

FLORIDA | Board of Acupuncture

AGENDA OUTLINE **November 2, 2020** **8:30 a.m.**

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/878296725>

You can also dial in using your phone.
United States (Toll Free): 1 877 309 2073 Access Code: 878-296-725



Kathy Veon, DOM, AP, CCN
Chair

Rodney Dunetz, DAOM, AP, Dipl.Ac
Vice-Chair

Kama Monroe
Executive Director

Meeting will be called to order at 8:30 a.m., or soon thereafter, on Monday, November 2, 2020.

MONDAY, NOVEMBER 2, 2020

AGENDA

DISCIPLINARY ACTIONS

VOLUNTARY RELINQUISHMENTS

STEPHEN BELMORE, JR., A.P., CASE NUMBER 2020-11182

PCP: Veon & Heine

JILL HOLLIS JAYNES, CASE NUMBER 2018-20286

PCP: None

DETERMINATION OF WAIVER

SERGIO H. GARCIA, CASE NUMBER 2020-15288

PCP: Veon & Heine

SETTLEMENT AGREEMENT

JAMES WILLIAM GREEN, A.P. CASE NUMBER 2017-18975

PCP: Veon & Heine

MOTION TO VACATE FINAL ORDER

CHRISTY JO GILLESPIE, A.P., A.K.A., CHRISTY GIALLOURAKIS, A.P., CASE NUMBER 2017-21842

PCP: Veon & Heine

ADJOURN

Next Meeting Date and Location: December 4, 2020- Video/Teleconference

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Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the **Healthiest State** in the Nation

MEMORANDUM

TO: Kama Monroe, J.D., Executive Director, Florida Board of Acupuncture
FROM: Kristen Summers, Chief Legal Counsel
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Stephen Belmore, Jr., A.P.
 DOH Case Number: 2020-11182
DATE: October 7, 2020

Enclosed are materials in the above-referenced case to be placed on the agenda for final agency action on the **November 2, 2020**, board meeting. The following information is provided in this regard.

Subject: Stephen Belmore, Jr., A.P.
Subject's Address of 4439 Park Boulevard North
 Pinellas Park, Florida 33781
 (727) 685-1390 Telephone

Enforcement Address: 8704 79th Place
 Seminole, Florida 33777
Subject's License No: 3324 Rank: AP
Licensure File No: 3766
Initial Licensure Date: 9/12/2013
License Status: Emergency Restricted, Active

Board Certification: None
Required to Appear: No
Current IPN/PRN Contract: None

Allegation(s): Section 457.109(1)(j), Florida Statutes (2019)
Prior Discipline: None
Probable Cause Panel: Veon and Heine
 July 1, 2020

Subject's Attorney: Daniela N. Leavitt, Esq.
 13620 49th Street North, Suite 201
 Clearwater, Florida 33762

Complainant/Address: Pinellas Park Police Department
 7700 59th Street North
 Pinellas Park, Florida 33781

Materials Submitted:

Memorandum to the Board
Voluntary Relinquishment
Board Notification Letter
Expert Opinion
Expert Curriculum Vitae
Supplemental Investigative Report 2 dated 6/25/2020
with Exhibits S2-1 – S2-2
Supplemental Investigative Report 1 dated 5/7/2020
with Exhibit S1-1
Emergency Restriction Order
Final Investigative Report dated 4/9/2020
with Exhibit 1-6

CONFIDENTIAL AND EXEMPT MATERIALS

**One or more pages have been removed
from this document for security reasons**

**Scroll down to see the available pages or
advance to the next document if all
pages have been removed.**

SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2020-11182

STEPHEN A. BELMORE, JR, A.P.,
Respondent.

_____ /

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent STEPHEN ALLEN BELMORE, A.P., license No. AP 3324, hereby voluntarily relinquishes Respondent's license to practice acupuncture in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Acupuncture (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as an acupuncturist in the State of Florida.

3. Respondent agrees to voluntarily cease practicing as an acupuncturist immediately upon executing this Voluntary Relinquishment. Respondent further agrees to

refrain from practicing as an acupuncturist until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of section 456.073(10), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Respondent understands that this waiver of confidentiality is a permanent, non-revocable waiver.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its

AC# 9466986

STATE OF FLORIDA
DEPARTMENT OF HEALTH
DIVISION OF MEDICAL QUALITY ASSURANCE

DATE	LICENSE NO.	CONTROL NO.
02/20/2020	AP 3324	25623

THE LICENSED ACUPUNCTURIST

NAMED BELOW HAS MET ALL REQUIREMENTS OF
THE LAWS AND RULES OF THE STATE OF FLORIDA.

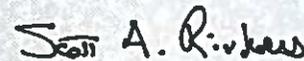
Expiration Date: FEBRUARY 28, 2022

STEPHEN ALLEN BELMORE, JR
4439 PARK BOULEVARD NORTH
PINELLAS PARK, FL - 33781

QUALIFICATION(S):
Acupoint Injection Therapy



Ron DeSantis
GOVERNOR



Scott A. Rivkees, MD
State Surgeon General

**STATE OF FLORIDA
BOARD OF ACUPUNCTURE**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2020-11182

STEPHEN BELMORE, JR., A.P.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health files this Administrative Complaint before the Board of Acupuncture against Respondent, Stephen Belmore, A.P. In support, Petitioner alleges:

1. Petitioner is the state agency charged with regulating the practice of acupuncture pursuant to section 20.43, chapter 456, and chapter 457, Florida Statutes.
2. At all times material to this complaint, Respondent was licensed to practice acupuncture in the State of Florida, having been issued license number AP 3324.
3. Respondent's address of record is 4439 Park Boulevard North, Pinellas Park, Florida 33781.

4. At all times relevant to this complaint, Respondent owned and operated the Blue Dragon Healing Center (BDHC) located in Pinellas Park, Florida.

5. Patient K.K. is a 36-year-old female suffering from chronic migraines and pain.

6. On or about January 13, and January 20, 2020, Patient K.K. presented to Respondent at BDHC for acupuncture treatment and a massage.

7. At these visits, Patient K.K. disrobed except for her underwear and wore a gown.

8. Respondent touched Patient K.K.'s vaginal area over her underwear with his hand during one or more of these visits.

9. On or about January 23, 2020, Patient K.K. presented to Respondent at BDHC and complained of pain in her medial hip and pelvic area.

10. During the massage portion of Patient K.K.'s treatment, Respondent slid his hand underneath Patient K.K.'s underwear and penetrated Patient K.K.'s vagina with his finger.

11. Section 457.109(1)(j), Florida Statutes (2019), subjects an acupuncturist to discipline for exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity.

A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

12. Respondent engaged Patient K.K. in sexual activity in one or more of the following ways:

- a. By brushing over Patient K.K.'s vagina with his hand; and/or
- b. By digitally penetrating Patient K.K.'s vagina.

13. Based on the foregoing, Respondent violated section 457.109(1)(j).

WHEREFORE, the Petitioner respectfully requests that the Board of Acupuncture enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

[signature block appears on next page]

SIGNED this 1st day of July, 2020.

Scott A. Rivkees, M.D.
State Surgeon General

/s/Gabriel Girado

Gabriel A. Girado
Assistant General Counsel
Florida Bar No. 120467
Florida Department of Health
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Telephone: (850) 558-9815
Facsimile: (850) 245-4684
Email: Gabriel.Girado@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Bridget Coates*
DATE: **JUL 02 2020**

PCP Panel: Veon and Heine
PCP Date: July 1, 2020

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

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August 11, 2020

Daniela N. Leavitt, Esq
The Roger Futerman Law Firm
13620 49th Street North, Suite 201
Clearwater, Florida 33762

Re: DOH v. Stephen Belmore, Jr., A.P.
DOH Case Number: 2020-11182

Dear Ms. Leavitt:

The Department is in receipt of your client's executed Voluntary Relinquishment form. As you are aware, by signing the Voluntary Relinquishment of License form, your client agreed to the following:

- the voluntary relinquishment would be considered disciplinary action against Mr. Belmore's license, pursuant to Section 456.072(1)(f), Florida Statutes;
- Voluntarily relinquishing Mr. Belmore's Florida acupuncture license may have an effect on acupuncture licenses that you may hold in other states.

If this is not what you understand, please contact me as soon as possible to discuss at 850-558-9815. Otherwise, this case will proceed as planned and the Florida Board of Acupuncture will take up your request for Voluntary Relinquishment of License at their meeting scheduled for **December 4, 2020** in Howey-In-The-Hills, Florida. You will receive official notification of the date and time approximately two weeks prior to the meeting.

You are not required to attend the meeting.

Sincerely,

Gabriel Girado

Gabriel Girado
Assistant General Counsel

GG/bw

Florida Department of Health

Office of the General Counsel – Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
EXPRESS MAIL: 2585 Merchants Row, Suite 105
PHONE: 850/245-4640 • FAX: 850/245-4662

FloridaHealth.gov



Accredited Health Department
Public Health Accreditation Board

Stephen B. Schachter, A.P.

4140 NW 27th Lane, Suite D

Gainesville, FdL 32606

352-375-7557 Fax: 352-375-0677

Steveacu1@aol.com

May 21, 2020

FL Department of Health, PSU

4052 Bald Cypress Way Bin C-65

Tallahassee, Florida 32399-3265

Re: DOH v. SAB, AP; Case Number: 2020-11182

Dear Department of Health, Prosecution Services Unit;

Overview:

This case is about a patient KK, who received a number of acupuncture treatments from the Subject SAB, AP, and she states that during one treatment he penetrated her vagina with his finger two times, and on other occasions he massaged her very close to her vaginal area.

Questions:

1. Do you know the Subject, the Complainant, and/or have direct knowledge of the circumstances surrounding this case?

I do not know this Subject and have no direct knowledge of the case.

2. Do you currently perform or have you performed within the last year, the examination/test/procedure/etc. or prescribe the medications that are at issue in this case?

Yes I have performed the examinations and procedures used in this case, although I don't use the computer diagnostic methods. The vast majority of what he does is typical of many acupuncturists, and the herbs prescribed are likewise.

3. Did you perform the examination/test/procedure/etc. or prescribed the medications that are issue in this case at the time the incident occurred?

Yes, see answer above.

4. Did the Subject meet the applicable standards of care outlined in the Florida Statutes in his/her examination, diagnosis, and treatment of the patient?

The Subject did meet the applicable standards of care outlined in the Florida Statutes as far as the examination, diagnosis and treatment of the patient. He also clearly documented all that he did.

Specific Questions:

1. Did this acupuncturist engage in sexual misconduct; either outside the standard of care of a similarly situated acupuncturist, or by not acting in accordance with Chapter. 456.072(1)(k)(v)(dd), Florida Statutes and 458.331(1)(g)(j)(t)(nn), F.S. and Board of Acupuncture rules?

Yes he did, he admitted to some “accidental slippage” and withdrew his fingers when he realized they were moist. (Page 9 in my file.) That appears to confirm that he did indeed penetrate her vagina.

2. Did the Subject use the doctor/patient relationship to engage in sexual activity outside the scope of practice?

It appears that the Subject did, however this is a legal question that I can't answer.

3. Did the Subject violate the boundary between professional and personal behavior?

Yes he did. There is no professional reason for him to have any contact with her vagina during the treatment of the Patient.

4. Did the acupuncturist inappropriately touch the patient during an examination or treatment?

Yes he did, and he admitted that contact happened during treatment. (Page 9.)

5. Was the examination or treatment required based on the patient's presenting complaints? Explain.

What the Subject did was appropriate for all her complaints and symptoms. Her intake form clearly stated what her problems and symptoms were, and his notes and standard forms related to those specifically. The treatment rendered was also related to her problems. In Acupuncture practice, almost every practitioner will do things a little different than another one, and in this case, it does all seem quite reasonable, and I think it clearly fits into the standard of care of the profession.

6. Please opine on an appropriate reason, if any, why..... **See above answer.**

7. Did Subject accomplish the exam/treatment in a professional and appropriate manner? Explain. If patient/client and acupuncturist versions are different, please address each.

From the Subject's notes it appears that the exam and treatment was professional and appropriate, except for the where his fingers penetrate the Patient and the massage parts. I think the Subject's and Patient's versions are very close in their descriptions.

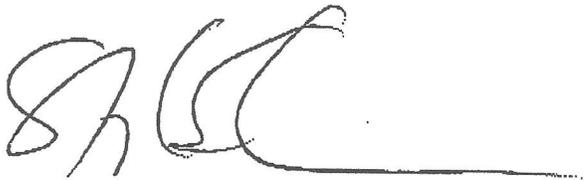
8. Do the doctor's notes and records support Subject's version of events? The patient's version? Is the exam/treatment included in the medical records? Is the exam/treatment justified in the records?

Yes the notes support the Subject's version of the events and the Patient's, except for the penetration part and the massage parts. Those experiences of the Patient are not in the Subject's notes. The only real unclear part is the "Internal Dragon" treatment notes. This is a standard treatment (in a particular school of teaching) of a set of points done in a specific manner. Someone who would like to do this treatment would have to look it up to know what to do, but this is really a minor point, and it is noted in his records. So yes, the exam/treatment is justified in the records.

Summary:

In this case it appears that the Subject admitted to touching the Patient in her vagina, as the Patient has stated. So it appears that he did "...engage in sexual misconduct; either outside the standard of care of a similarly situated acupuncturist, or by not acting in accordance with Chapter. 456.072(1)(k)(v)(dd), Florida Statutes and 458.331(1)(g)(j)(t)(nn), F.S. and Board of Acupuncture rules."

Sincerely,

A handwritten signature in black ink, appearing to read 'SAS', with a long horizontal line extending to the right.

Stephen Schachter, AP
Florida License #72

Alternatives.” Twenty-two shows for Cox Cable 8.

Developer of internationally marketed I-Ching product: “The Tao Deck.”



STATE OF FLORIDA

DEPARTMENT OF HEALTH



INVESTIGATIVE REPORT

Office: St. Petersburg		Date of Complaint: 04/02/2020	Case Number: 202011182
Subject: STEPHEN ALLEN BELMORE JR, A.P. (BELMORE) 4439 Park Blvd North Pinellas Park, FL 33781 (727) 685-1390		Source: Department of Health/PSU	
Profession: Acupuncturist		License Number and Status:3324, Emerg. Restrict, Active	
Related Case(s): None		Period of Investigation and Type of Report: 06/17/2020 – 06/25/2020 SUPPLEMENTAL 2	
Alleged Violation: S.S. 456.063, 456.072(1)(k)(v)(dd), 457.109(1)(h)(j)(x), F.S.			
<p>Synopsis: This supplemental investigation is predicated upon receipt of a PSU Request to hand serve an Emergency Restriction Order (ERO) to (BELMORE).</p> <p>On 06/23/2020, this Investigator completed numerous database searches to find a current address for BELMORE. This Investigator attempted to hand serve the ERO to BELMORE at 4439 Park Blvd North, Pinellas Park, FL 33781 and the business was closed. This Investigator went to 8704 79th Pl, Seminole, FL 33777 and no one was home.</p> <p>On 06/24/2020, this Investigator attempted to hand serve the ERO to BELMORE at 4439 Park Blvd North, Pinellas Park, FL 33781 and the business was closed. This Investigator went to 8704 79th PL Seminole, FL 33777, BELMORE answered the door, identified by his driver's license and hand served the ERO.</p> <p>EXHIBITS:</p> <p>S2-1: PSU request (Pg. 2) S2-2: Affidavit of Service (Pg. 3)</p>			
Investigator/Date: 06/25/2020  Aaron D. Wade, IS2, PI89		Approved By/Date: 06/25/2020  Janet Russell, Investigation Supervisor, PI87	
Distribution: HQ/ISU			Page 1

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PSU REQUEST FORM

FROM: Melba L. Apellaniz for Gabriel Girado, Esq.	TO: ISU-St. Petersburg
Date: 6/17/2020	TO: CSU
Phone #: (850) 558-9811	CC:

Case Number: 2020-11182	Board: Acupuncture	Status: 90
Subject: Stephen Allen Belmore, Jr., A.P.	HL Code: hll150a	
Requested Completion Date: 6/29/2020		

(PSU) TYPE OF REQUEST: (describe details below)

- Process Service* (**Activity Code 160**)
- Additional Information Requested (**Activity Code 145**)
- Deficiency in Investigative Work (**Activity Code 150**)

Details: Please hand serve attached ESO/ERO. Thank you.

*The following additional information is needed for each service request:

Last Known Address: **4439 Park Boulevard North, Pinellas Park, Florida 33781.**
 Last Known Name & Phone Number: **Stephen Allen Belmore, Jr., A.P.; (727) 685-1390**
 Last Known Place of Employment & Address if Known:
 Has Contact Been Made With This Individual? YES No ; If Yes, When?

Was this case originally worked by CSU or in an area office different from where this service request is being sent? YES ** No NOTE: All process service requests need to be sent to appropriate field office.

****IF YES, please send a copy of the original Investigative Report without attachments.**

(ISU/CSU) RESPONSE:

- Process Service Completed (Activity Code 161) Process Service NOT Completed (Activity Code 162)
- Additional Info Sent to Legal (Activity Code 156)
- Supp. Investigation Request Cancelled (Activity Code 157)

Email to:

[Pensacola](#) [Tallahassee](#) [Alachua](#) [Jacksonville](#) [St. Pete](#) [Tampa](#) [Orlando](#) [Ft. Myers](#) [Jupiter](#) [Ft. Lauderdale](#) [Miami](#)
[Consumer Services](#) [ULA](#)

Florida Department of Health

Office of the General Counsel – Prosecution Services Unit
 4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
 EXPRESS MAIL: 2585 Merchants Row, Suite 105
 PHONE: 850/245-4640 • FAX: 850/245-4684

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AFFIDAVIT OF SERVICE (ERO)

FLORIDA DEPARTMENT OF HEALTH

Petitioner

vs

Case No.202011182

STEPHEN ALLEN BELMORE Jr, A.P.

Respondent

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator/Inspector employed by the DEPARTMENT OF HEALTH, State of Florida.
- 2) That on 06/24/2020, Affiant made a diligent effort to locate STEPHEN ALLEN BELMORE Jr, to serve _____ an Administrative Complaint; ESO/ERO and related papers.
- 3) Check applicable answer below:
 Affiant made personal service on STEPHEN ALLEN BELMORE Jr on 06/24/2020, at 8704 79th Place, Seminole, FL 33777.

____Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the DOH investigation of the case; (b) all official addresses for Respondent shown in his licensing records on the computer terminal or Board office; (c) Local telephone company for the last area Respondent was known to frequent; (d) Division of Drivers Licenses; and (e) Utilities (electric, cable, etc.); any others: _____

Affiant

State Of Florida
County Of Pinellas

Before me, personally appeared Aaron Wade whose identity is known to me by Personally Known (type of identification) and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 25th day of June 2020.



Notary Public-State of Florida

My Commission Expires

Sarah Herbert

Type or Print Name





STATE OF FLORIDA

DEPARTMENT OF HEALTH

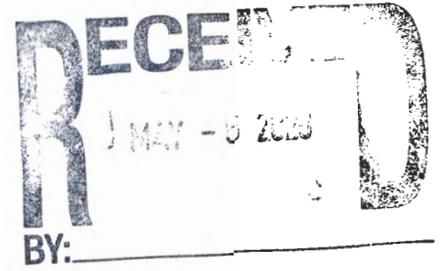


INVESTIGATIVE REPORT

Office: St. Petersburg		Date of Complaint: 04/02/2020	Case Number: 202011182
Subject: STEPHEN ALLEN BELMORE JR, AP (BELMORE) 4439 Park Blvd North Pinellas Park, FL 33781 Phone: 727-685-1390		Source: PINELLAS PARK POLICE DEPARTMENT (PPPD) 7700 59 th Street North Pinellas Park, FL 33781 Phone: 727-369-7814	
Profession: Acupuncturist		License Number and Status: 3324, Clear/Active	
Related Case(s): None		Period of Investigation and Type of Report: 05/07/2020 Supplemental 1	
Alleged Violation: S.S. 456.063, 456.072(1)(k)(v)(dd), 457.109(1)(h)(j)(x), F.S.			
Synopsis: This supplemental report is predicated upon receipt of correspondence from BELMORE, dated 04/20/2020.			
Exhibits: S1-1: Subject Correspondence.....2-3			
Investigator/Date: 05/07/2020 <i>Sarah Herbert</i> Sarah Herbert, Medical Malpractice Investigator, (PI-68)		Approved By/Date: 05/07/2020  Janet Russell, Investigator Supervisor, (PI-87)	
Distribution: HQ/ISU			Page 1

April 20, 2020

Florida Department of Health
Division of Medical Quality Assurance
525 Mirror Lake Drive North, Suite 310 A
St. Petersburg, FL 33701



Case No: 202011182

To Whom it May Concern,

I received a document from the Department entitled "Voluntary Relinquishment of License." I want to notify you that at this point, I will not sign this document or enter into any permanent agreement with the Department of Health as I believe that would be premature. I am accused of a crime; however, I am innocent of that crime. From a straightforward legal standpoint, I am presumed innocent. I have hired an attorney to fight the criminal charge and upon the resolution of the criminal case I will update the Department. It is my belief that when the criminal case is resolved, the Department will have a more complete understanding of the issues which will assist in resolving this administrative complaint.

