



Florida Board of Medicine

Crowne Plaza Jacksonville Airport Hotel
14670 Duval Road
Jacksonville, Florida 32218-2460

November 4, 2016

MEETING MINUTES

Pledge of allegiance

8:00 a.m. Roll call

Members Present:

Sarvam TerKonda, M.D., Chair
Bernardo Fernandez, M.D.
Magdalena Averhoff, M.D.
Steven Rosenberg, M.D.
Brigitte Goersch, Consumer Member
James W. Orr, Jr., M.D.
Nicholas Romanello, Esquire Consumer Member
Jorge Lopez, M.D.
Gary Dolin, M.D.
Merle P. Stringer, M.D.
Joy A. Tootle, J.D., Consumer Member

Members Absent:

Enrique Ginzburg, M.D., Vice-Chair
Zachariah P. Zachariah, M.D.
Seela Ramesh, M.D.
Hector Vila, M.D.

Staff Present:

Claudia Kemp, J.D., Executive Director
Edward Tellechea, Esquire, Board Counsel
Donna McNulty, Esquire, Board Counsel
Nancy Murphy, Certified Paralegal
Crystal Sanford, CPM, Program Operations Administrator
Wendy Alls, Program Operations Administrator
Rebecca Hewett, Regulatory Specialist III
Sara Revels, Public Information Officer

Others Present:

Esquire Deposition Services
Debbie Baker
(904) 355-8416

Prosecuting Attorneys Present:

Louise St. Laurent, Esquire, Deputy General Counsel
Allison Dudley, Esquire, Medical Section Lead
Chad Dunn, Esquire

Disciplinary Case Schedule:

Ms. Kemp read the opening remarks and explained the various hearings scheduled before the Board.

Ms. Sanford read through the list of Settlement Agreements and the Board approved several. The rest were heard according to the agenda.

Anthony Tucker, MD - Settlement Agreement1

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(b), FS (2013-2014) - 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 (2013-2014) - 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)(w), FS (2013-2014) - Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

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

Penalty imposed: letter of concern, \$5000 fine, \$2,201.57 costs, laws and rules course

Nicholas Constantine Diamantis, MD – Settlement Agreement2

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(b) (2015) - 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.

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

Penalty imposed: letter of concern, \$5000 fine, \$834.24 costs, suspended until he demonstrates that his licenses in all jurisdictions are unencumbered, Board retains jurisdiction to impose additional terms reinstatement, 10 hours of CME and ethics, laws and rules course, medical records course

Rajpaul Singh, MD – Settlement Agreement6

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(x) (2014) - Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999; s. 458.331(1)(b) (2015) - 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) (2015) - 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. 458.331(1)(nn) (2014-2015) - Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: reprimand, \$9000 fine, \$3,719.74 costs, suspended until Respondent demonstrates licenses and all jurisdictions are unencumbered and the Board retains jurisdiction to impose additional terms reinstatement, laws and rules course, five hours CME and ethics, five hours CME and risk management

Jeffrey Stuart Wenger, MD – Settlement Agreement10

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(bb) (2014) - Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

Penalty imposed: letter concern, \$2500 fine, \$2,060.12, five hours CME and risk management, lecture

Alfonso Betancourt, MD – Settlement Agreement13

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(k) (2014) - Failing to perform any statutory or legal obligation placed upon a licensee.

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

Penalty imposed: letter of concern, \$4,142.89 costs, laws and rules course, they only practice medicine while in compliance with the payment plan terms set forth in the Settlement Agreement of the underlying civil case, Board retains jurisdiction to them impose additional terms if found in noncompliance

Ajaz Afzal, MD – Settlement Agreement15

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of Florida Statutes s.

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

Penalty imposed: reprimand, \$10,000 fine, \$5,490.42 costs, five hours CME inpatient evaluation and monitoring in the hospital setting, medical records course, probation for one year under indirect supervision with 25% chart review, triannual reports and appearances

Robert Eric Berg, MD – Settlement Agreement20

Dr. Averhoff and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(s) (2015) - Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

Penalty imposed: \$3,871.12 costs, suspended until he appears and demonstrates his ability to practice with reasonable skill and safety which will include a PRN evaluation and compliance, Board retains jurisdiction to impose additional terms at reinstatement

Katherine Elizabeth Langston, MD – Settlement Agreement17

Dr. Langston was present and represented by Mia Mckown, Esquire. Dr. Ziegler was also present representing PRN.

