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Final Order No. DOH-08-1383-~~POT~~-MOA
FILED DATE - 6/23/08
Department of Health
By: [Signature]
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-30097
LICENSE NO.: ME0059711

CECILIO D. PIZARRO, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on June 6, 2008, in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause pursuant to Respondent's Election of Rights. Respondent was served with the Administrative Complaint by personal service. Because Respondent failed to submit an Election of Rights or otherwise dispute the facts or respond in any other way, Respondent waived the right to a hearing pursuant to Section 120.57(1), Florida Statutes. At the hearing, Petitioner was represented by Ephraim Livingston, Assistant General Counsel. Respondent was not present and was not represented by counsel. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.

3. The violations set forth warrant disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

Respondent's license to practice medicine in the State of Florida is hereby REVOKED.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$6,244.30. Said costs are to be paid within 30 days from the date this Final Order is filed.

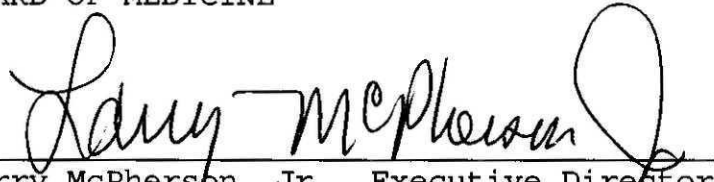
(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

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

DONE AND ORDERED this 20 day of JUNE,

2008.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
For Robert Cline, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

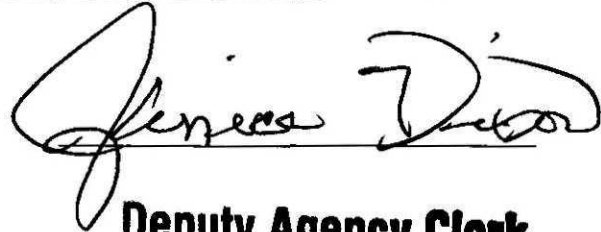
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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 CECILIO D. PIZARRO, M.D., 1342 Colonial Boulevard, Building 41-A, Ft. Myers, Florida 33907; to Peter Aiken, Esquire, Aiken, O'Halloran & Associates, 2575 Cleveland Avenue, Ft. Myers, Florida 33901; and by interoffice delivery to Ephraim Livingston, Department of

Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida

32399-3253 this 23rd day of June, 2008.

A handwritten signature in cursive script, appearing to read "Jenice D. Dutton".

Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2006-30097

CECILIO D. PIZARRO, 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, Cecilio D. Pizarro, 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 physician within the State of Florida, having been issued license number ME 59711.

1-2808

3. Respondent's address of record is 1342 Colonial Boulevard, Building F #41-A, Fort Myers, Florida 33907.

PATIENT M.N.

4. On or about May 16, 2005, Patient M.N., a twenty-eight-year-old male first began treating with Respondent.

5. On or about May 16, 2005, Patient M.N. reported to Respondent that he fell off of a ladder eight months prior to the office visit. Patient M.N. told Respondent that he never went to the emergency room and he never had any x-rays.

6. On or about May 16, 2007, Respondent diagnosed Patient M.N. with chronic lower back pain and recommended the Patient M.N. obtain an MRI and surgery.

7. On or about May 16, 2007, Respondent prescribed 80 milligrams of Oxycontin (the brand-name for oxycodone) to be taken twice daily.

8. Oxycodone is a long-acting narcotic pain reliever similar to morphine. Oxycodone is a Schedule II controlled substance.

9. Section 893.03(2) Florida Statutes (2006) states that "[a] substance in Schedule II has a high potential for abuse and has a currently

accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence.”

10. Patient M.N. paid Respondent \$300.00 cash for the initial office visit.

11. Patient M.N. continued to see Respondent on a monthly basis until on or about August 21, 2006.

12. During this period, Respondent saw Patient M.N. approximately 15 times.

13. Patient M.N. paid \$200 cash for each subsequent visit with Respondent.

14. At every subsequent office visit, Respondent recommended that Patient M.N. continue on 80 milligrams of Oxycontin to be taken twice daily.

15. Every follow-up note written by Respondent indicates that Patient M.N. is “doing well”, “better” or “is stable”.

16. During the period that Respondent treated Patient M.N., Respondent never performed a physical examination on Patient M.N.

17. On or about June 27, 2006, a nurse practitioner employed by Respondent performed the only physical examination on Patient M.N.

18. On or about June 27, 2006, the nurse practitioner summarized Patient M.N.'s musculoskeletal exam as "good strength and tone" and noted the extremities had no deformities. With regard to Patient M.N.'s neurological examination he found "CN II-XII grossly intact."

19. Respondent never documented any abnormal physical findings in Patient M.N.'s records.

20. Respondent never attempted to obtain Patient M.N.'s previous treatment records.

21. Patient M.N. reported to the Department that each visit with Respondent was approximately two minutes long.

22. On or about September 22, 2006, D.N. (the father of Patient M.N.) reported to the Department that his son was buying prescription drugs from Respondent.

23. D.N. told the Department that Patient M.N. is addicted to Oxycontin as a result of the Respondent's actions and he had to enter a rehabilitation facility.

COUNT ONE

24. Petitioner realleges and incorporates paragraphs one (1) through twenty-three (23) as if fully as if fully set forth herein.

