



MINUTES
PUBLIC PORTION OF THE
NORTH PROBABLE CAUSE AGENDA
BOARD OF MEDICINE
SCHEDULED FOR January 21, 2011

Toll Free Number- 1-888-808-6959, Conference Code Number- 2454131.

Dr. Georges El-Bahri, M.D., Chairman, called the public portion of the meeting of the Probable Cause Panel to order at 2:03 P.M. Those present for the meeting included the following:

Members Present:

Georges El-Bahri, M.D. – Chairperson
Trina Espinola, M.D. – Panel Member
Brigitte Goersch – Panel Member
Jayne Mittan, P.A. – Panel Member

Others Present included:

Ed Tellechea, Esq., Assistant Attorney General & Board Counsel
Shirley Bates, Department of Health
Susan Salamy, Attorney, Department of Health
Rob Milne, Attorney, Department of Health
Geoffrey Rice, Attorney, Department of Health
Veronica Donnelly, Attorney, Department of Health
Jenifer Friedberg, Attorney, Department of Health
David Pius, Attorney, Department of Health
Grace Kim, Attorney, Department of Health
Diane Kiesling, Attorney, Department of Health
Sharmin Hibbert, Attorney, Department of Health
Yolonda Green, Attorney, Department of Health
Gavin Burgess, Attorney, Department of Health
Laura Glenn, Attorney, Department of Health

Court Reporter: For the Record (850) 222-5491; FAX (850) 224-5316

Opening Remarks:

Mr. Tellechea, Assistant Attorney General, advised the panel if they have questions concerning the medical Practice Act, Chapter 458, Chapter 456, Florida Statutes or Rules of the Board to direct those questions to him. If the panel members have questions regarding the investigation and the facts of the investigation or how the investigation was handled, those questions should be directed to the prosecuting attorney. Mr. Tellechea asked the panel what material they have been provided. Ms. Bates stated the entire investigative files have been made available to the panel members and Counsel to the Board and other documents that are pertinent to the file including draft proposed administrative complaints and closing orders. Mr. Tellechea asked the

panel members if they had received the materials and had sufficient time to review the materials on the agenda prior to now. The panel members answered in the affirmative.

Mr. Tellechea asked that this statement be supplied with any request for copies of transcripts.

Mr. Tellechea concluded the opening remarks of the public portion of the meeting. Mr. Tellechea asked that this statement be supplied with any request for copies of transcripts. Mr. Tellechea concluded the opening remarks for the public and confidential portions of the meeting.

RECONSIDERATIONS

<u>Subject Name:</u>	<u>Case No.:</u>	<u>Action:</u>
R-01 Mark Sachs, M.D.	2003-12000	Dismissed

Prosecution Services presented this case involving an alleged violation of 458.331(1)(q)(t)(m)(nn), F.S. and Rule 64B8-9.014, F.A.C., involving inappropriate prescribing, failing to meet the standard of care, and by failing to adequately document justification for prescriptions. This case was previously brought before the panel as an Administrative Complaint and has been brought back as a reconsideration for dismissal due to lack of proof (based upon patient records and prescriptions) that the Respondent committed the statutory violations as alleged in the pending Administrative Complaint. In addition, the Department attempted to prove similar allegations against Respondent in 2005 before the Division of Administrative Hearings and the ALJ ruled that the Department did not prove by clear and convincing evidence that Respondent had violated any provision of Chapter 458 or Chapter 456, F.S. The ALJ based his finding on the fact that the Department did not have pharmaceutical records or adequate patient records to substantiate any violation. The ALJ recommended the case be dismissed and the Board adopted the recommendation. The panel discussed the circumstances of the case and dismissal.

Following discussion by the panel, a motion was made and seconded to dismiss the case. The panel voted to dismiss the case.

Action taken: the panel voted to dismiss the case

R-02 Lori Fresh,E.O..	2007-36146	Dismissed
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Prosecution Services presented this case involving an alleged violation of 893.13(7)(a)(8), F.S., involving 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 electrology. This case was previously brought before the panel as an Administrative Complaint and has been brought back as a reconsideration for dismissal due to the Respondent's license being Null & Void as of June 1, 2010. The panel discussed the circumstances of the case and dismissal.

Following discussion by the panel, a motion was made and seconded to dismiss the case. The panel voted to dismiss the case.

Action taken: the panel voted to dismiss the case

R-03 Harvey Fleisher, M.D.	2004-19445	Dismissed
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Prosecution Services presented this case involving an alleged violation of 458.331(1)(q)(t)(m), F.S., involving inappropriate prescribing, failure to meet the standard of care, and failure to keep legible medical records justifying the course of treatment of his patients. This case was previously brought before the panel as an Administrative Complaint and has been brought back as a reconsideration for dismissal due to the Department not having adequate admissible evidence to prove by clear and convincing evidence Respondent's role in prescribing the above described prescriptions as alleged in the Administrative Complaint The panel discussed the circumstances of the case and dismissal.

