

WB

Final Order No. DOH-08-1394-FD-MQA
FILED DATE 10.23.08
Department of Health
By: U. K. M. O. J.
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2007-10073
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 \$8,284.28. 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+h
19th 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 27th day of June, 2008.


Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Rachel B.*
DATE 4-11-08

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2007-10073

CECILIO D. PIZARRO, 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 \$8,284.28, based on the following itemized statement of costs:

- a. Total costs for Complaints \$30.97
- b. Total costs for Investigations \$1,961.71
- c. Total costs for Legal \$6,291.60
- d. Total costs for expenses \$0

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$8,284.28, 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 \$8,284.28 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 \$8,284.28.

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 Aiken, Esquire, Aiken, O'Halloran & Associates, 2595 Cleveland Avenue, Ft. 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 2007-10073 (Department of Health v. Cecilio D. Pizarro, M.D.) are eight thousand, two hundred, eighty-four dollars and twenty-eight cents (\$8,284.28).
- 6) The costs for DOH case number 2007-10073 (Department of Health v. Cecilio D. Pizarro, 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 2007-10073 (Department of Health v. Cecilio D. Pizarro, 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
James R. Cooksey, Affiant

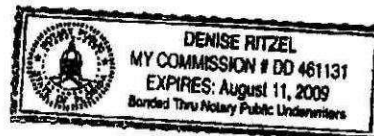
State of Florida
County of Leon

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

Denise Ritzel
Notary Signature

Denise Ritzel
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 200710073

Complainant's Name: DEPARTMENT OF HEALTH/INVESTATIVE SERVICE
 Subject's Name: PIZARRO, CECILIO D

	***** Cost to Date *****	
	Hours	Costs
Complaint:	0.80	\$30.97
Investigation:	28.80	\$1,961.71
Legal:	52.60	\$6,291.60
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	82.20	\$8,284.28
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$8,284.28



Time Tracking System Itemized Cost by Complaint

Complaint 200710073

Report Date: 04/02/2008

Page 1 of 4

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
CONSUMER SERVICES UNIT						
HA111	0.60	\$38.72	\$23.23	03/29/2007	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA111	0.10	\$38.72	\$3.87	03/29/2007	35	TELEPHONE CALLS
HA111	0.10	\$38.72	\$3.87	04/02/2007	18	COPYING FILES
Sub Total	0.80		\$30.97			
INVESTIGATIVE SERVICES UNIT						
F150	2.00	\$68.48	\$136.96	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	04/05/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	04/06/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	04/10/2007	4	ROUTINE INVESTIGATIVE WORK
F150	1.00	\$68.48	\$68.48	04/12/2007	4	ROUTINE INVESTIGATIVE WORK
F165	1.50	\$62.84	\$94.26	04/12/2007	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
F150	2.00	\$68.48	\$136.96	04/16/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.50	\$68.48	\$171.20	04/17/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.50	\$68.48	\$171.20	04/17/2007	76	REPORT PREPARATION
F150	1.00	\$68.48	\$68.48	04/19/2007	4	ROUTINE INVESTIGATIVE WORK
F150	2.00	\$68.48	\$136.96	05/23/2007	6	SUPPLEMENTAL INVESTIGATION
F150	1.50	\$68.48	\$102.72	05/23/2007	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
F150	1.00	\$68.48	\$68.48	12/26/2007	6	SUPPLEMENTAL INVESTIGATION
M1171	1.00	\$68.05	\$68.05	01/02/2008	6	SUPPLEMENTAL INVESTIGATION
M1171	1.00	\$68.05	\$68.05	01/07/2008	6	SUPPLEMENTAL INVESTIGATION
M1171	0.70	\$68.05	\$47.64	01/23/2008	6	SUPPLEMENTAL INVESTIGATION
M1171	1.40	\$68.05	\$95.27	01/29/2008	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1171	0.70	\$68.05	\$47.64	01/30/2008	76	REPORT PREPARATION
Sub Total	28.80		\$1,961.71			