25. Section 458.331(1)(q), Florida Statutes (2004)(2005)(2006), subjects a licensee to discipline, including suspension, for 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 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 intent.

26. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around May 2005 through in or around August 2006, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug, to-wit: oxycodone, to Patient M.N., without taking a complete medical history from Patient M.N.; and/or without

performing a physical examination on Patient M.N; and or without obtaining Patient M.N.'s previous treatment records.

27. Based on the forgoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2004)(2005)(2006) when he prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice by prescribing oxycodone, to Patient M.N., without taking a complete medical history from Patient M.N. and/or without performing a physical examination on Patient M.N.

COUNT TWO

28. Petitioner realleges and incorporates paragraphs one (1) through twenty-three (23) as if fully as if fully set forth herein.

29. Section 458.331(1)(nn), Florida Statutes (2004)(2005)(2006), provides that violating any provision of chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto, is grounds for discipline by the Board of Medicine.

30. Rule 64B8-9.013(3), Florida Administrative Code, provides standards for the use of controlled substances for pain control. Those standards require that a complete medical history and physical examination

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.

31. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing oxycodone to Patient M.N., without taking a history from Patient M.N., without obtaining Patient M.N.'s treatment records and without performing a physical examination on Patient M.N.

32. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes, by violating Rule 64B8-9.013(3), Florida Administrative Code by prescribing oxycodone to Patient M.N., without taking a history from Patient M.N., without obtaining Patient M.N. treatment records and without performing a physical examination on Patient M.N.

COUNT THREE

33. Petitioner realleges and incorporates paragraphs one (1) through twenty-three (23) as if fully as if fully set forth herein.

34. Section 458.331(1)(t), Florida Statutes (2004), sets forth grounds for disciplinary action by the Board of Medicine for 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.

35. Section 458.331(1)(t), Florida Statutes (2005)(2006), provides that committing medical malpractice as defined in Section 456.50 constitutes grounds for disciplinary action by the Board of Medicine.

36. Section 456.50, Florida Statutes (2005)(2006) defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

37. Respondent committed medical malpractice as defined in Section 456.50 in one or more of the following ways:

A. By prescribing oxycodone to Patient M.N., without taking a history from Patient M.N.; and/or

B. By prescribing oxycodone to Patient M.N. without performing a physical examination on Patient M.N.

C. By failing to obtain or review Patient M.N.'s previous treatment records; and/or

D. By failing to consider other treatment options for Patient M.N. other than the prescription of pain medication.

38. Based upon the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2005)(2006), by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to healthcare licensure.

39. Based on the forgoing, Respondent violated Section 458.331(1)(t), Florida Statutes (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.

COUNT FOUR

40. Section 458.331(1)(m), Florida Statutes (2004)(2005)(2006), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep legible medical records 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.

41. Respondent failed to keep legible medical records that justify the course of Patient M.N.'s medical treatment in one or more of the following ways:

- A. By failing to document a physical examination of Patient M.N.; and/or
- B. By failing to document a complete medical history for Patient M.N.; and/or
- C. By failing to document that he educated Patient M.N. on the course of treatment and the drugs he prescribed.

42. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2005)(2006), by failing to keep legible medical records that justify the course of Patient M.N.'s medical treatment.

PATIENT B.G

43. On or about August 18, 2006, Patient B.G. a twenty-year-old female, presented to Respondent's office for the first time.

44. At the initial visit, Patient B.G. complained of chronic lower back pain as a result of an accident. Patient B.G. reported that she suffered an injury to the L3 and L4 vertebrae.

45. On or about August 18, 2006, Patient B.G. reported to Respondent that she has "no cartilage caused by the wreck."

46. Patient B.G. told Respondent that she was taking up to 160 milligrams of methadone a day, up to 90 milligrams of immediate release morphine sulphate a day and 2 milligrams of Xanax two times a day.

47. Methadone is a Schedule II controlled substance. Methadone is is a narcotic pain reliever and is used for severe pain.

48. Morphine is a powerful narcotic agent with strong analgesic (painkilling) action and other significant effects on the central nervous system. Methadone is dangerously addictive.

49. Xanax is the brand name for alprazolam. Alprazolam belongs to a class of medications called benzodiazepines.

50. Benzodiazepines are a family of anti-anxiety medications which act as central nervous system depressants. Benzodiazepines can slow down thinking, judgment, and motor skills. Long term use of benzodiazepines can lead to physical dependency.

51. Patient B.G. reported that she received her medications from a physician in Atlanta, Georgia.

52. On Patient B.G.'s initial office visit, Respondent never performed a physical examination on Patient B.G.

53. On the initial visit, Respondent diagnosed Patient B.G. with chronic back pain.

54. Respondent did not diagnose Patient B.G. with any psychiatric conditions but noted that she seemed "high strung."

55. Respondent never sought nor obtained any of Patient B.G.'s past medical records.

56. Respondent never took a detailed medical history from Patient B.G.

57. On Patient B.G.'s initial visit, Respondent wrote her a prescription for 20 milligrams of Xanax twice daily, 30 milligrams of methadone four times a day, and 30 milligrams of oxycodone twice a day.