Thank you,

A handwritten signature in black ink, appearing to be "Stephen Belmore", written over a horizontal line.

Stephen Belmore
813-313-0625

RECEIVED

MAY - 5 2020

BY: _____

TAMPA FL 335
SAINT PETERSBURG FL
23 APR 2020 PM 10 L



Celebrating
50
of



FOREVER / USA

Florida Department of Health
Division of Medical Quality Assurance
525 Mirror Lake Drive, Suite 310A
St Petersburg, FL

T 339 NEE 1 320C0005/04/20
: FLORIDA DEPARTMENT OF HEALTH
9074 MOONLIT MEADOWS LOOP
RIVERVIEW FL 33578-8851

FWD
337817821801

BC: 33578885174 *0201-03247-23-41

FILED DATE - JUN 17 2020

Department of Health

By: Anna Maus
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Restriction of the License of
Stephen Allen Belmore, Jr., A.P.
License Number: AP 3324
Case Numbers: 2020-11182

ORDER OF EMERGENCY RESTRICTION OF LICENSE

Scott A. Rivkees, M.D., State Surgeon General, ORDERS the Emergency Restriction of the license of Stephen Allen Belmore, Jr., A.P., (Dr. Belmore) to practice acupuncture in the State of Florida. Dr. Belmore holds license number AP 3324. His address of record is 4439 Park Boulevard North, Pinellas Park, Florida 33781. The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Belmore's license to practice as an acupuncturist in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating acupuncturists in the State of Florida, pursuant to chapters 20, 456, and 457, Florida Statutes (2019). Section 456.073(8), Florida Statutes (2019), authorizes the State Surgeon General to summarily restrict Dr. Belmore's license to practice as an acupuncturist in the State of Florida, in accordance with section 120.60(6), Florida Statutes (2019).

2. At all times material to this Order, Dr. Belmore was licensed to practice acupuncture in the State of Florida, pursuant to chapter 457, Florida Statutes.

3. At all times material to this Order, Dr. Belmore owned and operated the Blue Dragon Healing Center (BDHC) located in Pinellas Park, Florida.

4. Patient K.K. is a 36-year-old female suffering from chronic migraines and pain.

5. On January 3, 2020, Patient K.K. presented to Dr. Belmore at BDHC for acupuncture treatment followed by a massage.

6. Patient K.K. continued to receive treatment from Dr. Belmore approximately twice a week over the course of one month.

7. During each appointment, Patient K.K. disrobed except for her underwear and wore a gown.

8. On January 13, 2020, while massaging Patient K.K., Dr. Belmore touched Patient K.K.'s vaginal area over her underwear with his hand.

9. Dr. Belmore repeated this conduct during Patient K.K.'s visits on January 16 and 20, 2020.

10. On January 23, 2020, Patient K.K. presented to Dr. Belmore and complained of pain in her medial hip and pelvic area.

11. During the massage portion of Patient K.K.'s treatment, while standing on her right side, Dr. Belmore slid his hand underneath Patient K.K.'s underwear and penetrated Patient K.K.'s vagina with his finger.

12. Dr. Belmore removed his finger, moved to Patient K.K.'s other side, and penetrated her vagina with his finger again.

13. This conduct is not part of a regularly accepted acupuncture treatment practice and Patient K.K. did not consent to be touched in this manner.

14. On January 24, 2020, Patient K.K. returned to BDHC to confront Dr. Belmore about his conduct.

15. Dr. Belmore told Patient K.K. he touched her vagina to help her release tension and energy since she did not have a romantic partner.

16. On April 2, 2020, a Department investigator interviewed Dr. Belmore. Dr. Belmore stated that on January 23, 2020, he "observed" that Patient K.K. had a lot of sexual energy in the reproductive area. Dr. Belmore admitted that he attempted to "ground Patient K.K.'s chakra" and digitally penetrated her vagina, but claimed that it was a result of

"accidental slippage." Dr. Belmore admitted that he provided similar treatment to other patients in the past and similar incidents have happened.

17. Clients of acupuncturists are placed in isolated, vulnerable settings where they can be subject to abuse by their acupuncturists. Due to the potential for abuse that is inherent under these circumstances, acupuncturists must possess good judgment and good moral character in order to safely practice acupuncture and must refrain from placing their clients in situations that violate their safety and welfare.

18. Dr. Belmore willfully abused his position as an acupuncturist to sexually violate a patient who trusted him to act professionally and within the boundaries of generally accepted acupuncture treatment. Dr. Belmore's deviant actions demonstrate that he poses a significant danger to female patients. Dr. Belmore's violation of the acupuncturist-patient relationship indicates that Dr. Belmore lacks the good moral character and judgment necessary to practice acupuncture.

19. Dr. Belmore's lack of good judgment and moral character, his disregard for the laws and regulations governing acupuncturists in this state and his admission that he had repeatedly engaged in this behavior in the past represent a significant likelihood that Dr. Belmore will cause harm to

female patients in the future. This probability constitutes an immediate, serious danger to the health, safety, or welfare of the citizens of the State of Florida. Nothing short of the immediate restriction of Dr. Belmore's license to practice as an acupuncturist in the State of Florida will protect the public from the dangers created by Dr. Belmore's continued, unrestricted practice of acupuncture with female patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to sections 20.43, 456.073(8), and chapter 457.
2. Section 457.109(1)(j), Florida Statutes (2019), subjects an acupuncturist to discipline, including restriction, for exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.
3. Dr. Belmore violated section 457.109(1)(j) by engaging in sexual activity when he inserted his finger in Patient K.K.'s vagina.

4. Section 120.60(6) authorizes the State Surgeon General to summarily restrict an acupuncturist's license upon a finding that the acupuncturist presents an immediate, serious danger to the public health, safety, or welfare.

5. Dr. Belmore's continued unrestricted ability to provide acupuncture services to female patients constitutes an immediate, serious danger to the health, safety, or welfare of the public and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with section 120.60(6), it is **ORDERED**
THAT:

1. The license of Stephen Belmore, Jr., A.P., license number AP 3324, is hereby immediately restricted to prohibit him from practicing acupuncture on female patients.

2. A proceeding seeking formal discipline of the license of Stephen Belmore, Jr., A.P., to practice as an acupuncturist will be promptly instituted and acted upon in compliance with sections 120.569 and 120.60(6).

[signature on next page]

In Re: The Emergency Restriction of the License of
Stephen Belmore, Jr., A.P.
License Number: AP 3324
Case Number: 2020-11182

DONE and ORDERED this th 16 day of June, 2020.



Scott A. Rivkees, M.D.
State Surgeon General

PREPARED BY:

Gabriel Girado, Esq.
Florida Bar No. 120467
Assistant General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(P) 850-558-9815
(F) 850-245-4662
(E) Gabriel.Girado@flhealth.gov

In Re: The Emergency Restriction of the License of
Stephen Belmore, Jr., A.P.
License Number: AP 3324
Case Number: 2020-11182

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.



STATE OF FLORIDA



DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

Office: St. Petersburg		Date of Complaint: 04/02/2020	Case Number: 202011182
Subject: STEPHEN ALLEN BELMORE JR, AP (BELMORE) 4439 Park Blvd North Pinellas Park, FL 33781 Phone: 727-685-1390		Source: PINELLAS PARK POLICE DEPARTMENT (PPPD) 7700 59 th Street North Pinellas Park, FL 33781 Phone: 727-369-7814	
Profession: Acupuncturist		License Number and Status: 3324, Clear/Active	
Related Case(s): None		Period of Investigation and Type of Report: 04/03/2020 – 04/09/2020 Final	
Alleged Violation: S.S. 456.063, 456.072(1)(k)(v)(dd), 457.109(1)(h)(j)(x), F.S.			
Synopsis: This investigation is predicated upon receipt of a complaint by PPPD (Exhibit 1) regarding BELMORE. This complaint alleges on 01/13/2020, 01/16/2020, and 01/20/2020, at Blue Dragon Healing Center (BDHC) located at 4439 Park Blvd North, Pinellas Park, FL 33781, BELMORE touched KK's (36 y/o F) vagina over her underwear and on 01/23/2020, BELMORE used his finger to penetrate KK's vagina. On 02/11/2020, KK reported her sexual assault to PPPD.			
This case needs an expert review per PSU			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Responded? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Patient Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Above referenced licensure checked in database/LEIDS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Board certified? Name of Board: Date: Specialty:			
Law Enforcement <input type="checkbox"/> Notified Date: <input checked="" type="checkbox"/> Involved Agency: Pinellas Park Police Department			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Subject represented by an attorney? Attorney information:			
Investigator/Date: 04/09/2020 <i>Sarah Herbert</i> Sarah Herbert, Medical Malpractice Investigator, (PI-68)		Approved By/Date: 04/09/2020 <i>Janet Russell</i> Janet Russell, Investigator Supervisor, (PI-87)	
Distribution: HQ/ISU			Page 1

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* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statute.

INVESTIGATIVE DETAILS

INVESTIGATOR's NOTE

On 04/03/2020, this Investigator emailed bluedragonhealingcenter@gmail.com and mailed the subject notification letter to BELMORE at 4439 Park Blvd North, Pinellas Park, FL 33781.

On 04/08/2020, this Investigator spoke to KK and "JULIE", KK's friend, is not willing to speak to DOH.

****This case needs an expert review per PSU****

INTERVIEW OF BRIDGET HURT (SOURCE)

Employment:

Pinellas Park Police Department

Detective

7700 59th Street North

Pinellas Park, FL 33781

Phone: 727-282-8934

****No recorded statement****

On 04/02/2020, this Investigator interviewed BRIDGET HURT (HURT) via telephone. HURT stated:

- The Department of Health (DOH) can move forward with the investigation.
- She is not sure if KK will speak to DOH because she just wants to put all of this behind her.
- On 01/23/2020, BELMORE penetrated KK's vagina with his finger during an acupuncture treatment.
- On 01/24/2020, KK confronted BELMORE about the sexual assault.
- KK was referred to BELMORE by the Veterans Hospital (VA) for neck and back treatment.
- KK continued to see BELMORE a few more times after the assault.
- KK's last appointment with BELMORE was on 02/06/2020.
- Since 02/11/2020, KK has not been back to see BELMORE.
- KK told a friend what happened, and it was her friend who advised KK to report the sexual assault.

INTERVIEW OF KK (PATIENT/VICTIM)

****Declined recorded statement****

On 04/06/2020, this Investigator interviewed KK via telephone. KK stated:

- She was going to the VA for neck and back pain.
- The VA referred her to BELMORE for acupuncture treatment.
- After every acupuncture appointment, he would give her a massage.
- BELMORE told her he teaches classes and invited her to go to them as well.
- Before every appointment she told BELMORE what her chief complaints were so he could work on them.
- In every appointment she was in her underwear and she had a gown draped around her.
- On 01/23/2020, she was having pelvic and hip pain.
- When he started massaging those areas, he kept getting closer and closer to her vagina.
- The needles were not near her vagina, so she did not know why he was massaging that area.

- When he was moving from her left side to her right, he moved over her underwear and stuck his finger in her vagina.
- She did not look when he did it, but it felt like it was his whole finger.
- BELMORE never spoke to her in a sexual way prior to this.
- On 01/24/2020, she went back to see BELMORE to find out why he did this to her.
- He never really answered her questions.
- BELMORE kept evading the questions.
- BELMORE stated he was attracted to her, which made her feel even more uncomfortable.
- She is not sure why she went back to see BELMORE after the assault and feels stupid that she did.
- She contacted her friend "JULIE" because "JULIE" was a previous patient of BELMORE's.
- She wanted to see if BELMORE did the same thing to "JULIE".
- She will ask "JULIE" if she is willing to speak to DOH.
- BELMORE never said he was performing any vaginal treatments.
- Looking back, she could see signs where BELMORE seemed creepy, but she thinks she ignored it because she felt BELMORE's treatments prior to the assault were working.
- She hopes another person does not have to go through this.
- She wants DOH to make sure he cannot hurt anyone else after this.
- She will testify at DOAH.

INTERVIEW OF STEPHEN BELMORE, AP (SUBJECT)

Employment:

Blue Dragon Health Center
4439 Park Blvd North
Pinellas Park, FL 33781
Phone: 727-685-1390

Declined recorded statement

On 04/02/2020, this Investigator interviewed BELMORE via telephone with HURT present in BELMORE's office. BELMORE stated:

- KK was referred to BELMORE by the VA.
- During the time he treated KK, she would say weird things to him, such as she hears crows and she does witchcraft.
- He never actually documented those things in her chart because he did not want to put bad energy in the world.
- He used the internal dragon treatment to ground KK's spirit.
- He used his hands over a few locations for energy and to balance her spirit out.
- On 01/24/2020, KK came in to see if what he did on 01/23/2020 was appropriate.
- He advised KK it was professional but "what you feel is what you feel", and "I am for the "me to" movement."
- He has performed the same treatments on other patients for other reasons.
- KK was treated in his office and she went to some of the classes he teaches.
- On previous visits, KK's energy was not as bad as it was on 01/23/2020.
- During his appointments with KK, she came in the office with yoga pants on and he always had her undress into a gown, leaving her underwear on.
- After the appointment on 01/24/2020, she returned for more treatment, so he thought everything was fine.
- KK always had a lot of sexual energy where the reproductive area is, and he was trying to remove all the energy in a safe way.

- Some of his techniques, he has female patients to do kegel exercises to help.
- He does think there may have been an attraction to KK; it was all professional.
- He never had any type of relations with KK outside of her treatments.
- Grounding the chakra's is important in his treatment.
- During his treatment on 01/23/2020, there may have been "accidental slippage" but he did not do it on purpose.
- Once he felt his fingers were moist, he pulled back and moved to another area.
- He never charted how many times he did the grounding techniques on KK.
- After he removes the needles from his patients, he always gives a massage.
- After the accidental slippage, he finished the treatment and realized it was passed the appointment time, so he finished up.
- He did not feel he did anything wrong.
- On 01/13/2020, 01/16/2020, and 01/20/2020, he cannot say if his fingers brushed a crossed KK's vagina area.
- On 01/23/2020, he did accidently slip his finger in KK's vagina but once he realized his finger was moist, he removed it.
- This has happened with other patients, but no one has ever said they had an issue with his treatments.
- He does not ever try to be sexual with any of his patients because it is a professional business.
- He has never warned any of this patient this might happen, because he was not aware he had to.
- He hopes this can get all cleared up.

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regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

CASE SUMMARY

CONFIDENTIAL

Case No: 202011182

Please use this number in all correspondence with the Department concerning this matter.

RESPONDENT INFORMATION

License: 3324 Profession: 3801 Acupuncturist
Name: STEPHEN ALLEN BELMORE JR
Address: 4439 PARK BOULEVARD NORTH
PINELLAS PARK, FL 33781
Home Phone: 727-685-1390

SOURCE OF INFORMATION

Name: Pinellas Park Police Department
Address: 7700 59th St. N
Pinellas Park , FL 33781
Home Phone: 727-369-7814

REPORTED INFORMATION

Receive Date: 04/02/2020 Source Code: 6 Form Code: 2
Responsible Party: ha154 Status Code: 10
Classification Code: Incident Date: 01/13/2020

Patient Name: Kristina Kirk

Possible Code(s): 18 , 36 , 15 , 32

Summary:

Possible violation of SS 456.063, 456.072(1)(k)(v)(dd), 457.109(1)(h)(j)(x), F.S., Sexual misconduct, Failure to perform legal obligation, Violate Statute/Rule of the Board. Received a complaint from Pinellas Park Police Department reporting allegations of sexual misconduct to patient K.K after beginning treatment with the subject on 01/03/2020. It is alleged on 01/13/2020, 01/16/2020, 01/20/2020 the subject touched the patient's vagina over her underwear and on 01/23/2020 the subject used one finger to penetrate her vagina. It is further alleged the patient continued treatment on 01/27/2020, 01/30/2020, 02/03/2020 and 02/06/2020.

Analyzed by Bernadette Hayes, ha154.

DOH-Form200

If the incident involved criminal conduct, contact local law enforcement. Have you contacted local law enforcement?

Yes No

If Yes, Name of Contact: Off. J. Gratto Date: 2/11/20 Case Number: 2020-10205

Agency Name: Pinellas Park Police Dept

**Provide a complete description of the complaint/report.
Include facts, details, dates, locations, etc. (who, what, when and where)
Attach additional sheets if necessary.**

Please make and attach copies of medical records, correspondence, contracts and any other documents that will help support your complaint. Failure to attach records will delay the investigation.

Date of Incident: 1/13/20, 01/16/20, 01/20/20, and 01/23/20

Began to seek treatment w/ Belmore on 01/03/20
01/13/20 → Belmore physical touched her vagina over her underwear.
01/16/20 → ^{Belmore} touched her vagina over her underwear
01/20/20 → ^{Belmore} touched her vagina over her underwear
01/23/20 → ^{Belmore} used one finger to penetrate her vagina.
Continued treatment on 01/27/20, 01/30/20, 02/03/20, and 02/06/20.

The complaint form must be signed and returned to the Department.

Signature: Det. Bridget Hunt Date: 04/02/20
(Required to file complaint)

You may scan and return the form via email to:

You may mail the form to:

You may fax the form to:

MQA.consumerservices@flhealth.gov

Consumer Services Unit
4052 Bald Cypress Way, Bin C-75
Tallahassee, FL 32399-3275

850-488-0796



AUTHORIZATION FOR RELEASE OF PATIENT INFORMATION

To: Any and All Treating Health Care Practitioners or Facilities:

This authorization meets the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA Privacy Law) found at 45 CFR, Part 164.

This document authorizes any and all licensed health care practitioners, including but not limited to: physicians, nurses, therapists, social workers, counselors, dentists, chiropractors, podiatrists, optometrists, hospitals, clinics, laboratories, medical attendants and other persons who have participated in providing any health care or service to me, to discuss any communication, whether confidential or privileged, and to provide full and complete patient reports and records justifying the course of treatment including but not limited to: patient histories, x-rays, examination and test results, HIV, mental health, drug abuse treatment, psychiatric and psychological records, reports or information prepared by other persons that may be in your possession and all financial records, to the Department of Health (or any official representative of the Department) pursuant to Section 456.057, Florida Statutes. This document provides full authorization to the Department of Health (or any official representative of the Department) to use any of the aforementioned reports and information for reproduction, investigation or other use for licensure or disciplinary actions and civil, criminal or administrative proceedings, as needed by the Department and may be subject to re-disclosure by the recipient and may no longer be protected by the federal privacy laws and regulation.

By signing below, the patient understands, acknowledges and authorizes the Department to release their identity and medical records to law enforcement and other regulatory agencies in appropriate circumstances at the Department's discretion.

A photocopy of this document is as sufficient as the original. *(Please contact patient)*

I understand that this authorization may be revoked upon my written request except to the extent that action has already been taken on this authorization.

Patient Name (Print): _____ Signature: _____

D.O.B.: _____ SSN: _____ Date: _____

Name of Authorized Person Other than Patient (Print): _____

Signature of Authorized Person Other than Patient: _____

Witness Name (Print): _____ Witness Signature: _____

DOH USE ONLY
Reference Number

Unlicensed Activity

Only complete this page if your complaint is for unlicensed activity.