Dr. Averhoff and Ms. Tootle were recused due to participation on the probable cause panel.

Mr. Dunn represented the Department and presented the case to the board. Allegations of the Amended Administrative Complaint: violation of Florida Statutes s. 456.072(1)(hh) (2013-2014) - Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

Penalty imposed: letter of concern, \$1,000 fine, \$13,681.17 costs, suspended until she appears and demonstrates she is able to practice with reasonable skill and safety which shall include a PRN evaluation, Board retains jurisdiction to impose additional terms at reinstatement

Eva I. Pizarro, MD – Settlement Agreement.....19

Dr. Pizarro was present and represented by Alan Grossman, Esquire. Dr. Ziegler was also present representing PRN.

Dr. Fernandez and Ms. Tootle were recused due to participation on the probable cause panel.

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(s) (2016) - Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use

of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

A motion was made, seconded and carried unanimously to grant reinstatement of the license.

Penalty imposed an action taken: letter of concern, \$2,000 costs, laws and rules course, suspended until she appears before the board and demonstrates her current ability to practice with reasonable skill and safety to include a PRN evaluation and compliance, Board retains jurisdiction to impose additional terms at reinstatement; license reinstated

Parna Ganesh Shenoy, MD – Settlement Agreement.....3

Dr. Senoia was present and represented by Barbara J Chapman, Esquire.

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

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(bb) (2014) - Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

Dr. Orr pointed out this case indicates some education of the timeout rule is necessary.

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

Penalty imposed: letter of concern, \$4,500 fine, \$1,527.36 costs, five hours CME and risk management, lecture

David Shenassa, MD – Settlement Agreement4

Dr. Shenassa was present and represented by Bob Paradela, Esquire.

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

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(bb) (2014) - Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

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

A motion was made, seconded and carried unanimously to impose the terms of the original agreement but to remove the probation and add a one hour lecture at the facility and with the staff involved in this case.

The Respondent accepted on the record.

Penalty imposed: reprimand, \$7,500 fine, \$4,246.10 costs, quality assurance assessment, lecture

Denis Alberto Perez, MD – Settlement Agreement5

Dr. Perez was present and represented by David Oh. Doyle, Esquire.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(t) (2014) - notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify.

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

Penalty imposed: letter concern, \$2,500 fine, \$3,499.17 costs, five hours CME and gynecology and five hours CME and risk management.

Shaik Ejazuddin, MD – Settlement Agreement7

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

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

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the administrative complaint: violation of Florida Statutes s. 458.331(1)(t) (2013) - Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,”

“repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify.

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

Penalty imposed: letter concern, \$8,000 fine, \$4,989.07 costs, five hours CME in the diagnosis and treatment of urinary retention and hyponatremia, five hours CME and risk management, medical records course

Barry M. Miskin, MD – Settlement Agreement8

Dr. Miskin was present and represented by Gordon Lee, Esquire.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(t) (2011) - notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m) (2011) - Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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

A motion was made and seconded to offer a counter proposal to impose the same terms in the original agreement but the five hours in vascular surgery should include two hours of postop complications and an additional five hours of CME in venous surgery which should include identification of the venous anatomy. The motion carried unanimously.

The Respondent accepted the counteroffer on the record.

Penalty imposed: letter concern, \$10,000 fine, \$8,463.25 costs, medical records course, five hours CME and risk management, five hours CME and vascular surgery including two hours of postop complications, five hours CME in venous surgery including identification of the venous anatomy

Robert B. Sperrazza, MD – Settlement Agreement9

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

Ms. St. Laurent represented the Department and presented the cases to the Board.

Case number: 2010-17905

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(c) (2012) – 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.

Case number: 2011-10201

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(c) (2011) – 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.

Case number: 2013-09149

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(c) (2012) – 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 reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose the same terms as the original agreement but the restriction on prescribing of controlled substances is permanent and includes a prohibition on ordering low THC cannabis. The motion carried unanimously.