58. On or about September 15, 2006, Patient B.G. returned for a follow-up visit.

59. The only record from that office visit states that Patient B.G. is "doing well/stable." On that date Respondent continued her on the same medications.

60. Patient B.G.'s last office visit with Respondent was on or about October 13, 2006.

61. During the period that Respondent treated Patient B.G., he never performed a physical examination on Patient B.G.

COUNT FIVE

62. Petitioner realleges and incorporates paragraphs one (1) through three (3) and forty-three (43) through sixty-one (61) as if fully as if fully set forth herein.

63. Section 458.331(1)(q), Florida Statutes (2006), subjects a licensee to discipline, including suspension, for 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 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 intent.

64. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around August 2006 through in or around October 2006, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug, to-wit: oxycodone, Xanax and methadone to Patient B.G., without taking a complete medical history from Patient B.G. and/or without performing a physical examination on Patient B.G.; and/or without documented a diagnosis which justified prescribing these medications.

65. Based on the forgoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2006) when he prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice by prescribing oxycodone, Xanax and methadone to Patient B.G., without taking a complete medical history from Patient B.G. and/or without

performing a physical examination on Patient B.G.; and/or without documented a diagnosis which justified prescribing these medications.

COUNT SIX

66. Petitioner realleges and incorporates paragraphs one (1) through three (3) and forty-three (43) through sixty-one (61) as if fully as if fully set forth herein.

67. Section 458.331(1)(nn), Florida Statutes (2005)(2006), provides that violating any provision of chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto, is grounds for discipline by the Board of Medicine.

68. Rule 64B8-9.013(3), Florida Administrative Code, provides standards for the use of controlled substances for pain control. Those standards require that a complete medical history and physical examination 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.

69. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing oxycodone and methadone to Patient B.G., without taking a history from Patient B.G., without performing a physical examination on Patient B.G., and/or without documenting a diagnosis that justified prescribing methadone and/or oxycodone to Patient B.G.

70. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes (2006), by violating Rule 64B8-9.013(3), Florida Administrative Code by prescribing oxycodone and methadone to Patient B.G. without taking a complete history from Patient B.G., without performing a physical examination on Patient B.G., and/or without documenting a diagnosis that justified prescribing methadone and/or oxycodone to Patient B.G.

COUNT SEVEN

71. Petitioner realleges and incorporates paragraphs one (1) through three (3) and forty-three (43) through sixty-one (61) as if fully as if fully set forth herein.

72. Section 458.331(1)(t), Florida Statutes (2006), provides that committing medical malpractice as defined in Section 456.50 constitutes grounds for disciplinary action by the Board of Medicine.

73. Section 456.50, Florida Statutes (2006) defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

74. Respondent committed medical malpractice as defined in Section 456.50 in one or more of the following ways:

A. By prescribing oxycodone, methadone and Xanax to Patient B.G., without taking a history from Patient B.G.; and/or

B. By prescribing oxycodone, methadone and Xanax to Patient B.G. without performing a physical examination on Patient B.G.

C. By failing to obtain or review Patient B.G.'s previous treatment records; and/or

D. By failing to consider other treatment options for Patient B.G. other than the prescription of pain medication; and/or

E. By failing to adequately assess and diagnose Patient B.G.'s complaints; and/or

F. By prescribing Xanax to Patient B.G. without a diagnosis of an anxiety disorder.

75. Based upon the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2005), by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to healthcare licensure.

COUNT EIGHT

76. Petitioner realleges and incorporates paragraphs one (1) through three (3) and forty-three (43) through sixty-one (61) as if fully as if fully set forth herein.

77. Section 458.331(1)(m), Florida Statutes (2006), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep legible medical records 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.

78. Respondent failed to keep legible medical records that justify the course of Patient B.G.'s medical treatment in one or more of the following ways:

A. By failing to document a physical examination of Patient B.G.; and/or

B. By failing to document a complete medical history for Patient B.G.; and/or

C. By failing to document that he educated Patient B.G. on the course of treatment and the drugs he prescribed.

D. By failing to document a diagnosis that would justify the drugs prescribed.

79. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2005)(2006), by failing to keep legible medical records that justify the course of Patient B.G.'s medical treatment.

PATIENT S.M.

80. On or about May 5, 2006, Patient SM, a twenty-nine-year-old female presented to Respondent for an initial visit.

81. On Patient S.M.'s first office visit, Patient S.M. reported to Respondent that she suffered an injury to her coccyx at age thirteen and she has suffered pain ever since.

82. Patient S.M. reported that she has a history of "panic attacks" and she has been diagnosed with fibromyalgia.

83. Patient S.M. reported that she treated in the past with "Dr. Black" and that she has been on methadone and Percocet.

84. Respondent did not ask Patient S.M. to produce any medical records and he did not attempt to obtain her records from Dr. Black.

85. On the initial visit, Respondent wrote that Patient S.M. suffers from chronic pain and anxiety disorder NOS.

86. Respondent wrote a prescription for 40 milligrams of methadone four times a day, 1 milligram of Xanax three times a day, 350 milligrams of Soma twice a day and 30 milligrams of Restoril four times a day.

87. Soma is a muscle-relaxant used to treat pain and discomfort from muscle injuries such as strains, sprains, and spasms.