What is your relationship to the subject? _____

How did you become aware of the alleged unlicensed practice? _____

When did you become aware of the alleged unlicensed practice? _____

Location of alleged unlicensed practice: _____

Time and date of treatment or incident: _____

If payment was made, how was subject paid? _____

Does the subject or subject's business accept Medicaid? _____

Does the subject or subject's business accept Medicare? _____

Physical description of subject:

Race: _____ Sex: _____ Height: _____ Weight: _____ Eye Color: _____

Description of Vehicle:

Year: _____ Make: _____ Model: _____ Tag No: _____ Color: _____

Names and addresses of patients/victims/witnesses aware of your complaint:

Name: _____ Address: _____

Name: _____ Address: _____

Name: _____ Address: _____

Names of other subjects/licenses at the same location or business: _____

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the **Healthiest State** in the Nation

April 3, 2020

CONFIDENTIAL TO:

Stephen Belmore, AP
4439 Park Blvd North
Pinellas Park, FL 33781

Case Number: 20201182

Dear Stephen Belmore, AP:

We are currently investigating the enclosed document received by the Department of Health. This investigation was initiated after it was determined that you may have violated the Board of Acupuncture Practice Act.

Within **20 days** of receiving this letter, you may:

- * submit a **written response** to the address below; **or**
- * call our office to schedule an **interview**.

Please provide a copy of your **curriculum vitae** and identify your **specialty** even if you choose not to submit a response. Include the above-referenced case number in any correspondence that you send.

Florida law requires that this case and all investigative information remain confidential until 10 days after the Probable Cause Panel has determined that a violation occurred, or you give up the right to confidentiality. Therefore, the contents of the investigation cannot be disclosed to you or the general public. You may make a written request for a copy of the investigative file and it will be sent to you when the investigation is complete.

You are not required to answer any questions or give any statement, and you have the right to be represented by an attorney. It is not possible to estimate how long it will take to complete this investigation because the circumstances of each investigation differ.

The mission of the Department of Health is to protect, promote & improve the health of all people in Florida through integrated state, county and community efforts. If you have any questions, please call us at 727-552-1160.

Sincerely,

Sarah Herbert
Medical Malpractice Investigator

Enclosure: Case Summary, Initiating Documents and Voluntary Relinquishment Form

Florida Department of Health
Division of Medical Quality Assurance
525 Mirror Lake Drive North, Suite 310A • St. Petersburg, FL 33701
PHONE: (727) 552-1160 • FAX: (727) 552-1157
Sarah.Herbert@FLHealth.gov



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Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO:2020-11182

STEPHEN ALLEN BELMORE, JR, A.P.
RESPONDENT.

NOTICE OF HEARING

TO: Stephen Allen Belmore, Jr., A.P.
4439 Park Boulevard North
Pinellas Park, Florida 33781

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

The purpose of the hearing is to consider a motion for: **Voluntary Relinquishment**

Note: Cases shown on the agenda may be heard in a different order. Cases are scheduled beginning at 9:00 a.m.; therefore, it is imperative that you arrive promptly and be prepared to be at the meeting until your case is heard. If you have any questions regarding this matter, please contact Rose Garrison at (850) 245-4444 or by e-mail at Rose.Garrison@flhealth.gov.

A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 9th day of October 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C06 • Tallahassee, FL 32399-3256
PHONE: (850) 245-4161



Accredited Health Department
Public Health Accreditation Board

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To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
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State Surgeon General

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO:2020-11182

STEPHEN ALLEN BELMORE, JR, A.P.
RESPONDENT.

NOTICE OF HEARING

TO: Daniela N. Leavitt, Esq.
The Roger Futerman Law Firm
13620 49th Street North, Suite 201
Clearwater, Florida 33762

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

The purpose of the hearing is to consider a motion for: **Voluntary Relinquishment**

Note: Cases shown on the agenda may be heard in a different order. Cases are scheduled beginning at 9:00 a.m.; therefore, it is imperative that you arrive promptly and be prepared to be at the meeting until your case is heard. If you have any questions regarding this matter, please contact Rose Garrison at (850) 245-4444 or by e-mail at Rose.Garrison@flhealth.gov.

A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 9th day of October 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C06 • Tallahassee, FL 32399-3256
PHONE: (850) 245-4161



Accredited Health Department
Public Health Accreditation Board

Mission:

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STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO:2020-11182

STEPHEN ALLEN BELMORE, JR, A.P.
RESPONDENT.

NOTICE OF HEARING

TO: Stephen Allen Belmore, Jr., A.P.
8704 79th Place
Seminole, Florida 33777

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Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

From: [Peace, Christa](#)
To: ["daniela@crimlaw.onmicrosoft.com"](mailto:daniela@crimlaw.onmicrosoft.com)
Subject: Notice of Hearing
Date: Friday, October 9, 2020 4:16:03 PM
Attachments: [Stephen Belmore 2020-11182.pdf](#)
[Stephen Belmore 2020-11182-1.pdf](#)
[Stephen Belmore 2020-11182-2.pdf](#)

Greetings,

Your client's Voluntary Relinquishment will be presented at the November 2, 2020, Board of Acupuncture video/teleconference meeting. Your client is not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

Regulatory Specialist III
Department of Health/MQA/HCP
Board of Acupuncture,
Board of Osteopathic Medicine,
Board of Speech-Language Pathology & Audiology
Direct Line (850) 617-1964
Direct Fax (850) 921-6184
Christa.peace@flhealth.gov

How am I communicating? Please contact my supervisor at [Carol Taylor](#) with any questions or concerns to comment on my customer service.



Mission: To protect and promote the health of all people in Florida through integrated state, county, & community efforts.

Vision: To be the **Healthiest State** in the Nation

Values: Innovation: We search for creative solutions and manage resources wisely.

Collaboration: We use teamwork to achieve common goals & solve problems.

Accountability: We perform with integrity & respect.

Responsiveness: We achieve our mission by serving our customers & engaging our partners.

Excellence: We promote quality outcomes through learning & continuous performance improvement.

Purpose: To protect the public through health care licensure, enforcement and information.

Focus: To be the nation's leader in quality health care regulation.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from State officials regarding State business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

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State Surgeon General

Vision: To be the **Healthiest State** in the Nation

MEMORANDUM

TO: Kama Monroe, JD, Executive Director, Board of Acupuncture
FROM: Zachary Bell, Assistant General Counsel
RE: **Voluntary Relinquishment**
SUBJECT: DOH v. Jill Hollis Jaynes
DOH Case Number 2018-20286
DATE: September 3, 2020

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **November 2, 2020**, meeting of the board. The following information is provided in this regard.

Subject: Jill Hollis Jaynes
Subject's Address of Record: 1926 4th Avenue
Vero Beach, FL 32960
772-559-6084 Telephone

Enforcement Address: 1575 Indian River Blvd.
Suite C-130
Vero Beach, FL 32960

Subject's License No: 1864 **Rank:** AP

Licensure File No: 2257

Initial Licensure Date: 9/25/2003

License Status: 20: Clear

Board Certification: None

Required to Appear: No

Florida Department of Health

Office of the General Counsel – Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65 • Tallahassee, FL 32399-3265
EXPRESS MAIL: 2585 Merchants Row, Suite 105
PHONE: 850/245-4640 • FAX: 850/245-4684

FloridaHealth.gov



Accredited Health Department
Public Health Accreditation Board

DOH v. Jill Jaynes, A.P.
DOH Case Number: 2018-20286
Page 2

Current IPN/PRN Contract: None

Allegation(s): Section: 456.072(1)(a)(k)(I)(m)(n)(dd),
Florida Status and Section:
457.109(1)(h)(i)(k)(m)(n)(p)(u)(x) by violation
Rule 64B1-10.001, Florida Administrative Code
No AC; Allegations from Investigative Report)

Prior Discipline: None

Probable Cause Panel: Waived

Subject's Attorney: Pro Se

Complainant/Address: Department of Health/MQA/Media

Materials Submitted: Memorandum to the Board
Motion for Final Order Based Upon A
Voluntary Relinquishment of Licensure
Voluntary Relinquishment
Final Investigative Report with Exhibits 1-15

ZB/cg

**STATE OF FLORIDA
BOARD OF ACUPUNCTURE**

DEPARTMENT OF HEALTH,

Petitioner,

CASE NO. 2018-20286

JILL JAYNES, A.P.,

Respondent.

**MOTION FOR FINAL ORDER BASED UPON A VOLUNTARY
RELINQUISHMENT OF LICENSURE**

Petitioner, by and through its undersigned counsel, moves the Board of Acupuncture for entry of a Final Order in the above-styled cause on a date and time that has been determined and noticed by the Board. As grounds therefore, the Petitioner would state the following:

1. On or about **August 28, 2020**, a Uniform Consumer Complaint was filed with the Department of Health, alleging that the Subject violated the provisions of chapter 457 and/or chapter 456, Florida Statutes.
2. In lieu of undergoing further disciplinary proceedings, the Respondent returned an executed Voluntary Relinquishment of her license.
3. Respondent has been advised, by a copy of this Motion, that a copy of the investigative file in this case shall be furnished to the Board to

establish a prima facie case regarding the violations as set forth in the Uniform Consumer Complaint.

WHEREFORE, Petitioner respectfully request the Board of Acupuncture enter a Final Order incorporating the terms of the Voluntary Relinquishment of Licensure.

Respectfully submitted,

/s/ Zachary Bell

Zachary Bell

Assistant General Counsel

DOH Prosecution Services Unit

4052 Bald Cypress Way, Bin C-65

Tallahassee, FL 32399-3265

Florida Bar 0105735

(850) 245-4666

(850) 245-4684 FAX

Zachary.Bell@flheath.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by U.S. mail this 3rd day of September, 2020, to: Jill Jaynes, A.P., at 1926 4th Avenue, Vero Beach, Florida 32960 and 1575 Indian River Blvd., Suite #C-130, Vero Beach, Florida 32960.

/s/ Zachary Bell

Zachary Bell

Assistant General Counsel

ZB/cg

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Amanda Morales*
DATE: 9/1/2020

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2018-20286

JILL HOLLIS JAYNES
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent JILL HOLLIS JAYNES, license No. AP 1864, hereby voluntarily relinquishes Respondent's license to practice ACUPUNCTURE in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of ACUPUNCTURE (hereinafter the Board)/Department of Health (hereinafter Department) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as a Acupuncturist in the State of Florida.

3. Respondent agrees to voluntarily cease practicing ACUPUNCTURE immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of ACUPUNCTURE until such time as this Voluntary Relinquishment is presented

1

EXHIBIT #S2-1

0003

to the Board/Department and the Board/Department issues a written final order in this matter.

4. In Order to expedite consideration and resolution of this action by the Board/Department in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible by the public. Respondent understands that this waiver of confidentiality is a permanent, non-revocable waiver.

5. In order to expedite consideration and resolution of this action by the Board/Department in a public meeting, Respondent, being fully advised of the consequences of so doing hereby waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes.

6. Upon the Board's/Department's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board/Department incorporating this Voluntary Relinquishment.

7. Petitioner and Respondent hereby agree that upon the Board's/Department's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

2

EXHIBIT #S2-1

0004

8. Respondent authorizes the Board/Department to review and examine all investigative file materials concerning Respondent in connection with the Board's/Department's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board/Department shall not prejudice or preclude the Board/Department, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board/Department.

DATED this 28 day of July, 2020.

[Signature]
JILL HOLLIS JAYNES, AP 1864

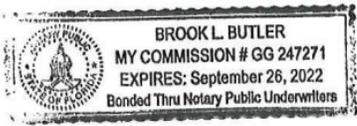
STATE OF FL
COUNTY OF Indian River

Before me, personally appeared Jill Jaynes, whose identity is known to me or who produced FLDLH (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 28th day of July, 2020.

[Signature]
NOTARY PUBLIC

My Commission Expires:





STATE OF FLORIDA



DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT

Office: West Palm Beach	Date of Complaint: 8/28/18	Case Number: 2018-20286
Subject: JILL HOLLIS JAYNES 1575 Indian River Blvd., Suite C-130 Vero Beach, FL 32960 (772) 770-6184	Source: DEPARTMENT OF HEALTH/MQA/MEDIA	
Profession: Acupuncturist	License Number and Status: 1864/Clear, Active	
Related Case(s): NONE	Period of Investigation and Type of Report: 9/11/18 to 10/22/18 FINAL	
Alleged Violation: §456.072(1)(a)(k)(l)(m)(n)(dd) and 457.109(1)(h)(i)(k)(m)(n)(p)(u)(x), F.S., 64B1-10.001, F. A.C.		
<p>Synopsis: This investigation is predicated on the receipt of an internal memo (EX#1) from the DEPARTMENT OF HEALTH Media Analyst, alleging JAYNES committed fraud and practiced below the standard of care. An article in the www.tcpalm.com reports "Investigators detail Vero Beach acupuncturist Jill Jaynes' \$1.5M insurance fraud charges." According to the article, JAYNES allegedly enticed patients covered under Blue Cross Blue Shield plans to use acupuncture at her facility, ABSOLUTE INTEGRATED MEDICINE, 1571 Indian River Blvd., Vero Beach, FL, 32960, by waiving deductibles and coinsurance payments. Additionally, it is alleged JAYNES was providing free vitamins, supplements, and weight-loss programs. Between September 2013 and December 2016, JAYNES defrauded Florida Blue Cross Blue Shield of nearly \$1.5 million. JAYNES was arrested and charged with racketeering; insurance fraud totaling nearly \$1.5 million; engaging in an organized scheme to defraud; patient brokering involving more than \$5,000 in kickbacks; and unlawfully waiving copays and deductibles more than 70 times. EG (37 y/o female) and MH (26 y/o male) were two of JAYNES patients whose insurance was allegedly defrauded by JAYNES.</p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Responded? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Patient Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Above referenced licensure checked in database/LEIDS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Board certified? Name of Board: Date: Specialty: </p> <p> Law Enforcement <input type="checkbox"/> Notified Date: <input checked="" type="checkbox"/> Involved Agency: Department of Financial Services Fraud Unit </p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject represented by an attorney? Attorney information: </p>		
Investigator/Date: 10/22/18 Bonnie Summer, Investigator WI-71	Approved By/Date: 10/23/18 /s/ Charles Cox, Inv. Mgr.	
Distribution: HQ/ISU		Page 1

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- * 13. MH’s patient records from the STATE ATTORNEYS OFFICE, 19TH CIRCUIT 370-380
- * 14. Digital forensic files from the STATE ATTORNEYS OFFICE, 19TH CIRCUIT 381-500
- * 15. Sworn statement from ALEXIS EDWARDS from the STATE ATTORNEYS OFFICE, 19TH CIRCUIT 501-622

* Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statute.

**These exhibits are sealed pursuant to Section 456.057(10)(a), Florida Statutes and copies of same are not maintained in the West Palm Beach Investigative Services Office.

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* 16. Envelope with a disc contacting the audio of the sworn statement of ALEXIS EDWARDS from the STATE ATTORNEYS OFFICE, 19TH CIRCUIT623

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**These exhibits are sealed pursuant to Section 456.057(10)(a), Florida Statutes and copies of same are not maintained in the West Palm Beach Investigative Services Office.

INVESTIGATOR'S NOTE:

The video for the INDIAN RIVER COMMISSIONER MEETING where the head of human resources for INDIAN RIVER COUNTY talked about the fraudulent billing of Acupuncture services by JAYNES and ABSOLUTE INTEGRATED MEDICINE (AIM), can be viewed at the following link:

http://ircgov.granicus.com/MediaPlayer.php?clip_id=102&meta_id=22555

The INDIAN RIVER COMMISSIONER MEETING minutes are exhibit #8.

In place of an interview with this Investigator, DETECTIVE ANGELA COSTELLO with the DEPARTMENT OF FINANCIAL SERVICES FRAUD UNIT (DIF) provided a detailed Probable Cause Affidavit (EX#7), which outlines her entire investigation of JAYNES. The Ft. Pierce State Attorney's Office pressed charges against JAYNES and provided this Investigator with the evidentiary documents to accompany DETECTIVE COSTELLO's Probable Cause Affidavit (EX#17). This evidence is on a USB stick (EX#17) and includes the following:

Box 1 – Bank deposits for AIM, checks written on the AIM account, Bank Statements for AIM, Blue Cross/Blue Shield EOBs for July 2016 through December 2016, and Payroll/timesheets for AIM.

Box 2 – Blue Cross/Blue Shield EOB's for AIM from January 2014 to June 2016

Box 4 – Daily Cash Intake for AIM for January 2017, Community Acupuncture of Vero Beach (a/k/a Community Side or Community section) sign in sheets, AIM policy and procedures and employee acknowledgements, Claims Notes,

Box 7 – Audit of AIM by Blue Cross/Blue Shield w/ patient records and SOAP notes, Correspondence between JAYNES' attorney J. GARRY ROONEY and Blue Cross/Blue Shield, Herbal Consults, bank records, coding forms for each patient, insurance billing procedures, and miscellaneous operating procedure documents.

In these boxes, there are several pages that are blank, but that is how it was copied, according to LINDA DENT, Assistant to Assistant State Attorney LEV EVANS.

There were 13 patients mentioned in DETECTIVE COSTELLO'S Probable Cause Affidavit, and this investigator was only able to obtain signed Authorization for Release of Patient Information forms from two patients, EG and MH. Their patient records are exhibit #'s 11 and 13.

A transcript of a sworn statement of ALEXIS EDWARDS, an acupuncturist formerly employed by AIM, is exhibit 15. The audio of the statement is exhibit #16.

There is a large amount of additional information that is also available and will be provided upon request from PSU. A Confidential Patient Index is exhibit 18.

201820286-173

Mission:

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Vision: To be the Healthiest State in the Nation

Rick Scott

Governor

Celeste Philip, MD, MPH

Interim State Surgeon General

MEMORANDUM TO OPEN COMPLAINT

DATE: August 28, 2018
TO: Department of Health/Consumer Services Unit
FROM: Department of Health/Media Analyst – HA190
RE: Jill Jaynes

www.tcpalm.com reports “Investigators detail Vero Beach acupuncturist Jill Jaynes’ \$1.5M insurance fraud charges”. According to the article, Jaynes enticed patients covered under Blue Cross Blue Shield plans to use acupuncture by waiving deductibles and coinsurance payments and providing free vitamins, supplements, and weight-loss programs. Between September 2013 and December 2016, Jaynes defrauded Florida Blue Cross Blue Shield of nearly \$1.5 million. Jaynes was arrested and charged with racketeering; insurance fraud totaling nearly \$1.5 million; engaging in an organized scheme to defraud; patient brokering involving more than \$5,000 in kickbacks; and unlawfully waiving copays and deductibles more than 70 times.

Please initiate a priority investigation.

Respondent: Jill Jaynes
Lic# AP1864

Florida Department of Health

Division of Medical Quality Assurance • Bureau of Consumer Services
4052 Bald Cypress Way, Bin C-75 • Tallahassee, FL 32399-0000
PHONE: 850-245-4339 • FAX : 850-488-0796

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FACEBOOK:FLDepartmentofHealth
YOUTUBE: fldoh

EXHIBIT #1**0006**

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source=BENBaug&utm_medium=nanobarap1&utm_source=bounce-
exchange&utm_campaign=2018LABORDAY)



Investigators detail Vero Beach acupuncturist Jill Jaynes' \$1.5M insurance fraud charges

Mary Helen Moore, Treasure Coast Newspapers Published 5:12 p.m. ET Aug. 24, 2018 | Updated 5:29 p.m. ET Aug. 24, 2018



(Photo: CONTRIBUTED PHOTO BY INDIAN RIVER COUNTY SHERIFF'S OFFICE)

VERO BEACH — Recently arrested acupuncturist Jill Jaynes, charged with defrauding Blue Cross Blue Shield of Florida of nearly \$1.5 million since 2013, was released from jail Friday after a judge agreed to lower her bail.

