



Florida Board of Medicine

**DoubleTree by Hilton
5780 Major Boulevard
Orlando, Florida 32819
(407) 351-1000**

February 8, 2019

MEETING MINUTES

Pledge of allegiance
8:00 a.m. Roll call

MEMBERS PRESENT:

Steven Rosenberg, M.D., Chair
Hector Vila, M.D., Vice Chair
Magdalena Averhoff, M.D.
Seela Ramesh, M.D.
Jorge Lopez, M.D.
Robert London, M.D.
Andre Perez, Consumer Member
Steven Falcone, M.D.
Brigitte Goersch, Consumer Member

MEMBERS ABSENT:

Merle Stringer, M.D.
James W. Orr, Jr., M.D.
Sarvam TerKonda, M.D.
Nicholas Romanello, Consumer Member

STAFF PRESENT:

Claudia Kemp, JD, Executive Director
Edward Tellechea, Board Counsel
Donna McNulty, Board Counsel
Nancy Murphy, Certified Paralegal
Crystal Sanford, Prog. Opr. Adm.
Wendy Aills, Prog. Opr. Adm.
Rebecca Hewett, Regulatory Specialist III
Brad Dalton, Public Information Officer

OTHERS PRESENT:

Martha Brown, M.D., PRN

PROSECUTING ATTORNEYS PRESENT:

Allison Dudley, Esquire
William Walker, Esquire
Chris Dierlam, Esquire
Sarah Corrigan, Esquire

Ms. Kemp read opening remarks and discussed cases being presented throughout the day.

Ms. Sanford read the Settlement Agreement list and members voted on the cases where the penalty was appropriate for the violation.

Disciplinary Case Schedule:

Jorge A. Gallo, M.D. – Settlement Agreement..... 2
Dr. Vila was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

Penalty imposed: letter of concern, \$7,000 fine, costs, 2 hours CME in chronic medical conditions and pregnancy

Asad Qamar, M.D. – Settlement Agreement..... 5

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

Allegations of the Administrative Complaint: violation of s. 456.072(1)(kk) by being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.

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

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

Saleh Parvez, M.D. – Settlement Agreement..... 6

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

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

Penalty imposed: letter of concern, \$5,000 fine, costs, 5 hours CME in prescribing of drugs to treat psychiatric conditions, 5 hours CME in management of patients with acute psychiatric conditions

Charles Kollmer, M.D. – Settlement Agreement..... 10

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

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

Penalty imposed: letter of concern, \$5000 fine, costs, 5 hours CME in orthopaedic surgery follow up care

Scott L. Kane, P.A. – Settlement Agreement..... 11

Dr. Falcone and Mr. Perez were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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, \$2,500 fine, costs, 5 hours CME in professional boundaries

Candace S. Cooley, M.D. - Settlement Agreement..... 13

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(s) by 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: costs, PRN

Balamurali K. Ambati, M.D. - Settlement Agreement..... 17

Minutes prepared by Crystal Sanford
February 8, 2019 Board of Medicine Meeting

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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, \$1,500 fine, 5 hours CME in ethics

Moshe Lewis, M.D. - Settlement Agreement..... 18

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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, \$3,500 fine, costs, drugs course, medical records course

Claudia Y. Rodriguez-Galvis, M.D. – Settlement Agreement..... 20

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

Allegations of the Administrative Complaint: violation of 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 accept the Settlement Agreement.

Penalty imposed: letter of concern, \$2,000 fine, costs, 5 hours CME in treating psychiatric conditions, 5 hours CME in risk management

Mildred D. Silva, M.D. – Settlement Agreement 22

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

Allegations of the Administrative Complaint: violation of s. 458.331(1)(r) by prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

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

Penalty imposed: letter of concern, \$4,000 fine, costs, laws and rules course, ethics course

Ronald H. Woody, III, M.D. – Settlement Agreement..... 1

Dr. Woody was not present nor was he represented by counsel. The complainant was present and addressed the Board.

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

Ms. Dudley said Dr. Woody had requested a continuance.

Ms. Sanford advised the request had been denied.

A motion was made, seconded and carried unanimously to hear the case.

Ms. Corrigan represented the Department and presented the case to the Board. Allegations of the Second Amended Administrative Complaint: violation of s. 458.331(1)(m) by 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)(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 and seconded to offer a counter proposal to impose the same terms except to increase the fine to \$20,000, CME in treating breasts with radiation and a reprimand.