88. Restoril is a benzodiazepine used to treat anxiety.

89. Respondent did not perform a physical examination on Patient S.M. before prescribing these medications.

90. Respondent prescribed Xanax to Patient S.M. without a diagnosis of an anxiety disorder.

91. Respondent continued to treat Patient S.M. until on or about January 11, 2007.

92. During the period that Respondent treated Patient S.M., he failed to adequately assess and/or diagnose Patient S.M.'s complaints.

93. During the period that Respondent treated Patient S.M., he failed to document and monitor Patient S.M.'s progress.

94. During the period that Respondent treated Patient S.M., Respondent never attempted or considered any other treatment option for Patient S.M.'s pain other than analgesic medication.

COUNT NINE

95. Petitioner realleges and incorporates paragraphs one (1) through three (3) and eighty (80) through ninety-four (94) as if fully as if fully set forth herein.

96. Section 458.331(1)(q), Florida Statutes (2005)(2006), subjects a licensee to discipline, including suspension, for 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 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 intent.

97. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around May 2006 through in or around January 2007, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug, to-wit: methadone, Xanax, Soma and Restoril to Patient S.M., without taking a complete medical history from Patient S.M. and or obtaining her previous medical records and/or without performing a physical examination on Patient S.M.; and/or without documenting a diagnosis which justified prescribing these medications.

98. Based on the forgoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2005)(2006) when he prescribed,

dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice by prescribing Xanax, methadone, Soma and Restoril to Patient S.M., without taking a complete medical history from Patient S.M. and/or obtaining her past medical records and/or without performing a physical examination on Patient S.M.; and/or without documenting a diagnosis which justified prescribing these medications.

COUNT TEN

99. Petitioner realleges and incorporates paragraphs one (1) through three (3) and eighty (80) through ninety-four (94) as if fully as if fully set forth herein.

100. Section 458.331(1)(nn), Florida Statutes (2005)(2006), provides that violating any provision of chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto, is grounds for discipline by the Board of Medicine.

101. Rule 64B8-9.013(3), Florida Administrative Code, provides standards for the use of controlled substances for pain control. Those standards require that a complete medical history and physical examination 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.

102. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing methadone to Patient S.M., by failing to take a history from Patient S.M. or obtain Patient S.M.'s previous treatment records and without performing a physical examination on Patient S.M.

103. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes (2006)(2007), by violating Rule 64B8-9.013(3), Florida Administrative Code by prescribing methadone to Patient S.M. without taking a complete history from Patient S.M. and/or without performing a physical examination on Patient S.M.

COUNT ELEVEN

104. Petitioner realleges and incorporates paragraphs one (1) through three (3) and seventy-three (73) through eighty-six (86) as if fully as if fully set forth herein.

105. Section 458.331(1)(t), Florida Statutes (2005)(2006), provides that committing medical malpractice as defined in Section 456.50 constitutes grounds for disciplinary action by the Board of Medicine.

106. Section 456.50, Florida Statutes (2005)(2006) defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

107. Respondent committed medical malpractice as defined in Section 456.50 in one or more of the following ways:

A. By prescribing methadone, Xanax, Soma and/or Restoril to S.M. without taking a history from Patient S.M.; and/or

B. By prescribing methadone, Xanax, Soma and/or Restoril to Patient S.M. without performing a physical examination on Patient S.M.

C. By failing to obtain or review Patient S.M.'s previous treatment records; and/or

D. By failing to consider other treatment options other than the prescription of pain medication; and/or

E. By failing to adequately assess and diagnose Patient S.M.'s complaints of anxiety and chronic pain.

108. Based upon the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2005)(2006), by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to healthcare licensure.

COUNT TWELVE

109. Petitioner realleges and incorporates paragraphs one (1) through three (3) and eighty (80) through ninety-four (94) as if fully set forth herein.

110. Section 458.331(1)(m), Florida Statutes (2005)(2006), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep legible medical records 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.

111. Respondent failed to keep legible medical records that justify the course of Patient S.M.'s medical treatment in one or more of the following ways:

A. By failing to document a physical examination of Patient S.M.; and/or

B. By failing to document a complete medical history for Patient S.M.; and/or

C. By failing to document that he educated Patient S.M. on the course of treatment and the drug he prescribed.

D. By failing to document a diagnosis that would justify the drugs prescribed.

E. By failing to document his attempts to obtain Patient S.M.'s medical records.

112. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2005)(2006), by failing to keep legible medical records that justify the course of Patient S.M.'s medical treatment.

PATIENT BB

113. On or about February 5, 2007, Patient B.B. a forty-one-year-old female presented to Respondent for an initial visit.

114. On Patient B.B.'s first office visit, Patient B.B. reported to Respondent that she previously treated at another clinic and was prescribed methadone, Soma and Xanax.

115. Patient B.B. provided records from her previous physician, a neurologist.

116. The previous physician treated Patient B.B. for severe back pain.

117. The previous physician noted in Patient B.B.'s records that there was no objective evidence of radiculopathy but noted a subjective complaint of paresthesias.

118. The previous physician prescribed Xanax for Patient B.B.

119. Patient B.B.'s previous physician eventually terminated Patient B.B. from his care, when Patient B.B. refused to submit to urine test.