Jaynes, 56, was arrested Wednesday at her office, Absolute Integrated Medicine, 1571 Indian River Blvd., and charged with:

- Racketeering;
- Insurance fraud totaling nearly \$1.5 million;
- Engaging in an organized scheme to defraud;
- Patient brokering involving more than \$5,000 in kickbacks for referring 17 patients to a weight-loss program; and
- Unlawfully waiving copays and deductibles more than 70 times, the cost of which exceeded \$100,000.

Jaynes could face a maximum of 135 years in prison and millions in fines if convicted.

More: [Vero Beach acupuncturist Jill Jaynes arrested on fraud, racketeering charges \(/story/news/crime/indian-river-county/2018/08/22/vero-beach-acupuncturist-jill-jaynes-arrested-federal-insurance-fraud-racketeering-charges/1065872002/\)](#)

More: [Laurence Reisman: Aggressive action stops health insurance abuse \(/story/opinion/2017/01/07/laurence-reisman-aggressive-action-stops-health-insurance-abuse/96122234/\)](#)

Circuit Judge Robert Pegg lowered her initial million-dollar bail to \$455,000 at Friday's 8:30 a.m. hearing. He ordered she surrender her passport, wear a GPS monitor and not be permitted to practice acupuncture as she awaits trial.

STORY FROM TINNITUS 911
This Simple Method "Ends" Tinnitus - Watch This Now

See more →

(//eb2.3lift.com/pass?t_clickthrough=true&redir=http%3A%2F%2Finsight.adsrvr.org%2Ftrack%2Fclk%3Fimp%3Dff55i9RxTR3ZxmckSvbTs.%26crd%3Drn8l0dlv%26cf%3D507113%26fq%3D0%26td_s%3Dwww.tcpalm.com%26cats%3D7sp%2520Windows%26adpt%3DtLtriplelift%26ipl%3D17610%26atst%3D1%26r%3Dhttps%3A%2F%2Fgettinnitus.com%2F%2F)

Jaynes' lawyer, Brook Butler, and prosecutor Lev Evans asked Pegg to clarify the last condition after Jaynes, clad in an orange jumpsuit, was escorted out of the courtroom.

"She's not to be in the acupuncture business, period," Pegg said.

"What about calls to patients?" Butler asked, saying Jaynes needed to wrap things up at her practice.

"They'll figure it out," Pegg said.

More: [Treasure Coast dermatologist Tim Ioannides pays \\$2.5 million to settle fake billing lawsuit \(/story/news/crime/2018/03/07/florida-doctor-lawsuit-fake-billing-insurance/402892002/\)](#)

More: [PSL dermatologist Gary Marder sentenced to 3 years in prison for fraud, obstructing FBI \(/story/news/crime/st-lucie-county/2018/02/23/psl-dermatologist-gary-marder-sentenced-3-years-prison-fraud-obstructing-fbi/366238002/\)](#)

Butler said she intends to enter a not-guilty plea.

"We all believe that Dr. Jaynes is an amazing person," Butler said, adding that she has saved many people from opioid addiction over the years. "Her patients are going to rave about everything she did."

'Carte blanche'



Indian River County officials requested an investigation into Jaynes' business in January 2017 after skyrocketing bills from the acupuncture clinic threatened to puncture the county's insurance fund.

Investigators worked for more than a year to review files and interview more than 100 of Jaynes' patients and employees, with Angela Costello, of the state Department of Financial Services, leading the charge.

More: [Former Vero Beach doctor Johnny Benjamin sentenced to life in prison \(/story/news/crime/indian-river-county/2018/07/06/former-vero-beach-orthopedic-surgeon-johnny-benjamin-sentenced-friday-federal-drug-case/756561002/\)](#)

More: [Vero Beach pharmacists testify in second day of Dr. Johnny Benjamin's federal drug trial \(/story/news/crime/indian-river-county/2018/04/23/johnny-benjamin-federal-drug-trial-hidden-camera/540274002/\)](#)

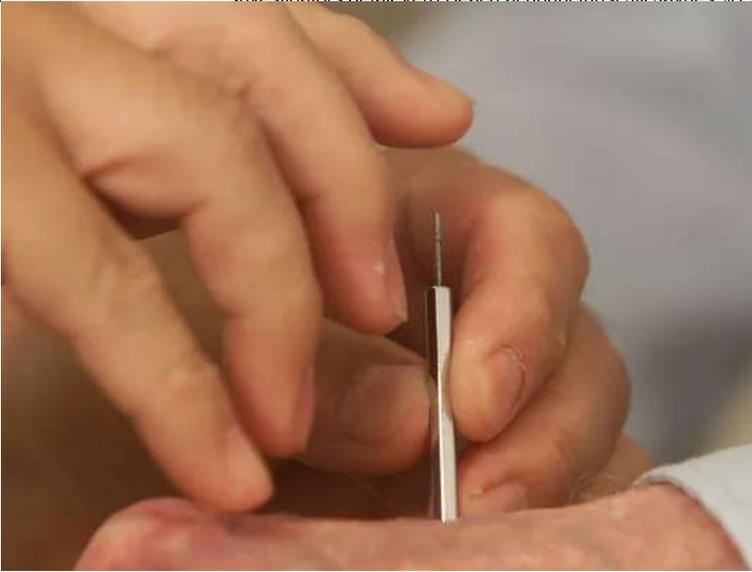
They found between September 2013 and December 2016, Jaynes defrauded Florida Blue Cross Blue Shield of nearly \$1.5 million, about \$1.2 million of which was for county employees, according to her arrest warrant.

Jaynes enticed patients covered under Blue Cross Blue Shield plans to use acupuncture by waiving deductibles and coinsurance payments and providing free vitamins, supplements and weight-loss programs, the warrant said.

"You will never have to pay anything out of pocket," one patient said Jaynes told her.

The insurer paid 60 percent of the cost of a visit for out-of-network providers such as Jaynes. It was her responsibility to collect the remaining 40 percent from the patient.

Jaynes submitted 32,577 claims to Blue Cross Blue Shield between January 2010 and May 2017. The insurance company paid \$4.3 million, but Jaynes failed to collect \$1.4 million from patients, the warrant said.



Suzanne Boyll, Indian River County's human resources director, discovered in 2016 that the county's cost for insurance plan members using acupuncture nearly quadrupled over four years. (Photo: TINA MARKOE KINSLOW/COURIER-POST FILE PHOTO)

More: [Vero Beach real estate attorney found guilty of bank fraud \(/story/news/crime/indian-river-county/2018/06/16/vero-beach-real-estate-attorney-convicted-bank-fraud/707725002/\)](#)

More: [Accused bogus Port St. Lucie 'war hero' under federal indictment \(/story/news/crime/st-lucie-county/2018/08/20/accused-bogus-war-hero-psl-under-federal-indictment/1042594002/\)](#)

Records seized showed since 2010, Jaynes' practice has consisted primarily of county-insured patients, some of whom were receiving treatment multiple times per week.

County employees visited Jaynes' office 65 percent more than other patients between the alleged dates of fraud, peaking at 83 percent more in 2016, according to the warrant.

A typed guide in her office included a handwritten note about the plan covering county employees reading "only insurance — carte blanche," a French phrase meaning complete freedom or a blank check.

When the acupuncturist began collecting deductibles and copayments and charging for previously "free" services in 2017, the number of insurance claims dropped more than 95 percent, investigators found.

More: [Sexual harassment complaints force resignation of Fort Pierce City Attorney James Messer \(/story/news/local/shaping-our-future/2018/08/24/fort-pierce-city-attorney-offers-quit-under-fire/1065981002/\)](#)

More: [Stand your ground? No charges for shooter in S.R. 60 'road rage' killing near Vero Beach \(/story/news/crime/indian-river-county/2018/06/06/stand-your-ground-no-charges-timothy-sartori-shooter-s-r-60-road-rage-killing-near-vero-beach/676398002/\)](#)

Jaynes, who taught several acupuncture billing classes and seminars, including one labeled "ethical insurance billing," had devised several ways of bilking insurance companies, the warrant said.

One woman had 259 claims billed to insurance before she filled out new patient paperwork.

More than 800 appointments deleted from the system were billed anyway.

While the office was closed for five days in November 2013, insurance was billed for 185 claims totaling more than \$22,000.

More: [Loop-hole lets Florida doctors abandon prescription drug database | Thumb down \(/story/opinion/editorials/2017/12/14/loop-hole-lets-florida-doctors-abandon-prescription-drug-database-thumb-down/941507001/\)](#)

8/28/2018

Investigators detail Vero Beach acupuncturist Jill Jaynes' \$1.5M insurance fraud racketeering charges

More: [Alternative cancer treatments now are mainstream on Treasure Coast](https://www.tcpalm.com/story/news/health/2016/10/10/alternative-medical-treatments-breast-cancer-oncology-yoga-acupuncture/90310832/) ([/story/news/health/2016/10/10/alternative-medical-treatments-breast-cancer-oncology-yoga-acupuncture/90310832/](https://www.tcpalm.com/story/news/health/2016/10/10/alternative-medical-treatments-breast-cancer-oncology-yoga-acupuncture/90310832/))

Jaynes instructed employees to file multiple claims for services provided in a single visit to help cover the costs of "free" supplements, a spreadsheet revealed.

Patients received more than \$200,000 in herbs at no cost to them. Blue Cross Blue Shield paid more than \$300,000 for the claims submitted, leaving Jaynes with a profit of nearly \$100,000, the warrant said.

A review of patient files showed less than half of Jaynes' claims between 2012 and 2016 had documentation. Undocumented claims took five times as long to submit to the insurance company as documented claims, the warrant said.

Jaynes is scheduled to be arraigned Sept. 26.



Blocked by URL Filter Database

Your requested URL is listed in categories that are not allowed by your administrator at this time.

URL: <https://www.documentcloud.org/documents/4780765-2016-letter-between-Indian-River-County.html?embed=true&responsive=false&sidebar=false>

URL Categories: Personal Network Storage, Interactive Web Applications

Reputation: Minimal Risk

Media Type:

URL was blocked due to a GTI Reputation and Categorization lookup result: false

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View the Department of Health Computer Use Policy [here](#).

If you feel you have reached this page in error, or you have questions or concerns about this page, please open a ticket with the DOH Help Desk at: 866-463-8137. Please include the URL (web page address), Browser, and a brief description of your issue.

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Read or Share this story: <https://www.tcpalm.com/story/news/crime/indian-river-county/2018/08/24/investigators-detail-vero-beach-acupuncturist-jill-jaynes-1-5-m-insurance-fraud-racketeering-charges/1077564002/>

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

Celeste Philip, MD, MPH
Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation

September 11, 2018

CONFIDENTIAL TO:

Jill Hollis Jaynes
1575 Indian River Blvd., Ste. C-130
Vero Beach, FL 32960

Case Number: 2018-20286

Dear Ms. Jaynes:

We are currently investigating the enclosed document received by the Department of Health. This investigation was initiated after it was determined that you may have violated the Acupuncturist Practice Act.

Within **20 days** of receiving this letter, you may:

- * submit a **written response** to the address below; **or**
- * call our office to schedule an **interview**.

Please provide a copy of your **curriculum vitae** and identify your **specialty** even if you choose not to submit a response. Include the above-referenced case number in any correspondence that you send.

Florida law requires that this case and all investigative information remain confidential until 10 days after the Probable Cause Panel has determined that a violation occurred, or you give up the right to confidentiality. Therefore, the contents of the investigation cannot be disclosed to you or the general public. You may make a written request for a copy of the investigative file and it will be sent to you when the investigation is complete.

You are not required to answer any questions or give any statement, and you have the right to be represented by an attorney. It is not possible to estimate how long it will take to complete this investigation because the circumstances of each investigation differ.

The mission of the Department of Health is to protect, promote & improve the health of all people in Florida through integrated state, county and community efforts. If you have any questions, please call us at (561) 741-4588.

Sincerely,

Bonnie Summer
Medical Quality Assurance Investigator

Enclosure: Case Summary, Initiating Documents, Voluntary Relinquishment

Florida Department of Health
Division of Medical Quality Assurance
900 S. U.S. Hwy. #1, Ste. #207 • Jupiter, FL 33477
PHONE: 561/741-4588 • FAX: 561/741-4581
FloridaHealth.gov



INV Form 354, Revised 10/10, 6/07, Created 10/07

EXHIBIT #2

0011

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,
Petitioner,

v.

DOH Case No. 2018-20286

JILL HOLLIS JAYNES, AP
Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent JILL HOLLIS JAYNES, AP, license No. AP 1864, hereby voluntarily relinquishes Respondent's license to practice Acupuncture in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Acupuncture (hereinafter the Board)/Department of Health (hereinafter Department) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes. As with any disciplinary action, this relinquishment will be reported to the National Practitioner Data Bank as disciplinary action. Licensing authorities in other states may impose discipline in their jurisdiction based on discipline taken in Florida.

2. Respondent agrees to never reapply for licensure as an Acupuncturist in the State of Florida.

3. Respondent agrees to voluntarily cease practicing Acupuncture immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from

the practice of Acupuncture until such time as this Voluntary Relinquishment is presented to the Board/Department and the Board/Department issues a written final order in this matter.

4. In Order to expedite consideration and resolution of this action by the Board/Department in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible by the public. Respondent understands that this waiver of confidentiality is a permanent, non-revocable waiver.

5. In order to expedite consideration and resolution of this action by the Board/Department in a public meeting, Respondent, being fully advised of the consequences of so doing hereby waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes.

6. Upon the Board's/Department's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board/Department incorporating this Voluntary Relinquishment.

7. Petitioner and Respondent hereby agree that upon the Board's/Department's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

8. Respondent authorizes the Board/Department to review and examine all investigative file materials concerning Respondent in connection with the Board's/Department's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board/Department shall not prejudice or preclude the Board/Department, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board/Department.

DATED this _____ day of _____, 2016.

JILL HOLLIS JAYNES, Lic. #AP 1864

STATE OF _____
COUNTY OF _____

Before me, personally appeared _____, whose identity is known to me or who produced _____ (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this _____ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires:

CONFIDENTIAL AND EXEMPT MATERIALS

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EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

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1110 N. FLORIDA AVENUE
TAMPA, FLORIDA 33602
www.sisco-law.com

TELEPHONE (813) 224-0555
FAX (813) 221-9736
dsisco@sisco-law.com
jfaught@sisco-law.com

FACSIMILE COVER SHEET

To:	Bonnie Summer Medical Quality Assurance Investigator	From:	Jessica - Sisco-Law
<hr/>			
Fax:	561-741-4581	Pages:	2 Including cover
<hr/>			
Phone:		Date:	10/4/2018
<hr/>			
Re:	Jill Hollis Jaynes Case No. 2018-20286	CC:	
<hr/>			

Comments:

Please see attached correspondence regarding representation. If you have any questions or concerns please don't hesitate to contact our office @ 813-224-0555. Thank you.

CONFIDENTIALITY NOTE: The following facsimile is intended solely for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

1110 N. FLORIDA AVENUE
TAMPA, FLORIDA 33602



TELEPHONE (813) 224-0555
FAX (813) 221-9736
dsisco@sisco-law.com
www.sisco-law.com

October 4, 2018

Bonnie Summer
Medical Quality Assurance Investigator
900 South U.S. Highway 1, Suite 207
Jupiter, FL 33477

Re: Jill Hollis Jaynes
Case No.: 2018-20286

Dear Ms. Summer:

Please be advised the undersigned has been retained to represent Jill Hollis Jaynes with regard to the above-referenced investigation. Any and all further communication regarding this matter should be directed to my attention.

Ms. Jaynes denies the allegations she violated the Acupuncture Practice Act.

Pursuant to Florida Statute, Chapter 456, please consider this correspondence as my demand for a complete copy of the investigative file, in the event a probable cause determination is sustained. This request is an ongoing one. That is, if there are additions or supplements to the investigative file after the time of its initial production, the undersigned, on behalf of Ms. Jaynes, is demanding production of any supplements as they are incorporated in the investigative file.

Should you have any questions with regard to this request or your investigation, please do not hesitate to contact me.

Best regards,

SISCO-LAW

A handwritten signature in black ink, appearing to read "Dale R. Sisco", is written over the typed name. The signature is fluid and cursive.

Dale R. Sisco

DRS\bim

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records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Indian River County Florida

*Indian River County Administration Complex
1801 27th Street, Building A
Vero Beach, Florida, 32960-3388
www.ircgov.com*



Meeting Minutes - Final

Tuesday, December 20, 2016

9:00 AM

Commission Chambers

Board of County Commissioners

*Joseph E. Flescher, Chairman, District 2
Peter D. O'Bryan, Vice Chairman, District 4
Susan Adams, District 1
Bob Solari, District 5
Tim Zorc, District 3*

Jason E. Brown, County Administrator
Dylan Reingold, County Attorney
Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller

1. CALL TO ORDER**ROLLCALL**

Present: 5 - Chairman Joseph Flescher
Vice Chairman Peter O'Bryan
Commissioner Susan Adams
Commissioner Bob Solari
Commissioner Tim Zorc

2. INVOCATION

Reverend Shelly Satran, Our Savior Lutheran Church.

Introduction of Reverend Mark A. Bernthal, Our Savior Lutheran Church

3. PLEDGE OF ALLEGIANCE

Vice Chairman Peter D. O'Bryan

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Chairman Flescher reported that Acupuncturist Jill Jaynes from Absolute Integrated Medicine had requested to speak on Consent Agenda Item 8.E., and will therefore be pulled for discussion.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve the Agenda, as amended. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

5. PROCLAMATIONS and PRESENTATIONS

5.A [16-1137](#) Presentation of Proclamation Honoring Jacquelyn Gilbert on her Retirement from the Property Appraiser's Office of Indian River County

Recommended Action: Read and presented.

Attachments: [Gilbert Retire Proclamation](#)

Chairman Flescher read and presented the Proclamation and Retirement Award to Jacquelyn Gilbert.

Property Appraiser David Nolte expressed his appreciation for her years of service and wished Ms. Gilbert success in her future endeavors.

6. APPROVAL OF MINUTES

None

7. INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION

- 7.A** [16-1132](#) Proclamation and Retirement Award Honoring Gordon E. Sparks on His Retirement From Indian River County Board of County Commissioners Department of Utilities Services/Engineering Division with Sixteen Years of Service

Attachments: [Proclamation G Sparks](#)
 [Retirement Award G Sparks](#)

Chairman Flescher recognized Gordon E. Sparks on his retirement.

- 7.B** [16-1121](#) Planning & Zoning Commission Appointment

Attachments: [Staff Report](#)
 [P&Z - Angela Waldrop Application](#)
 [Angela Waldrop Resume](#)

- 7.C** [16-1142](#) Florida Department of State Minority Appointment Reporting for Calendar Year 2015

Recommended Action: Provided for Board Information - No Action Required

Attachments: [Staff Report](#)
 [Attachment: Reporting Forms for 2015](#)

- 7.D** [16-1159](#) Town of Orchid Committee Assignments

Recommended Action: Informational

Attachments: [Agenda Memorandum](#)
 [2017 Town of Orchid Committee Appointments](#)

8. CONSENT AGENDA

A motion was made by Commissioner Solari, seconded by Chairman Flescher, to approve the Consent Agenda as amended, pulling Item 8.E. for discussion. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

- 8.A** [16-1138](#) Approval of Checks and Electronic Payments December 2, 2016 to December 8,

2016

Recommended Action: Approve the list of checks and electronic payments issued by the Comptroller's office for the time period of December 2, 2016 to December 8, 2016

Attachments: [Approval of Checks and Electronic Payments December 2, 2016 to December 8, 2016](#)

Approved

8.B [16-1129](#) FY 2015-2016 Records Disposition Compliance Statement and Records Management Liaison Officer Form, Board of County Commission

Recommended Action: It is recommended that the Chairman be authorized to sign the Records Management Compliance Statement for Fiscal Year 2015-2016 for the Indian River County Board of County Commission

Attachments: [Staff Report](#)
[Dept of State Letter](#)
[BCC Compliance Statement](#)

Approved staff's recommendation.

8.C [16-1133](#) Affordable Housing Advisory Committee Appointment

Recommended Action: The County Attorney recommends that the Board appoint Kenneth A. "Chip" Landers to fill the "actively serving on the local planning agency" representative to the Affordable Housing Advisory Committee.