A motion was made, seconded and carried unanimously to give the Respondent 30 days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected, counter offer to impose reprimand, \$6,000 fine, \$15,534.84 costs, permanent restriction on the prescribing of Schedule I-IV controlled substances, prohibition on the ordering of low THC cannabis, may petition the Board after two years for reinstatement of prescribing privileges, shall not own, operate or practice in pain management clinic, suspended until he appears before the Board and demonstrates his ability to practice with reasonable skill and safety we shall include a PRN evaluation, Board retains jurisdiction to impose additional terms at the time of reinstatement, must reenroll and comply with PRN

Dr. Rosenberg asked PSU to add language in Settlement Agreements when imposing controlled substance restrictions that the physician is also restricted from delegating the prescribing of those controlled substances to his or her physician extenders.

Luis Ernesto Rios, Jr., MD – Settlement Agreement11

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

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

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(t) (2013) – notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(m) (2013) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

Motion was made seconded and carried unanimously to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose the same terms in the original agreement but to require the Respondent undergo a UF CARES evaluation, must apply within six months, comply with the recommendations and present the report to the Probation Committee, Board retains jurisdiction to impose additional terms at that time, complete the PEER IX (ACEP) course within six months, probation until the evaluation is complete and the report is presented to the Probation Committee, indirect supervision with 25% chart review and triannual reports. The motion carried with one opposed.

The Respondent took seven days to accept or reject the counteroffer.

Action taken: Settlement Agreement rejected, counteroffer to impose the same terms plus UF CARES evaluation with application within six months, comply with recommendations and present a report to the Probation Committee, board retains jurisdiction to impose additional terms, PEER IX (ACEP) course within six months, probation until compliance report presented to the Probation Committee, 25% chart review with triannual reports and indirect supervision

Royce E. Hood, Jr., MD – Settlement Agreement12

This matter was postponed.

Jenny T. Porter, PA – Settlement Agreement14

This matter was withdrawn prior to the meeting.

James E. Hyler, MD – Settlement Agreement16

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

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

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(b) (2015) - 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.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement and to allow the courses he is taking for the North Carolina Board to comply with the CME requirements of this Settlement Agreement.

Penalty imposed: letter of concern, \$3,000 fine, \$888.70 costs, 30 hours CME and palliative care

Colin Chan, MD – Settlement Agreement18

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

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(aa) (2014) - Presigning blank prescription forms.

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

Penalty imposed: letter of concern, \$5,000 fine, \$2,293.53 costs, laws and rules course, five hours CME and risk management

James Frederick McGuckin, M.D. - Settlement Agreement.....21

This matter was postponed.

Ronald Evan Wheeler, M.D. - Settlement Agreement.....22

This matter was withdrawn prior to the meeting.

Edgar Pierre, M.D. - Settlement Agreement23

Dr. Pierre was present but not represented by counsel.

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

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(b) (2015) - 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.

A motion was made, seconded and carried unanimously to table this matter until the February Board Meeting.

Action taken: tabled until February Board Meeting

Jeffrey D. Blatt, M.D. – Motion to Vacate Final Order24

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

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Ms. St. Laurent represented the Department and presented the case to the Board. She stated that a Final Order had been issued because the Respondent had been issued a NICA judgment. She explained that since that time he has demonstrated he qualifies for an exemption and a judge lifted the NICA judgment. She requested the Board grant the Department's Motion to Vacate the Final Order.

A motion was made and seconded to grant the motion to vacate the Final Order.

An amendment was offered to vacate the Final Order and dismiss the case. This amendment was accepted.

The motion carried unanimously.

Action taken: Final Order vacated

Lisa M. Cohen, M.D. - Hearing Not Involving Disputed Issues of Material Fact25

Dr. Cohen was not present but she was represented by Brian Newman, Esquire.

Dr. Averhoff and Ms. Tootle were recused due to participation on the probable cause panel.

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(b) (2014) - 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.

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

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

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

Action taken: Administrative Complaint dismissed

Heather Till Patton, M.D. - Hearing Not Involving Disputed Issues of Material Fact²⁶

This matter was postponed.

Alan S. Dansky, M.D. - Hearing Not Involving Disputed Issues of Material Fact²⁷

Dr. Dansky was present but not represented by counsel.

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

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

A motion was made, seconded and carried unanimously to adopt the investigative file into the record for this case.

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 impose a reprimand, \$10,000 fine, five hours CME and risk management and a one hour lecture.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$3,669.17.

Penalty imposed: reprimand, \$10,000 fine, \$3,669.17 costs, five hours CME risk management, lecture

Claude Delmas, M.D. - Determination of Waiver.....²⁸

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

Dr. Dolin and Mr. Romanello were recused due to participation on the probable cause panel.