An amendment was offered to impose the above but impose a letter of concern instead of the reprimand. The amendment was accepted.

Another amendment was offered to impose one-year probation under indirect supervision, 25% chart review of the prior 100 cases where the patient has been treated with controlled substances and all new patients looking for prescribing patterns and billing practices and to report to the Probation Committee. The amendment was accepted.

The motion carried unanimously.

The Respondent was given 7 days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose letter of concern, \$20,000 fine, records course, probation for one year under indirect supervision with 25% chart review of prior 100 cases where the patient has been treated with controlled substances and all new patients looking for prescribing patterns and billing practices and to report to the Probation Committee

Hamisu M. Salihu, M.D. – Settlement Agreement..... 3

Dr. Salihu was not present by his attorney was present. He said they just received notice of the meeting on January 28, 2019 and his client was unable to attend.

Ms. Sanford advised notices were normally sent out thirty days in advance of the meeting; however, that did not occur this time because notices were sent on January 22, 2019. Ms. Sanford explained the office's process for handling hearing notices.

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

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

Action taken: hearing tabled

Guinevere J. Bullard, M.D. – Settlement Agreement 7

Dr. Bullard was present and represented by counsel. The complainant was also present and addressed the Board.

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

The Department presented the case to the Board. Allegations of the Administrative Complaint: violation of 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 and seconded to offer a counter proposal to impose the same terms in the original agreement but to increase the fine to \$10,000 and to require 2 hours CME in medical records.

An amendment was offered to impose CME in post-partum hemorrhage. The amendment was not accepted because the CME was too specific and difficult to find.

The motion carried unanimously.

The Respondent was given 7 days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose letter of concern, \$10,000 fine, costs, 5 hours CME in post-partum follow up care, 5 hours CME in risk management, 2 hours CME in medical records

Betty J. Carter, M.D. – Settlement Agreement..... 8

Dr. Carter was present and represented by Christ Schulte, Esquire.

Dr. Lopez 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 s. 458.331(1)(m) by 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)(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 and seconded to offer a counter proposal to impose the same terms but to impose a permanent restriction on treating patients with chronic non-malignant pain and to impose a \$20,000 fine.

The motion carried unanimously.

The Respondent took 7 days to accept or reject the counter offer.

Action taken: Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine, costs, 10 hours CME in the diagnosis and treatment of chronic non-malignant pain, 5 hours

CME in addiction medicine, 5 hours CME in risk management, permanently restricted from treating patients with chronic non-malignant pain.

Timothy Q. DeSantis, M.D. – Settlement Agreement 9

This hearing was continued.

Luis E. Rios, Jr., M.D. – Settlement Agreement 12

This hearing was continued.

Scott B. Halperin, M.D. - Settlement Agreement 14

Dr. Halperin was present and represented by Brian Newman, Esquire.

Dr. Vila 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 Amended Administrative Complaint: violation of s. 458.331(1)(m) by 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)(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 accept the Settlement Agreement.

Penalty imposed: reprimand, \$7,000 fine, costs, drug course, medical records course

Chair Recognition Award 48

Jeremy Tran, medical student at the University of Central Florida was recognized by the Board for exemplifying professionalism, moral character, compassion and intellect essential to the future leaders of the medical profession.

Rafael F. Aviles, M.D. - Settlement Agreement 15

Dr. Aviles was present, but his attorney was not present. He was asked multiple times about the presence of his attorney.

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

A motion was made, seconded and carried unanimously to table the hearing until the next meeting. The Board strongly suggested he come to the next meeting with competent counsel.

Action taken: hearing tabled

Gino N. Vitiello, M.D. - Settlement Agreement 16

Dr. Vitiello was present and represented by Allen Grossman, Esquire. Dr. Brown was also present and addressed the Board.

Ms. Goersch was recused due to participation on the probable cause panel. Dr. Averhoff recused herself because she was Chief Medical Director at the hospital where this physician practices.

Mr. Walker represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: violation of s. 456.072(1)(hh) by 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 and seconded to dismiss the Amended Administrative Complaint.

Mr. Grossman said he would waive attorney fees and costs.

The motion carried unanimously.