120. Patient B.B. also reported to Respondent that she was taking 40 milligrams of methadone six times a day.

121. Respondent never performed a physical examination on Patient B.B.

122. On the initial visit, Respondent wrote that Patient B.B. suffers from anxiety, but did not make a formal diagnosis of anxiety disorder.

123. On the initial visit, Respondent noted he was treating Patient B.B. for chronic shoulder pain.

124. Respondent never diagnosed Patient B.B. with a painful condition.

125. On or about February 5, 2007, Respondent wrote a prescription for 40 milligrams of methadone four times a day, 1/2 milligram of Xanax three times a day, and 350 milligrams of Soma three times a day.

126. Prior to writing these prescriptions, Respondent never consulted an addiction medicine specialist.

127. Prior to writing these prescriptions, Respondent never conformed that Patient B.B. was in concurrent treatment for her addiction.

128. On or about March 5, 2007, Respondent saw Patient B.B. again and wrote the same prescription.

129. During the period that Respondent treated Patient B.B. he failed to adequately assess and/or diagnose Patient B.B.'s complaints.

130. Respondent never attempted or considered any other treatment option for Patient B.B.'s pain other than analgesic medication.

COUNT THIRTEEN

131. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-thirteen (113) through one-hundred-thirty (130) as if fully as if fully set forth herein.

132. Section 458.331(1)(q), Florida Statutes (2006), subjects a licensee to discipline, including suspension, for 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 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 intent.

133. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around February 2007 through in or

around March 2007, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug, to-wit: methadone, Xanax and Soma to Patient B.B., without examining Patient B.B.'s shoulder, by relying on an inconclusive diagnosis by a previous physician and without assessing Patient B.B.'s anxiety symptoms.

134. Based on the forgoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2006) when he prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice by prescribing, dispensing, or administering a legend drug, to-wit: methadone, Xanax and Soma to Patient B.B., without examining Patient B.B.'s shoulder, by relying on an inconclusive diagnosis by a previous physician and without assessing Patient B.B.'s anxiety symptoms.

COUNT FOURTEEN

135. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-thirteen (113) through one-hundred-thirty (130) as if fully as if fully set forth herein.

136. Section 458.331(1)(nn), Florida Statutes (2006), provides that violating any provision of chapters 456 or 458, Florida Statutes, or any

rules adopted pursuant thereto, is grounds for discipline by the Board of Medicine.

137. Rule 64B8-9.013(3), Florida Administrative Code, provides standards for the use of controlled substances for pain control. Those standards require that a complete medical history and physical examination 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.

138. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing methadone to Patient B.B. for shoulder pain without performing a physical examination on Patient B.B. and without a diagnosis of a painful condition.

139. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes (2006) by violating Rule 64B8-9.013(3),

Florida Administrative Code by prescribing methadone to Patient B.B. without performing a physical examination on Patient B.B.

COUNT FIFTEEN

140. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-thirteen (113) through one-hundred-thirty (130) as if fully as if fully set forth herein.

141. Section 458.331(1)(t), Florida Statutes (2006), provides that committing medical malpractice as defined in Section 456.50 constitutes grounds for disciplinary action by the Board of Medicine.

142. Section 456.50, Florida Statutes (2006) defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

143. Respondent committed medical malpractice as defined in Section 456.50 in one or more of the following ways:

A. By prescribing methadone to B.B. without objective findings to support the finding of chronic shoulder pain.

B. By prescribing methadone to Patient B.B. without performing a physical examination on Patient B.B.

C. By failing to consider other treatment options other than the prescription of pain medication; and/or

D. By failing to adequately assess and diagnose Patient B.B. complaints of anxiety; and/or

E. By prescribing methadone to Patient B.B. without consulting an addiction medicine specialist.

F. By prescribing methadone to Patient B.B. without confirming that she was receiving concurrent treatment for her addiction.

144. Based upon the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2006), by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to healthcare licensure.

COUNT SIXTEEN

145. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-thirteen (113) through one-hundred-thirty (130) as if fully as if fully set forth herein.

146. Section 458.331(1)(m), Florida Statutes (2006), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep

legible medical records 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.

147. Respondent failed to keep legible medical records that justify the course of Patient B.B.'s medical treatment in one or more of the following ways:

- A. By failing to document a physical examination of Patient B.B.; and/or
- B. By failing to document a justification for prescribing methadone for shoulder pain; and/or
- C. By failing to document that he educated Patient B.B. on the course of treatment and the drug he prescribed; and/or
- E. By failing to document a diagnosis that would justify prescribing Xanax for anxiety; and/or
- D. By failing to document that he considered other treatment options.

148. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2006), by failing to keep legible medical records that justify the course of Patient B.B.'s medical treatment.

Patient S.N.

149. On or about February 27, 2006, Patient S.N. a twenty-six-year-old male presented to Respondent for an initial visit.

150. On Patient S.N.'s first office visit, he reported that he had shoulder pain due to a surgery on his rotator cuff.

151. Respondent did not perform a physical examination on Patient S.N.

152. Patient S.N. did not report any psychological problems or past medical treatments.

153. Patient S.N. reported to Respondent that he was in rehab in 2005 for and addiction to heroin.

154. Patient S.N. also told Respondent that he was on Percocet and methadone.

155. On or about February 27, 2006, Respondent diagnosed Patient S.N. with "chronic pain syndrome."

156. Respondent noted that Patient S.N. was "high strung" on the Mental Status Examination but did not establish any other mental diagnosis or diagnosis of anxiety disorder.