Remizedcost

-- FOR INTERNAL USE ONLY --

Florida Department of Health

**Time Tracking System
Itemized Cost by Complaint**

Complaint 200710073

Report Date: 04/02/2008

Page 2 of 4

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

PROSECUTION SERVICES UNIT

HLL48B	1.20	\$123.66	04/11/2007	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HLL48B	0.20	\$24.73	04/11/2007	35	TELEPHONE CALLS
HLL48B	0.30	\$37.10	04/11/2007	26	PREPARE OR REVISE MEMORANDUM
HLL48B	0.60	\$74.20	04/11/2007	35	TELEPHONE CALLS
HLL48B	0.40	\$49.46	04/11/2007	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.
HLL48B	0.80	\$98.93	04/11/2007	46	LEGAL RESEARCH
HLL48B	0.20	\$24.73	04/17/2007	35	TELEPHONE CALLS
HLL48B	0.20	\$24.73	04/18/2007	35	TELEPHONE CALLS
HLL48B	0.20	\$24.73	04/18/2007	37	REVIEW LETTER
HLL48B	0.70	\$86.56	04/18/2007	25	REVIEW CASE FILE
HLL48B	0.10	\$12.37	04/19/2007	115	CONTACT WITH INVESTIGATORS
HLL48B	0.40	\$49.46	04/19/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	0.10	\$14.11	04/30/2007	70	CONFERENCES WITH LAWYERS
HLL48B	0.50	\$61.83	04/30/2007	70	CONFERENCES WITH LAWYERS
HLL48B	0.60	\$74.20	04/30/2007	50	REVIEW FINAL AGENCY ACTION CASES
HLL40B	2.60	\$319.38	04/30/2007	25	REVIEW CASE FILE
HLL40B	1.90	\$233.40	04/30/2007	46	LEGAL RESEARCH
HLL40B	0.80	\$98.27	04/30/2007	46	LEGAL RESEARCH
HLL40B	0.40	\$49.14	04/30/2007	70	CONFERENCES WITH LAWYERS
HLL48B	3.20	\$395.71	05/01/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	0.10	\$12.37	05/01/2007	35	TELEPHONE CALLS
HLL48B	0.20	\$24.73	05/01/2007	37	REVIEW LETTER
HLL48B	0.30	\$37.10	05/01/2007	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HLL48B	0.60	\$74.20	05/01/2007	25	REVIEW CASE FILE
HLL48B	0.20	\$24.73	05/01/2007	70	CONFERENCES WITH LAWYERS
HLL48B	0.40	\$49.46	05/02/2007	70	CONFERENCES WITH LAWYERS
HLL48B	3.60	\$445.18	05/02/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	1.50	\$185.49	05/03/2007	46	LEGAL RESEARCH
HLL48B	2.60	\$321.52	05/03/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	0.70	\$86.56	05/04/2007	46	LEGAL RESEARCH
HLL48B	1.20	\$148.39	05/04/2007	51	REPAIR FINAL AGENCY ACTION