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(s) (2015) - Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

A motion was made, seconded and carried unanimously to adopt the investigative file into the record for this case.

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 suspend the Respondent's license until he appears and demonstrates his ability to practice with reasonable skill and safety including a PRN evaluation in compliance and the board retains jurisdiction to impose additional terms at that time.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$6,660.79.

Penalty imposed: suspended until appears and demonstrates ability to practice with reasonable skill and safety including PRN evaluation and compliance, board reserves jurisdiction

Michael Ernest Cutler, P.A. - Determination of Waiver.....29

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

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

Ms. St. Laurent represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

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

A motion was made, seconded and carried unanimously to adopt the investigative file into the record for this case.

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 revoke the Respondent's license.

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

Penalty imposed: revocation

Marcus Walter Anderson, M.D. - Determination of Waiver.....30

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

Ms. Tootle was recused due to participation on the probable cause panel.

Ms. Dudley represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(hh) (2011-2015) - Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

A motion was made, seconded and carried unanimously to adopt the investigative file into the record for this case.

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 impose a \$2,000 fine, a suspension until he appears and demonstrates his ability to practice with reasonable skill and safety including a PRN evaluation in compliance and the Board retains jurisdiction to impose additional terms at that time.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$738.11.

Penalty imposed: \$2,000 fine, suspended until appears and demonstrates ability to practice with reasonable skill and safety including PRN evaluation, board retains jurisdiction, \$738.11 costs

John Lentz, M.D. - Recommended Order31

Dr. Lentz was present and represented by Mia Mckown, Esquire.

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

Mr. Dunn represented the Department and presented the cases to the Board.

Case number 2011-15106

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

Allegations of the Administrative Complaint: violation of Florida's Statutes s. 458.331(1)(t) (2010-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice.

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

Case number 2011-18613

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

Allegations of the Administrative Complaint: violation of Florida’s Statutes s. 458.331(1)(t) (2010-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m) (2010-2011) - Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s. 458.331(1)(g) (2010-2011) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

Case number 2012-01987

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

Allegations of the Administrative Complaint: violation of Florida’s Statutes s. 458.331(1)(t) (2010-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph

shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m) (2010-2011) - Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s. 458.331(1)(g) (2010-2011) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception I based on Mr. Dunn’s comments and the board has no jurisdiction over evidence.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception II based on the Department’s comments as well as Board counsel’s comments.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception IV based on the Department’s comments and written record.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception V based on the Department’s oral arguments in the written record which is closed and the Board has no authority to accept new documents.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception VI based on the Department’s oral arguments and the Board cannot re-weigh evidence.

A motion was made, seconded and carried with one opposed to deny the Respondent’s Exception VI based on the record in the comments of the Petitioner.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception VII (page 30) based on the Department’s comments and written record.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception VII (page 35) based on the Department’s comments and the Board cannot reweigh evidence.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception VIII based on the Department’s comments and the Board cannot reweigh evidence.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception IX based on the Department’s comments and the Board cannot reweigh evidence.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception X based on the Department’s comments and written response and the Board has no jurisdiction over evidence.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception XI based on the Department’s comments and written response.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XII based on the Department's comments and written response and the Board cannot reweigh evidence.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XIII based on the Department's comments and the entire record.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XIV based on the Department's comments and written response.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XV based on the Department's comments and written response.

A motion was made, seconded and carried with one opposed to reject the Respondent's Exception XVI based on the Department's comments and written response.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XVII based on the documents and Mr. Dunn's previous testimony.

A motion was made, seconded and carried unanimously to reject the Respondent's Exception XVIII based on Mr. Dunn's oral arguments.

Mr. Tellechea confirmed with the Respondent's counsel that Exceptions II A and B were addressed in the motion on Exception II.

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 revoke the respondent's license.

A motion was made and seconded to not impose the \$30,000 fine. However, the motion failed 3-5.

A motion was made and seconded to reconsider the previous motion on the fine on the basis that it does not serve the public purpose and he is not gainfully employed due to the revocation of his Florida medical license. The motion carried with one opposed.

A motion was made and seconded to table assessment of costs. However, the motion failed 3-5.

A motion was made and seconded to waive the costs.

Mr. Dunn objected.

The motion failed because all members were opposed.