Attachments: [Staff Report](#)

Approved staff's recommendation.

8.D [16-1153](#) Miscellaneous Budget Amendment 003

Recommended Action: Staff recommends that the Board of County Commissioners approve the budget resolution amending the fiscal year 2016/2017 budget.

Attachments: [Staff Report](#)
[Resolution](#)
[Exhibit "A"](#)

Approved Resolution 2016-127, amending the Fiscal Year 2016-2017 Budget.

8.E [16-1140](#) Approval to Eliminate the Acupuncture Benefit from the Health Plan Effective January 1, 2017 and to Offer a Special Enrollment Period in the Health Care Flexible

Spending Account

Recommended Action: Staff recommends approval for the acupuncture benefit to be eliminated from the County's health plan effective January 1, 2017 and to offer a special enrollment period for the health care flexible spending account.

Attachments: [Staff Report](#)

Human Resources Director Suzanne Boyll provided background and statistics pertaining to the increase in the County's Health Care Plan (Florida Blue) acupuncture claims since 2013. She stated that the Plan does not offer agreements with acupuncturists, nor are they able to set up a network so acupuncturist services can be an out-of-network benefit. She voiced specific concern over one provider who was waiving the patients' copayment (copay), which has resulted in a substantial cost increase to the County's Plan. She recommended that the acupuncture benefit be eliminated from the County's Plan.

County Administrator Jason Brown further described the cost increases of claims on the County's Health Plan that have become unsustainable; spoke about the possibility of a group acupuncture treatment that costs about \$30.00 per session; and expressed the urgency of correcting the copay issue and finding a way to fund the \$1.1 million cost increase to the County's Plan. He supported staff's recommendation in an attempt to preserve the financial stability of the health insurance plan.

Discussion ensued among the Board and staff pertaining to capping the number of visits per year, cost containment solutions, acupuncture alternatives, copays, and the large number of employees who use out-of-network acupuncture benefits.

Deborah Andersen, 9820 84th Street, explained how the acupuncture services have helped her, and stated that she had been informed by the acupuncturist that after the first of the year, payments will be required. She asked the Board not to remove the acupuncture benefit.

John Coppersmith, 4636 43rd Street, explained how acupuncture has helped him with pain, and asked the Board to table their decision until more information can be obtained.

Sasan Rohani, 4690 Josephine Manor, shared the success that he and his wife have experienced after using acupuncture. He said he was informed that starting in January, a \$30.00 copay would be required. He urged the Board to continue the acupuncture insurance benefit.

Bill Michael, 489 34th Avenue, gave a testimonial of how acupuncture therapy has helped him, and explained how his acupuncture provider manages the copay process.

Further discussion ensued regarding out-of-network providers, the frequent use of one specific acupuncture provider's services, and the lack of cooperation from the provider to supply staff with all the requested documentation.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to make the following changes to the County's Health Care Plan, effective January 1, 2017: (1) cap the maximum amount of visits for acupuncture to 26 per year; and (2) continue to pay out at 60% up to a maximum dollar cap of \$45.00 per claim..

Director Boyll informed the Board that according to Florida Statute, if something is covered by a Health Plan, the benefit needs to be covered in the same manner for all other physician services, and restricting the maximum payout to \$45.00 per visit would not be permissible.

The motion was amended by Vice Chairman O'Bryan, seconded by Chairman Flescher, whereby any out-of-network provider that does not provide staff with requested information, will be paid at 60%, with a cap of up to \$45.00; and to treat all physician services the same, effective February 1, 2017.

Acupuncture Physician Angela King, 1125 Driftwood Drive, clarified the verbiage in the Florida Statute regarding billing, and spoke about the appropriate billing codes for acupuncture and the allowable insurance amounts to charge patients for out-of-network providers. She suggested that since acupuncture care is out-of-network, the Board should consider instituting not just a \$45.00 cap on a claim, but allow up to 26 visits, and/or a reimbursement of up to a maximum of \$1,000 per person. She expounded on the resources for ethical acupuncture insurance billing and the e-mails she had sent to staff, and stressed that her business has always properly billed and has not engaged in the practice of allowing employees free visits and supplements. She agreed to assist and meet with staff, at the Board's request.

Director Boyll reported that there was no cap on chiropractic services at this time, and wanted to ensure health plans stay consistent and compliant with the law.

Acupuncture Physician Alexis Edwards, Absolute Integrated Medicine, spoke on behalf of Jill Jaynes, and stated that County staff had not directly inquired about their billing policies. She described her issues with staff's letter; explained why she thought their business has grown; and acknowledged that customers were not being charged with copays because their business was out-of-network and not required to do so; however, as of January 2017, copays will be initiated.

Vice Chairman O'Bryan questioned whether the maximum reimbursement of \$1,500 could apply to chiropractic as well as acupuncturist services, and whether it would be agreeable to Florida Blue without a long legal debate.

Director Boyll and Administrator Brown felt it might be best to make the motion for acupuncture practices only, and add chiropractic services at a later date, if necessary.

Ms. King refuted Ms. Edward's comment that copays were not legally required and asked Attorney Reingold to review its legality.

Sandra Seeley, 2531 Victory Boulevard, spoke about improper billing and asked the Board to not limit the number of annual visits.

The motion was amended to make the following changes to the County's Health Care Plan, effective February 1, 2017: (1) limit acupuncture visits to a maximum of 26 visits per year, and (2) cap the maximum reimbursement paid to \$1,500 for acupuncturist services, and if staff finds that chiropractic services can be included, capping each at \$1,500. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

- 8.F** [16-1120](#) Utility Work by Highway Contractor Agreement with FDOT for the Relocation Services of Water Main on 17th Street from US Highway 1 to the 17th Street Causeway Bridge

Recommended Action: Staff recommends the adoption of the Resolution regarding Utility Work by Highway Contractor Agreement for the Relocation Services of Water Main for the Construction of 17th Street from US Highway 1 to the 17th Street Causeway Bridge and approval of the FDOT - Utility Work by Highway Contractor Agreement.

Attachments: [Staff Report](#)
[Resolution](#)
[Utility Work by Highway Contractor Agreement](#)

Approved Resolution 2016-128, with the Florida Department of Transportation authorizing the Chairman's execution of a Utility Work by Highway Contractor Agreement for the relocation services of a watermain for the construction of 17th Street from US Hwy 1 to 17th Street Causeway Bridge.

- 8.G** [16-1128](#) Approval of Federally Funded Public Assistance Funding Agreement

Recommended Action: Approve agreement for Indian River County to be eligible for federal funds

Attachments: [Staff Report](#)
[Funding Agreement PA](#)

Approved staff's recommendation

- 8.H** [16-1007](#) GH Vero Beach Development, LLC's Request for Final Plat Approval for The Reserve at Grand Harbor PD Phase 1, Plat 33 [2001020101-77703 /

PD-13-10-03]

Recommended Action: Based on the analysis, staff recommends that the Board of County Commissioners grant final plat approval for The Reserve at Grand Harbor PD Phase 1

Attachments: [Staff Report](#)
[Application](#)
[Location Map](#)
[Plat Layout](#)

Approved staff's recommendation

- 8.I [16-1109](#) Lease Agreements - CR510 Widening and Improvements, Project Acquired Property, B&B Tires - 5210 85th St, Vero Beach, FL 32967, Kevin Harwood - 5220 85th Street, Vero Beach, FL 32967

Recommended Action: Staff recommends the Board approve the Lease Agreements for the property located at 5210 85th Street to B&B Tires, LLC, and for the property located at 5220 85th Street to Kevin Harwood, and authorize the Chairman to execute the leases on behalf of the Board.

Attachments: [Staff Report](#)
[BB Tire Lease Agreement Letter](#)
[B B Tires LLC Lease 5210 85th Street](#)
[Kevin Harwood Lease Agreement Letter](#)
[Kevin Harwood Lease 5220 85th Street](#)

Approved staff's recommendation

- 8.J [16-1149](#) Permission to Advertise for Public Hearing for Amendment to Section 100.03(4) of the Indian River County Code, Codifying and Publishing the Ordinances to Readopt the Code as Published by the Municipal Code Corporation

Recommended Action: Authorize staff to advertise for a public hearing on January 24, 2017 to amend Section 100.03(4) of the Indian River County Code.

Attachments: [staff report](#)

Approved staff's recommendation

- 8.K [16-1156](#) Interest Rate Change on All County Financing (Petition Paving, Utility Assessment Projects, Utility Impact Fees, etc.)

Recommended Action: Staff recommends that the Board of County Commissioners approve the fixed interest rate of 5.00%. Staff further recommends that this rate remain in effect for calendar

year 2017 for all County financing with the exception of projects directly affiliated with a bond issue for which the bond covenants dictate a different interest rate.

Attachments: [Staff Report](#)
[Interest Rate History](#)

Approved staff's recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10. PUBLIC ITEMS

A. PUBLIC HEARINGS

B. PUBLIC DISCUSSION ITEMS

- 10.B.1** [16-1111](#) Request to Speak from Lange Sykes, Vero Beach City Council, Regarding Indian River Lagoon - City/County Collaborative

Recommended Action: Informational Only - No Action Required

Attachments: [Request to Speak Form](#)

Lange Sykes, Vero Beach City Council (City), requested to start a dialog with the Board in support of a comprehensive project between the City and County that would address significant factors that are deleterious to the Indian River Lagoon.

Vice Chairman O'Bryan recalled that the Board had voted at the November 2016 Board of County Commission meeting to become a member of the Indian River Lagoon Council, which showed the Board's intent to be involved. He recommended that Councilmember Sykes update the Board publicly, since there has not yet been a Commissioner appointed to represent the Board.

The Chairman called a recess at 11:23 a.m., and reconvened the meeting at 11:39 a.m., with all members present.

- 10.B.2** [16-1136](#) Request to Speak from Wanda Scott, Gifford Economic Development Council, Regarding Gifford Economic Development Follow-up

Recommended Action: No action required

Attachments: [Request to Speak Form](#)

Wanda Scott, Gifford Economic Development Council, highlighted specific data/statistics within the Gifford Neighborhood Plan; sought information; and

asked for help in clarifying and understanding the Plan's guidelines.

C. PUBLIC NOTICE ITEMS

11. COUNTY ADMINISTRATOR MATTERS

12. DEPARTMENTAL MATTERS

A. Community Development

B. Emergency Services

12.B.1 [16-1134](#) Approval of Work Order #2 for Radio System P25 Migration Project

Recommended Action: Approve Work Order #2 with Communications International Inc.

Attachments: [Staff Report](#)

[Work Order No. 2 P25 Radio System](#)

[Exhibit A](#)

Emergency Services Director John King requested the Board approve Work Order No. 2 for the County-wide radio system, which begins the transition of migration for all the equipment in the dispatch centers, and interconnectivity to the radio transmitters at the tower sites.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

C. General Services

1. Human Services

2. Sandridge Golf Club

3. Recreation

D. Human Resources

E. Office of Management and Budget

12.E.1 [16-1135](#) Microsoft Enterprise Agreement License Additions

Attachments: [Staff Report](#)

[Vendor Quote](#)

[Licensing Change Worksheet](#)

Budget Director Michael Smykowski provided background and conditions pertaining to the Microsoft Enterprise Agreement from November of 2005, and the changes that have been put in place since that time.

Computer Support Services Director Basil Dancy described the advances in technology and software structures, and responded to the Board's questions.

John O'Connor, President of the International Association of Firefighters (IAFF) Local 2201, explained why social media communication would not be an appropriate use for departmental related information.

Administrator Brown justified why the Fire Rescue Department is requesting 232 additional licenses.

A motion was made by Commissioner Adams, seconded by Commissioner Zorc, to authorize the expenditure of \$513,957.20, and create a Purchase Order to process the payment to SHI. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

F. Public Works

G. Utilities Services

12.G.1 [16-1162](#) North Sebastian Septic to Sewer Approval of Financing Mechanism - Phase 1

Recommended Action: Staff Recommends the Board review and consider the options presented, and provide direction to staff.

Attachments: [Staff Report](#)
[Examples of Alternative Financing Options.pdf](#)
[Phase 1 Septic to Sewer Map](#)
[Preliminary Assessment Roll](#)
[SJRWMD Cost Share Grant](#)
[Florida Statutes 381.00655](#)
[Draft of Projected Revenues](#)

Director of Utility Services Vincent Burke used PowerPoint Presentations to provide background, analysis, construction costs, and a tentative schedule to implement a Phase 1 Septic to Sewer System Project inside the City of Sebastian and the unincorporated County.

The Commissioners shared their opinions, voiced some concerns regarding subsidy funds, and sought additional information from staff.

Commissioner Solari voiced concerns over subsidy funds and the costs of the project.

Russell Herrmann, 586 Redwood Court, Sebastian, Vice President of the Friends of St. Sebastian River, read an article from the Harbor Branch Oceanographic Institute, which spoke about the urgent need to restore the Indian River Lagoon by improving sewage collection.

Glenn Heran, Treasurer of the Taxpayers Association of Indian River County, did not support the septic to sewer conversion; he felt it was not fair to those who already paid to be on a sewer system, and believed that those less likely to afford the conversion should receive financial assistance, not those in riverfront communities.

Administrator Brown informed Mr. Heran that this is a mandatory assessment, and that there are some generous subsidies and grants to assist with the financial burden of the project.

Carter Taylor, 2235 Silver Sands Court, acting Executive Director of the Indian River Neighborhood Association (Association), read a letter from the Association in support of moving forward with the septic to sewer project.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to move forward with the following options: (1) Approve the County's Funding Mechanism - to allocate the necessary dollars to reduce the construction and connection costs as much as possible for property owners: (a) Construction Cost Funding (Utility Assessment Fund 473 at 20%, Optional Sales Tax Contribution at 20%, and Property Owner Assessment at 27%); and (b) Impact Fee Funding with the Optional Sales Tax Contribution of 100%, with a 5-year sliding benefit for existing septic and not to apply to new construction; (2) Begin implementation of a Phase 1 Septic to Sewer Assessment Project for the construction costs for all properties, both inside the City of Sebastian and unincorporated County by: (a) directing staff to follow assessment procedures for notifying benefitting property owners, preparation of assessment roll, and the necessary resolutions, and (b) holding necessary public meetings for property owners and interested parties; (3) Approve the special 2% APR interest rate for the Commercial Phase 1 S2S project area; (4) Direct staff to finalize the bid package and go out for competitive bids; (5) Formalize a connection policy for existing structures within the North County Phase 1 S2S area, with a 5-year timeline for mandatory hook-up; and (6) Direct staff to conduct an updated rate study to include looking at recouping any cost of the construction and the future removal and replacement (R&R) costs. The motion carried by the following vote:

Aye: 4 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, and Commissioner Zorc

Nay: 1 - Commissioner Solari

12.G.2 [16-1148](#) North Sebastian Septic to Sewer - Masteller & Moler Work Order No. 3

Recommended Action: Staff recommends approval of Work Order No. 3, authorizing professional services, and requests the Board authorize the Chairman to execute Work Order No. 3 on their behalf for a lump sum amount of \$125,270.00 to Masteller and Moler, Inc.

Attachments: [Staff Report](#)
[Work Order No. 3 and supporting documents](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 4 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, and Commissioner Zorc

Nay: 1 - Commissioner Solari

The Chairman called a recess at 1:51 p.m., and reconvened the meeting at 2:04 p.m., with all members present.

13. COUNTY ATTORNEY MATTERS**13.A** [16-1152](#) Approval of First Amendment to Declaration of Restrictive Covenants for Windsor PD

Recommended Action: Staff recommends that the Board approve the First Amendment to Declaration of Restrictive Covenants and direct staff to have the proposed PD change/replat scheduled for public hearings before the Planning and Zoning Commission and the Board of County Commissioners at a mutually convenient time.

Attachments: [Staff Report](#)
[Exhibit A: 2011 plat](#)
[Exhibit B: Declaration of Restrictive Covenants dated Dec. 23, 2008](#)
[Exhibit C: Proposed PD plan](#)
[First Amendment to Declaration of Restrictive Covenants](#)
[Minutes of 12/8/15 BCC meeting](#)

County Attorney Dylan Reingold provided background, and reviewed Windsor Properties' First Amendment to the Declaration of Restrictive Covenants, and the proposed Planned Development (PD) density change.

Deputy County Attorney William DeBraal recapped his Memorandum and used an overhead projector to show the area of density increase from one to three dwelling

units per acre.

A motion was made by Commissioner Solari, seconded by Vice Chairman O'Bryan, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

13.B [16-1151](#) Request for Access Easement to Datapath Tower, LLC for Emergency Services Tower

Recommended Action: Emergency Services recommends that the Board approve the access easement to Datapath Towers, LLC and authorize the Chairman to execute the easement on behalf of the Board.

Attachments: [Staff Report](#)
[Easement](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Solari, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

13.C [16-1154](#) Approval of Agreement to Purchase and Sell Quality Fruit Packers Parcel for 45th Street/US Highway 1 Intersection Improvements

Recommended Action: Staff recommends the Board approve the purchase and sale for the right-of-way from Quality Fruit Packers at a price of \$137,500, inclusive of all fees and costs and authorize the Chairman to execute any documents necessary to close the purchase of the property.

Attachments: [Staff Report](#)
[sketch/legal description](#)
[aerial photo](#)

Attorney DeBraul described the proposed improvements to the intersections of US Highway 1 and 41st Street, 45th Street, and 49th Street. He relayed that Quality Fruit Packers of Indian River, Inc. owns a parcel of land on the corner of US Highway 1 and 45th Street that is needed for right-of-way to complete an improvement project. He recommended that the Board approve the settlement offer to alleviate accruing further costs to the County.

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

14. COMMISSIONERS MATTERS

A. Commissioner Joseph E. Flescher, Chairman

B. Commissioner Peter D. O'Bryan, Vice Chairman

14.B.1 [16-1150](#) Draft Critical Incident Response Policy

Recommended Action:

Attachments: [Commissioners Memorandum](#)

[Draft Critical Incident Response Policy](#)

Vice Chairman O'Bryan introduced the new Indian River County Stress Management Program draft booklet that was developed as a peer-driven support system for Fire Rescue personnel. He thanked the numerous individuals who were involved in the process of developing the booklet. He did not request Board action today since it is in draft form.

Emergency Services Director John King and Assistant Fire Chief Brian Burkeen provided highlights of the booklet; discussed how the information was obtained; and thanked Vice Chairman O'Bryan for the countless hours he contributed to the project.

Commissioner Solari offered suggestions and comments for the booklet.

John O'Connor, President of the International Association of Firefighters (IAFF) Local 2201, thanked Vice Chairman O'Bryan for his efforts, and stressed that all of law enforcement, police, fire and emergency services need to be included in the process. He suggested focusing on the membership's morale and retention, as well as developing a death protocol for officers in the line of duty.

Administrator Brown expressed gratitude to numerous individuals, and said he was committed to this project because he feels his biggest responsibility is the welfare and well-being of the County employees.

C. Commissioner Susan Adams

D. Commissioner Bob Solari

14.D.1 [16-1158](#) Minor South County Annexation

Recommended Action: Board Discussion

Attachments: [Commissioner Solari Memorandum.pdf](#)

Commissioner Solari informed the Board that property owner Oszkar Szentirmai, in southern Indian River County, has a parcel of land whereby 70% is located in Indian River County and the other 30% in St. Lucie County. He said the owner gets taxed by both taxing districts and wants to have the smaller area annexed into Indian River County, but he would need to get approval from St. Lucie County before moving forward with the process.

E. Commissioner Tim Zorc

14.E.1 [16-1160](#) 16th Street Ball Field Property

Recommended Action: Discussion

Attachments: [16th Street Ball Field Property](#)

Commissioner Zorc wanted to know the current property value, along with the highest and best use value of the 16th Street Ball Field. Then, depending on the spread between the two values, the Board could decide whether to step-up the zoning to match the properties to the north and east.

Community Development Director Stan Boling felt that the multi-family zoning on the property would make sense, and informed the Board that the property has a land use designation of Government Institution Public, so there would be a land use amendment as well as a rezoning that could go to Private Sector Development.

Deputy County Attorney DeBraal reminded the Board that he had been directed to put the property up for sale by a sealed bid, and clarified that his office should now wait until the appraisal is received.