Florida Department of Health

— FOR INTERNAL USE ONLY —

Itemized Cost



Report Date: 04/02/2008

Complaint 200710073

Page 3 of 4

Time Tracking System Itemized Cost by Complaint

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL33B	0.90	\$123.94	\$111.55	05/07/2007	81	ESO/ERO
HLL48B	0.30	\$123.66	\$37.10	05/09/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	0.20	\$123.66	\$24.73	05/09/2007	70	CONFERENCES WITH LAWYERS
HLL48B	3.50	\$123.66	\$432.81	05/11/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HL12A	1.30	\$100.00	\$130.00	05/14/2007	81	ESO/ERO
HL12A	1.10	\$100.00	\$110.00	05/15/2007	81	ESO/ERO
HLL48B	0.40	\$123.66	\$49.46	05/15/2007	70	CONFERENCES WITH LAWYERS
HLL48B	2.80	\$123.66	\$346.25	05/15/2007	50	REVIEW FINAL AGENCY ACTION CASES
HLL48B	0.50	\$123.66	\$61.83	05/15/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.50	\$123.66	\$61.83	05/17/2007	89	PROBABLE CAUSE PREPARATION
HLL48B	0.50	\$123.66	\$61.83	05/25/2007	89	PROBABLE CAUSE PREPARATION
HLL48B	0.30	\$123.66	\$37.10	05/25/2007	63	PRESENTATION OF CASES TO PROBABLE CAUSE PANEL
HLL48B	1.20	\$123.66	\$148.39	05/29/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.30	\$123.66	\$37.10	05/30/2007	25	REVIEW CASE FILE
HLL48B	0.30	\$123.66	\$37.10	05/30/2007	115	CONTACT WITH INVESTIGATORS
HLL48B	0.30	\$123.66	\$37.10	06/19/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.40	\$123.66	\$49.46	08/02/2007	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.
HLL48B	0.40	\$123.66	\$49.46	08/02/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.30	\$123.66	\$37.10	08/02/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.20	\$123.66	\$24.73	08/02/2007	35	TELEPHONE CALLS
HLL48B	0.40	\$123.66	\$49.46	08/08/2007	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.
HLL48B	0.10	\$123.66	\$12.37	08/08/2007	37	REVIEW LETTER
HLL48B	0.30	\$123.66	\$37.10	08/08/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.40	\$123.66	\$49.46	08/10/2007	46	LEGAL RESEARCH
HLL48B	0.20	\$123.66	\$24.73	08/10/2007	91	BOARD MEETING PREPARATION
HLL48B	0.80	\$123.66	\$98.93	08/24/2007	46	LEGAL RESEARCH
HLL48B	0.60	\$123.66	\$74.20	08/24/2007	51	REPAIR FINAL AGENCY ACTION
HLL48B	0.10	\$123.66	\$12.37	08/24/2007	35	TELEPHONE CALLS
HLL48B	0.30	\$123.66	\$37.10	08/24/2007	70	CONFERENCES WITH LAWYERS
HLL48B	0.90	\$123.66	\$111.29	08/24/2007	25	REVIEW CASE FILE
HLL48B	0.20	\$102.99	\$20.60	09/06/2007	37	REVIEW LETTER
HLL48B	0.40	\$102.99	\$41.20	09/10/2007	36	PREPARATION OR REVISION OF LETTER
HLL48B	0.50	\$102.99	\$51.50	09/10/2007	25	REVIEW CASE FILE

Florida Department of Health

- FOR INTERNAL USE ONLY -

Itemized Cost



**Time Tracking System
Itemized Cost by Complaint**

Complaint 200710073

Report Date: 04/02/2008

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL48B	1.50	\$102.99	\$154.49	10/12/2007	25	REVIEW CASE FILE
HLL48B	0.20	\$102.99	\$20.60	10/12/2007	70	CONFERENCES WITH LAWYERS
HLL48B	0.20	\$102.99	\$20.60	10/12/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.20	\$102.99	\$20.60	10/15/2007	70	CONFERENCES WITH LAWYERS
HLL48B	1.70	\$91.00	\$154.70	11/05/2007	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL48B	0.30	\$91.00	\$27.30	12/14/2007	88	PROOFING AND SIGNING LETTERS
HLL48B	0.40	\$91.00	\$36.40	12/21/2007	89	PROBABLE CAUSE PREPARATION
HLL48B	0.20	\$91.00	\$18.20	12/21/2007	63	PRESENTATION OF CASES TO PROBABLE CAUSE PANEL
HLL48B	0.20	\$111.56	\$22.31	01/03/2008	25	REVIEW CASE FILE
Sub Total	52.60		\$6,291.60			

Total Cost \$8,284.28

Search	Complaint/Case Number: 200716250	MAIN	HELP
--------	----------------------------------	------	------

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2007-10073

CECILIO D. PIZARRO, M.D.,

Respondent.

AMENDED 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.

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

PATIENT A.G.

4. In or around March 2006, Patient A.G. first began treating with Respondent.

5. In or around March 2006, Patient A.G. presented to Respondent with no complaints of physical pain and no medical records. Respondent did not perform any physical examination on Patient A.G.

6. During the initial office visit in or around March 2006, Patient A.G. requested a prescription for ninety, forty-milligram methadone wafers and ninety, two-milligram bars of Xanax.

