



## Florida Board of Medicine

Marriott Tampa Airport  
4200 George J Bean Parkway  
Tampa, Florida 33607  
(813)878-6505

April 6, 2018

### MEETING MINUTES

Pledge of allegiance

8:00 a.m. Roll call

#### **Members Present:**

Jorge Lopez, M.D., Chair  
Steven Rosenberg, M.D., Vice Chair  
Magdalena Averhoff, M.D.  
Merle Stringer, M.D.  
Sarvam TerKonda, M.D.  
Hector Vila, M.D.  
Gary Dolin, M.D.  
Seela Ramesh, M.D.  
Robert London, M.D.  
Nicholas Romanello, Consumer Member  
Andre Perez, Consumer Member  
Steven Falcone, M.D.  
James W. Orr, Jr., M.D.  
Brigitte Goersch, Consumer Member

#### **Staff Present:**

Claudia Kemp, JD, Executive Director  
Edward Tellechea, Board Counsel  
Donna McNulty, Board Counsel  
Nancy Murphy, Certified Paralegal  
Crystal Sanford, CPM, Program Operations Administrator  
Wendy Alls, Program Operations Administrator  
Rebecca Hewett, Regulatory Specialist III  
Brad Dalton, Public Information Officer

#### **Prosecuting Attorney's Present:**

Allison Dudley, Esquire  
Jasmine Green, Esquire  
Chad Dunn, Esquire  
Geoffrey Christian, Esquire

#### **Members Absent:**

Stephanie Haridopolos, M.D.

#### **Others Present:**

Integra Court Reporting  
Cynthia Cianciola  
(407) 896-1813  
Alexis Polles, M.D., Director, PRN

Ms. Kemp provided opening remarks and advised the audience of the various types of hearing being presented.

Ms. Sanford read the settlement agreement list for the members to determine which cases could be approved without presentation.

**Disciplinary Case Schedule:**

**Zenia E. Cortes, M.D. – Settlement Agreement .....2**

Dr. Vila 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) 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) by 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$2,000 fine, costs, laws and rules course

**Richard E. Smith, M.D. – Settlement Agreement .....3**

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)(b) 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. 456.072(1)(w) by 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 and s. 458.331(1)(kk) by 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$5,000 fine, costs, suspended until demonstrates all licenses in all jurisdiction are unencumbered, board retains jurisdiction to impose additional terms

**Geoffrey L. Risley, M.D. – Settlement Agreement .....10**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb) 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$2,500 fine, costs, 5 hours CME in risk management, lecture

**Carlos E. Ramirez, M.D. – Settlement Agreement .....12**

Dr. Dolin 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)(hh) Being terminated from an impaired practitioner program that is overseen by a consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or participant 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$2,500 fine, restriction – may only practice while in compliance with PRN

**Kim P. Eubanks, M.D. – Settlement Agreement.....13**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$4,000 fine, costs, drug prescribing course, medical records course

**Pierre A. Marceus, M.D. (ACN) – Settlement Agreement .....15**

Dr. TerKonda 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)(w) 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 and s. 458.331(1)(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

**Penalty:** letter of concern, \$1,500 fine, laws and rules course

**Kimberly C. Ireland, M.D. – Settlement Agreement .....17**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and s. 458.331(1)(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

**Penalty:** letter of concern, \$2,500 fine, costs, 5 hours CME in risk management, lecture

**Jennifer L. St. Croix, M.D. – Settlement Agreement .....18**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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. 456.072(1)(w) by 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 and s. 458.331(1)(kk) by 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$3,000 fine, costs, laws and rules course, drug prescribing course, medical records course

**Steven M. Walczak, M.D. – Settlement Agreement .....20**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb) 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$3,500 fine, costs, 5 hours CME in risk management, lecture

**Arnold C. Friedman, M.D. – Settlement Agreement.....23**

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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 approve the Settlement Agreement.

**Penalty:** letter of concern, \$1,000 fine, costs, 5 hours CME in diagnostic radiology, 5 hours CME in risk management

**Serge E. Cayemitte, M.D. – Settlement Agreement .....1**

Dr. Cayemitte was present and represented by James White, Esquire. His proposed monitor was also present.