Action taken: Amended Administrative Complaint dismissed

Jean M. Dure, M.D. (ACN) - Settlement Agreement..... 19

Dr. Dure was present and represented by

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

Ms. Corrigan represented the Department and presented the case to the Board. Allegations of the Amended Administrative Complaint: violation of 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)(nn) by violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(k) by making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine; and s. 458.331(1)(w) by Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

Ms. Corrigan advised there was an oral amendment to the Settlement Agreement:

The Respondent may petition to work at another location as long as that location is on the State Surgeon General's approved list of areas of critical need, the location is a non-profit organization, required to practice only primary and/or urgent care and may not supervise subordinates except in governmental organizations.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement as amended by the oral amendment.

The Board asked the Department to look into the two registered nurses involved in the case.

Penalty imposed: reprimand, \$10,000 fine, costs, laws and rules course, 5 hours CME in risk management, may petition to work at another location as long as that location is on the State Surgeon General's approved list of areas of critical need, the location is a non-profit organization, required to practice only primary and/or urgent care and may not supervise subordinates except in governmental organizations, may not perform, monitor or supervise cosmetic procedures.

Kenneth A. Berdick, M.D. – Settlement Agreement 21

Dr. Berdick was present and represented by Julie Gallagher, Esquire.

Ms. Goersch 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 Amended Administrative Complaint: seven counts of violation of s. 458.331(1)(m) by 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 increase the fine to \$70,000.

An amendment was offered to reduce the fine to \$35,000. The amendment was accepted.

The motion carried unanimously.

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

Action taken: Settlement Agreement rejected; counter offer to impose letter of concern, \$35,000 fine, costs, medical records course, quality assurance assessment

Mohamed A. H. Khalaf, M.D. – Settlement Agreement 23

This hearing was withdrawn from the agenda prior to the meeting.

Elsa N. Pichardo-Matos, M.D. – Settlement Agreement..... 24

Dr. Pichardo-Matos was present and represented by The complainant was also present and addressed the Board.

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

Mr. Dierlam represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(m) by 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)(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.

Mr. Newman advised the Respondent decided that morning she was only going to do her charity work in another country. He advised the risk management assessment would be impossible to do with no practice in Florida.

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

A motion was made, seconded and carried with two opposed to offer a counter proposal to impose the same terms in the original agreement but to permanently restrict her from prescribing Schedules I-V controlled substances.

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

Action taken: letter of concern, \$15,000 fine, costs, laws and rules course, drug course, medical records course, 5 hours CME in risk management, 10 hours CME in the diagnosis and treatment of back pain, permanently restricted from treating patients with chronic non-malignant pain and permanently restricted from prescribing Schedule I-V controlled substances

Jeffrey E. Friedman, M.D. – Settlement Agreement..... 4

Dr. Friedman was present and represented by Amy Schrader, Esquire.

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

Mr. Dierlam represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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)(w) by Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them; 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 accept the Settlement Agreement.

Penalty imposed: letter of concern, \$3,000 fine, costs, laws and rules course 5 hours CME in risk management

Sanjeev Saxena, M.D. – Hearing Not Involving Disputed Issues of Material Fact . 25

Dr. Saxena was present and represented by Marcus W. Lee, Esquire.

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

Mr. Walker represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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 find Mr. Lee is a qualified representative.

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 in the Administrative Complaint.

A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500 fine, probation concurrent with the probation in Alabama with the same terms; may petition for early termination of probation and if the Alabama probation is lifted, the probation in Florida is automatically lifted.

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

Penalty imposed: probation concurrent with Alabama probation, same terms, may petition for early termination of probation; if Alabama probation is lifted, probation in Florida automatically lifted; costs, \$2,500 fine, letter of concern.

Eihab Tawfik, M.D. - Hearing Not Involving Disputed Issues of Material Fact 26

This hearing was continued.

Brian W. Benson, P.A. - Hearing Not Involving Disputed Issues of Material Fact . 27

This case was withdrawn prior to the meeting.

Inbal Eilon, E.O. - Hearing Not Involving Disputed Issues of Material Fact 28

This case was continued.

Raul J. Rodriguez-Sora, M.D. - Hearing Not Involving Disputed Issues of Material Fact

Minutes prepared by Crystal Sanford
February 8, 2019 Board of Medicine Meeting

.....
This hearing was tabled until the June 2019 Board meeting.

Ignacio Fornaris, M.D. - Hearing Not Involving Disputed Issues of Material Fact . 30

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

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

Mr. Dierlam represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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 in the Administrative Complaint.

A motion was made, seconded and carried unanimously to impose a reprimand.

