can still be objective in
17 imposing discipline.
18

19 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
20 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(j), F.S. (2009-2010) -
21 Exercising influence within a patient-physician relationship for purposes of engaging a patient in
22 sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed
23 consent to sexual activity with his or her physician and s.458.331(1)(nn), F.S. - Violating any
24 provision of this chapter or chapter 456, or any rules adopted pursuant thereto.
25

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

28 A motion was made and seconded to offer a counter proposal to impose the same terms in the
29 original agreement, but to replace the wording in paragraph five to say the Respondent is suspended
30 until the Board determines he is safe to practice, to remove the probation and to retain jurisdiction to
31 impose additional terms at reinstatement.
32

33 An amendment was offered to require the Board have PRN's recommendation prior to reinstatement.
34 Mr. Tellechea advised that language was already in the Settlement Agreement.
35

36 Another amendment was offered to impose \$30,000 fine. This amendment was rejected.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2 An amendment was offered to require the (s) violation be included in the Amended Administrative
3 Complaint. This amendment was accepted. Ms. Gregg said she would draft the Amended
4 Administrative Complaint.

5
6 The motion carried unanimously.

7
8 The Respondent accepted the counter offer.

9
10 **Penalty imposed:** reprimand, \$10,000 fine, costs, suspension until appears and demonstrates ability
11 to practice with reasonable skill and safety, PRN, jurisdiction retained

12
13 **Rameshwar Narayam Mathur, M.D., Port St. John, FL - Settlement Agreement...66**

14 Dr. Mathur was present and represented by Steve Baker, Esquire.

15
16 Dr. El Sanadi was recused due to participation on the probable cause panel.

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

5
6 The Respondent agreed to waive attorney fees and costs if the case was dismissed.

7
8 A motion was made, seconded and carried unanimously to dismiss the Administrative Complaint.

9
10 **Action taken:** dismissed

11
12 **Stuart Flanders Tillman, M.D., Tallahassee, FL - Settlement Agreement2**

13 Dr. Tillman was present and represented by Allen Grossman, Esquire. Dr. Rivenbark also addressed
14 the Board.

15
16 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel. Dr.
17 Winchester recused himself because he had knowledge of the case outside the record. Dr.
18 Rosenberg chaired this hearing. Dr. Rosenberg chaired this hearing.

19
20 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the
21 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), F.S.(2009) - Being
22 convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a
23 crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice
24 medicine.

25
26 A motion was made, seconded and carried with one opposed to reject the Settlement Agreement.

27
28 A motion was made and seconded to revoke the Respondent's license. However, the motion failed
29 with only one member in support.

30
31 A motion was made and seconded to suspend the Respondent's license for five years or until he
32 completes his sexual offender probation at which time he is required to appear before the Board and
33 demonstrate his ability to practice with reasonable skill and safety which includes a recommendation
34 by PRN. The Board required the Respondent to report if he is found in violation of his sexual
35 offender probation and the Board also retained jurisdiction to impose additional terms at

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 reinstatement. The motion also included a \$10,000 fine due within one year of reinstatement and the
2 rest of the terms in the original Settlement Agreement.

3
4 An amendment was offered to require that the Respondent remain in PRN. Mr. Tellechea advised
5 that language was not necessary.

6
7 An amendment was offered to suspend the license for four years instead of five. The amendment
8 was rejected.

9
10 Another amendment was offered to require the CME be due within one year after reinstatement.
11 This amendment was accepted.

12
13 The motion carried with one opposed.

14
15 The Respondent took seven days to reject or accept the counter offer.

16
17 **Action taken:** Settlement Agreement rejected; counter offer to impose a suspension for five years or
18 until the conclusion of his sexual offender probation whichever is longer, must appear before the
19 Board for reinstatement with PRN's support, must report if found in violation of his sexual offender
20 probation, Board retains jurisdiction, \$10,000 fine; permanent restriction on practice: may not
21 examine or treat minor patients without Florida licensed healthcare provider who maintains a log;
22 Laws and Rules course; five hours CME in ethics

23
24 After a break, Mr. Grossman advised the Respondent accepted the counter offer.