157. Respondent listed Patient S.N.'s "problem #2" as "anxiety."

158. Respondent did not review any records from Patient S.N.'s previous treatment providers.

159. On Patient S.N.'s initial office visit, Respondent failed to take a detailed medical history from Patient S.N.

160. On or about February 27, 2006, Respondent prescribed 40 milligrams of methadone to be taken four times a day and 2 milligrams of Xanax to be taken two times a day to Patient S.N.

161. Before prescribing these medications to Patient S.N., Respondent never consulted an addiction medicine specialist.

162. Respondent never confirmed that Patient S.N. was receiving concurrent treatment for his addiction to opioids.

163. On or about February 27, 2007, Respondent wrote Patient S.N. a prescription for Xanax without a formal diagnosis of an anxiety disorder.

164. From in or around February 2006 through in or around November, 2006, Respondent continued to see Patient S.N. on a monthly basis.

165. During each office visit, Respondent wrote Patient S.N. the same prescription for methadone and Xanax.

166. During the period that Respondent treated Patient S.N., he never performed a physical examination on Patient S.N.

167. During the period that Respondent treated Patient S.N. he failed to adequately asses and/or diagnose Patient S.N.'s complaints.

168. Respondent never attempted or considered any other treatment option for Patient S.N.'s pain other than analgesic medication.

COUNT SEVENTEEN

169. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-forty-nine (149) through one-hundred-sixty-eight (168) as if fully as if fully set forth herein.

170. Section 458.331(1)(q), Florida Statutes (2005)(2006), subjects a licensee to discipline, including suspension, for 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 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 intent.

171. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around February 2006 through in or around November 2006, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug, to-wit: methadone and Xanax to Patient S.N., without examining Patient S.N., by failing to take a complete history from Patient S.N., and/or by failing confirm that Patient S.N. was in a treatment program for addiction.

172. Based on the forgoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2006) when he prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, including any controlled substance, other than in the course of his professional practice by prescribing, dispensing, or administering a legend drug, to-wit:

methadone and Xanax to Patient S.N., without examining Patient S.N., by failing to take a complete history from Patient S.N., and/or by failing confirm that Patient S.N. was in a treatment program for addiction.

COUNT EIGHTEEN

173. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-forty-nine (149) through one-hundred-sixty-eight (168) as if fully as if fully set forth herein.

174. Section 458.331(1)(nn), Florida Statutes (2005)(2006), provides that violating any provision of chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto, is grounds for discipline by the Board of Medicine.

175. Rule 64B8-9.013(3), Florida Administrative Code, provides standards for the use of controlled substances for pain control. Those standards require that a complete medical history and physical examination 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.

176. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing methadone to Patient S.N. for shoulder pain in one or more of the following ways:

- A. By failing perform a physical examination on Patient S.N.; and/or
- B. By failing document a complete medical history for Patient S.N.; and/or
- C. By failing document a diagnosis that would justify the prescription for methadone.

177. Based on the foregoing, Respondent violated Section 458.331(1)(nn), Florida Statutes (2005)(2006) by violating Rule 64B8-9.013(3), Florida Administrative Code by prescribing methadone to Patient S.N. without performing a physical examination on Patient S.N.; and/or by failing document a complete medical history for Patient S.N.; and/or by failing document a diagnosis that would justify the prescription for methadone.

COUNT NINETEEN

178. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-forty-nine (149) through one-hundred-sixty-eight (168) as if fully as if fully set forth herein.

179. Section 458.331(1)(t), Florida Statutes (2005)(2006), provides that committing medical malpractice as defined in Section 456.50 constitutes grounds for disciplinary action by the Board of Medicine.

180. Section 456.50, Florida Statutes (2005)(2006) defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

181. Respondent committed medical malpractice as defined in Section 456.50 in one or more of the following ways:

- A. By prescribing methadone to S.N. without objective findings to support the diagnosis of chronic pain syndrome.
- B. By prescribing methadone to Patient S.N. without performing a physical examination on Patient S.N.
- C. By failing to consider other treatment options other than the prescription of pain medication; and/or

D. By failing to adequately assess and diagnose Patient S.N.'s complaints of anxiety; and/or

E. By prescribing methadone to Patient S.N. without first consulting an addiction medicine specialist and/or conforming that Patient S.N. was receiving concurrent treatment for his addiction to opioids.

F. By failing to document a diagnosis which would justify prescribing methadone to Patient S.N.

182. Based upon the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2005)(2006), by failing to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to healthcare licensure.

COUNT TWENTY

183. Petitioner realleges and incorporates paragraphs one (1) through three (3) and one-hundred-forty-nine (149) through one-hundred-sixty-eight (168) as if fully as if fully set forth herein.

184. Section 458.331(1)(m), Florida Statutes (2005)(2006), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep legible medical records 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.

185. Respondent failed to keep legible medical records that justify the course of Patient S.N.'s medical treatment in one or more of the following ways:

- A. By failing to document a physical examination of Patient S.N.; and/or
- B. By failing to document a complete medical history.
- C. By failing write legibly in Patient S.N.'s records.
- D. By failing to document a diagnosis which would justify prescribing methadone to Patient S.N.; and/or
- E. By failing to document a diagnosis that would justify prescribing Xanax for anxiety; and/or
- F. By failing to document a diagnosis which would justify prescribing methadone to Patient S.N.

186. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2005)(2006), by failing to keep legible medical records that justify the course of Patient S.N.'s medical treatment.

WHEREFORE, 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 25 day of January, 2008.

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General



Allison M. Dudley
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 159913
(850) 245-4640
(850) 245-4681 Facsimile

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Racaut
DATE 1-28-08

PCP: January 25, 2008
PCP Members: El-Bahri, Farmer, Long

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.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2006-30097

CECILIO D. PIZZARO, M.D.,

Respondent.

MOTION TO ASSESS COSTS
IN ACCORDANCE WITH SECTION 456.072(4)

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Medicine for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2003). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Medicine will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.
2. Section 456.072(4), Florida Statutes (2003),¹ states as follows:

¹ Ch. 2003-416, § 19, Laws of Fla., effective September 15, 2003, amended Section 456.072(4), Florida Statutes (2003), to include the underlined language.

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. . . . (emphasis added)

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$6,244.30, based on the following itemized statement of costs:

- a. Total costs for Complaints \$29.04
- b. Total costs for Investigations \$3,313.73
- c. Total costs for Legal \$2,351.53
- d. Total costs for expenses \$550.00

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$6,244.30, as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion,

specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$6,244.30 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2003).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against the Respondent in the amount of \$6,244.30.

DATED this 10th day of April, 2008.

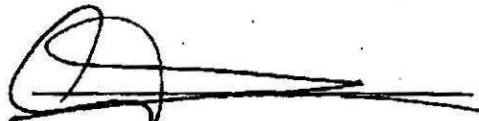
Respectfully submitted,



Allison M. Dudley
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 159913
(850) 245-4640
(850) 245-4681 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided by U.S. Mail this 15th day of April, 2008, to: Peter D. Aiken, Esquire, Aiken, O'Halloran & Associates, 2575 Cleveland Avenue, Fort Myers, Florida 33901



Allison M. Dudley

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

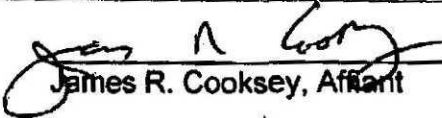
BEFORE ME, the undersigned authority, personally appeared **JAMES R. COOKSEY**, who was sworn and states as follows:

- 1) My name is James R. Cooksey.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am an Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399-3275.
- 4) As an Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number 2006-30097 (Department of Health v. Cecilio D. Pizzaro, M.D.) are six thousand, two hundred, forty-four dollars and thirty cents (\$6,244.30).
- 6) The costs for DOH case number 2006-30097 (Department of Health v. Cecilio D. Pizzaro, M.D.) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number 2006-30097 (Department of Health v. Cecilio D. Pizzaro, M.D.) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators

and lawyers). A designated DOH employee in the Consumer Services Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

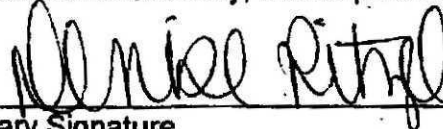
- 9) James R. Cooksey, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.


James R. Cooksey, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 2nd day of April, 2008,
by James R. Cooksey, who is personally known to me.


Notary Signature

Denise Ritzel
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 200630097

Complainant's Name: NOVELLO, DOMINIC

Subject's Name: PIZARRO, CECILIO D

	***** Cost to Date *****	
	Hours	Costs
Complaint:	0.60	\$29.04
Investigation:	49.00	\$3,313.73
Legal:	22.50	\$2,351.53
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	72.10	\$5,694.30
Expenses to Date:		\$550.00
Prior Amount:		\$0.00
Total Costs to Date:		\$6,244.30



**Time Tracking System
Itemized Cost by Complaint**

Complaint 200630097

Report Date: 04/02/2008

Page 1 of 3

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

CONSUMER SERVICES UNIT

HA38	0.30	\$48.39	\$14.52	09/28/2006	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA38	0.10	\$48.39	\$4.84	09/28/2006	36	PREPARATION OR REVISION OF LETTER
HA38	0.10	\$48.39	\$4.84	10/04/2006	35	TELEPHONE CALLS
HA38	0.50	\$48.39	\$24.20	11/30/2006	4	ROUTINE INVESTIGATIVE WORK
HA38	0.10	\$48.39	\$4.84	04/12/2007	35	TELEPHONE CALLS
Sub Total	1.10		\$53.24			

INVESTIGATIVE SERVICES UNIT

F150	1.00	\$62.98	\$62.98	12/01/2006	4	ROUTINE INVESTIGATIVE WORK
F150	0.50	\$62.98	\$31.49	12/04/2006	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$62.98	\$125.96	12/08/2006	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$62.98	\$125.96	12/20/2006	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	01/09/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.50	\$68.48	\$171.20	01/12/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	01/18/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	01/22/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	01/31/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	02/15/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	02/27/2007	4	ROUTINE INVESTIGATIVE WORK
F150	0.50	\$68.48	\$34.24	03/29/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	03/30/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	04/03/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	04/04/2007	4	ROUTINE INVESTIGATIVE WORK
F150	4.00	\$68.48	\$273.92	04/05/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	04/06/2007	4	ROUTINE INVESTIGATIVE WORK
F150	3.00	\$68.48	\$205.44	04/09/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	04/09/2007	100	ROUTINE INVESTIGATIVE WORK
F150	0.50	\$68.48	\$34.24	04/09/2007	58	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE TRAVEL TIME