Dr. Vila 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)(t) 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) 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) Prescribing, dispensing,

administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent.

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

A motion was made and seconded to offer a counter proposal to restrict the Respondent from prescribing Schedules I-V controlled substances until he undergoes a physician assessment and the Board retained jurisdiction to impose additional terms.

An amendment was offered to include the rest of the terms in the original settlement agreement and to restrict him from practicing in, owning or operating a pain management clinic. This amendment was accepted.

Another amendment was offered to require the Respondent be re-evaluated after one year. This amendment was rejected and the members decided to remove probation.

The motion as amended was unanimous.

The Respondent accepted the counter offer.

**Penalty:** reprimand, \$15,000 fine, costs, laws and rules course, drug prescribing course, medical records course, 5 hours CME in risk management, restricted from prescribing Schedule I-V controlled substances until undergoes physician assessment, jurisdiction retained, restricted from owning, operating or practicing in a pain management clinic

**Elizabeth A. Johnson, M.D. – Settlement Agreement .....4**

Dr. Johnson was present and represented by Allen Grossman, Esquire.

Dr. Lopez and Mr. Romanello were recused due to participation on the probable cause panel. Dr. TerKonda recused himself because the Respondent was a colleague and have mutual patients. Dr. Rosenberg chaired this hearing.

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) 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 reject the Settlement Agreement.

A motion was made, seconded and carried unanimously to offer a counter proposal to impose the terms of the original settlement but to change the CME requirements to five hours CME in endometriosis.

The Respondent accepted the counter offer.

**Penalty:** letter of concern, \$7,000 fine, costs, 5 hours CME in diagnosis and treatment of endometriosis, 5 hours CME in risk management

**Janet M. Parsell, P.A. – Settlement Agreement .....5**

Ms. Parsell was present and represented by George Indest, III, Esquire.

Dr. Rosenberg and Dr. London 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)(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and s. 458.331(1)(m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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

**Penalty:** letter of concern, \$1,500 fine, costs, medical records course, 5 hours CME in risk management

**Kansky J. Delisma, M.D. – Settlement Agreement .....6**

Dr. Delisma was present and represented by Monica Rodriguez, Esquire.

Dr. Vila and Ms. Goersch were recused due to participation on the probable cause panel. Dr. Averhoff advised she knows the Respondent but could be impartial.

Mr. Christian represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(kk) by 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:** letter of concern, \$500 fine, costs

**Natasha Shallow, M.D. – Settlement Agreement .....7**

Dr. Shallow was present but not represented by counsel.

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

Mr. Christian represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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) by 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 reject the Settlement Agreement.

A motion was made, seconded and carried unanimously to offer a counter proposal to impose the same terms in the original settlement but to suspend the Respondent’s license until his Montana license is clear, he appears and demonstrates his ability to practice with reasonable skill and safety which includes a PRN evaluation and the Board retained jurisdiction to impose additional terms.

The Respondent accepted the counter offer.

**Penalty:** letter of concern, \$5,000 fine, costs, laws and rules course, suspended until appears and demonstrates Montana license is clear, able to practice with reasonable skill and safety including PRN evaluation, jurisdiction retained

**Odest F. Cannon, Jr., M.D. – Settlement Agreement .....8**

Dr. Cannon was present but not represented by counsel.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb) 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:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, lecture

**Thomas M. Verdin, III, M.D. – Settlement Agreement .....9**

Dr. Verdin was not present nor was he represented by counsel. Counsel submitted a request for a continuance of this case. The Chair decided to leave this hearing on the agenda and let the Board decide whether to grant the continuance.

Dr. Lopez was recused due to participation on the probable cause panel. Dr. Rosenberg chaired this hearing.

Ms. Dudley advised she had been in contact with Dr. Verdin who said he did not know anything about the hearing. She said she research and found he had failed to update his address with the Board and that is the address where the notice of hearing had been sent. She also said Dr. Verdin was scheduled to have an evaluation in April.

A motion was made, seconded and carried unanimously to table the hearing.

