



**Florida Board of Medicine  
Board Meeting**

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**August 14, 2020**

**MINUTES**

8:02 a.m. Roll call

**Members Present:**

Zachariah P. Zachariah, M.D., Chair  
Scot Ackerman, M.D.  
Jorge Lopez, M.D.  
Robert London, M.D.  
Nicholas Romanello, Consumer Member  
Andre Perez, Consumer Member  
David Diamond, M.D.  
Shailesh Gupta, M.D.  
Luz Pages, M.D.

**Members Absent:**

Hector Vila, M.D., Vice Chair  
Eleonor Pimentel, M.D.  
Sarvam TerKonda, M.D.  
Kevin Cairns, M.D.

**Staff Present:**

Claudia Kemp, JD, Executive Director  
Edward Tellechea, Board Counsel  
Donna McNulty, Board Counsel  
Nancy Murphy, Certified Paralegal  
Crystal Sanford, Program Operations Administrator  
Wendy Alls, Program Operations Administrator  
Shaila Washington, Regulatory Supervisor  
Rebecca Hewett, Regulatory Specialist, III

**Others Present:**

For the Record Court Reporting  
1500 Mahan Drive  
Tallahassee, Florida 32308  
(850) 222-5491

**Prosecutors Presenting Cases:**

Kristin Summers, Esquire  
Cynthia Nash-Early, Esquire

**Disciplinary Case Schedule:**

**Justin C.K. Davis, MD – Recommended Order.....1**

Dr. Davis was present and represented by Mark S. Thomas, Esquire.

Dr. Zachariah read the recommended order remarks and ensure all participating members had read the complete record.

The Board received a motion for continuance of this hearing based on late notice.

Ms. Summers, on behalf of the Department of Health, objected to the continuance.

Ms. Sanford explained when the two notices were prepared and sent to both Dr. Davis and Mr. Thomas at their email address on record.

Mr. Tellechea advised the Board the Respondent and counsel had been properly noticed. He said the Board could go forward with the case if they wanted to.

A motion was made, seconded and carried with one opposed to deny the motion for continuance.

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

Ms. Summers represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of Florida Statutes ss. 458.331(1)(uu), s. 458.331(1)(k) and 458.331(1)(g).

Ms. Summers presented the Department's first exception to the Conclusions of Law in paragraph 16 of the Recommend Order regarding whether Dr. Davis performed a full assessment of the patient.

A motion was made, seconded and carried unanimously to deny the exception because the Department has failed to demonstrate anything that would deviate from the Administrative Law Judge's ruling.

Ms. Summers presented the Departments second exception to paragraph 62 of the Recommended Order.

A motion was made, seconded and carried unanimously to grant the exception based on the Department's comments.

Ms. Summer presented the Department's third exception to paragraphs 64-66 of the Recommended Order.

The Board bifurcated the exception into two areas: legal standing and the ultimate conclusions in the Recommended Order.

A motion was made, seconded and carried unanimously to grant the exception to the extent that the Board disagrees with the judge's interpretation of the statute regarding fraud.

A motion was made, seconded and carried unanimously to deny the exception on the ultimate conclusions in the Recommended Order.

Ms. Summers presented the Department's fourth exception to pages 68-69.

The Board bifurcated the exception into two areas: economic interest being broader than ownership interest and whether Dr. Davis has an economic interest with New Leaf.

A motion was made, seconded and carried with four opposed (5-4) to grant the exception finding that economic interest is broader than ownership interest.

A motion was made, seconded and carried unanimously to reject the second part of the exception because the Board finds Dr. Davis did not have an economic interest.

The Department said their exception to the penalty is moot following the Board's determination in the previous exceptions.

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

A motion was made, seconded and carried unanimously to accept the Conclusions of Law as amended by the granting of exceptions.

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

**Action taken:** Administrative Complaint dismissed

**John C. Tomberlin, MD – Recommended Order .....2**

Dr. Tomberlin was not present but he was represented by Kathryn Hood, Esquire.

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

Dr. Zachariah read the recommended order remarks and confirmed all participating members had read the complete record.

Ms. Nash-Early represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of ss. 458.331(1)(t), 458.331(1)(m), and 458.331(1)(nn).

Ms. Nash-Early presented the Department's exception to paragraph 35 of the Recommended Order.

A motion was made, seconded and carried unanimously to reject the exception on the basis that Dr. Davis's treatment of the patient fell within the 3-5% error rate which is the standard of care.

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

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

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

**Action taken:** Administrative Complaint dismissed

The meeting adjourned at 9:59 am.