7. Pursuant to Patient A.G.'s request, Respondent wrote Patient A.G. a prescription for ninety, forty-milligram methadone wafers and ninety, two-milligram bars of Xanax.

8. In or around March 2006, Patient A.G. paid Respondent \$300 for the initial office visit.

9. Patient A.G. continued to meet Respondent at his office until in or around November 2006.

10. Patient A.G. paid \$200 for each subsequent office visit.

11. During the period Patient A.G. treated with Respondent, Respondent increased Patient A.G.'s methadone dosage to one-hundred-twenty forty-milligram methadone wafers.

12. Methadone is a Schedule II controlled substance. 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."

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

14. 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.

PATIENT J.P.

15. In or around October 2006, Patient J.P. first met with Respondent at Respondent's office.

16. On Patient J.P.'s first office visit, Patient J.P. reported to Respondent that Patient J.P. suffered back pain as the result of a bulging disk.

17. Respondent did not ask Patient J.P. to produce any medical records.

18. After asking Patient J.P. his/her height and weight, Respondent wrote a prescription for one-hundred-twenty, forty-milligram methadone tablets and "ninety Valium."

19. Respondent did not perform a physical examination on Patient J.P. during the office visit.

20. Patient J.P. paid Respondent \$300 for the initial office visit.

21. Valium is the brand-name for diazepam, which is an anti-anxiety medication belonging to the class of medications called benzodiazepines.

PATIENT S.Y.

22. In or around October 2006, Patient S.Y. first began treating with Respondent.

23. In or around October 2006, during Patient S.Y.'s first office visit with Respondent, Patient S.Y. complained of back pain.

24. During Patient S.Y.'s first office visit, Respondent examined Patient S.Y.'s back.
25. During Patient S.Y.'s first office visit, Respondent also examined Patient S.Y.'s breasts although she expressed no complaints about her breasts.
26. During Patient S.Y.'s first office visit, Respondent told Patient S.Y. that her office visit and all future office visits would be free if she agreed to have sexual intercourse with him.
27. During Patient S.Y.'s first office visit, Patient S.Y. agreed to have sexual intercourse with Respondent in Respondent's office.
28. In exchange for having sexual intercourse with Respondent, Respondent wrote Patient S.Y. a prescription for forty milligrams of methadone, two milligrams of Xanax and eight milligrams of Dilaudid (a narcotic pain reliever).
29. After Respondent had sexual intercourse with Patient S.Y., Respondent returned the \$300 that Patient S.Y. paid for the initial office visit.
30. Patient S.Y. had three subsequent visits with Respondent, where she engaged in sexual intercourse with Respondent in his office.

31. On the following three visits, Respondent wrote prescriptions for Patient S.Y. in exchange for engaging in sexual intercourse.

32. Respondent did not charge Patient S.Y. for any office visits.

DETECTIVE R.P.

33. On or about January 30, 2007, Detective R.P. of the Fort Myers Police Department made an appointment with Dr. Pizarro for treatment for a fictitious injury.

34. Prior to the appointment, an audio transmitting device was concealed on Detective R.P.

35. On or about January 30, 2007, Detective R.P. presented to Respondent's office, using an assumed alias.

36. On or about January 30, 2007, Detective R.P. filled out a patient history and provided fictitious patient records.

37. On or about January 30, 2007, Detective R.P. related to Respondent that she had taken Vicodin (a narcotic pain-reliever containing hydrocodone) and Percocet (a narcotic pain-reliever containing oxycodone) in the past.

38. Detective R.P. also advised Respondent that she had taken drugs that were not prescribed to her, specifically methadone and Xanax.

39. Detective R.P. told Respondent that she took four, forty-milligram methadone tablets per day and four two-milligram Xanax tablets a day.

40. Respondent then provided Detective R.P. with a prescription for one-hundred-twenty, two-milligram tablets of Xanax and one-hundred-twenty, forty-milligram tablets of methadone.

41. Respondent wrote the prescriptions without conducting any examination or inquiring about Detective R.P.'s medical condition.

42. During the office visit, on or about January 30, 2007, Detective R.P. told Respondent that she was a dancer for private parties on the weekends.