25
26 **Penalty imposed:** suspension for five years or until the conclusion of his sexual offender probation
27 whichever is longer, must appear before the Board for reinstatement with PRN's support, must
28 report if found in violation of his sexual offender probation, Board retains jurisdiction, \$10,000 fine;
29 permanent restriction on practice: may not examine or treat minor patients without Florida licensed
30 healthcare provider who maintains a log; Laws and Rules course; five hours CME in ethics

31
32 **John M. Lee, M.D., Pace & Milton, FL - Recommended Order16**

33 Dr. Lee was not present but represented by Brian Newman, Esquire.

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

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

18
19 A motion was made, seconded and carried unanimously to adopt the Recommended Order.
20

21 **Action taken:** Administrative Complaint dismissed

22
23 **Murali Noham Angirekula, M.D., Beverly Hills, FL - Settlement Agreement37**

24 Dr. Angirekula was present and represented by Edward Copeland, Esquire.
25

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

28 Ms. Hibbert represented the Department and presented the case to the Board. Allegations of the
29 Administrative Complaint: Violation of Florida Statute s. 458.331(1)(t), F.S.(2008) –
30 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1.Committing medical malpractice as
31 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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

8
9 **Penalty imposed:** Letter of concern, \$5000 fine, costs, 5 hours CME in risk management

10
11 **PETITIONS FOR WAIVER/VARIANCE:**

12 **Jeng Lin, M.D. RE: Rule 64B8-9.0131, FAC 71, Addendum**

13 This matter was continued until the February 2012 Board Meeting.

14
15 No action taken.

16
17 **Alexandra Taylor, M.D. RE: Rule 64B8-9.0131, FAC72**

18 This matter was continued until the February 2012 Board Meeting.

19
20 No action taken.

21
22 **Fred J. Powell, M.D. RE: Rule 64B8-9.0131, FAC81**

23 Dr. Powell was not present, but was represented by Josh Bloom, Esquire.

24
25 Dr. Orr suggested clarifying the rule to confirm licensees can attend multiple courses to meet the
26 rule.

27
28 Ms. Tootle advised the problem is not so much the courses, but the time frame in which licensees
29 have to comply with the rule.

30
31 Dr. Espinola said she felt the rule was clear.

32
33 Mr. Tellechea agreed and reiterated the time frame was the issue.

34
35 A motion was made and seconded to deny the petition.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Dr. Winchester said the Board has created an impossible situation and licensees cannot comply with
2 the time frame. He suggested extending the time frame.

3
4 Mr. Tellechea said in order to extend the time frame the Board will need to go into rulemaking on
5 this rule. He said he would bring language to the next meeting.

6
7 Dr. Winchester suggested extending the time frame for 18 months.

8
9 Mr. Tellechea suggested extending the time frame until July 1, 2012 to meet the qualifications.

10
11 The original motion was withdrawn.

12
13 A motion was made, seconded and carried unanimously to extend the due date for compliance with
14 the rule until July 1, 2012.

15
16 A motion was made, seconded and carried unanimously to deny the petition on the basis that it fails
17 to meet the petition for waiver or variance criteria.

18
19 **Action taken:** petition denied; enter into rulemaking to extend time frame until July 1, 2012; bring
20 language to next meeting

21
22 **Richard Amato, M.D. RE: 64B8-9.013184**

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

24
25 A motion was made, seconded and carried unanimously to deny the petition.

26
27 **Action taken:** petition denied

28
29 **John S. Wolf, Jr., M.D. RE: 64B8-9.0131, FAC 87, Addendum**

30 This matter was continued until the February 2012 Board Meeting.

31
32 No action taken.

33
34 **REQUESTS AHCA EXEMPTION:**

35
36 **Derrick A. Davis, MPH, PA-C78**

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 This matter was withdrawn by Mr. Davis prior to the meeting.