**Action taken:** tabled

**Jason W. Lane, M.D. – Settlement Agreement .....14**

Dr. Lane was present and represented by Monica Rodriquez, Esquire. Dr. Polles was also present.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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. 456.072(1)(w) by 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:** letter of concern, \$3,500 fine, costs, laws and rules course, probation for 3 years under indirect supervision, 10% chart review, triennial reports, first and last appearances

**Frank H. Snipes, M.D. – Settlement Agreement .....11**

Dr. Snipes was present and represented by Louise Jeroslow, Esquire.

Dr. Vila 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)(m) 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) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent.

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

**Penalty:** reprimand, \$10,000 fine, costs, 5 hours CME in risk management, upon receiving DEA license, probation for one year under indirect supervisions, review of all records, triennial reports, first appearance

**Nimesh A. Dayal, M.D. – Settlement Agreement .....16**

Dr. Dayal was present and represented by Michael Smith, Esquire.

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

s.456.072(1)(v) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

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 a boundaries course, to restrict the Respondent from treating female patients until undergoes PRN evaluation and the Board retains jurisdiction to impose additional terms.

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

**Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$10,000 fine, costs, laws and rules course, 5 hours CME in ethics, suspended minimum of 9 months and until demonstrates can practice with reasonable skill and safety including PRN evaluation, boundaries course, restricted from treating female patients until undergoes PRN evaluation, jurisdiction retained

**Thomas Francavilla, M.D. – Settlement Agreement .....19**

Dr. Francavilla was present and represented by Gregory Chaires, 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. 456.072(1)(bb) 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:** letter of concern, \$3,000 fine, costs, 5 hours CME in risk management, lecture

**Chair’s Recognition Award: Kaela L. Schultz – University of South Florida...Tab 56**

Ms. Schultz was presented the Chair’s Recognition Award for the many accomplishments she has had already in her career. In addition, she exemplifies the professionalism, moral character, compassion and intellect essential to a future leader of the medicine.

**Marcus J. Malone, M.D. – Settlement Agreement .....21**

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

Dr. Vila 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)(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and s. 458.331(1)(kk) by 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 reject the Settlement Agreement.

A motion was made, seconded and carried with one opposed to offer a counter proposal to impose the same terms in the original agreement but to also require probation for two years under indirect supervision, 50% chart review the first year and 25% chart review the second year.

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

**Penalty:** Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine, costs, laws and rules course, medical records course, 5 hours CME in ethics, 5 hours CME in risk management, probation for 2 years under indirect supervision, 50% chart review first year and 25% chart review second year

**George J. Parell, M.D. – Settlement Agreement .....2**

Dr. Parell was not present but represented by Randolph Collette, Esquire.

Ms. Sanford advised the Board received a request for waiver of the Respondent’s appearance and it was granted by the Chair.

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb) 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 reject the Settlement Agreement.

A motion was made, seconded and carried unanimously to offer a counter proposal to impose the same terms in the original agreement but to add if the Respondent chooses to return to practice in Florida, he must appear before the Board and the Board retains jurisdiction to impose additional terms.

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

**Action taken:** Settlement Agreement rejected; counter offer to impose letter of concern, \$2,500 fine, costs, 5 hours CME in risk management, lecture, prior to returning to practice must appear before the Board, jurisdiction retained

**Patrick A. Murtha, M.D. – Determination of Waiver Hearing .....2**

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

Ms. Dudley asked the Board to continue this hearing until the next meeting.

A motion was, made, seconded and carried unanimously to continue the hearing until the next meeting.

**Action taken:** continued

**Tanya B. Ziadie, M.D. - Determination of Waiver Hearing .....25**

Dr. Ziadie was not present nor was she represented by counsel.

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

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

A motion was made, seconded and carried unanimously to find the Respondent waived her 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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to suspend the Respondent license until she has established control of her medical records and made them available to her patients.

A motion was made, seconded and carried unanimously to authorize the Chair of the Probation Committee to determination of compliance with the terms of the Final Order.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$1,692.03.

**Penalty:** costs, suspended until establishes control of medical records and makes them available to her patients, Chair of Probation Committee authorized to determine compliance

**Christopher A. Cogle, M.D. - Hearing Not Involving Disputed Issues of Material Fact**

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

No current members 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) 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. 456.072(1)(w) by 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 and s. 458.331(1)(kk) by 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 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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to suspend the Respondent's license until all licenses are unencumbered and he appears before the Board and demonstrates he is safe to practice with reasonable skill and safety including PRN evaluation and the Board retains jurisdiction to impose additional terms.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$104.76.