43. Respondent subsequently asked numerous questions about the price for a private dance.

44. On or about January 30, 2007, Respondent solicited Detective R.P. to engage in sexual intercourse in exchange for \$150.00.

~~45. On or about January 30, 2007, Respondent asked Detective R.P. if she would have sex with him during the visit in his office.~~

46. After refusing to have sexual intercourse in Respondent's office, Detective R.P. exchanged phone numbers with Respondent so they could make arrangements to meet at a later date.

47. Detective R.P. paid Respondent \$300 in cash for the office visit.

48. Following Detective R.P.'s office visit on or about January 30, 2007, Respondent continued to call Detective R.P., requesting that she come to his home.

49. On or about February 7, 2007, Detective R.P. made plans to meet Respondent at his home on February 9, 2007. During the phone conversation, Detective R.P. told Respondent that she needed a prescription for Oxycontin (the brand-name for oxycodone).

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

51. Respondent told Detective R.P. that he would write the prescription when she came to his home.

~~52. On or about February 9, 2007, Detective R.P. and Officer H. K.~~
of the Fort Myers Police Department went to Respondent's apartment.

53. On or about February 9, 2007, Respondent wrote Detective R.P. a prescription for sixty, eighty-milligram tablets of Oxycontin, without

conducting any examination or inquiring about Detective R.P.'s medical condition.

54. Detective R.P. offered to pay Respondent \$300 for the prescription. Respondent responded, "you can get me next time."

55. On or about March 14, 2007, a grand jury for the United States District Court for the Middle District returned an indictment against Respondent, charging him with two counts of knowingly and willfully distributing controlled substances, specifically Methadone and Oxycodone, in violation of Title 21 United States Code, Sections 841(a)(1), and 841(b)(1)(C). The clerk assigned the case number 2:07-cr-37-FtM-34SPC to the indictment.

56. On or about March 28, 2007, the federal prosecutor filed a superseding indictment against Respondent which contained the same allegations.

57. On or about June 11, 2007, Respondent entered a plea of guilty to Count One and Count Two of the superseding indictment.

58. On or about September 25, 2007, Respondent was sentenced to imprisonment for twenty-seven months to be followed by three years of probation.

COUNT ONE

59. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

60. 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.

61. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around March 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 A.G.,

who had no complaints of pain, without taking a history from Patient A.G. and/or without performing a physical examination on Patient A.G.

62. 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 methadone and Xanax to Patient A.G. without performing a physical examination and/or taking a history.

COUNT TWO

63. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

64. 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.

65. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice in or around October, 2006 in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug to-wit: methadone and Valium, to Patient J.P., without performing a physical examination on Patient J.P.

66. 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 methadone and Valium to Patient J.P., in or around October 2006 without performing a physical examination on Patient J.P.

COUNT THREE

67. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

68. 65. 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.

69. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around October, 2006 through on or about February 9, 2007, in Fort Myers, Florida, by prescribing, dispensing, or administering a legend drug to-wit: methadone, Xanax and Dilaudid, to Patient S.Y. in exchange for Patient S.Y.'s agreement to engage in sexual intercourse with Respondent.

70. 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 methadone, Xanax and Dilaudid, to Patient S.Y. in or around October 2006 and continuing to on or about February 9, 2007 in exchange for Patient S.Y.'s agreement to engage in sexual intercourse with Respondent.

COUNT FOUR

71. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

72. 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.

73. Respondent prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his

professional practice in Fort Myers, Florida, in one or more of the following ways:

a. By prescribing, dispensing, or administering a legend drug, to-wit: methadone and Xanax, to Detective R.P. on or about January 31, 2007 without performing physical examination or inquiring about her medical condition; and/or

b. By prescribing, dispensing, or administering a legend drug, to-wit: Oxycontin, to Detective R.P. on or about February 9, 2007 without performing physical examination or inquiring about her medical condition.

74. 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 methadone, Xanax and Oxycontin to Detective R.P. without inquiring about her medical condition and without performing a physical examination.

COUNT FIVE

75. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

76. 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.

77. 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.

78. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing methadone to

Patient A.G., who had no complaints of pain, in or around March 2006 and continuing through in or around November 2006, without taking a history from Patient A.G. and without performing a physical examination on Patient A.G.

79. 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 methadone to Patient A.G. without taking a history and without performing a physical examination on Patient A.G.

COUNT SIX

80. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

81. 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.

82. 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.

83. As set forth above, Respondent violated the standards for the use of controlled substances for pain control by prescribing methadone to Patient J.P., in or around October 2006 without performing a physical examination on Patient J.P.

84. 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 methadone to Patient J.P. without performing a physical examination.

COUNT SEVEN

85. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

86. 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.

87. 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.

88. As set forth above, Respondent violated the standards for the use of controlled substances for pain control in one or more of the following ways:

a. By prescribing methadone to Detective R.P. on or about January 31, 2007 without performing a physical examination and/or inquiring about her medical condition; and/or

b. By prescribing Oxycontin to Detective R.P. on or about February 9, 2007 without performing physical examination and/or inquiring about her medical condition; and/or

89. 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 methadone and/or Oxycontin to Detective R.P. without performing a physical examination and/or inquiring about her medical condition.

COUNT EIGHT

90. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

91. Section 456.072(1)(v), Florida Statutes (2006), provides that ~~engaging or attempting to engage in sexual misconduct as defined and~~ prohibited in Section 456.063(1), Florida Statutes (2006), constitutes grounds for disciplinary action by the Board of Medicine.

92. Section 456.063(1), Florida Statutes (2006), states as follows:

- i. Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

93. Respondent engaged in sexual misconduct in the practice of medicine in one or more of the following ways:

- a. By establishing a physician-patient relationship with Patient S.Y. in or around October 2006, and then using this professional relationship to engage Patient S.Y. in sexual intercourse in his office; and/or
- b. By establishing a physician-patient relationship with Detective R.P. on or about January 31, 2007, and then using his professional relationship to attempt to engage Detective R.P. in sexual intercourse.

94. Based on the foregoing, Respondent violated Section 456.072(1)(v), Florida Statutes (2006), by engaging Patient S.Y. in sexual activity outside the scope of professional practice and/or attempting to

engage Detective R.P. in sexual activity outside the scope of professional practice.

COUNT NINE

95. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

96. Section 458.331(1)(j), Florida Statutes (2006), subjects a licensee to discipline for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. For purposes of this section, a patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

97. Respondent exercised influence within the physician-patient relationship for purposes of engaging a patient in sexual activity in one or more of the following ways:

a. By engaging in sexual intercourse with Patient S.Y. during her first office visit in or around October 2006 and/or subsequent office visits; and/or

b. By asking Detective R.P. to engage in sexual intercourse during her office visit on or about January 31, 2007.

98. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes (2006), by exercising influence within a physician-patient relationship for purposes of engaging the patient in sexual activity by engaging in sexual intercourse with Patient S.Y. during her first office visit and/or subsequent office visits; and/or by asking Detective R.P. to engage in sexual intercourse during her office visit on or about January 31, 2007.

COUNT TEN

99. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-eight (58) as if fully set forth herein.

100. Section 458.331(1)(c), Florida Statutes (2006), subjects a licensee to discipline, including suspension, for being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of medicine or the ability to practice medicine.

101. Respondent pled guilty to a crime which relates to the practice of medicine, or the ability to practice medicine, by entering a guilty plea on or about June 11, 2007 in the United States of America v. Cecilio Pizarro 2:07-cr-37-FtM-34SPC, to two counts of knowingly and willfully distributing

controlled substances, specifically Methadone and Oxycodone, in violation of Title 21 United States Code, Sections 841(a)(1), and 841(b)(1)(C).

102. Based on the foregoing, Respondent violated Section 458.331(1)(c), Florida Statutes (2006), when Respondent entered a plea of guilty to a crime in any jurisdiction which relates to the practice of medicine, or the ability to practice medicine, when Respondent pled guilty to two counts of knowingly and willfully distributing controlled substances, specifically Methadone and Oxycodone, in violation of Title 21 United States Code, Sections 841(a)(1), and 841(b)(1)(C).