A motion was made by Commissioner Zorc, seconded by Commissioner Solari, to direct the County Administrator to order an appraisal that would address separate values: (1) the "as is" and (2) the highest and best use, for the 16th Street Ball Field property, and bring the findings back to the Board. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15. SPECIAL DISTRICTS AND BOARDS

A. Emergency Services District

The Board reconvened as the Board of Commissioners of the Emergency Services District. The minutes will be approved under the next Emergency Services District meeting.

15.A.1 [16-987](#) Approval of Minutes Meeting of September 13, 2016

Recommended Action: Approve

Attachments: [ESD09132016](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve the Minutes of September 13, 2016. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.A.2 [16-1122](#) Approval of Minutes Meeting of September 20, 2016

Recommended Action: Approve

Attachments: [09202016ESD](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve the Minutes of September 20, 2016. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.A.3 [16-1043](#) Approval of Minutes Meeting of October 4, 2016

Recommended Action: Approve

Attachments: [10042016ESD](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve the Minutes of October 4, 2016. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.A.4 [16-1130](#) FY 2015-2016 Records Disposition Compliance Statement and Records Management Liaison Officer Form, Emergency Services District

Recommended Action: It is recommended that the Chairman be authorized to sign the Records Management Compliance Statement for Fiscal Year 2015 - 2016 for the Indian River County Emergency Services District

Attachments: [Staff Report](#)
[Department of State Letter](#)
[Compliance Statement](#)

A motion was made by Vice Chairman O'Bryan, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.A.5 [16-1127](#) Work Order #2 for Fire Rescue Station #14 (26th Street and 66th Avenue)

Recommended Action: Staff recommends approval of Work Order #2

Attachments: [Staff Report](#)
[Work Order 2 Barth](#)
[GMP Proposal](#)

Emergency Services Director John King provided background, and reviewed Work Order No. 2 for the design/build services in connection with the preparation and improvements to proposed Fire Station 14, located at 26th Street and 66th Avenue (a/k/a as the JC property). He recommended that the Board move forward with Work Order No. 2.

Commissioner Zorc used an overhead projector to display and discuss maps of the proposed site, existing stations, service areas, overlapping service areas, and response areas for the different Fire Stations. He wanted the station to be placed in the proper location, optimizing the ISO's service response district requirements.

Administrator Brown said Station 14 is in the Capital Plan to build next year, and the Long Term Plan shows that it will be staffed next year, which will have a 7.5% to 8% impact on the millage rate.

A motion was made by Commissioner Zorc to direct staff to contract with a real estate service to establish available parcels at the 82nd Avenue and 20th Street node, and to show what sites are available on the open market for purchase, and to bring the information back to the Board at the January 10, 2017, Board of County Commission meeting. The motion died for lack of a second.

Discussion ensued regarding the proposed site for Fire Station 14; the size and cost differences between Station 13 and 14; rates and bids from subcontractors; and controlling costs throughout the process.

John O'Connor, President of the International Association of Firefighters (IAFF) Local 220, supported staff's recommendation and stressed the need for additional fire stations that include a minimum of three bays, for future expansion.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to approve Work Order No. 2 with Barth Construction, Inc., for Fire Rescue Station 14 Design/Build Agreement Phase 1. The motion carried by the following vote:

Aye: 3 - Chairman Flescher, Vice Chairman O'Bryan, and Commissioner Adams

Nay: 2 - Commissioner Solari, and Commissioner Zorc

B. Solid Waste Disposal District

The Board reconvened as the Board of Commissioners of the Solid Waste Disposal District. The minutes will be approved under the next Solid Waste Disposal District meeting.

15.B.1 [16-1131](#)

FY 2015-2016 Records Disposition Compliance Statement and Records Management Liaison Officer Form, Solid Waste Disposal District

Recommended Action: It is recommended that the Chairman be authorized to sign the Records Management Compliance Statement for Fiscal Year 2015 - 2016 for the Indian River County Solid Waste Disposal District

Attachments: [Staff Report](#)
[Department of State Letter](#)
[2015-2016 Compliance Statement](#)

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.B.2 [16-1147](#)

Request for General Funds - PACE Project and Other Community Projects FY2016-17

Recommended Action: Staff recommends the Board of County Commissioners authorize up to \$6,000.00 to be donated to various PACE/illegal dumping projects from the General Fund Reserve for Contingencies for the sole purpose of paying associated landfill fees.

Attachments: [Staff Report](#)
[December 6, 2016 Letter from Health Department](#)

A motion was made by Commissioner Solari, seconded by Vice Chairman O'Bryan, to authorize up to \$6,000.00 to be donated to various PACE/illegal dumping projects from the General Fund Reserve for Contingencies for the sole purpose of paying associated landfill fees. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.B.3 [16-1139](#)

CCNA-2014 Work Order No. 7 to CDM Smith, Inc. for Engineering Services with the 2017 Annual Permit Compliance Monitoring and Reporting

Recommended Action: SWDD staff recommends that its Board approve the following:

- a) Approve CCNA-2014 Work Order No. 7 with CDM Smith, Inc. in the amount of \$99,193 to provide engineering services related to the 2017 Annual Permit Compliance Monitoring and Reporting.
- b) Authorize the Chairman to execute the same, as presented.

Attachments: [Staff Report](#)

[CCNA-2014 Work Order No. 7 - CDM Smith, Inc.](#)

A motion was made by Commissioner Solari, seconded by Commissioner Adams, to approve CCNA-2014 Work Order No. 7 with CDM Smith, Inc., in the amount of \$99,193.00, to provide engineering services related to the 2017 Annual Permit Compliance Monitoring and Reporting, and authorized the Chairman to execute same. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

15.B.4 [16-1157](#) Eighth Amendment to Republic Services

Recommended Action: SWDD staff recommends that its Board approve the Eighth Amendment to Republic Services as a notification of SWDD's intent to renew the Solid Waste Operations and Maintenance contract for an additional period of seven (7) years beginning January 1, 2018 through December 31, 2024, at the negotiated rate of \$13.25 per ton for the Class 1 landfill to begin on January 1, 2018, and authorize the Chairman to execute the same, as presented.

Attachments: [Staff Report](#)

[Eighth Amendment to Republic Services](#)

Director Burke recapped his Memorandum dated December 12, 2016, pertaining to the Eighth Amendment to Republic Services of Florida, LP's (Republic Services) Contract Agreement. He recalled that the contract was effective January 1, 2011, for a 7-year period, expiring on December 31, 2017; however, the Solid Waste Disposal District (SWDD) is responsible to notify them by December 31, 2016, of the intent to renew or not renew the contract. He said this Amendment would extend the time period for staff and Republic Services to reach a mutual agreement that will apply in the renewal period on or before February 28, 2017.

Managing Director Himanshu Mehta, Solid Waste Disposal District, revealed that staff had worked with Republic Services and negotiated a 10.8% decrease to the Class 1 Landfill disposal rate (from \$14.86 per ton to \$13.25), a savings of approximately \$276,000.00 per year. He urged the Board to support the intent to renew the contract.

Discussion ensued as staff addressed the Board's questions and concerns regarding the Request for Information (RFI); Customer Convenience Centers; single-stream recycling; increased recycling percentages; and the negotiations with Republic Services.

Dina Reider-Hicks, Public Affairs Manager for Waste Management, Inc., encouraged the Board to place the operation of the County Landfill and Customer Convenience Centers out for Request for Proposal (RFP); and requested the Board to not simply renew the contract, but to consider an overall integrated disposal strategy at the best possible price.

George Geletko, Florida Government Affairs Director, Waste Management, Inc., explained why his company and staff had not come to an agreement; he felt there were unknowns that need to be considered; and thought it would be best for the County to use the RFP process.

Joanne Stanley, Municipal Services Manager at Republic Services, Inc., spoke about the RFI results; encouraged the Board to retain the contract with Republic Services; to not franchise with only one hauler; and requested that the Board give her company 60 days to work with staff to decide what can be done to reach the 75% goal.

A lengthy discussion ensued regarding the tracking of recycling tonnages; efficiencies data, and how it can be related to reductions and costs; the RFI and RFP process; and continuing negotiations.

Administrator Brown explained that if staff does not send a letter to Republic Services stating that the County would not be extending their contract for seven years, then the contract will automatically extend for seven years. He said staff was able to come to terms with the \$13.25, but not able to finalize what to do with the Customer Convenience Centers; therefore, staff is requesting to push the deadline to send the notification to February 28, 2016.

A motion was made by Commissioner Zorc to not extend the contract with Republic Services, and direct staff to create a Request for Proposal (RFP). The motion died for lack of a second.

Vice Chairman O'Bryan commented on Republic Services' willingness to give the County a lower Landfill price as a good faith promise that they are willing to work/negotiate with staff. He emphasized that the County would not be locked into a contract by today's vote, and it would give staff a chance to continue negotiations. He also pointed out that if the Board does not like the package when it comes back to the Board in two months, that it could be rejected, and

staff could go for an RFP.

Commissioner Solari requested for staff to provide the Board, two to three weeks before receiving the new contract from Republic Services, details on the amount of trash that moved from the Customer Convenience Centers to the landfill over the past three or four years. He also asked staff to focus on any change in volumes since going to single-stream recycling, and the increase in pick-ups throughout the County.

A motion was made by Vice Chairman O'Bryan, seconded by Chairman Flescher, to approve the Eighth Amendment to Republic Services of Florida, LP, as a notification of Solid Waste Disposal District's intent to renew the Solid Waste Operations and Maintenance contract for an additional period of seven (7) years beginning January 1, 2018 through December 31, 2024, at the negotiated rate of \$13.25 per ton for the Class 1 Landfill to begin on January 1, 2018. The motion carried by the following vote:

Aye: 4 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, and Commissioner Solari

Nay: 1 - Commissioner Zorc

15.B.5 [16-1155](#) Ninth Amendment to Feedstock Supply Agreement

Recommended Action: SWDD staff recommends that the Board Approve the Ninth Amendment to the Feedstock Supply Agreement with INEOS New Planet BioEnergy, LLC., and Authorize the Chairman to execute the same, as presented.

Attachments: [Staff Report](#)
[Feedstock Agrmt - 9th Amendment](#)

Director Burke provided background and analysis regarding the Ninth Amendment to the Feedstock Supply Agreement with INEOS New Planet BioEnergy, LLC (INPB), which will provide for a transition of vegetative waste from the Indian River BioEnergy Center to SWDD's vegetative processing area, beginning January 2017. The provisions are to be based on the existing \$9.30 per ton, and the supplemental processing fee of \$5.30 per ton will be waived through March 31, 2017. He stated that INPB will receive, process, and mulch all the material through said time frame, while staff puts together a Request for Proposal (RFP) to remove the vegetative waste.

Commissioner Solari confirmed there would be no additional funding for the services.

Motion was made by Commissioner Adams, seconded by Vice Chairman O'Bryan, to approve the Ninth Amendment to the Feed stock Supply Agreement with INEOS New Planet BioEnergy, LLC. The motion carried by the following vote:

Aye: 5 - Chairman Flescher, Vice Chairman O'Bryan, Commissioner Adams, Commissioner Solari, and Commissioner Zorc

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 4:20 p.m.

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10)(a)All patient records obtained by the department and any other documents
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from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO:2018-20286

JILL HOLLIS JAYNES, A.P.
RESPONDENT.

NOTICE OF HEARING

TO: Jill Hollis Jaynes, A.P.
1926 4th Avenue
Vero Beach, Florida 32960

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

The purpose of the hearing is to consider a motion for: **Voluntary Relinquishment**

Note: Cases shown on the agenda may be heard in a different order. Cases are scheduled beginning at 9:00 a.m.; therefore, it is imperative that you arrive promptly and be prepared to be at the meeting until your case is heard. If you have any questions regarding this matter, please contact Rose Garrison at (850) 245-4444 or by e-mail at Rose.Garrison@flhealth.gov.

A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 9th day of October 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

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Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

From: [Peace, Christa](#)
To: "drilljaynes@aol.com"
Subject: Notice of Hearing
Date: Friday, October 9, 2020 3:47:02 PM
Attachments: [Jill Jaynes 2018-20286-1.pdf](#)
[Jill Jaynes 2018-20286.pdf](#)

Greetings,

Your Voluntary Relinquishment will be presented at the November 2, 2020, Board of Acupuncture video/teleconference meeting. You are not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

Regulatory Specialist III
Department of Health/MQA/HCP
Board of Acupuncture,
Board of Osteopathic Medicine,
Board of Speech-Language Pathology & Audiology
Direct Line (850) 617-1964
Direct Fax (850) 921-6184
Christa.peace@flhealth.gov

How am I communicating? Please contact my supervisor at [Carol Taylor](#) with any questions or concerns to comment on my customer service.



Mission: To protect and promote the health of all people in Florida through integrated state, county, & community efforts.

Vision: To be the **Healthiest State** in the Nation

Values: Innovation: We search for creative solutions and manage resources wisely.

Collaboration: We use teamwork to achieve common goals & solve problems.

Accountability: We perform with integrity & respect.

Responsiveness: We achieve our mission by serving our customers & engaging our partners.

Excellence: We promote quality outcomes through learning & continuous performance improvement.

Purpose: To protect the public through health care licensure, enforcement and information.

Focus: To be the nation's leader in quality health care regulation.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from State officials regarding State business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
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Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.
SERGIO GARCIA, A.P.
RESPONDENT.

CASE NO: 2020-15288

NOTICE OF HEARING

TO: Garcia Sergio, A.P.
2700 Coral Springs Dr., Apt. 312
Coral Springs, Florida 33065

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

The purpose of the hearing is to consider a motion for: **Determination of Waiver**

Note: Cases shown on the agenda may be heard in a different order. Cases are scheduled beginning at 9:00 a.m.; therefore, it is imperative that you arrive promptly and be prepared to be at the meeting until your case is heard. If you have any questions regarding this matter, please contact Rose Garrison at (850) 245-4444 or by e-mail at Rose.Garrison@flhealth.gov.

A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 13th day of October 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

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DEPARTMENT OF HEALTH,
PETITIONER,

VS.
SERGIO GARCIA, A.P.
RESPONDENT.

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TO: Glenn R. Rodman, Esq.
6400 North Andrews Blvd., Suite 505
Fort Lauderdale, Florida 33309

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Board of Acupuncture

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C06 • Tallahassee, FL 32399-3256
PHONE: (850) 245-4161



Accredited Health Department
Public Health Accreditation Board

From: [Peace, Christa](#)
To: ["jim@weick-law.com"](mailto:jim@weick-law.com)
Subject: Notice of Hearing
Date: Tuesday, October 13, 2020 1:38:42 PM
Attachments: [Sergio Garcia 2020-15288.pdf](#)
[Sergio Garcia 2020-15288-1.pdf](#)

Greetings,

Your client's Determination of Waiver will be heard at the November 2, 2020, Board of Acupuncture video/teleconference meeting. Your client is not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

Regulatory Specialist III
Department of Health/MQA/HCP
Board of Acupuncture,
Board of Osteopathic Medicine,
Board of Speech-Language Pathology & Audiology
Direct Line (850) 617-1964
Direct Fax (850) 921-6184
Christa.peace@flhealth.gov

How am I communicating? Please contact my supervisor at [Carol Taylor](#) with any questions or concerns to comment on my customer service.



Mission: To protect and promote the health of all people in Florida through integrated state, county, & community efforts.

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DEPARTMENT OF HEALTH,
PETITIONER,

VS.
SERGIO GARCIA, A.P.
RESPONDENT.

CASE NO: 2020-15288

NOTICE OF HEARING

TO: James K. Weick, Jr., Esq.
Law Office of James Weick, PA
612 Southeast 5th Avenue, Ste 3
Ft. Lauderdale, Florida 33301

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Christa Peace
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Board of Acupuncture

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MEMORANDUM

TO: Kama Monroe, JD, Executive Director, Board of Acupuncture
FROM: Rose Garrison, Assistant General Counsel
RE: **Settlement Agreement**
SUBJECT: DOH v. James William Green, A.P.
DOH Case Number 2017-18975
DATE: September 15, 2020

Enclosed you will find materials in the above-referenced case to be placed on the agenda for final agency action for the **November 2, 2020** meeting of the board. The following information is provided in this regard.

Subject: James William Green, A.P.
Subject's Address of Record: 6957 Finamore Circle
Lake Worth, FL 33467

Enforcement Address: 6957 Finamore Circle
Lake Worth, FL 33467

Additional Address: 8198 Job Road, Suite 203
Boynton Beach, FL 33472

Subject's License No: 3526 **Rank:** AP

Licensure File No: 4039

Initial Licensure Date: 08/29/2014

Licensure Status: 20- Clear

Board Certification: No

Required to Appear: No

Current IPN/PRN Contract: No

Allegation(s): Count I: Section 457.109(1)(p), Florida Statutes (2017)
Count II: Section 457.109(1)(x), Florida Statutes

(2017), F.S. by violating rule 64B1-10.001 F.A.C.

Prior Discipline: No

Probable Cause Panel: April 23, 2020
Veon and Heine

Subject's Attorney: Gregory A. Chaires, Esq.

Complainant/Address: P.N.

Materials Submitted: Memorandum to the Board
Settlement Agreement
Administrative Complaint
Cost Summary
Election of Rights
Supplemental 2 dated 11/20/2017
with Exhibits S2-1 – S2-2
Supplemental 1 dated 11/02/2017
with Exhibit S1-1
Final Investigative Report dated 10/30/2017 with
Exhibits 1-5

Disciplinary Guidelines:

	MINIMUM	MAXIMUM
FIRST OFFENSE	letter of concern and \$500 fine	suspension and or revocation
SUBSEQUENT OFFENSES	\$500 fine	suspension and or revocation

Terms of the Settlement Agreement

1. Dismissal of Count 1 of the Administrative Complaint
2. Letter of Concern
3. \$3,000.00 fine to be paid within 3 years of the filing of the Final Order
4. \$3,500.00 costs to be paid within 3 years of the filing of the Final Order
5. Continuing Education of 3 hours of Record keeping and 3 hours of Risk Management within 6 months of the Final Order

RG/km

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2017-18975

JAMES WILLIAM GREEN, A.P.,

Respondent,

_____ /

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above-named parties hereby offer this Settlement Agreement (Agreement) to the Board of Acupuncture (Board)¹ as disposition of the Administrative Complaint, in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Agreement is issued by the Board and filed with the Agency Clerk of the Department of Health. In considering this Agreement, the Board may review all investigative materials regarding this case. If this Agreement

¹ For purposes of this Settlement Agreement, where terms of the Agreement require the Board to undertake action or grant approval, the Board can appoint a representative or designee to act in its stead. In light of this, references to the "Board" can also refer to the Board's designee.

is not accepted by the Board, the Agreement and its presentation to the Board shall not be used against either party.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed acupuncturist in the State of Florida having been issued license number AP 3526.

2. Respondent was charged by an Administrative Complaint with violating Chapter 457, Florida Statutes. The Administrative Complaint was filed by the Department of Health (Department) and properly served upon Respondent.

3. Respondent neither admits nor denies the factual allegations in the Administrative Complaint and is entering into this Settlement Agreement for the purpose of settlement in these administrative proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 457, Florida Statutes, and the jurisdiction of the Department of Health and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 457, Florida Statutes, as alleged in the Administrative Complaint.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

DISMISSAL OF COUNTS

1. Count one (1) of the Administrative Complaint in this case is dismissed.

STIPULATED DISPOSITION

1. **Letter of Concern** - Respondent shall receive a Letter of Concern from the Board of Acupuncture.

2. **FINE**: The Board shall impose an administrative fine of **three thousand dollars and no cents (\$3,000.00)** against the license of Respondent. Respondent acknowledges that the timely payment of the fine is Respondent's legal obligation and responsibility. Respondent shall pay the fine by either cashier's check or money order made payable to the Board of Acupuncture **within three (3) years** of the filing of the Final Order issued in this matter. Respondent shall send payment(s) to:

Florida

Department of Health, Division of MQA/Client Services, P.O. Box 6320, Tallahassee, FL 32314-6320.