**Penalty: costs**, suspended until all licenses unencumbered, appears and demonstrates skill and safety including PRN evaluation, jurisdiction retained

**Theophilus Okeke, M.D. - Hearing Not Involving Disputed Issues of Material Fact 27**

Dr. Okeke was present and represented by Juan Santos, Esquire.

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

Mr. Christian represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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.

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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to mimic the New York Order for 36 months of probation, restricted from delegating prescribing to extenders, indirect supervision, 25% chart reviews and first and last appearances.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$176.00.

**Penalty:** costs, mimic the New York Order for 36 months of probation, restricted from delegating prescribing to extenders, indirect supervision, 25% chart reviews and first and last appearances

**Riaz Mazcuri, M.D. – Hearing Not Involving Disputed Issues of Material Fact.....28**

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

Dr. Rosenberg 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)(w) by 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 and s. 456.072(1)(c) 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)(x) 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.

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 violated Florida Statutes as charged.

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

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

**Penalty:** revoked; costs waived

**Christopher L. Rodriguez, P.A. – Hearing Not Involving Disputed Issues of Material Fact**  
.....29

Mr. Rodriguez was present but not represented. Dr. Polles was present.

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

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)(f) 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 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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to place the Respondent on probation for six months under direct supervision but no chart review, first and last appearances, letter of concern, \$1,000 fine, compliance with PRN, boundaries course, drug prescribing course, unable to prescribe for six months and may petition to have restriction lifted during last appearance, demonstration shall include compliance with PRN and completion of the prescribing course.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$146.46.

**Penalty:** letter of concern, \$1,000 fine, costs, probation 6 months, direct supervision with no chart review, first and last appearances, boundaries course, drug prescribing course, restricted from prescribing controlled substances, at last appearance may petition to lift restriction if in compliance with PRN and completion of drug course

**Drew E. Fenton, M.D. – Hearing Not Involving Disputed Issues of Material Fact...30**

Dr. Fenton was present but not represented by counsel.

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

Mr. Christian represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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.

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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to suspend the Respondent's license until his California license is clear and appears before the Board who retained jurisdiction to impose additional terms which may include training and/or a physician assessment. This action is independent of the action taken in a previous case.

**Penalty:** costs, suspended until California license clear and appears before Board; jurisdiction retained and may include training and/or physician assessment

**Francisco J. Pages, M.D. – Hearing Not Involving Disputed Issues of Material Fact31**

Dr. Pages was present but not represented by counsel.

Dr. Vila and Ms. Goersch were recused due to participation on the probable cause panel. Dr. Averhoff advised she knows the physician but would be impartial.

Mr. Christian represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(x) Violating a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to impose a reprimand, \$1,000 fine, suspension until compliance with previous Final Order.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$152.57.

**Penalty:** reprimand, \$1,000 fine, costs, suspension until compliance with previous Final Order

**Laurin Thomas, N.D. – Respondent’s Motion for Reconsideration and Modification of Settlement Due to Board Adoption of Unpromulgated Rule.....58**

Dr. Thomas was present and represented by Joseph Sapp, Esquire.

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

Mr. Tellechea asked Mr. Sapp the purpose of their request.

Mr. Sapp advised he wanted the Board to reconsider and modify the Settlement Agreement.

Mr. Tellechea advised the Board had not taken action against Dr. Thomas’s license therefore there was nothing to reconsider or modify.

**Action taken:** None necessary

**Ona M. Colasante, M.D. - Hearing on Request for Formal Hearing; if denied, Hearing Not Involving Disputed Issues of Material Fact .....32**

Dr. Colasanted was not present nor represented by counsel.

Dr. Rosenberg and Mr. Romanello 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)(c) 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)(ii) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.

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 violated Florida Statutes as charged.

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:** revocation; costs waived

**Laura J. Seed, M.D. - Hearing Not Involving Disputed Issues of Material Fact .....33**

Dr. Seed was not present nor was she represented by counsel.

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

Ms. Green represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b) 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.

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 violated Florida Statutes as charged.