A motion was made, seconded and carried unanimously to table assessment of costs.

A motion was made, seconded and carried unanimously to bifurcate the costs and bring back at a later date.

The Respondent requested a stay of the revocation pending the outcome of the appeal.

Mr. Dunn objected.

A motion was made, seconded and carried with one opposed to deny the request to stay the revocation pending appeal.

Penalty imposed: revocation, \$30,000 fine, request for stay denied

Robert Dehgan, M.D. – Recommended Order42

Dr. Dehgan was present and represented by Thomas R Brown, Esquire.

Dr. TerKonda read the Recommended Order remarks and confirm that all participating members had read the complete record.

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

Mr. Dunn represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: violation of Florida Statutes s. 456.072(1)(v) (2012-2014) – Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1) and s. 458.331(1)(j) (2012-2014) - Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

A motion was made, seconded and carried unanimously to refrain from ruling on the Respondent’s Exceptions 1-3 because there are no citations to the Recommended Order as required.

A motion was made, seconded and carried unanimously to reject the Respondent’s Exception four based on the departments written response and oral argument.

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 and seconded to adopt the Recommended Order.

An amendment was offered to require that the Respondent appear at the conclusion of the suspension and the Board retains jurisdiction to set probation terms at that time. This amendment was accepted.

Another amendment was offered to require the ethics course include a component on boundaries and to prohibit the Respondent from treating female patients at all because the record shows the Respondent demonstrated a violation of sexual misconduct with three patients. In addition, both patients CT and AS testified that due to this case they are unable to trust male physicians. These testimonies can be found on pages 179-180 and on page 95 of the transcripts. This amendment was accepted.

The motion carried unanimously.

A motion was made, seconded and carried unanimously to bifurcate costs and present a later date.

Penalty imposed: reprimand, suspension for three years, probation for five years with terms to be set at reinstatement, Respondent must appear for reinstatement, Board retains jurisdiction to impose additional probationary terms at reinstatement, permanent restriction from treating female patients, ethics course with a component on patient boundaries, \$30,000 fine, costs bifurcated

Christina Paylan, M.D. – Respondent’s 2nd Motion to Disqualify the Entire Panel of the Board of Medicine for Cause and Respondent’s Motion to Disqualify the Entire Panel of the Board of Medicine for Cause58

Ms. Paylan contacted Mr. Tellechea and advised she was unable to attend the meeting and requested a postponement. This matter was postponed.

Voluntary Relinquishments:

The Board took up tabs 33, 36, 37, 39 and 40 in one motion.

Rama Devi Karumanchi, M.D.33

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

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(t) (2009-2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):

1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; s. 458.331(1)(m) (2009-2011) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; and s. 458.331(1)(q) (2009-2011) – rescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate

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

Ralph David Moss, M.D.36

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

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the Department alleging violation of Florida Statutes s. 456.072(1)(k) (2015) – Failing to perform any statutory or legal obligation placed upon a licensee; s. 456.072(1)(z) (2015) – being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; s. 456.072(1)(dd) (2015) – Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto; s. 456.072(1)(hh) (2015) – Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program; s. 458.331(1)(g) (2015) – Failing to perform any statutory or legal obligation placed upon a licensed physician; s. 458.331(1)(s) (2015) – Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; s. 458.331(1)(t) (2015) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; and s. 458.331(1)(nn) (2015) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

Kenneth Dale Hagan, M.D.37

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

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the Department alleging violation of Florida Statutes s. 456.072(1)(k) (2016) – Failing to perform any statutory or legal obligation placed upon a licensee; s. 456.072(1)(z) (2016) – being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; s. 456.072(1)(dd) (2016) –

Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto; and s. 456.072(1)(hh) (2016) – Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

Kyle David Gandy, P.A.39

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

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the Department alleging violation of Florida Statutes s. 458.331(1)(c) (2015) – 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 and s. 456.072(1)(x) (2015) – Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

Joseph G. Shufitowski, M.D.40

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

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(s) (2012-2013) - Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

Penalty imposed: licenses relinquished

Michael Gary Salav, M.D.34

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

Dr. Lopez and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(hh) (2014) - Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

Penalty imposed: licenses relinquished

Isaac Thompson, M.D.35

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

Dr. Averhoff and Ms. Tootle were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of Florida Statutes s. 456.072(1)(c) (2015) - 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 infamously to accept the voluntary relinquishment of license.