Penalty imposed: reprimand

Martin A. Barrios, M.D. - Hearing Not Involving Disputed Issues of Material Fact 31

Dr. Barrios was present but not represented by counsel.

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

Mr. Walker represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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 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 in the Administrative Complaint.

A motion was made, seconded and carried unanimously to impose the same restrictions on his license in Kentucky in Florida; when the Kentucky action is lifted, the Florida restrictions will

automatically be lifted and if the Kentucky action is overturned, Respondent may petition to vacate the Final Order.

Penalty imposed: same restrictions on his license in Kentucky; hen the Kentucky action is lifted, Florida restrictions automatically lifted; if the Kentucky action is overturned, Respondent may petition to vacate the Final Order.

Nasim Haider, M.D. – Determination of Waiver 32

Dr. Haider was not present nor represented by counsel.

Dr. Falcone and Mr. Perez were recused due to participation on the probable cause panel.

Ms. Corrigan represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: violation of s. 458.331(1)(b) by 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 in the Administrative Complaint.

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

Penalty imposed: revocation

Revisit Kenneth A. Berdick, M.D. – Settlement Agreement..... 21

Mr. Grossman appeared on behalf of his client and said if the Board would be willing to give him an additional four months to comply, he will accept the counter offer.

A motion was made, seconded and carried unanimously to allow an additional four months to comply.

Mr. Grossman accepted the counter offer on behalf of his client.

Penalty imposed: impose letter of concern, \$35,000 fine, costs, medical records course, quality assurance assessment; allowed additional 4 months to comply

Neelam T. Uppal, M.D., Recommended Order 33

Dr. Uppal was present but not represented by counsel.

Dr. Rosenberg read the Recommended Order Remarks and confirmed all participating members had read the complete record.

Dr. Uppal was present to request a continuance because she had eye treatment and could not read her prepared statement. She said she had just received notice.

Ms. Sanford read emails between herself and Dr. Uppal concerning today's hearing and her request for continuance. She advised the doctor's note that was received regarding her eyes, was not signed by a health care practitioner.

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

The Board asked her if she would be willing to not practice or start practice until the Board holds the hearing on her Recommended Order.

Dr. Uppal agreed.

The Department stated their concerns.

Mr. Tellechea confirmed for the members that since it is a voluntary agreement, she can withdraw from it at any time.

A motion was made, seconded and carried unanimously to continue the hearing until the April Board meeting at which time she is to bring someone with her that can read her statement and no additional continuances will be granted.

Action taken: continued until April meeting, no further continuances will be granted

Voluntary Relinquishments:

Alfred E. Alingu, M.D. – Voluntary Relinquishment..... 34

This hearing was withdrawn from the agenda prior to the meeting because the Board office became aware that Dr. Alingu had passed.

Jose B. Tellez, P.A. – Voluntary Relinquishment..... 35

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

Probable cause was waived in this case.

Allegations of the Administrative Complaint: violation of s. 456.072(1)(v) by 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 accept the voluntary relinquishment of license.

Penalty imposed: relinquished

Gerardo G. Florez, M.D. – Voluntary Relinquishment..... 36

Dr. Florez 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 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 and s. 458.331(1)(m) by 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 voluntary relinquishment of license.

Penalty imposed: relinquished

Richardo A. Bedoya, M.D. – Voluntary Relinquishment..... 37

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

Probable cause was waived in this case.

Allegations of the Administrative Complaint: violation of s. s, 456.072(1)(c) by 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; s. 456.072(1)(x) by 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; and 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 voluntary relinquishment of license.

Penalty imposed: relinquished

Final Order Compliance:

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 38

This matter was withdrawn prior to the meeting.

Jeffrey Samuels, M.D. – Petition for Modification of Final Order..... 39

Dr. Samuels was present and represented by Michael Mittelmark, Esquire. He was requesting the restriction on his license prohibiting him from prescribing controlled substances be lifted from his license.

A motion was made and seconded to lift the restriction and impose one-year probation with indirect supervision, quarterly reports, appearances, quarterly chart review of 50% of his

patients being prescribed controlled substances to reserve jurisdiction to reimpose the restriction.

Action taken: restriction lifted, lift restriction, one-year probation with indirect supervision, quarterly reports, appearances, quarterly chart review of 50% of his patients being prescribed controlled substances, reserve jurisdiction to reimpose the restriction.

