

att

By: Shirley McLean
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2005-53109
LICENSE NO.: ME0069516

JOSE MIGUEL SANTEIRO, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 3, 2006, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarifications:


1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$4,613.29.
2. The Probation required by Paragraph 9 of the Stipulated Disposition shall be clarified to require that Respondent make quarterly appearances before the Board's Probation Committee.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 19 day of JUNE, 2006.

BOARD OF MEDICINE


Larry McPherson, Jr., Executive Director
for MAMMEN P. ZACHARIAH, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to JOSE MIGUEL SANTEIRO, M.D., 7775 NE 168th Terrace, Miami Lakes, Florida 33016; and by interoffice delivery to John Terrel and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 20th day of June, 2006.


Deputy Agency Clerk

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

PRACTITIONER REGULATION
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DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2005-53109

JOSE MIGUEL SANTEIRO, M.D.

Respondent.

SETTLEMENT AGREEMENT

Jose Miguel Santeiro, M.D. referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is a state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 69516.

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2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the ~~jurisdiction of the Department and the Board.~~

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, 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.*

STIPULATED DISPOSITION

1. **Reprimand** - The Board shall reprimand the license of Respondent.

2. **Fine** - The Board of Medicine shall impose an administrative fine of (\$20,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee,

Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes but shall not exceed five thousand five hundreds (\$5,500.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320,

Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Laws And Rules Course** - Respondent shall complete the Laws and Rules Course, administered by the Florida Medical Association, within one (1) year of the date of filing of the Final Order of the Board. In addition, 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 this medical education course within one (1) year of the date of filing of the Final Order incorporating this Agreement. **All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any**

audit or discussion with counsel for the Department. These hours shall be in addition to those required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education courses shall consist of a live, lecture format.

5. **Drug Course** - Respondent shall complete the course, "Protecting Your Medical Practice, Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs," sponsored by the University of South Florida, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

6. **Records Course** - Respondent shall complete the course, "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical Association, or a Board-approved equivalent, within one year of the date of filing of the Final Order.

7. **Community Service** - Respondent shall perform 100 hours of community service, within one year of the date of filing of the Final Order. Community Service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of

community service requirements shall be filed with the Board as required by the Probation Committee.

8. **Continuing Medical Education - "Risk Management"** -

Respondent shall complete five (5) hours of Continuing Medical Education in "Risk Management" within one (1) year of the date of filing of the Final Order.

9. **Probation Language** - Effective on the date of the filing of the Final

Order incorporating the terms of this Agreement, Respondent's license to practice medicine shall be placed on probation for a period of 1 year. The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

(A) **Restrictions During Probation** - During the period of probation, Respondent's license shall be restricted as follows:

i. **Indirect Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as Respondent, however, the monitor

shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board Certified in Respondent's specialty area unless otherwise provided by the Board. In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. **Required Supervision:**

a) If the terms of the Settlement Agreement include indirect monitoring of the licensee's practice or direct monitoring of the licensee's practice, Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Agreement, unless otherwise ordered by the Board.

b) The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary

action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board and be practicing within a reasonable distance of Respondent's practice, a distance of twenty (20) miles unless otherwise specifically provided for in the Settlement Agreement. The Board may also reject any proposed monitor/supervisor for good cause shown.

ii. **Mechanism For Approval Of Monitor/Supervisor:**

a) **Temporary Approval** - The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's monitor/supervisor. To

obtain this temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor at the time this agreement is considered by the Board. **Once a Final Order adopting the Agreement is filed, Respondent shall not practice medicine without an approved monitor/supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

b) **Formal Approval** - Respondent shall have the monitor/supervisor with Respondent at Respondent's first

probation appearance before the Probation Committee. Prior to the consideration of the monitor/supervisor by the Probation Committee, Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vita and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Probation Committee. It shall be Respondent's

responsibility to ensure the appearance of the monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Settlement Agreement and shall subject Respondent to disciplinary action.

v. **Change In Monitor/Supervisor** - In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill the responsibilities of a monitor/supervisor as described above, Respondent shall immediately advise the Probation Committee of this fact. Respondent shall immediately submit to the Chairman of the Probation Committee the name of a temporary monitor/supervisor for

consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Probation Committee. Respondent shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the issue of the Probation Committee's approval of Respondent's new monitor/supervisor shall be addressed.

vi. **Responsibilities Of The Monitor/Supervisor** - The Monitor shall:

a) Review 25 percent of Respondent's active patient records and go to Respondent's office every month to review calendar/patient log and select records for review.