3. 4. **COSTS**: Pursuant to Section 456.072(4), Florida Statutes, Respondent shall pay all actual costs associated with the investigation and prosecution of this matter. Respondent shall pay costs in the amount of **three thousand, five hundred dollars and no cents (\$3,500.00).**

Respondent shall pay all costs by either cashier's check or money order made payable to the Board of Acupuncture within one (1) year of the filing of the Final Order issued in this matter. Respondent shall send payment(s) to: ***Florida Department of Health, Division of MQA/Client Services, P.O. Box 6320, Tallahassee, FL 32314-6320.***

4. **Continuing Education** - Within six (6) months of the date of the filing of a Final Order in this cause, Respondent shall attend and successfully complete continuing education courses in:

Three (3) hours of Record Keeping; and,

Three (3) hours of Risk Management.

Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing education course(s). Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other

papers, such as physician's recognition awards, documenting completion of these course(s) within six (6) months of the date of filing of the Final Order in this matter. All such documentation shall be sent to the Board of Acupuncture, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure.

STANDARD PROVISIONS

1. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

2. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

3. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 457 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule,

or regulation relating to the practice or the ability to practice acupuncture. Prior to signing this agreement, the Respondent shall read Chapters 456, 457, and 893 and the Rules of the Board of Acupuncture, at Chapter 64B1, Florida Administrative Code.

4. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 457, Florida Statutes.

5. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this

Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

6. **Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

7. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

8. **Waiver of Judicial Review and Challenge** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial

review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

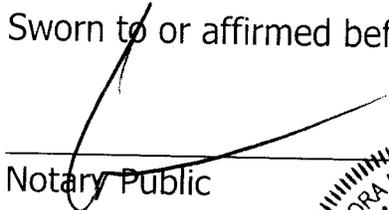
WHEREFORE, the parties hereby request the Board to enter a Final Order accepting and implementing the terms contained herein.

SIGNED this 28th day of July 2020.


James William Green, A.P.

STATE OF FLORIDA
COUNTY OF Palm Beach

Before me personally appeared James William Green whose identity is known to me by personal knowledge or by presentation of _____ as identification (type of identification), and who acknowledges that their signature appears above. Sworn to or affirmed before me this 28 day of July, 2020.


Notary Public



My Commission Expires

APPROVED this 3 day of August, 2020.

Scott A. Rivkees, M.D.
State Surgeon General



Rose Garrison
Florida Bar Number 105920
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
(850) 558-9842 voice
(850) 245-4684 FAX

**STATE OF FLORIDA
BOARD OF ACUPUNCTURE**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2017-18975

JAMES WILLIAM GREEN, A.P.

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Acupuncture against Respondent, James William Green, A.P., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of acupuncture pursuant to chapter 20.43, Florida Statutes (2017); chapter 456, Florida Statutes (2017); and chapter 457, Florida Statutes (2017).
2. At all times material to this Complaint, Respondent was a licensed acupuncture physician within the State of Florida, having been issued license number AP 3526.

3. Respondent's address of record is 6957 Finamore Circle, Lake Worth, Florida 33467.

4. An additional address for Respondent is 8198 Jog Road, Suite 203 Boynton Beach, Florida 33472.

5. At all times relevant to this Complaint, Respondent worked at Green Acupuncture & Integrative Medicine located in Boynton Beach, Florida.

6. On or about October 18, 2017, Patient P.N. a 68-year-old female, presented to Respondent for an examination and treatment of Patient P.N.'s reported pain.

7. While providing treatment to Patient P.N., Respondent draped Patient P.N. below her chest, exposing Patient P.N.'s breasts.

8. A reasonably prudent acupuncturist under similar conditions and circumstances would not have exposed Patient P.N.'s breasts.

9. During treatment while Patient P.N. was laying on the treatment table Respondent pressed on Patient P.N.'s pubic bone.

10. Respondent failed to maintain written records that justified the course of treatment to Patient P.N.'s pubic bone.

COUNT I

11. Petitioner re-alleges paragraphs one (1) through eight (8), as if fully set forth herein.

12. Section 457.109(1)(p), Florida Statutes (2017), subjects an acupuncturist to discipline for gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

13. Respondent failed to practice acupuncture at a level of care, skill, and treatment which is recognized by a reasonable prudent acupuncturist when Respondent exposed Patient P.N.'s breast.

14. Based upon the foregoing, the Respondent has violated section 457.109(1)(p), F.S. by committing gross or repeated malpractice or the failure to practice acupuncture with the level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances when he exposed Patient P.N.'s breast.

COUNT II

15. Petitioner re-alleges paragraphs one (1) through six (6), nine (9), and ten (10) as if fully set forth herein.

16. Section 457.109(1)(x), Florida Statutes (2017), subjects an acupuncturist to discipline for violating any provision of chapter 457, 456, or any rules adopted pursuant thereto.

17. Rule 64B1-10.001 F.A.C. requires acupuncturists to maintain written medical records justifying the course of treatment of each patient.

18. Respondent failed to maintain written medical records that justified treatment to Patient P.N.'s pubic bone.

19. Therefore, Respondent violated section 457.109(1)(x), F.S. by violating rule 64B1-10.001 F.A.C. for failing to maintain written medical records that justified treatment to Patient P.N.'s pubic bone.

WHEREFORE, Petitioner respectfully requests that the Board of Acupuncture enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees

billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 28 day of April 2020.

Scott A. Rivkees, M.D.
State Surgeon General



Rose Garrison
Assistant General Counsel
DOH Prosecution Services Unit
Florida Bar Number 105920
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Phone 850-558-9842
Fax 850-245-4684
Rose.garrison@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Bridget Coates*
DATE: **APR 29 2020**

PCP: April 23, 2020
PCP Members: Kathy Veon, Dave Heine

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

Complaint Cost Summary

Complaint Number: 201718975

Subject's Name: GREEN, JAMES WILLIAM

	***** Cost to Date *****	
	Hours	Costs
Complaint:	0.90	\$54.93
Investigation:	17.70	\$1,140.94
Legal:	21.30	\$2,322.14
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	39.90	\$3,518.01
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$3,518.01

ELECTION OF RIGHTS

I received the Administrative Complaint on the following date: 05-06-2020

Persons seeking a hearing on an Administrative Complaint must file a petition for hearing with the agency within 21 days of receipt of written notice of the Administrative Complaint pursuant to Rule 28-106.111(2), Florida Administrative Code.

Any person who receives written notice of an Administrative Complaint and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters pursuant to Rule 28-106.111(4), Florida Administrative Code.

PLEASE SELECT ONLY 1 OF THE 2 OPTIONS.

OPTION 1. I do not dispute the allegations of material fact in the Administrative Complaint. I request a hearing be conducted pursuant to Section 120.57(2), Florida Statutes, where I will be permitted to appear, if I so choose, and submit oral and/or written evidence in mitigation of the complaint to the Board.

OPTION 2. I do dispute the allegations of material fact contained in the Administrative Complaint and request this to be considered a petition for formal hearing, pursuant to Sections 120.569(2)(a) and 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings. Pursuant to the requirement of Uniform Rule 28-106.2015(5), Florida Administrative Code, I specifically dispute the following material facts (identified by paragraph number and fact disputed) in the Administrative Complaint:

Paragraphs 5 through and including paragraph 11; Paragraphs 13 through and including paragraph 15; Paragraph 18 and 19

PLEASE NOTE: If the Department does not receive your completed election of rights within 21 days of your receipt of the Administrative Complaint, your request for hearing will be denied.

Respondent's Signature

Address: 8198 706 Road SFE 202 BOYUTON BEACH, FL 33472

Lic. No.: AP 3526

Phone No.: 561-244-5424 Fax No.: 561-742-7555

Email: jim@greenadvised.com

Attorney/Qualified Representative*

Address:

Phone No.:

Fax No.:

Email:

*Qualified Representatives must file written requests to appear as such pursuant to Rule 28-106.106, Uniform Rules of Procedure.

PLEASE MAIL AND/OR FAX COMPLETED FORM TO: PLEASE MAIL AND/OR FAX COMPLETED FORM TO: Rose Garrison, Assistant General Counsel, DOH, Prosecution Services Unit, 1052 Bald Cypress Way, Bin C-65, Tallahassee, Florida 32399-3265. Telephone Number: (850) 558-9802; FAX (850) 245-4654; TDD 1-800-955-8771

DOH v. James Green, A.P. Rev. 2/2020



David J. Green Commission # GG129378 Expires: August 11, 2021 Bonded thru Aaron Notari

Case No. 2017-18975



STATE OF FLORIDA

DEPARTMENT OF HEALTH



INVESTIGATIVE REPORT

Office: West Palm Beach - Area IX		Date of Complaint: 10/24/17	Case Number: 201718975
Subject: JAMES WILLIAM GREEN 6957 Finamore Circle Lake Worth, FL 33467 (561) 293-2438		Source: PN	
Profession: Acupuncturist		License Number and Status: AP3526 Clear Active	
Related Case(s): None		Period of Investigation and Type of Report: 11/15/17 - 11/20/17 Supplemental 2	
Alleged Violation: See Final Report			
Synopsis: This supplemental report is predicated upon the receipt of a written response from attorney, GREGORY A. CHAIRES, attorney for JAMES WILLIAM GREEN (Exhibit #S2-1), and a curriculum vitae for GREEN (Exhibit #S2-2). <u>A copy of the final investigative report is requested.</u>			
EXHIBITS: S2-1 Written response from attorney, GREGORY A. CHAIRES - Pages 2-4 S2-2 Curriculum vitae for JAMES WILLIAM GREEN - Pages 5-7			
Investigator/Date: 11/20/17		Approved By/Date:	
 RYAN SNELLINGS, Medical Malpractice Investigator, WI-126		 CHERYL KING, Investigator Supervisor, WI-136	
Distribution: HQ/ISU			Page 1

**CHAIRES
BROODERSON
& GUERRERO**
ATTORNEYS AT LAW

GREGORY A. CHAIRES, ESQ. ♦
RICHARD J. BROODERSON, ESQ. ♦*
JOANN M. GUERRERO, ESQ. °

♦ BOARD CERTIFIED IN HEALTH LAW
* PH.D. IN PHARMACOLOGY
° LICENSED HEALTH CARE RISK MANAGER

283 CRANES ROOST BLVD. ♦ SUITE 165
ALTAMONTE SPRINGS, FLORIDA 32701
TELEPHONE 407 834 2777
FACSIMILE 407 834 2778
WWW.CHLAWYERS.COM

Email: GChaires@chlawyers.com

November 15, 2017

VIA EMAIL TRANSMITTAL

Mr. Ryan Snellings
Department of Health
900 US Highway One, Ste. 207
Jupiter, FL 33477

Re: Department of Health vs. James Green, AP, DOM, Dipl. OM
DOH Case No, 2017-18975

Dear Mr. Snellings:

Please accept this letter as our initial response on behalf of James Green, AP, DOM, Dipl. OM, regarding the above referenced Department of Health (the "Department") investigation. The investigation was initiated after the Department received a complaint from Patient P.N. (the "Patient"), alleging that Dr. Green engaged in sexual misconduct. As you will see from the discussion below, Dr. Green in no way violated Florida law or engaged in any misconduct. Therefore, this matter should be dismissed with a finding of no probable cause and the investigation closed.

This matter involved the care of a 63 year old female patient who initially presented to Dr. Green at Green Acupuncture & Integrative Medicine in Boynton Beach on October 19, 2017. The Patient was given a packet to complete prior to consultation and treatment. In the provided forms, the Patient reported a history of dizziness, lower back/neck pain, reduced sexual energy, migraines, shoulder and neck tension, insomnia, indigestion, diarrhea, heartburn, abdominal bloating, sinus congestion, fatigue, sciatica/nerve pain, bursitis and hysterectomy. Additionally, the Patient wrote on an intake sheet that she was in pain and had "electricity feeling through body aching down spine, knees, shoulders, hands, feet stiff and sore when move." The Patient stated that she had previously treated her pain with opiates and water aerobics.

The Patient was shown into treatment room #1 by a staff member. Prior to initiating the consultation, Dr. Green reviewed the Patient's forms so as to understand the etiology of the Patient's complaints. He noted that the Patient's chief complaint was of back pain along her spine, as well as stress. He additionally noted the Patient's other areas of concerns, which included pain everywhere in her body, abdominal issues, bowel incontinence and pain in her shoulders, legs and hands. At that time, Dr. Green met with the Patient, who discussed the issues in her life that were bringing her stress. Such issues included that her husband was dying of leukemia and that they had plans to make a final trip to New Mexico during the following week, that her daughter was in leukemia remission and that she had constant body pain. The Patient reported having multiple loose bowel movements daily. During this discussion, the Patient was rocking in pain and seemed very nervous, so Dr. Green elected to initiate the examination and treatment. The Patient was given a gown to put on and told to ensure that it would be opened to the back. She was advised that patients kept their panties on, but that some would remove their bra to facilitate treatment of their shoulders and rolling cupping on the back, but that she could choose whether or not to remove her bra, based upon her own comfort level. Dr. Green then left the room while the Patient put on the

Where healthcare, law and business come together

Exhibit #S2-1

00002

gown, and asked the Patient to sit on the examination table and to let him know when she was ready for him to return to initiate the examination and treatment.

Upon subsequently entering the room, Dr. Green observed the Patient sitting on the examination table. He documented the Patient's tongue and pulse and then completed a focused physical examination. He untied the Patient's gown at her neck to evaluate the Patient's shoulder structure/distress, prior to the Patient laying down on the table, at which time the structure changes. While palpating the Patient's bare shoulder, Dr. Green held the gown to the Patient's shoulder. At no time did Dr. Green drop the Patient's gown or expose her breast(s). Dr. Green noted that the Patient's trapezius was very tight, that her left shoulder was tender (L115, LU2) and that her left and right shoulder was tender near ST13. The Patient then moved to a supine position on the table. Prior to initiating an abdominal exam, Dr. Green explained to the Patient that during the examination of the abdomen, a cloth drape would be utilized to protect her privacy. The drape was slid under the Patient's gown and over her panties, which covered her groin area. The drape was then tucked into the top of the Patient's panties. As the Patient had an excess layer of abdominal skin, it was necessary to reposition the drape to ensure that the area would not be compromised when needed. Dr. Green then initiated the abdominal exam, quadrant by quadrant: lower right, upper right, upper left and lower left. As part of the exam, Dr. Green slid the back of his hand down the abdomen to locate the superior border of the pubic symphysis. Dr. Green noted that the lower right quadrant was tender on palpation. Dr. Green additionally examined and palpated the Patient's lower extremities.

Dr. Green then completed acupuncture treatment part 1: Yintang, RN4, Rn 12 (B) St 25, St 13, St36, (L) LI15, LU2; infra-red lamp abdomen for twenty (20) minutes. The Patient was then moved to a prone position. Dr. Green completed palpation to cervical, shoulders, thoracic, lumbosacral, lower extremities - lower GB and BL channels with multiple tender points. (L) tender at approximately SI11. Prior to needling, Dr. Green completed rolling cupping to the bilateral aspects of the Patient's spine from C7 to L5. Next, Dr. Green completed acupuncture treatment part 2: (B) BL10, GB21, BL23, BL25, Yaoyan, BL60, (L) SI11 with infra-red lamp to the thoracic and lumbar area for twenty (20) minutes. Finally, Dr. Green performed a Chinese medical massage (tui na) from cervical area to feet, for ten (10) minutes. At no time did the Patient express to Dr. Green or any staff member that she felt uncomfortable or that she was in any way dissatisfied with the care she had received.

It is alleged in the Case Summary that Dr. Green engaged in sexual misconduct. However, upon review of the Patient's own complaint, "he did nothing that could be construed as sexual, but went way over the line of protecting a patient's privacy." More specifically, the Patient claims that Dr. Green pulled her gown down completely and exposed her breasts. She further alleges that Dr. Green was inappropriate in the manner in which he tucked a drape into her panties and pressed on her pelvic bone, when she felt that such may not have been necessary. Despite the allegations, Dr. Green provided appropriate care and treatment to the Patient and in no way engaged in any misconduct, sexual or otherwise. First, the Patient herself specifically has stated that she does not believe that there was any sexual component to the care she received. As such, any allegation of sexual misconduct is false and completely contradictory to the Patient's own complaint. Rather, this matter seems to stem from the Patient's discomfort with the examination itself. To best ensure that the Patient felt comfortable and secure, a gown and cloth drape was appropriately provided and utilized throughout the entire physical examination and treatment. Dr. Green categorically denies having exposed the Patient's breast or having acted inappropriately in any fashion. Moreover, with the Patient's comfort level at high priority, Dr. Green appropriately informed the Patient of what he was doing in advance of each portion of the examination. Dr. Green practices with his son, a fellow acupuncturist. It is their shared goal in their familial practice to create and maintain a safe and relaxing environment for all of their patients. They also use the utmost care to protect a patient's privacy. Dr. Green regrets that, despite his best efforts to ensure the Patient's comfort, that the Patient felt uncomfortable. Nevertheless, Dr. Green provided appropriate evaluation to the Patient and in no way engaged in misconduct of any kind.

We have enclosed the Curriculum Vitae of Dr. Green for your reference and review. As you can see, Dr. Green is an accomplished acupuncturist who is board certified in Acupuncture and Chinese Herbal medicine and holds a Diplomate in Oriental Medicine from the National Certification Commission for Acupuncture and Oriental

Medicine. Dr. Green received a Master's degree in Business Administration from Southern Methodist University and graduate training in Chinese Medicine from the Atlantic Institute of Oriental Medicine. He also received a Bachelor's degree in Electrical Engineering from Colorado State University and proudly served our nation in the United States Air Force as an Avionics Maintenance Officer, from which he was honorably discharged. Dr. Green is a very well educated and distinguished acupuncturist who provided appropriate care in this matter to the Patient and in no way violated Florida law.

Based on the foregoing, we respectfully request that the Probable Cause Panel of the Board of Acupuncture (the "Panel") dismiss this Complaint with a finding of no probable cause. Dr. Green provided appropriate evaluation and care and engaged in no misconduct of any kind. As such, any allegations to the contrary are not supportable by the record and this matter should be dismissed.

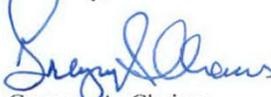
Please accept this letter as our renewed request for a copy of the complete investigative file generated by the Department in this matter pursuant to Section 456.073(10), Florida Statutes. We ask that the Department ensure that every document, report, letter, memo, and expert report acquired or generated during the investigation be included in the documents provided. This request specifically includes any and all correspondence between attorneys for the Department and the Department's investigators, experts, consultants or agents and representatives of the Department or Board of Acupuncture, as well as the investigative report and recommendation being made by the Department as required under Section 456.073(2), Florida Statutes.

To the extent not specifically identified above, this request included a copy of each and every document that will be provided to the Panel that will be reviewing this matter to determine whether probable cause exists to support the issuance of an administrative complaint. In the event that any part of the investigative file is not provided for any reason, demand is hereby made that all documents not provided be identified and the specific reason for their exclusion be stated in writing. This request is not intended nor should be construed as a waiver of any right to confidentiality during the course of this investigation. Dr. Green agrees to keep any information obtained pursuant to this request confidential.

It is our request that this matter not be referred to the Probable Cause Panel but to the extent that the investigation moves forward with a recommendation for closure and the Probable Cause Panel accepts the recommendation, we will not require an opportunity to review the material being presented, and only in that circumstance will we withdraw our request for inspection of the complete investigative file.

Thank you for permitting us the opportunity to provide this initial response on behalf of Dr. Green. Should you have any further questions, or if we can be of any additional assistance during the course of the Department's investigation, please do not hesitate to contact me.

Sincerely,



Gregory A. Chaires
JoAnn M. Guerrero

Enclosure

Curriculum Vitae of James Green, AP, DOM, Dipl. OM

cc: James Green, AP, DOM, Dipl. OM (without enclosure)
Mr. David Clark (via email transmittal without enclosure)

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Curriculum Vitae

James W Green, L.Ac, Dipl.OM
Acupuncture Physician

Education

Atlantic Institute of Oriental Medicine September 2011 – August 2014
(ATOM) Fort Lauderdale, FL

Degree: 3000+ hour program including Master's in Oriental Medicine
Clinical hours in acupuncture, herbal Bachelor of Science, Health Sciences
medicine, nutrition, and Western sciences.