2

3 No action taken.

4

5 **VOLUNTARY RELINQUISHMENTS:**

6

7 **Samuel Blaine Keeley, M.D., Pittsburgh, PA50**

8 Dr. Keeley was not present nor was he represented by counsel.

9

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

11

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

21

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

24

25 **Penalty imposed:** voluntary relinquishment

26

27 **Harold L. Murray, M.D., Miami, FL51**

28 Dr. Murray was not present nor was he represented by counsel.

29

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

31

32 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS
33 (2005-2007) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing
34 medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more
2 than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated
3 medical malpractice as defined in s. 456.50. A person found by the board to have committed
4 repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by
5 this state to provide health care services as a medical doctor in this state. Nothing in this paragraph
6 shall be construed to require that a physician be incompetent to practice medicine in order to be
7 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a
8 final order of the board finding a violation under this paragraph shall specify whether the licensee
9 was found to have committed "gross medical malpractice," "repeated medical malpractice," or
10 "medical malpractice," or any combination thereof, and any publication by the board must so
11 specify; s. 458.331(1)(m), FS (2005-2007) – Failing to keep legible, as defined by department rule in
12 consultation with the board, medical records that identify the licensed physician or the physician
13 extender and supervising physician by name and professional title who is or are responsible for
14 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify
15 the course of treatment of the patient, including, but not limited to, patient histories; examination
16 results; test results; records of drugs prescribed, dispensed, or administered; and reports of
17 consultations and hospitalizations; and s. 458.331(1)(k), FS (2005-2007) – Making deceptive,
18 untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or
19 scheme in the practice of medicine.

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

22
23 **Penalty imposed:** voluntary relinquishment

24
25 **Perry William Robinson, M.D., Wellington, FL52**

26 Dr. Robinson was not present nor was he represented by counsel.

27
28 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

11
12 **Penalty imposed:** voluntary relinquishment

13
14 **Felix V. Llamido, M.D., Fort Myers, FL.....53**

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

16
17 Ms. Goersch was 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 (2009) – 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 (2009) – 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 of
30 license.

31
32 **Penalty imposed:** voluntary relinquishment

33
34 **Sylvan Bartlett, M.D., Crane, TX.....54**

35 Dr. Bartlett was not present nor was he represented by counsel.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

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

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

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

15
16 **Penalty imposed:** voluntary relinquishment

17
18 **Rene Enrique De Los Rios, M.D., Miami, FL55**

19 Dr. De Los Rios was not present nor was he represented by counsel.

20
21 Dr. Espinola and Mr. Mullins were recused due to participation on the probable cause panel.

22
23 Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS
24 (2010-2011) – Being convicted or found guilty of, or entering a plea of nolo contendere to,
25 regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of
26 medicine or to the ability to practice medicine.

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

30
31 **Penalty imposed:** voluntary relinquishment

32
33 **Alan A. Gumer, M.D., Sunrise, FL.....56**

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

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

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Allegations of the Administrative Complaint: Violation of Florida Statute s. 458.331(1)(c), FS (2010-2011) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

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

Penalty imposed: voluntary relinquishment

Leon Cass Terry, M.D., Whitefish Bay, FL & Rock Island, IL.....57

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

Dr. El Sanadi and Ms. Goersch were rescued due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(c), FS (2010) – Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession and s. 456.072(1)(l), FS (2010) – Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

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

Penalty imposed: voluntary relinquishment

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 **PRESENTATIONS:**

2 **PRN No tab**

3 Dr. Rivenbark provided an update on PRN activities to the Board. Following she answered
4 questions from members.

5
6 Dr. Thomas thanked Dr. Rivenbark for the work they do and said the Board's concerns are with the
7 process, not PRN.

8
9 **Center for Personalized Education for Physicians (Dr. Tucker) No tab**

10 This matter was continued until the February 2012 Board Meeting.

11
12 No action taken.

13
14 **PCP DISCUSSION No tab**

15 Dr. Thomas expressed the Board's condolences to Ms. Donnelly for the loss of her step-son.

16
17 Ms. Gregg explained that all emergency order cases must be presented to a probable cause panel
18 within 20 days of issuance of the emergency order. She said sometimes that coincides with
19 scheduled PCP meetings and sometimes it does not. In the cases where there is not a PCP meeting
20 scheduled, an emergency meeting needs to be scheduled. She said reasonable cause subpoenas can
21 also be handled during the special PCP meetings.