1) Receive and review copies of all schedule II & III controlled substance prescriptions.

b) Submit reports on a quarterly/semiannual basis, in affidavit form, which shall include:

1) A brief statement of why Respondent is on probation;

2) A description of Respondent's practice (type and composition);

3) A statement addressing Respondent's compliance with the terms of probation;

4) A brief description of the monitor's relationship with Respondent;

5) A statement advising the Probation Committee of any problems which have arisen; and

6) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed, and the dates Respondent contacted the monitor pursuant to subsection c), 3), above.

e) Report immediately to the Board any violations by Respondent of Chapters 456 or 458, Florida Statutes, and the rules promulgated thereto.

f) Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other

times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of Respondent's monitor to appear as requested or directed. If the approved monitor fails to appear as requested or directed by the Probation Committee, **Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.**

vii. **Reports From Respondent** - Respondent shall submit quarterly/semiannual reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

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- a) A brief statement of why Respondent is on probation;
 - b) A description of practice location;
 - c) A description of current practice (type and composition);
 - d) A brief statement of compliance with probationary terms;
 - e) A description of the relationship with monitoring physician;
 - f) A statement advising the Board of any problems which have arisen; and

g) A statement addressing compliance with any restrictions or requirements imposed.

viii. **Continuity Of Practice:**

a) **Tolling Provisions** - In the event Respondent leaves the State of Florida for a period of thirty days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

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- 1) The time period of probation shall be tolled;
 - 2) The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled;
 - 3) The provisions regarding preparation of investigative reports detailing compliance with this Settlement Agreement shall be tolled; and
 - 4) Any provisions regarding community service shall be tolled.

ix. **Controlled Substances** - Respondent may prescribe Schedule controlled substances only in compliance with the restrictions set forth below:

a) Respondent shall utilize sequentially numbered triplicate prescriptions;

b) Respondent shall immediately provide one copy of each prescription to the monitor/supervisor;

c) Respondent shall provide one copy of each prescription to the Department's investigator within one month after issuing said prescription; and

d) Respondent shall maintain one copy of each prescription in the patient's medical records. This copy may be a xerox copy.

x. Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting at which Respondent's appearance is required. Failure of Respondent to appear as requested or directed or failure of Respondent to comply

with **any** of the terms of this agreement shall be considered a violation of the terms of this Agreement, and shall subject Respondent to disciplinary action.

ii. Respondent shall be responsible for ensuring that the monitor submits all required reports.

STANDARD PROVISIONS

10. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

11. **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 (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.~~

12. **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.

13. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 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 medicine. Prior to signing this agreement, the Respondent shall read

Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

14. **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 458, Florida Statutes.

15. **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.

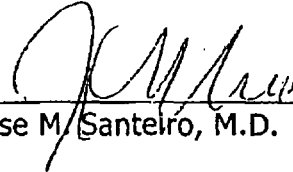
16. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board

and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

17. **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.

18. **Waiver of further procedural steps** - 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.

SIGNED this 30 day of March, 2006.

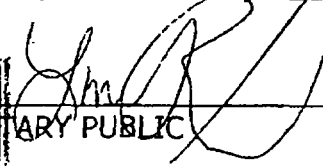


Jose M. Santelero, M.D.

Before me, personally appeared Jose Santelero, whose identity is known to me by Florida Driver License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 30 day of March, 2006.






NOTARY PUBLIC

My Commission Expires

APPROVED this 3rd day of April, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health


By: Diane K. Kiesling
Assistant General Counsel
Department of Health

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FEB 28 2006

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2005-53109

JOSE MIGUEL SANTEIRO, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

~~COMES NOW,~~ Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against Respondent, Jose Miguel Santeiro, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed medical doctor within the state of Florida, having been issued license number ME 69516.

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3. Respondent's address of record is 7775 NE 168th Terrace, Miami Lakes, Florida 33016.

4. Respondent is not board certified.

5. From on or about February 2, 2002, to May 19, 2005, Respondent was employed as the Medical Director of the Ruth Cooper Center for Behavioral Health Care (the Center) in Fort Myers, Florida.