A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500 fine, and a suspension until all licenses are unencumbered and she appears and demonstrates her ability to practice with reasonable skill and safety and the Board retained jurisdiction to impose additional terms.

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

**Penalty:** letter of concern, \$2,500 fine, suspended until all licenses are unencumbered, appears and demonstrates ability to practice with reasonable skill and safety; jurisdiction retained

**Grace M. Guastella, M.D. – Recommended Order .....34**

Dr. Guastella was not present nor was she represented by counsel.

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

Dr. Lopez read the Recommend Order remarks and confirmed all participating members had read the complete record.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(x) 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; Statutes s. 456.072(1)(hh) Being terminated from an impaired practitioner program that is overseen by a consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or participant contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program; and s. 458.331(1)(s) 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 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 adopt the Recommended Order, fine is due six months after reinstatement, PRN evaluation prior to reinstatement.

A motion was made, seconded and carried unanimously to assess costs in the amount of \$71,116 due six months after reinstatement.

**Penalty:** reprimand, \$1,000 fine, costs, suspended until demonstrates ability to practice with reasonable skill and safety including PRN evaluation, jurisdiction retained; costs and fine due 6 months after reinstatement

**Voluntary Relinquishments:**

**George Roll, P.A. – Voluntary Relinquishment .....35**

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

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t) 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) 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.; s. 458.331(1)(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent; s. 458.331(1)(r) 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; and s. 458.331(1)(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional

responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

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

**Penalty:** license relinquished

**Jerry O. Ciocon, M.D. – Voluntary Relinquishment .....36**

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

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

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(c) 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)(x) 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.

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

**Penalty:** license relinquished

**Andres J. Mencia, M.D. – Voluntary Relinquishment .....7**

This matter was withdrawn prior to the meeting.

**Action taken:** case withdrawn

**Final Order Compliance:**

**Sara N. Garcia, M.D. - Petitioner's Second Request for Reconsideration .....38**

Dr. Garcia was not present nor was she represented by counsel.

The Department objected to the Request for Reconsideration.

A motion was made, seconded and carried unanimously to deny the request for reconsideration.

**Action taken:** denied

**Jeffrey A. Samuels, M.D. – Petition for Removal of Opioid Prescribing Restriction40**

Dr. Samuels was present and represented by Michael Mittelmark, Esquire.

A motion was made, seconded and carried unanimously to deny the petition for removal of the opioid prescribing restriction.

**Action taken:** denied

**Jose Luis Avila, M.D. - Petition Requesting the Board Vacate License Revocation and Request for Hearing Not Involving Disputed Issues of Material Fact if Motions are Granted .....39**

Dr. Avila was not present but he was represented by Mycki Ratzan, Esquire.

Ms. Dudley advised she researched and listened to the audio and determined a request for continuance was received the day before the meeting however, the request was not addressed at the meeting.

A motion was made, seconded and carried unanimously to reconsider.

A motion was made, seconded and carried unanimously to vacate the penalty.

Ms. Ratzan asked the Board to consider a voluntary suspension until Dr. Avila is released from prison and can appear before the Board and argue his case.

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.

**Action taken and penalty imposed:** previous action reconsidered; previous penalty vacated; revoked; costs waived

**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 Cause .....41**

This matter was continued until a future Board Meeting.

No action necessary.

**Marvin Reich, M.D. – Petition for Modification of Final Order .....54**

Dr. Reich was present and represented by Mark Thomas, Esquire.

Dr. Reich was advised the Board has not authority over the content on the Department of Health’s website.

A motion was made, seconded and carried unanimously to deny the petition for modification of Final Order.

**Action taken:** denied

**Judi Shaw-Rice, M.D. – Request to Lift Restriction .....55**

Dr. Shaw-Rice was present but not represented by counsel. She is requesting the prescribing restrictions be lifted from her license.

A motion was made, seconded and carried unanimously to grant the request to lift the restriction.

**Action taken:** restriction lifted

**AHCA Exemption:**

**Angela Beth Echeverria M.D. ....42**

Ms. Sanford advised Dr. Escheverria resolved her issue and withdrew her request since it was no longer needed.

**Action taken:** request withdrawn

**Petition for Declaratory Statements:**

**Scott Loessin, M.D., Rule 64B8-9.009 .....43**

Dr. Loessin’s request was withdrawn prior to the meeting.