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 21 day of December, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health



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) 245-4680 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *[Handwritten Signature]*
DATE 12/21/07

PCP: 12/21/07

PCP Members: *EL-Rahim & Farner*

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 HEALTHBy Ronald [Signature]
Deputy Agency Clerk

In Re: Emergency Suspension of the License of
Cecilio D. Pizarro, M.D.
License Number: 59711
Case Number: 2007-10073.

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Ana M. Viamonte Ros, M.D., M.P.H., Secretary of the Department of Health, ORDERS the emergency suspension of the license of Cecilio D. Pizarro M.D., ("Dr. Pizarro") to practice as a medical doctor. Dr. Pizarro holds license number 59711. His address of record is 1342 Colonial Boulevard, Building F #41-A, Fort Myers, Florida 33907. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Pizarro's license to practice as a medical doctor in the State of Florida.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state department charged with regulating the practice of medicine pursuant to Chapters 20, 456, and 458, Florida Statutes. Section 456.073, Florida Statutes, authorizes the Secretary of the Department to summarily suspend Dr. Pizarro's license to practice as a medical doctor in the State of Florida, in accordance with Section 120.60(6), Florida Statutes.
2. At all times material to this order, Dr. Pizarro was licensed as a medical doctor in the State of Florida, pursuant to Chapter 458, Florida Statutes.
3. In or around January 2007, the United States Drug Enforcement Agency received information that Dr. Pizarro was prescribing controlled substances to patients

in exchange for money and/or sexual favors. After receiving this information, the DEA opened an investigation into Dr. Pizarro's prescribing practices.

4. As part of the investigation, Drug Enforcement Agency Task Force Detective K.W. ("Detective K.W.") conducted interviews of three of Dr. Pizarro's former patients. On or about January 11, 2007, Detective K.W. took a sworn statement from Patient A.G. Patient A.G. stated that he/she first saw Dr. Pizarro in or around March 2006. Patient A.G. presented to Dr. Pizarro with no complaints of physical pain and no medical records and Dr. Pizarro did not perform any physical examination on Patient A.G. During the initial office visit, Patient A.G. requested a prescription for 90 forty-milligram methadone wafers and 90, two-milligram bars of Xanax. Patient A.G. paid Dr. Pizarro \$300 for the office visit. Patient A.G. continued to meet with Dr. Pizarro at his office until in or around November 2006. Patient A.G. paid \$200 per visit. During this period, Dr. Pizarro increased Patient A.G.'s methadone dosage to 124 forty-milligram methadone wafers. This increase in dosage was at Patient A.G.'s request.

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

6. Methadone is a Schedule II controlled substance that is a long-acting narcotic pain reliever used to treat severe pain. 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."

7. On or about January 11, 2007, Detective K.W. took the sworn statement of Patient J.P., a former patient of Dr. Pizarro. Patient J.P. reported that he/she first saw Dr. Pizarro in or around October 2006. On the first visit, Patient J.P. reported to Dr. Pizarro that he/she suffered back pain as the result of a bulging disk. Dr. Pizarro did not ask Patient J.P. to produce any medical records. After asking Patient J.P. his/her height and weight, Dr. Pizarro wrote a prescription for 120 forty-milligram methadone tablets and "ninety Valium." Patient J.P. paid Dr. Pizarro \$300 for the office visit.

8. Valium is the brand-name for diazepam, which is an anti-anxiety medication belonging to the class of medications called benzodiazepines.