Florida Department of Health

-- FOR INTERNAL USE ONLY --

Itemized cost

**Time Tracking System
Itemized Cost by Complaint**

Complaint 200630097

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
F150	3.50	\$68.48	\$239.68	04/11/2007	4	ROUTINE INVESTIGATIVE WORK
F150	0.50	\$68.48	\$34.24	04/11/2007	58	TRAVEL TIME
F150	2.00	\$68.48	\$136.96	04/12/2007	4	ROUTINE INVESTIGATIVE WORK
F150	4.00	\$68.48	\$273.92	04/13/2007	4	ROUTINE INVESTIGATIVE WORK
F150	3.00	\$68.48	\$205.44	04/13/2007	76	REPORT PREPARATION
MI171	1.00	\$68.05	\$68.05	02/05/2008	6	SUPPLEMENTAL INVESTIGATION
MI171	1.50	\$68.05	\$102.08	02/07/2008	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
MI171	1.00	\$68.05	\$68.05	02/08/2008	76	REPORT PREPARATION
Sub Total	48.50		\$3,289.53			

PROSECUTION SERVICES UNIT

HLL48B	0.30	\$123.66	\$37.10	05/02/2007	25	REVIEW CASE FILE
HLL48B	0.30	\$123.66	\$37.10	05/09/2007	25	REVIEW CASE FILE
HLL48B	0.30	\$123.66	\$37.10	05/09/2007	26	PREPARE OR REVISE MEMORANDUM
HLL48B	0.30	\$123.66	\$37.10	06/12/2007	102	REVIEW EXPERT WITNESS REPORT
HLL48B	0.50	\$123.66	\$61.83	06/28/2007	25	REVIEW CASE FILE
HLL48B	0.10	\$123.66	\$12.37	06/29/2007	115	CONTACT WITH INVESTIGATORS
HLL48B	0.20	\$123.66	\$24.73	07/18/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.20	\$123.66	\$24.73	08/10/2007	91	BOARD MEETING PREPARATION
HLL48B	0.40	\$123.66	\$49.46	08/24/2007	25	REVIEW CASE FILE
HLL48B	0.30	\$123.66	\$37.10	08/24/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.80	\$123.66	\$98.93	08/27/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	3.40	\$123.66	\$420.44	08/28/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.40	\$102.99	\$41.20	09/04/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.30	\$102.99	\$30.90	09/04/2007	46	LEGAL RESEARCH
HLL48B	0.30	\$102.99	\$30.90	09/25/2007	25	REVIEW CASE FILE
HLL48B	0.30	\$102.99	\$30.90	10/01/2007	25	REVIEW CASE FILE
HLL48B	0.10	\$102.99	\$10.30	10/01/2007	115	CONTACT WITH INVESTIGATORS
HLL48B	0.20	\$102.99	\$20.60	10/03/2007	35	TELEPHONE CALLS
HLL48B	0.20	\$102.99	\$20.60	10/04/2007	115	CONTACT WITH INVESTIGATORS
HLL48B	0.10	\$102.99	\$10.30	10/04/2007	37	REVIEW LETTER

**Time Tracking System
Itemized Cost by Complaint**

Complaint 200630097

Report Date: 04/02/2008

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Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL48B	4.40	\$91.00	\$400.40	11/20/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	3.40	\$91.00	\$309.40	11/28/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	3.30	\$91.00	\$300.30	11/29/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.30	\$111.56	\$33.47	12/10/2007	89	PROBABLE CAUSE PREPARATION
HLL48B	0.20	\$111.56	\$22.31	01/02/2008	35	TELEPHONE CALLS
HLL48B	0.10	\$111.56	\$11.16	01/02/2008	37	REVIEW LETTER
HLL48B	0.40	\$111.56	\$44.62	01/02/2008	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.40	\$111.56	\$44.62	01/25/2008	25	REVIEW CASE FILE
HLL48B	0.20	\$111.56	\$22.31	01/25/2008	63	PRESENTATION OF CASES TO PROBABLE CAUSE PANEL
HLL48B	0.20	\$111.56	\$22.31	01/25/2008	90	POST PROBABLE CAUSE PROCESSING
HLL48B	0.30	\$111.56	\$33.47	01/28/2008	88	PROOFING AND SIGNING LETTERS
HLL48B	0.20	\$111.56	\$22.31	01/28/2008	79	STIPULATION
HLL48B	0.10	\$111.56	\$11.16	01/28/2008	26	PREPARE OR REVISE MEMORANDUM
Sub Total	22.50		\$2,351.53			

Total Cost \$5,694.30



Time Tracking System
Itemized Expense by Complaint
 Complaint 200630097

Report Date: 04/02/2008

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
PROSECUTION SERVICES UNIT				
HL34B	06/04/2007	\$550.00	131630	EXPERT WITNESS
	SubTotal	\$550.00		
	Total Expenses	\$550.00		

Florida Department of Health

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Itemizedexpense