**Action taken:** withdrawn

**Florida Arthritis & Rheumatology Associates, LLC (FARA) - RE: 456.053, F.S. ....44**

Michael Austin, Esquire appeared on behalf of the Petitioner. He was accompanied by two individuals representing the Petitioner, including Michael Weiss (phonetic). The Petitioner wanted to know if issuing a prescription to a FARA patient that is then filled in a FARA pharmacy is considered a referral. Their second question was whether it was against the law to refer non-FARA patients to their pharmacy.

After a lengthy discussion, a motion was, made, seconded and carried unanimously to respond in the affirmative that pharmacy filled prescriptions issued by FARA physicians to FARA patients does not violate self-referral statutes.

The discussion regarding non-FARA patients was tabled to allow the petitioner to submit more information, including the STARK law.

**Action taken:** affirm that pharmacy filled prescriptions issued by FARA physicians to FARA patients does not violate self-referral statutes; remaining issue to be discussed at a future meeting after the petitioner submits more information including STARK law

**Christopher Hyer, DPM.....45**

Dr. Hyer withdrew his request prior to the meeting.

**Action taken:** request withdrawn

**Dietetic Nutrition Petition for Declaratory Statements – Approval of Draft Final Order**

**.....46**

A petition for declaratory statement was reviewed by the Board at the February 2018 Board Meeting. The draft Final Order was presented for the Board’s review and approval.

Triston Soyka reminded the Board the original petition only included nasogastric but during discussion at that time he clarified it should actual read nastrogastric/nasoenteric.

A motion was made, seconded and carried unanimously to approve the Final Order with the addition of nasoenteric.

**Action taken:** Final Order approved with addition of nasoenteric

**Petition for Waiver/Variance:**

Minutes prepared by Crystal Sanford, CPM  
April 2018 Board of Medicine Meeting

**Scott Loessin, M.D. - RE: Rule 64B8-9.009(2)(f), FAC. ....47**

Dr. Loessin’s petition was withdrawn prior to the meeting.

**Action taken:** petition withdrawn

**Hector Diaz, M.D. - RE: Rule 64B8-8.0011(7)(a)1, FAC.....48**

Dr. Diaz was not present nor was he represented by counsel. He was requesting waiver or variance of the rule that requires a monitoring physician be located within twenty miles.

A motion was made, seconded and carried unanimously to grant the request.

**Action taken:** request granted

**John T. Bowman, M.D., Rule 64B8-8.0011(7)(a)(1), FAC .....49**

Dr. Bowman was not present nor was he represented by counsel. He was requesting waiver or variance of the rule that requires a monitoring physician be located within twenty miles.

A motion was made, seconded and carried unanimously to grant the request.

**Action taken:** request granted

**Peggy Daniel, E.O. - RE: Rule 64B8-52.003 FAC.....50**

Ms. Daniel was not present nor was she represented by counsel. She was requesting waiver or variance of the rule that requires continuing education be live lecture format.

It was noted she had previously been granted a waiver or variance for the same reason.

A motion was made, seconded and carried unanimously to grant the request temporarily for one year.

**Action taken:** temporarily granted for 1 year

**UNTIMED ITEMS\*:**

**Electrolysis Council Application for Re-appointment Lina Grill, EO: .....51**

Ms. Grillo was present and answered questions from the members concerning the last time she practiced electrology.

A motion was made, seconded and carried unanimously to deny her application for reappointment because she does not meet the practice requirement.

**Action taken:** denied

**Board Chair’s Remarks: .....No tab**

Dr. Lopez congratulated the members who were appointed and confirmed by the Senate. He welcomed Mr. Perez and Dr. Falcone as the newest members of the Board. He said he would be attending the annual meeting of the Federation of State Medical Boards and would be supporting Dr. TerKonda for Board of Directors.

Dr. Lopez said when he was interviewed by the Governor for reappointment, he talked to him about the archaic software used to view agenda materials. He said the Governor would assign someone to look at the issue and Dr. Lopez asked Ms. Kemp to follow up.

Also during his interview with the Governor, Dr. Lopez discussed being restricted to paying hotels \$150 per night. The Governor agreed the law was archaic. Dr. Lopez asked Ms. Kemp to find out what it would take to get the law changed.