6. While so employed, Respondent wrote prescriptions for employees SM and SS, as well as two of SS's children. These prescriptions included controlled substances.

7. Specifically, between March 11, 2004 and May 10, 2005,

Respondent wrote ten (10) prescriptions containing codeine (seven (7) of which also contained butalbital) for SS, containing a total of 630 tablets (390 of which also contained butalbital). He also wrote prescriptions for SS for oxycodone eight (8) times for a total of 566 tablets. Respondent also wrote prescriptions for SS for hydrocodone three (3) times for a total of 240 tablets.

8. Oxycodone is a semi-synthetic opiate that contains oxycodone hydrochloride, a schedule II controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the relief of moderate to severe pain. Oxycodone has a high potential for abuse and has a currently

accepted but limited medical use in treatment in the United States. Abuse of this substance may lead to severe physical and psychological dependence.

9. Hydrocodone bitartrate is a schedule III controlled substance listed in Chapter 893, Florida Statutes, which is indicated for the relief of moderate to moderately severe pain. The abuse of hydrocodone bitartrate can lead to physical and psychological dependence.

10. Codeine in the dosages prescribed by Respondent is a schedule III controlled substance under Chapter 893, Florida Statutes. It is used for the relief of mild to moderate pain. A substance listed in schedule III has a potential for abuse less than substances contained in schedule I and II and has a currently accepted medical use in treatment in the United States. Abuse of a schedule III substance may lead to moderate or low physical dependence and/or high psychological dependence.

11. Butalbital is listed in Chapter 893, Florida Statutes, as a schedule III controlled substance. Butalbital is a long-acting barbituate derivative. Barbituates are a class of central nervous system depressants. Abuse of this substance may lead to limited physical or psychological dependence.

12. On or about March 3, 2005, Respondent wrote a prescription for SS's minor child, TS, for hydrocodone and on or about May 9, 2005, Respondent wrote a prescription for T.S. for oxycodone.

13. On or about May 9, 2005, Respondent wrote a prescription for SS's minor child, JS, for hydrocodone.

14. Respondent also wrote prescriptions for SM, another employee at the Center. Specifically, between November 16, 2004, and May 9, 2005, Respondent prescribed oxycodone to SM on four (4) occasions, for a total of 270 tablets.

15. All of these prescriptions were written on prescription pads in the name of the Ruth Cooper Center, but SS, TS, JS, and SM were not clients of the Center. Respondent performed no physical examination of SS, TS, JS, or SM before prescribing these controlled substances. He did not assess the complaints and symptoms of SS, TS, JS, or SM.

16. The controlled substances were not prescribed in the course of Respondent's professional practice and were written outside of a patient/physician relationship. Respondent maintained no medical records for SS, TS, JS, or SM and Respondent did not keep copies of the prescriptions. Finally, Respondent did not provide any clinical follow-up of SS, TS, JS, or SM.

17. When confronted by Center management with his prescribing history to SS, TS, JS, and SM, Respondent minimized the number of prescriptions written and rationalized his action by saying all the doctors at the Center were doing it. However, Respondent chose to resign his position effective May 19, 2005.

COUNT ONE

18. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.

19. Section 458.331(1)(t), Florida Statutes (2003, 2004), provides that gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances constitutes grounds for disciplinary action by the Board of Medicine.

20. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in one or more of the following ways:

a. By prescribing narcotic medication to SS, TS, JS, and SM without examining the patients;

- b. By prescribing narcotic medication to SS, TS, JS, and SM without maintaining records for the patients;
- c. By prescribing narcotic medication to SS, TS, JS, and SM without providing appropriate clinical follow-up to assess the response of the patients to the controlled substances;
- d. By prescribing narcotic medication to SS, TS, JS, and SM without assessing the complaints and symptoms of the patients; and
- e. By prescribing narcotic medication to SS, TS, JS, and SM without establishing a treatment plan for the patients.

21. Additionally, Rule 64B8-9.013, Florida Administrative Code

(FAC), which is part of the chapter of the Florida Administrative Code where the Board of Medicine establishes standards of care for physicians, provides in relevant part:

64B8-9.013 Standards for the Use of Controlled Substances for the Treatment of Pain.

(1) Pain management principles.