Professional Certifications & Affiliations

- Acupuncture Physician of Oriental Medicine, Florida State Board of Medical Quality Assurance
- Licensed Acupuncturist #AP3526
- Diplomate in Chinese Herbology, National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
- Diplomate in Acupuncture, National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)
- Acupoint Injection Therapy
- National Provider Identification (NPI) #1265833982
- Oriental Medicine Association of Florida (FSOMA)

Clinical Experience

Green Acupuncture & Integrative Medicine (private practice, Boynton Beach, FL), 3 years of clinical practice using acupuncture, Chinese herbal preparations, physical therapy (Tui na), cupping, electro-acupuncture, moxibustion and acupoint injection therapy. 2014 – Present.

Beachcombers (Rehabilitation Clinic, Delray Beach, FL), 3 years of clinical practice in the treatment of alcohol and drug abuse using auricular acupuncture. 2014 – Present.

Beachcombers (Rehabilitation Clinic, Fort Lauderdale FL), 3 years of clinical practice in the treatment of alcohol and drug abuse using auricular and body acupuncture. 2014 - Present

Traditional Chinese Medicine, 900 hours of clinical practice and observation using acupuncture, herbs and manual physical therapy (Tui na), emphasizing pulse

diagnosis, palpation skills, and meridian style treatment: ATOM medical staff supervised.

Traditional Herbal Prescriptions, 900 hours of clinical practice in diagnosis and treatment using custom formulation of traditional Chinese herbal preparations: ATOM medical staff supervised.

Continuing Education

Orthopedic Testing & Acupuncture Strategies: Hip and Shoulder 10/2016
Lotus Institute of Integrative Medicine

Medical Errors 01/2016
Options for Wellness

HIV / AIDS Review 01/2016
Options for Wellness

Department of Transportation (DOT) 10/2015
Drug Collector & DOT Alcohol BAT Training
Florida State Oriental Medical Association

Department of Transportation (DOT) 10/2015
Medical Examiner Training
Florida State Oriental Medical Association

Understanding and Treating the Breast Cancer 12/2014
Patient: Integration On All Levels
Academy for Five Element Acupuncture

Other Education

Southern Methodist University, Dallas, TX 1992 - 1994
Masters, Business Administration (MBA)

Colorado State University, Fort Collins, CO 1965 - 1970
Bachelor of Science, Electrical Engineering

Work / Professional Experience

Green Acupuncture & Integrative Medicine, Boynton Beach, FL 2014 -
Acupuncture Physician Present

J & C Enterprises, owner, consulting. 2008 - 2011

Work / Professional Experience (Continued)

Ricoh Corporation: 2001 - 2008
National Director of Sales, direct printer business, Atlanta, GA
Regional Manager of Sales, Lanier network printer business, Atlanta, GA

Xerox Corporation: 1980 - 2001
Area Director of Sales, Office Printing Business, Atlanta, GA
Marketing Operations Manager, Dallas, TX
Customer Marketing Manager, Government Segment, Rochester, NY
Regional Sales Manager, Printing System Solutions Division, Dallas, TX
Regional Marketing Manager, Host Software, Dallas, TX
District Systems Sales Manager, Office Document Solutions, Tulsa, OK
Sales Representative, Printing Systems Solutions Division, Kansas City, MO

IBM Corporation: 1972 - 1980
Marketing Representative, Kansas City, MO

US Airforce, Dover AFB, DE 1970 - 1972
Avionic Maintenance Officer

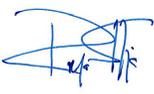


STATE OF FLORIDA

DEPARTMENT OF HEALTH

INVESTIGATIVE REPORT



Office: West Palm Beach - Area IX		Date of Complaint: 10/24/17	Case Number: 201718975
Subject: JAMES WILLIAM GREEN 6957 Finamore Circle Lake Worth, FL 33467 (561) 293-2438		Source: PN	
Profession: Acupuncturist		License Number and Status: AP3526 Clear Active	
Related Case(s): None		Period of Investigation and Type of Report: 10/31/17 - 11/02/17 Supplemental 1	
Alleged Violation: See Final Report			
Synopsis: This supplemental report is predicated upon the receipt of a letter of representation from attorney, GREGORY A. CHAIRES, attorney for JAMES WILLIAM GREEN (Exhibit #S1-1). <u>A copy of the final investigative report is requested.</u>			
<u>EXHIBITS:</u> S1-1 Letter of representation from attorney, GREGORY A. CHAIRES - Page 2			
Investigator/Date: 11/02/17		Approved By/Date: 11/02/17	
 RYAN SNELLINGS, Medical Malpractice Investigator, WI-126		 CHERYL KING, Investigator Supervisor, WI-136	
Distribution: HQ/ISU			Page 1

**CHAIRES
BROODERSON
& GUERRERO**
ATTORNEYS AT LAW

GREGORY A. CHAIRES, ESQ. ♦
RICHARD J. BROODERSON, ESQ. ♦*
JOANN M. GUERRERO, ESQ. °

♦ BOARD CERTIFIED IN HEALTH LAW
* PH.D. IN PHARMACOLOGY
° LICENSED HEALTH CARE RISK MANAGER

283 CRANES ROOST BLVD. ♦ SUITE 165
ALTAMONTE SPRINGS, FLORIDA 32701
TELEPHONE 407 834 2777
FACSIMILE 407 834 2778
WWW.CHLAWYERS.COM

Email: GChaires@chlawyers.com

October 31, 2017

VIA EMAIL

Mr. Ryan Snellings
Department of Health
900 US Highway One, Ste. 207
Jupiter, FL 33477

Re: Department of Health vs. James Green
DOH Case No, 2017-18975

Dear Mr. Snellings:

Please be advised that the undersigned represents James Green, in the above-referenced Department of Health (the "Department") investigation. We are in the process of reviewing the allegations and will submit an initial response to the investigation in the near future. All further communications in this matter should be directed through this office.

Please accept this letter as a request for a copy of the complete investigative file pursuant to Section 456.073(10), Florida Statutes. We ask that the Department ensure that every document, report, letter, memo, and expert report acquired or generated during the investigation be included in the documents provided. This request is not intended nor should be construed as a waiver of any right to confidentiality during the course of this investigation. Mr. Green agrees to keep any information obtained pursuant to this request confidential.

Should you have any further questions, or if we can be of any additional assistance during the course of the Department's investigation, please do not hesitate to contact us.

Sincerely,
Gregory A. Chaires
Gregory A. Chaires
Signed electronically to avoid delay

GAC/jc

cc: James Green,
Mr. David Clark (via email)



STATE OF FLORIDA

DEPARTMENT OF HEALTH



INVESTIGATIVE REPORT

Office: West Palm Beach - Area IX		Date of Complaint: 10/24/17	Case Number: 201718975
Subject: JAMES WILLIAM GREEN 6957 Finamore Circle Lake Worth, FL 33467 (561) 293-2438		Source: PN	
Profession: Acupuncturist		License Number and Status: AP3526 Clear Active	
Related Case(s): None		Period of Investigation and Type of Report: 10/26/17 - 10/30/17 Final	
Alleged Violation: § 456.072(1)(k)(v)(dd), 457.109(1)(h)(j)(x), F.S.			
<p>Synopsis: This investigation is predicated upon receipt of a complaint form submitted by PN (63 y/o female) regarding JAMES WILLIAM GREEN, alleging during treatment, GREEN pulled PN'S gown down completely exposing her breasts. While examining her abdomen, GREEN tucked a drape into her underwear, lifted them very high and looked down them. GREEN informed PN that he needed to push her pelvic bone, which is next to her vagina. PN alleges GREEN did this bare handed and under her underwear (Exhibit #1).</p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Subject Responded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Patient Notification Completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Above referenced licensure checked in database/LEIDS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Board certified? Name of Board: </p> <p> Law Enforcement <input checked="" type="checkbox"/> Notified Date: 10/25/17 <input type="checkbox"/> Involved Agency: PALM BEACH COUNTY SHERIFF'S OFFICE (PBSO) </p> <p> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Subject represented by an attorney? Attorney information: </p>			
Investigator/Date: 10/30/17  RYAN SNELLINGS, Medical Malpractice Investigator - WI-126		Approved By/Date: 10/30/17  CHERYL KING, Investigator Supervisor - WI-136	
Distribution: HQ/ISU			Page 1

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2. Subject Notification Letter, dated 10/26/17 11

* 3. Subpoena Duces Tecum #A0102001 to JAMES WILLIAM GREEN 12-14

* 4. PN’S medical records received from JAMES WILLIAM GREEN 15-17

* 5. Confidential Patient Index 18

*Exhibits contain information which identifies patient(s) by name and are sealed pursuant to section 456.057(9)(a) Florida Statutes.

INTERVIEW OF PN (Source)

On 10/26/17, this investigator interviewed PN by telephone and she stated:

- PN stated she did not want to notify law enforcement.
- PN stated she did not believe JAMES WILLIAM GREEN did anything criminal; however, he violated her privacy.
- PN stated she had never been to an acupuncturist before her appointment with GREEN.
- PN stated this was her first appointment with GREEN.
- PN stated GREEN was going to treat her for pain.
- PN stated GREEN gave her a consultation before the acupuncture treatment.
- PN stated while GREEN was examining her collarbones, he moved the drape below her breasts and then put the drape back when he was finished.
- PN stated there was no reason to move the drape below her breasts to examine her collarbones.
- PN stated GREEN tucked the drape into her underwear, lifted her underwear really high, leaned over and looked inside of her underwear.
- PN stated there was no reason to lift her underwear and it was obvious GREEN was looking inside of her underwear.
- PN stated she was lying on her stomach when GREEN moved her underwear to the side and pressed on her pelvic bone.
- PN stated GREEN was talking to her and explaining his techniques during the treatment.
- PN stated GREEN never talked in a sexual nature during her appointment.
- PN stated GREEN never touched her breasts or vagina.
- PN stated her appointment, including the consultation, lasted about an hour and a half.
- PN stated she left her appointment in a state of shock.
- PN stated she cancelled her next appointment with GREEN and never returned.
- PN stated she has not been to another acupuncturist because of what occurred with GREEN.
- PN stated she does not know if there are any cameras at GREEN'S practice.
- PN stated she went into the first room on the right for her appointment with GREEN.
- PN stated she would be willing to testify at the Division of Administrative Hearings (DOAH).

INTERVIEW OF JAMES WILLIAM GREEN (Subject)

Green Acupuncture & Integrative Medicine

8198 Jog Rd., Suite 203

Boynton Beach, FL 33472

(561) 244-5424 (w), 404-788-4608 (c)

On 10/26/17, investigator CHARLES COX interviewed GREEN at GREEN ACUPUNCTURE & INTEGRATIVE MEDICINE in Boynton Beach, FL and he stated:

- GREEN stated, "I just saw this patient (PN) a few days ago; then she just cancelled an appointment.
- GREEN stated, "What she (PN) is alleging is part of my routine examination."

INVESTIGATOR'S NOTE:

- On 10/25/17, this investigator contacted the PALM BEACH COUNTY SHERIFF'S OFFICE (PBSO) (ANGELA) by telephone and reported the sexual misconduct allegations. PBSO advised this investigator the report was documented and to contact the victim, PN, to report the complaint to PBSO for investigation. PBSO advised this investigator to proceed with his investigation if PN refused to report the complaint. PBSO advised "if there is no victim then there is no crime".
- On 10/26/17, investigator CHARLES COX hand delivered the subject notification letter to JAMES WILLIAM GREEN (Exhibit #2). This investigator will complete a supplemental report if a response is received from GREEN.
- On 10/30/17, this investigator contacted GREEN ACUPUNCTURE & INTEGRATIVE MEDICINE by telephone and spoke with JANICE and she stated she does not remember PN and referred this investigator to GREEN.
- The original Certification of Completeness of Patient Records (Obtained by Subpoena) from GREEN was sent up separately by FedEx.

CONFIDENTIAL AND EXEMPT MATERIALS

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**Scroll down to see the available pages or
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SOME OR ALL PAGES IN THIS DOCUMENT ARE PATIENT RECORDS
AND/OR DOCUMENTS THAT IDENTIFY THE PATIENT BY NAME AND ARE
EXEMPT FROM PUBLIC RECORDS LAWS.

456.057 - Ownership and control of patient records; report or copies of records to be
furnished.—

10)(a)All patient records obtained by the department and any other documents
maintained by the department which identify the patient by name are confidential and exempt
from s. 119.07(1) and shall be used solely for the purpose of the department and the appropriate
regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The
records shall not be available to the public as part of the record of investigation for and
prosecution in disciplinary proceedings made available to the public by the department or the
appropriate board.

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

Celeste Philip, MD, MPH
Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation

October 26, 2017

CONFIDENTIAL TO:

JAMES WILLIAM GREEN
6957 FINAMORE CIRCLE
LAKE WORTH, FL 33467

Case Number: 201718975

Dear Mr. GREEN:

We are currently investigating the enclosed document received by the Department of Health. This investigation was initiated after it was determined that you may have violated the ACUPUNCTURIST Practice Act.

Within **20 days** of receiving this letter, you may:

- * submit a **written response** to the address below; or
- * call our office to schedule an **interview**.

Please provide a copy of your **curriculum vitae** and identify your **specialty** even if you choose not to submit a response. Include the above-referenced case number in any correspondence that you send.

Florida law requires that this case and all investigative information remain confidential until 10 days after the Probable Cause Panel has determined that a violation occurred or you give up the right to confidentiality. Therefore, the contents of the investigation cannot be disclosed to you or the general public. You may make a written request for a copy of the investigative file and it will be sent to you when the investigation is complete.

You are not required to answer any questions or give any statement, and you have the right to be represented by an attorney. It is not possible to estimate how long it will take to complete this investigation because the circumstances of each investigation differ.

The mission of the Department of Health is to protect, promote & improve the health of all people in Florida through integrated state, county and community efforts. If you have any questions, please call me at (561) 741-4586.

Sincerely,

Ryan Snellings
Medical Malpractice Investigator

Enclosure (Case Summary, Complaint Form, Initiating Documents)

RS

Florida Department of Health
Division of Medical Quality Assurance
900 S. U.S. Highway One, Suite 207 • Jupiter, FL 33477
PHONE: 561/741-4586 • FAX: 561/741-4581
FloridaHealth.gov
Ryan.Snellings@flhealth.gov



INV Form 354, Revised 10/10, 6/07, Created 10/07

Exhibit #2

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CONFIDENTIAL AND EXEMPT MATERIALS

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Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

STATE OF FLORIDA
BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.
JAMES WILLIAM GREEN, A.P.
RESPONDENT.

CASE NO: 2017-18975

NOTICE OF HEARING

TO: James William Green, A.P.
8198 Job Road, Suite 203
Boynton Beach, Florida 33472

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

The purpose of the hearing is to consider a motion for: **Settlement Agreement**

Note: Cases shown on the agenda may be heard in a different order. Cases are scheduled beginning at 9:00 a.m.; therefore, it is imperative that you arrive promptly and be prepared to be at the meeting until your case is heard. If you have any questions regarding this matter, please contact Rose Garrison at (850) 245-4444 or by e-mail at Rose.Garrison@flhealth.gov.

A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 12th day of October 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

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BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.
JAMES WILLIAM GREEN, A.P.
RESPONDENT.

CASE NO: 2017-18975

NOTICE OF HEARING

TO: James William Green, A.P.
6957 Finamore Circle
Lake Worth, Florida 33467

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Board of Acupuncture

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DEPARTMENT OF HEALTH,
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JAMES WILLIAM GREEN, A.P.
RESPONDENT.

CASE NO: 2017-18975

NOTICE OF HEARING

TO: Gregory A. Chaires, Esq.
283 Cranes Roost Blvd., Suite 165
Altamonte Springs, Florida 32701

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Monday, November 2, 2020, commencing at 8:30 a.m. Your client is **NOT REQUIRED** to be present at this meeting. This hearing will take place by video conference <https://global.gotomeeting.com/join/878296725> or you may call-in to attend the meeting. The conference number is **1-877-309-2073** and the access code is **878-296-725**.

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Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

From: [Peace, Christa](#)
To: "gchaires@chlawyers.com"
Subject: Notice of Hearing
Date: Tuesday, October 13, 2020 10:42:53 AM
Attachments: [James Green 2017-18975-2.pdf](#)
[James Green 2017-18975.pdf](#)
[James Green 2017-18975-1.pdf](#)

Greetings,

Your client's Settlement Agreement will be heard at the November 2, 2020, Board of Acupuncture video/teleconference meeting. Your client is not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

Regulatory Specialist III
Department of Health/MQA/HCPH
Board of Acupuncture,
Board of Osteopathic Medicine,
Board of Speech-Language Pathology & Audiology
Direct Line (850) 617-1964
Direct Fax (850) 921-6184
Christa.peace@flhealth.gov

How am I communicating? Please contact my supervisor at [Carol Taylor](#) with any questions or concerns to comment on my customer service.



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Focus: To be the nation's leader in quality health care regulation.

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BOARD OF ACUPUNCTURE

DEPARTMENT OF HEALTH,
PETITIONER,

VS.

CASE NO: 2017-21842

CHRISTY JO GILLESPIE, A.P.
A.K.A. CHRISTY GIALLOURAKIS, A.P.
RESPONDENT.

NOTICE OF HEARING

TO: Christy Jo Gillespie, A.P.
5634 Kingfish Dr.
Lutz, Florida 33558

PLEASE TAKE NOTICE that a disciplinary hearing will be heard before the Board of Acupuncture on Friday, September 25, 2020, commencing at 9:00 a.m. You are **NOT REQUIRED** to be present at this meeting. This hearing will be held by teleconference. The conference number is **1-888-585-9008** conference code: **360-472-368**.

The purpose of the hearing is to consider a motion for: **Motion to Vacate Final Order**

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A copy of the agenda may be obtained a week prior to the meeting by visiting our website at <http://floridasacupuncture.gov/meeting-information/>.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been forwarded by U.S. Mail to the above address this 25th day of August 2020.

Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

From: [Peace, Christa](#)
To: ["omedicine@att.net"](mailto:omedicine@att.net)
Subject: Notice of Hearing
Date: Tuesday, August 25, 2020 2:25:17 PM
Attachments: [Christy Jo Cillespie aa.pdf](#)

Greetings,

Your Motion to Vacate Final Order will be presented at the September 25, 2020, Board of Acupuncture teleconference meeting. You are not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

Regulatory Specialist III
Department of Health/MQA/HCPR
Board of Acupuncture,
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From: [Peace, Christa](#)
To: "omedicine@att.net"
Subject: RE: Notice of Hearing
Date: Wednesday, September 23, 2020 10:52:26 AM

Dr. Gillespie,

Due to the lack of quorum, your motion to vacate the final order will be placed on the December 4, 2020, Board of Acupuncture agenda. We do apologize for any inconvenience this may have caused.

Sincerely,

Christa Peace, Regulatory Specialist III

From: Peace, Christa
Sent: Tuesday, August 25, 2020 2:25 PM
To: 'omedicine@att.net' <omedicine@att.net>
Subject: Notice of Hearing

Greetings,

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Sincerely,

Christa Peace
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Department of Health/MQA/HCP
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CASE NO: 2017-21842

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A.K.A. CHRISTY GIALLOURAKIS, A.P.
RESPONDENT.

NOTICE OF HEARING

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Christa Peace

Christa Peace
Regulatory Specialist III
Board of Acupuncture

Florida Department of Health

Division of Medical Quality Assurance • Bureau of HCPR
4052 Bald Cypress Way, Bin C06 • Tallahassee, FL 32399-3256
PHONE: (850) 245-4161



Accredited Health Department
Public Health Accreditation Board

From: [Peace, Christa](#)
To: ["Christy Gillespie"](#)
Subject: Notice of Hearing
Date: Friday, October 9, 2020 3:50:53 PM
Attachments: [Christy Jo Gillespie 2017-21842.pdf](#)

Greetings,

Your Motion to Vacate Final Order will be presented at the November 2, 2020, Board of Acupuncture video/teleconference meeting. You are not required to attend the meeting. Please see the attached correspondence.

Sincerely,

Christa Peace

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