22
23 Dr. Thomas expressed concerns with scheduling PCP meetings every Friday and suggested adding
24 one extra meeting per month.

25
26 Ms. Tootle said Ms. Bowen had drafted recommended PCP meetings, at one extra meeting per
27 month for the Board to consider.

28
29 Dr. Thomas asked Ms. Bowen to distribute her proposal to the members.

30
31 Mr. Levine expressed concern for the workload of the consumer members if PCP meetings were
32 scheduled every Friday.

33
34 Mr. Tellechea stated the consumer member on the probable cause panel does not have to be a current
35 member. The law says at least one member must be a current member. He also said that having our

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 agendas in electronic format is a good idea, but the members should not sacrifice the prosecution of
2 a case if the materials have to be sent in paper format.

3

4 Mr. Levine suggested ensuring that PCP meetings are scheduled every other week.

5

6 Mr. Tellechea said that is not always possible since there are Board and Committee meetings that
7 would interfere with that type of schedule.

8

9 Dr. Thomas asked Ms. Gregg to take back the suggestions and do what she could do.

10

11 Ms. Tootle said Ms. Bowen would send her proposed schedule for 2012.

12

13

14 **DEPARTMENT REMARKS:**No tab

15 The Department had no additional remarks to provide.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

COMMITTEE REPORTS CONTINUED:

Probation Committee

Dr. Winchester provided the report for the meeting held December 1, 2011.

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

Action taken: report approved

Credentials Committee Meeting

Dr. Nuss provided the report for the meeting held December 1, 2011.

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

Action taken: report approved

Rules/Legislative Committee Meeting

Dr. Bearison provided the report for the meeting held December 1, 2011.

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

Action taken: report approved

Expert Witness Committee

Dr. Nuss provided the report for the meeting held December 1, 2011.

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

Ms. Bowen was asked to send PSU's report on Expert Witnesses to all members.

Action taken: report approved; send report to all members

Revisited Ophthalmology Informed Consent Committee Meeting

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

1 Dr. El Sanadi asked the Board to review the revised form, revised to include the approved language
2 from the day before.

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

5
6 Ms. McNulty confirmed there were no changes in the Board’s determination that a statement of
7 estimated regulatory costs was not necessary. The Board confirmed.

8
9 **Action taken:** form approved

10
11 **APPROVAL OF MEETING MINUTES:**

12
13 **October 1-2, 2011 Meeting76**

14 A motion was made, seconded and carried unanimously to approve the meeting minutes as written.

15
16 **Action taken:** minutes approved

17
18 **RATIFICATION OF APPLICANTS PURSUANT TO CHAPTER 458, F.S.77**

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

20
21 **Action taken:** licenses ratified

22
23 Dr. Bearison, on behalf of the Board members, thanked Dr. Thomas for the excellent job he has done
24 and for his leadership.

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

27 Dr. Thomas said he was honored the members placed their faith in him to serve as Chair. He
28 applauded their work, dedication and service to the people of the state. He said he hoped the
29 members continued to work on process improvement including educating the difference between the
30 Board and the Department. He thanked all members of the Board office staff, the legal team and
31 Ms. Gee for her leadership. Dr. Thomas then thanked Dr. Winchester for serving as Chair of the
32 Probation Committee and Ms. Washington for her work as the Compliance Officer. He said neither
33 job was easy. He hoped that Ms. Washington could continue to come to meetings. He went on to
34 thank Mr. Mullins for his branding idea. He also applauded Dr. Rosenberg’s efforts to work on
35 communication because he believed that is crucial for the Board’s success. He said to continue
36 reminding colleagues to join the Mailman to receive information from the Board.

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

**Marriott Orlando Airport
7449 Augusta National Drive
Orlando, FL 32822
(407) 851-9000**

December 2-3, 2011

- 1
- 2 Dr. Thomas wished Dr. Rosenberg luck as the future Chair.
- 3
- 4 The meeting adjourned at 11:35 a.m.