Penalty imposed: licenses relinquished

Dror Peled, M.D.38

Dr. Peled was not present however, he was represented by Jon Pellett, Esquire who made a few statements on his behalf. He explained Dr. Peled wanted it on the record that he was not an alcoholic and he thanked the Department for their work with him throughout this process.

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

Allegations of the Administrative Complaint: violation of Florida Statutes s. 458.331(1)(s) (2016) – Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition and s. 456.072(1)(hh) (2016) – Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

Penalty imposed: licenses relinquished

Alexis G. Touchton-Williams, M.D.63

Dr. Touchton-Williams was not present and not represented by counsel.

Probable cause was waived in this case.

A Motion for Final Order Accepting Voluntary Relinquishment of License was filed by the Department stating that a complaint was filed with the Department alleging violation of Florida Statutes s. 456.072(1)(k) (2015) – Failing to perform any statutory or legal obligation placed upon a licensee; s. 456.072(1)(z) (2015) – being unable to practice with reasonable skill and

safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; s. 456.072(1)(dd) (2015) – Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto; s. 458.331(1)(g) (2015) – Failing to perform any statutory or legal obligation placed upon a licensed physician; s. 458.331(1)(s) (2015) – Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition; and s. 458.331(1)(nn) (2015) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

Penalty imposed: licenses relinquished

AHCA Exemption Request:

Ian Matheson, M.D.44

Dr. Matheson was present and represented by Jon Pellett, Esquire.

A motion was made and seconded to grant the exemption. However, the motion failed 4-6.

After discussion, the motion was made, seconded and carried with one opposed to reconsider the previous motion.

A motion was made, seconded and carried with two opposed to grant the exemption.

Action taken: exemption granted

Petition for Wavier or Variance:

Peggy Daniel, EO61

Ms. Daniel was present but she was not represented by counsel. She was requesting waiver of Rule 64B8-52.003, FAC which requires her to complete 20 hours of continuing education for her biennial renewal, 10 hours of which must be in person. Ms. Daniel has completed 20 hours of continuing education however, they were all home study courses. She was requesting waiver of the rule to accept the 20 hours of continuing education she has completed.

During the discussion, Ms. Daniel admitted on the record she is continuing to practice on a delinquent license which went delinquent on May 31, 2016. Ms. Daniel was advised to cease practicing immediately.

A motion was made and seconded to grant a one-time waiver of the rule due to the circumstances. However, the motion failed with a vote of 5-5.

A motion was made and seconded to deny the request for waiver on the basis that she has failed to demonstrate the underlying purpose of the law. The motion failed with a vote of 2-8.

Mr. Pellet, who represents the Society for Clinical and Medical Hair Removal, was asked to offer any information regarding CE requirements. He acknowledged that multiple associations offer the CE in live lecture format however the majority of them are offered in South Florida. He also

stated there were few courses in Electrology available and most of the courses offered have to do with courses like bookkeeping and sanitation.

A motion was made and seconded to grant the request for waiver based on her medical history and that she has taken 20 courses that meet the rule. The motion passed with a vote of 8-2.

Action taken: petition granted

Informal Hearing:

Francisco Roman De Jesus, M.D.45

This matter was postponed until the December Board Meeting.

Final Order Compliance:

Sharlene Robinson, M.D. – Request for Modification of Final Order Addendum

Dr. Robinson was present but she was not represented by counsel. She was requesting the prescribing restriction on her license be lifted.

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

Action taken: request denied

UNTIMED ITEMS*:

Board Chair's Remarks: No tab

No action.

Board Counsel's Remarks:

FDA Requires New Warnings on Danger of Combining Opioids, Benzodiazepines - 46

Mr. Tellechea said this article was provided for the Boards information.

Neelam Uppal, M.D. – Update on Appeal.....64

Mr. Tellechea provided an update on this appeal and said that it was dismissed with the ability of the Respondent to refile.

SCMHR/Walton Settlement57

Mr. Tellechea reminded the Board he defended all rule challenges except for one on which the judge ruled the Board had no authority to delegate to the Electrology Council to do a first reading on petitions for declaratory statement. He said both parties appealed and the District Court of Appeals affirmed. He went on to say that because the Board did not prevail on one rule challenge, SCHMR can sue for attorney fees; however, both parties have reached a settlement agreeing for the Board to pay \$18,000.