Petition for Declaratory Statements:

Scott Loessin, M.D. – RE: Rule 64B8-9.009, F.A.C..... 40

This matter was continued until the June Board Meeting.

Julio Pabon, M.D. – RE: 456.053, F.S..... 41

Dr. Pabon was present and represented by counsel. He was requesting a declaratory statement on s. 456.053, F.S.

After discussion, a motion was made, seconded and carried unanimously to find that under the circumstances presented to the Board, their proposal would not violate kick back laws as long as the patient is provided with a disclosure.

Action taken: declaratory statement to be issued; will not violate s. 456.053, F.S.

Robert David Willix, Jr., M.D. – RE: 458-348(2), F.S..... 42

Dr. Willix was not present but was represented by Allen Grossman, Esquire. He was requesting a declaratory statement regarding s. 458.348(2), F.S.

After discussion, a motion was made, second and carried unanimously to find that under the circumstances presented to the Board that direct supervision of an Electrologist in an adjacent building does comply with the law.

Action taken: declaratory statement to be issued; will not violate s. 458.348(2), F.S.; copy of campus map and picture of the two buildings will be attached to the Final Order

Lina M. Vargas Abello, M.D., R.P.V.I., and Velano Vascular, Inc. – Approval of Draft Final Order 43

A representative from Velano Vascular was present to answer questions.

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

Action taken: Final Order approved

Petition for Waiver/Variance:

Scott Loessin, M.D. - RE: Rule 64B8-9.009(2)(f), F.A.C..... 44

This matter was continued until the June Board Meeting.

UNTIMED ITEMS*:

Delegations 49

Ms. Sanford requested the members approve delegations that allow board staff to do certain functions on behalf of the Board and to allow the Attorney General's Office to accept service when a board member receives notice on behalf of the members.

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

Action taken: delegations approved

Board Chair's Remarks: No tab

Dr. Rosenberg recognized Dr. Lopez for his service as Chair in 2018. He also recognized Dr. Stephanie Haridopolos for serving as a member on the Board.

Board Counsel's Remarks: 44

Mr. Tellechea announced Ms. McNulty received a promotion and she is now Special Counsel.

Board Director's Remarks: No tab

Ms. Kemp advised the members she had revised the meeting locations and the April Board Meeting is going to be in West Palm Beach. She said she would send the revised list to the members. She asked all members to sign the travel authorizations in their folder and return them to staff. She also said legislative bills were coming in and she would share the information when it is received. She also recognized board staff for getting over 400 pain management clinic exemption applications prior to the January 1, 2019.

Department Remarks: 45

- Appellate Report
- Year-Old Case Report

Ms. Dudley presented the year-old case report and authorized her to continue prosecuting the year-old cases. She also presented the appellate report.

Action taken: year-old cases authorized to continue processing

Council on Physician Assistants: No tab

Dr. Villa provided the report for the meeting held February 7, 2019.

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

Action taken: report approved

Committee Reports:

Credentials Committee Meeting No tab

Dr. London provided the report for the meeting held February 7, 2019.

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

Action taken: report approved

Rules/Legislative Committee Meeting No tab

Dr. Ramesh provided the report for the meeting held February 7, 2019.

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

Action taken: report approved

Approval of Meeting Minutes:

December 6 and 7, 2018 Board Meeting 46

A motion was made, seconded and carried unanimously to approve the minutes for the meeting held December 6 and 7, 2019.

Action taken: minutes approved

Ratification of Applicants Pursuant to Chapter 458, FS..... 47

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

Action taken: licenses ratified

Other Business

None

New Business:

Pharmacy Formulary Committee Statute Rules..... 50

Ms. Kemp explained Dr. Rose with the Osteopathic Board of Medicine submitted a request to meet with the Board of Pharmacy to add Narcan to the list of medications a pharmacist may provide to a patient without a prescription.

Action taken: members who want to serve are to email Ms. Kemp

Pharmacy Formulary Committee Statute Rules..... No tab

Dr. Vila said Senator Flores has introduced a bill to tighten up the laws for office surgery facilities including punishment for the facility if a violation is found.

He requested the Board open Rule 64B8-9.009, Standards for Office Surgery, F.A.C. and discuss this more at the April 2019 Board Meeting. He asked that staff contact all the interested parties and invite them to attend.

A motion was made, seconded and carried unanimously to open the rule for development.

Action taken: authorized to notice rule development for the rule

The meeting adjourned at 2:47 pm.