(a) The Board of Medicine recognizes that principles of quality medical practice dictate that the people of the State of Florida have access to appropriate and effective pain relief. The appropriate application of up-to-date knowledge and treatment modalities can serve to improve the quality of life for those patients who suffer from pain as well as reduce the morbidity and costs associated with untreated or inappropriately treated pain. The Board encourages physicians to view effective pain management as a part of quality medical practice for all patients with pain, acute or chronic, and it is especially important for patients who experience pain as a result of

terminal illness. All physicians should become knowledgeable about effective methods of pain treatment as well as statutory requirements for prescribing controlled substances.

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(c) The Board recognizes that controlled substances, including opioid analgesics, may be essential in the treatment of acute pain due to trauma or surgery and chronic pain, whether due to cancer or non-cancer origins. The medical management of pain including intractable pain should be based on current knowledge and research and includes the use of both pharmacologic and non-pharmacologic modalities. Pain should be assessed and treated promptly, and the quantity and frequency of doses should be adjusted according to the intensity and duration of the pain. Physicians should recognize that tolerance and physical dependence are normal consequences of sustained use of opioid analgesics and are not synonymous with addiction.

(d) The Board of Medicine is obligated under the laws of the State of Florida to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including opioid analgesics, may lead to drug diversion and abuse by individuals who seek them for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.

(e) The Board will consider prescribing, ordering, administering, or dispensing controlled substances for pain to be for a legitimate medical purpose if based on accepted scientific knowledge of the treatment of pain or if based on sound clinical grounds. All such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.

(f) Each case of prescribing for pain will be evaluated on an individual basis. The Board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these standards, if good cause is shown for such deviation. The physician's conduct will be evaluated to a great extent by the treatment outcome, taking into account whether the drug used is medically and/or pharmacologically recognized

to be appropriate for the diagnosis, the patient's individual needs including any improvement in functioning, and recognizing that some types of pain cannot be completely relieved.

(g) The Board will judge the validity of prescribing based on the physician's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors. The following standards are not intended to define complete or best practice, but rather to communicate what the Board considers to be within the boundaries of professional practice.

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(3) Standards. The Board has adopted the following standards for the use of controlled substances for pain control:

~~(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record should document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also should document the presence of one or more recognized medical indications for the use of a controlled substance.~~

(b) Treatment Plan. The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(c) Informed Consent and Agreement for Treatment. The physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The patient should receive prescriptions from one physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician should employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. Urine/serum medication levels screening when requested;
2. Number and frequency of all prescription refills; and
3. Reasons for which drug therapy may be discontinued (i.e., violation of agreement).

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The medical history and physical examination, including history of drug abuse or dependence, as appropriate;
2. Diagnostic, therapeutic, and laboratory results;
3. Evaluations and consultations;

4. Treatment objectives;
5. Discussion of risks and benefits;
6. Treatments;
7. Medications (including date, type, dosage, and quantity prescribed);
8. Instructions and agreements; and
9. Periodic reviews.

Records must remain current and be maintained in an accessible manner and readily available for review.

(g) Compliance with Controlled Substances Laws and Regulations. To prescribe, dispense, or administer controlled substances, the physician must be licensed in the state and comply with applicable federal and state regulations. Physicians are referred to the *Physicians Manual: An Informational Outline of the Controlled Substances Act of 1970*, published by the U.S. Drug Enforcement Agency, for specific rules governing controlled substances as well as applicable state regulations.

22. By failing to meet the standards of practice established in Rule

64B8-9.013, FAC, Respondent has failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances as to SS, TS, JS, and SM.

23. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2003, 2004), by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in Respondent's treatment of patients SS, TS, JS, and SM. Additionally, Respondent has violated the standards of

practice established by the Board of Medicine in Rule 64B8-9.013, FAC, thereby violating Section 458.331(1)(t), Florida Statutes (2003, 2004), in Respondent's treatment of patients SS, TS, JS, and SM.

COUNT TWO

24. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth in this count.

25. Section 458.331(1)(q), Florida Statutes (2003, 2004), provides that prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice constitutes grounds for disciplinary

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

26. Respondent prescribed legend drugs and controlled substances to SS, TS, JS, and SM inappropriately in one or more of the following ways:

a. By failing to examine the patients prior to prescribing controlled substances;

- b. By prescribing controlled substances to the patients without maintaining any medical records or records of the prescriptions written;
 - c. By failing to provide appropriate clinical follow-up for the patients;
 - d. By failing to assess the complaints and symptoms of the patients;
 - e. By failing to establish a treatment plan for the patients;
- and
- f. By prescribing legend drugs and controlled substances to

SS, TS, JS, and SM other than in the course of his professional practice.