A motion was made, seconded and carried unanimously to pay attorney fees in the amount of \$18,000.

Action taken: pay attorney fees in the amount of 18,00 to SCHMR

Board Director's Remarks:

2018 Meeting dates47

Ms. Kemp presented the 2018 meeting dates for the Board's approval.

A motion was made, seconded and carried unanimously to approve the 2018 meeting dates.

Action taken: 2018 meeting dates approved

NTSB Safety Recommendations48

Ms. Kemp said this information from the National Transportation Safety Board was provided for the Boards information.

Orlando SUD Conference49

Ms. Kemp said this information was provided in case any of the Board members were interested in attending.

Law Enforcement Update50

Ms. Kemp stated the Department was negotiating a contract with the company of retired Florida Highway Patrol Officers to serve as security for the Board meetings. In the meantime, the Department is hiring armed security guards.

FSMB 2016 Board Attorneys Workshop54

Ms. Kemp stated that Dr. TerKonda had given temporary approval for Mr. Tellechea to attend the Federation of State Medical Boards Annual Board Attorney Workshop.

A motion was made, seconded and carried unanimously to approve Mr. Tellechea attending the workshop.

Dr. TerKonda said that other state boards counsel attend these meetings and he encouraged more participation from our attorneys, including prosecuting attorneys.

Action taken: travel approved

Department Remarks:

Ms. St. Laurent advised that she was now the Deputy General Counsel for the Department Prosecution Services Unit and Ms. Dudley had return to serve as the Medical Section Lead.

Year-Old Case Report51

Ms. Dudley introduced the year-old Case report and requested authority to continue to prosecute these cases.

A motion was made, seconded and carried unanimously to authorize PSU to continue prosecuting your old cases.

Action taken: authority granted to prosecute cases

PSU Case Management of PCP and Full Board52

Ms. Dudley advised that PSU were pushing the old cases forward. She also advised that they were fully staffed with 15 attorneys some of which were in the audience.

Rules Discussion:

Rule 64B8-31.010/64B15-7.010, FAC – Disciplinary Guidelines for Anesthesiology

Assistants59

Rule 64B8-31.009/64B15-7.009, FAC – Citations for Anesthesiology Assistants60

Ms. McNulty presented both rules to the Board and explain HB 221 required some changes to both of these rules and requested authority to open them for rule development.

A motion was made, seconded and carried unanimously to authorize rule development for both rules.

Action taken: authorized to open for rule development

Council on Physician Assistants: No tab
Petition for Declaratory Statement - MGPAA FL Corp. RE: s. 458.347(7)(b)91), FS53

Dr. Orr presented the report for the meeting held November 3, 2016. He explained the Council listen to a petition for declaratory statements for a statute that has been deleted regarding foreign medical trained physician assistants. He said the recommendation from the Council was to deny the petition

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

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

Action taken: petition for declaratory statement denied, report approved

Committee Reports:
Credentials Committee Meeting No tab

Dr. Averhoff presented the report for the meeting held November 3, 2016.

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

Action taken: report approved

Rules/Legislative Committee Meeting No tab

Dr. Orr presented the report for the meeting held November 3, 2016.

Mr. Tellechea advised the Board the Board of Nursing was changing their protocol rules and he weak requested authorization to notice the Board of Medicines protocol rules for development.

A motion was made, seconded and carried unanimously to authorize the Boards protocol rule for development.

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

Action taken: authorized to open protocol rule for development, report approved

Approval of Meeting Minutes:
July 29, 2016 Board Meeting.....55

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

Action taken: minutes approve

Ratification of Applicants Pursuant to Chapter 458, FS.....56

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

November 4, 2016 Board of Medicine Meeting
Minutes prepared by Crystal Sanford, CPM

Action taken: licenses ratified

Other Business:

None to discuss.

New Business:

Dr. Orr asked to be updated on why the Board's support staff could no longer attend meetings and provide the support that works and is needed.

Ms. Kemp advised FLSA requires the Department pay overtime to employees who make under a certain salary.

Dr. TerKonda asked how much additional money was needed to pay support staff over time to continue traveling to the meetings.

Ms. Kemp said she estimated approximately \$2000 per year additional money.

Dr. TerKonda advised that the Board wants to keep the same service they have been receiving since it works.

The meeting adjourned at 5:06 p.m.