Mr. Tellechea explained this issue was imposed by budget and most likely will not change.

Dr. Lopez recognized Dr. Averhoff for her service as the Chair and said he learned a great deal from her leadership. He said her plaque would be presented at the next meeting.

**Board Counsel's Remarks: ..... No tab**

Mr. Tellechea said he had no updates to provide the members.

**Board Director's Remarks: ..... Tab 57**

**Health Heroes Nomination**

Ms. Kemp said Ms. Sanford sent an email to members requesting nominations for the Department of Health's Health Hero. She thanked Mr. Romanello for his nomination of Frank Farmer, M.D. She said he meets all of the qualifications, was a former Board Member, Board Chair and State Surgeon General.

A motion was made, seconded and carried unanimously to nominate Dr. Farmer as the Department's Health Hero.

Ms. Kemp also advised the Board staff hired someone to finish the adverse incident research started by Andrew Sebesta. She said the new employee has extensive research and presentation experience.

**Action taken:** nominate Dr. Farmer

**Department Remarks: ..... Tab 52**

Ms. Dudley presented the Year-Old Case Report to the members and advised the number was down to 336 cases with a focus on old prescribing cases.

Ms. Dudley presented the Appellate Report and advised there was a recent decision in the Department of Health versus Ronald Wheeler, M.D. case where the DCA affirmed the Board's Final Order.

Ms. Dudley said she was asked at the last meeting for an update on citations issued. She presented the Citation Report which reflected three citations issued for fiscal year 2016-2017. She explained citations were previously issued primarily for CME violations and at this time, a physician cannot renew unless the CME requirement has been met.

A motion was made, seconded and carried unanimously to authorize the Department to continue prosecuting the year-old cases.

Dr. Rosenberg congratulated Ms. Dudley on reducing the older cases load.

**Action taken:** authorized to continue prosecuting old cases

**Council on Physician Assistants:**

Dr. Orr provided the report for the meeting held April 5, 2018.

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

**Action taken:** report approved

**Committee Reports:**

**Credentials Committee Meeting ..... No tab**

Dr. Averhoff presented the report for the meeting held April 5, 2018.

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

**Action taken:** report approved

**Probation Committee Meeting ..... No Tab**

Mr. Romanello gave the report for the meeting held April 5, 2018. He advised legislation was passed that deregulates licensed risk managers. He said the Committee voted to change the requirement for risk managers to be Certified Professional Health Care Risk Manager instead of licensed risk managers to perform risk assessments for physicians in the disciplinary process. He also brought up the quality of CPEP evaluations and the Committee decided to include language in the Final Order which outlines what the Board expects from physician assessments.

Mr. Tellechea said he would work on language for this and bring some back to the next meeting for review and approval.

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

Dr. London said there are other national entities that certified risk managers so staff should look at including those entities in the rule as well.

It was also noted a board member is no longer required to serve as the risk manager for the Board.

**Action taken:** report approved; licensed risk managers changed to Certified Professional Health Care Risk Managers; include requirements for physician assessments in Final Orders – bring proposed language to next meeting; look at other certifying agencies for risk managers to include in the rule

**Joint Boards of Medicine and Osteopathic Medicine’s Physician Certification Pattern Review Panel Committee..... No tab**

Dr. Rosenberg gave the report for the meeting held April 5, 2018.

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

**Action taken:** report approved

**Boards of Medicine and Osteopathic Medicine’s Joint Committee on Medical Marijuana**

**..... No tab**

Dr. Rosenberg gave the report for the meeting held April 5, 2018.

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

**Action taken:** report approved

**Surgical Care/Quality Assurance Committee Meeting ..... No tab**

Dr. Orr presented the report for the meeting held April 5, 2018.

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 April 5, 2018.

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

**Action taken:** report approved

**Approval of Meeting Minutes:**

**February 2, 2018 Board Meeting..... Tab 53**

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

**Action taken:** minutes approved

**Ratification of Applicants Pursuant to Chapter 458, FS..... Tab 59**

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

**Action taken:** licenses ratified

**Other Business:**

None

**New Business:**

None

The meeting adjourned at 3:59 pm.