27. Based on the foregoing, Respondent has violated Section 458.331(1)(q), *Florida Statutes (2003, 2004)*, by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the

patient and is not in the course of the physician's professional practice, without regard to his or her intent.

COUNT THREE

28. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth in this count.

29. Section 458.331(1)(m), Florida Statutes (2003, 2004), provides that failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or

billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations constitutes grounds for disciplinary action by the Board of Medicine.

30. Respondent failed to maintain medical records for SS, TS, JS, and SM that identify the physician who is responsible for rendering care to these patients and that justify the course of treatment because he failed to maintain any medical records for these four patients, including, but not

limited to, records of patient histories, examination results, and records of drugs prescribed.

31. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2003, 2004), by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

Patient JM

32. Between March 31, 1999, and on or about May 30, 2005, Patient JM (also known as FJM) was a patient of Respondent. Throughout this time JM lived in Key West and Respondent did not practice in Key West.

33. JM was initially seen by Respondent on March 31, 1999, and reported terrible pain related to a work injury resulting in a chronic pain

syndrome, impaired sleep and a reduction in job functionality. He denied previous mental health treatment.

34. Respondent performed a mental status examination. No diagnosis was recorded, but psychotherapy and pharmacotherapy were noted as a plan of treatment. Respondent initially prescribed OxyContin and alprazolam and indicated he would follow-up in three to six months.

35. OxyContin is a semi-synthetic opiate that contains oxycodone hydrochloride, a schedule II controlled substance defined in Chapter 893, Florida Statutes, and 21 United States Code Section 812, which is indicated for the relief of moderate to severe pain. OxyContin has a high potential for abuse and has a currently accepted, but limited, medical use in treatment in the United States. Abuse of this substance may lead to severe physical and psychological dependence.

36. Alprazolam is a schedule IV controlled substance under Chapter 893, Florida Statutes, and 21 United States Code Section 812. A substance in schedule IV has a low potential for abuse, and a currently accepted medical use in treatment. Abuse of this substance may lead to limited physical or psychological dependence.

37. Follow-up visits were conducted on a twice a year basis. The treatment plan consists of opioid medications. There is no indication that

JM was treated with any antidepressants or received anything other than minimal psychotherapy. Only cursory mental status examinations are recorded.

38. The individual progress notes do not list the prescriptions given. The pharmacy records that are available for 2003 through May 2005 indicate monthly prescriptions for OxyContin. The alprazolam prescriptions were filled regularly, but less often than monthly.

39. Appropriate care for JM would have required at least quarterly follow-up visits, including regular care, supervision and monitoring of JM's use of narcotic analgesia. Respondent failed to refer JM out for medical,

neurological or orthopedic consultations to investigate the source of his chronic pain syndrome. Prescription of OxyContin and alprazolam over many years with only cursory follow-up was inappropriate, excessive and inadequate. Respondent continued to prescribe pain medication to JM over many years without appropriate monitoring, reassessment or response to his patient's condition.

40. Respondent's medical records for JM are cursory; fail to document the prescriptions written; lack a treatment plan; do not contain documentation of any appropriate follow-up, referrals, monitoring, a complete history, or ongoing physical examinations which include an

accurate assessment of the patient's pain complaints; and do not contain an Informed Consent for pain management.

COUNT FOUR

41. Petitioner realleges and incorporates paragraphs one (1) through three (3), twenty-one (21), and thirty-two (32) through forty (40) as if fully set forth herein.

42. Section 458.331(1)(t), Florida Statutes (1999-2004), provides that gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances constitutes grounds for disciplinary action by the Board of Medicine.

43. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in one or more of the following ways:

- a. By failing to obtain a complete history;
- b. By failing to conduct at least quarterly follow-up visits;
- c. By failing to provide regular care, supervision and monitoring of JM's use of narcotic analgesia;

- d. By failing to refer JM out for medical, neurological or orthopedic consultation to investigate the source of his chronic pain syndrome;
 - e. By prescribing OxyContin and alprazolam over many years with only cursory follow-up;
 - f. By prescribing inappropriate and excessive amounts of OxyContin and alprazolam;
 - g. By prescribing OxyContin and alprazolam inappropriately;
 - h. By prescribing OxyContin and alprazolam over many years without appropriate monitoring, reassessment or response to his
-

patient's condition;

- i. By failing to document the prescriptions written;
- j. By failing to perform ongoing physical examinations which include an assessment of the patient's pain;
- k. By failing to update or reassess the treatment plan;
- m. By failing to obtain an Informed Consent for pain management treatment; and
- n. By failing to comply with Rule 64B8-9.013, FAC.

44. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (1999-2004), by failing to practice medicine

with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in Respondent's treatment of patient JM. Additionally, Respondent has violated the standards of practice established by the Board of Medicine in Rule 64B8-9.013, FAC, thereby violating Section 458.331(1)(t), Florida Statutes (1999- 2004), in Respondent's treatment of patient JM.

COUNT FIVE

45. Petitioner realleges and incorporates paragraphs one (1) through three (3) and thirty-two (32) through forty (40) as if fully set forth in this count.

46. Section 458.331(1)(q), Florida Statutes (1999-2004), provides that prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice constitutes grounds for disciplinary action by the Board of Medicine. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is

not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

47. Respondent prescribed legend drugs and controlled substances to JM inappropriately in one or more of the following ways:

- a. By failing to conduct at least quarterly follow-up visits;
 - b. By failing to provide regular care, supervision and monitoring of JM's use of narcotic analgesia;
 - c. By failing to refer JM out for medical, neurological or orthopedic consultation to investigate the source of his chronic pain syndrome;
-
- d. By prescribing OxyContin and alprazolam over many years with only cursory follow-up;
 - e. By prescribing inappropriate and excessive amounts of OxyContin and alprazolam;
 - f. By prescribing OxyContin and alprazolam inappropriately;
and
 - g. By prescribing OxyContin and alprazolam over many years without appropriate monitoring, reassessment or response to his patient's condition.

48. Based on the foregoing, Respondent has violated Section 458.331(1)(q), Florida Statutes (1999-2004), by prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

COUNT SIX

49. Petitioner realleges and incorporates paragraphs one (1) through three (3) and thirty-two (32) through forty (40) as if fully set forth in this count.

50. Section 458.331(1)(m), Florida Statutes (1999-2004), provides that failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the

course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations constitutes grounds for disciplinary action by the Board of Medicine.

51. Respondent failed to maintain medical records that justify the course of treatment in one or more of the following ways:

- a. By failing to document appropriate follow-up and monitoring;
- b. By failing to document an appropriate plan of treatment following the initial visit;
- c. By failing to document reassessment of the treatment plan over many years;
- d. By failing to document what Respondent prescribed to JM over many years;
- e. By failing to document periodic review of the patient;
- f. By failing to document a complete medical history;
- g. By failing to document a physical examination;
- h. By failing to document the patient's ongoing pain complaints; and

i. By failing to document Informed Consent for pain management.

52. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (1999-2004), by failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

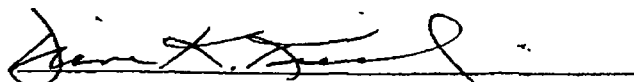
WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the 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 24th day of February

2006.

M. Rony Francois, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Shensa McKown*
DATE 2-28-06


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DKK

PCP: *February 24, 2006*
PCP Members: *El-Bahri, Harmer + Dyches*

DOH v. Jose Manuel Santeiro, M.D. DOH Case No. 2005-53109

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.

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.

Roberts, Cheryl

From: Nickerson, Lisa
Sent: Tuesday, June 20, 2006 2:51 PM
To: Roberts, Cheryl
Subject: Jose Santeiro

Cheryl,
You brought me a final order for Dr. Jose Santeiro this morning. He had called me previously and told me that we have an incorrect address for him. Instead of NE 168th Terrace, it should be NW 168th Terrace. Please send a copy of his final order to NW 168th. Thanks!

*Lisa Nickerson
Compliance Officer
Florida Department of Health/Division of MQA
Compliance Management Unit
(850) 245-4444 Ext. 3546
Lisa_Nickerson@doh.state.fl.us*

The mission of the Florida Department of Health:
To promote and protect the health and safety of all people in Florida through the delivery of quality public health services and promotion of health care standards.

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 e-mail communications may therefore be subject to public disclosure.