9. After conducting the interviews of Patients A.G. and J.P., Detective K.W. orchestrated an undercover operation using the Fort Myers Police Department. On or about January 30, 2007, Detective R.P. of the Fort Myers Police Department made an appointment with Dr. Pizarro for treatment of a fictitious injury. Prior to the appointment, an audio transmitting device was concealed on Detective R.P. On or about January 30, 2007, at or around 5:30 PM, Detective R.P. presented to Dr. Pizarro's office. Detective R.P. used an assumed alias, filled out a patient history and provided

fictitious patient records. Detective R.P. related to Dr. Pizarro that she had taken Vicodin (narcotic pain-reliever containing hydrocodone) and Percocet (a narcotic pain-reliever containing oxycodone) in the past. Detective R.P. also advised Dr. Pizarro that she had taken drugs that were not prescribed to her, specifically methadone and Xanax. Detective R.P. told Dr. Pizarro that she took four, forty-milligram methadone tablets per day and four two-milligram Xanax tablets a day. Dr. Pizarro then provided Detective R.P. with a prescription for 120, two-milligram tablets of Xanax and 120 forty-milligram tablets of methadone. Dr. Pizarro wrote the prescriptions without conducting any examination or inquiring about Detective R.P.'s medical condition.

10. During the office visit on or about January 30, 2007, Detective R.P. told Dr. Pizarro that she was a dancer for private parties on the weekends. Dr. Pizarro subsequently asked numerous questions about the price for a private dance. During the conversation, Dr. Pizarro solicited Detective R.P. to engage in sexual intercourse in exchange for \$150.00. Dr. Pizarro asked Detective R.P. if she would have sex with him during the visit in his office. Detective R.P. refused and exchanged phone numbers with Dr. Pizarro so they could make arrangements to meet at a later date. Detective R.P. paid \$300 in cash for the office visit.

11. On or about January 31, 2007, Detective K.W. obtained a sworn statement from Patient S.Y. Patient S.Y. first saw Dr. Pizarro in or around October 2006. Patient S.Y. reported that she complained of back pain on her first visit with Dr. Pizarro. On that initial visit, Dr. Pizarro examined Patient S.Y.'s back. Dr. Pizarro also

examined Patient S.Y.'s breasts although she had no complaints about her breasts. During the office visit, Dr. Pizarro told Patient S.Y. that her office visit and all future office visits would be free if she agreed to have sexual intercourse with him. Patient S.Y. agreed to have sexual intercourse with Dr. Pizarro in his office during the first office visit. In exchange for having sexual intercourse with Dr. Pizarro, Dr. Pizarro wrote Patient S.Y. a prescription for 40 milligrams of methadone, two milligrams of Xanax and eight milligrams of Dilaudid (a narcotic pain reliever). Dr. Pizarro also returned the \$300 that Patient S.Y. paid for that office visit. Patient S.Y. had three subsequent visits with Dr. Pizarro, where she engaged in sexual intercourse with Dr. Pizarro in his office. On the following three visits, Dr. Pizarro wrote prescriptions for Patient S.Y. in exchange for engaging in sexual intercourse. Dr. Pizarro did not charge Patient S.Y. for any office visits.

12. Following Detective R.P.'s office visit on or about January 30, 2007, Dr. Pizarro continued to call Detective R.P., requesting that she come to his home. On or about February 7, 2007, Detective R.P. made plans to meet Dr. Pizarro at his home on February 9, 2007. During the telephone conversation, Detective R.P. told Dr. Pizarro that she needed a prescription for Oxycontin (the brand-name for oxycodone). Dr. Pizarro told Detective R.P. that he would write the prescription when she came to his home. On or about February 9, 2007, Detective R.P. and Officer H.K. of the Fort Myers Police Department went to Dr. Pizarro's apartment. Dr. Pizarro then wrote Detective R.P. a prescription for 60 eighty-milligram tablets of Oxycontin. Detective R.P. offered

to pay Dr. Pizarro \$300 for the prescription. Dr. Pizarro responded, "you can get me next time." Dr. Pizarro wrote this prescription without conducting any exam or inquiring about Detective R.P.'s medical condition.

13. Oxycontin is a Schedule II controlled substance that is a long-acting narcotic pain reliever similar to morphine. Oxycontin is an extremely effective pain management tool which allows cancer patients and the terminally ill relief from chronic and intractable pain. Patients who are prescribed Oxycontin are often able to return to normal life functioning with few or no side effects. Unfortunately, it is the very potency and effectiveness of this medication that has attracted illicit drug distribution and abuse of the pills resulting in a range of reported health complications including death. Oxycontin is supplied in a controlled-release dosage form and is intended to provide up to 12 hours of relief from moderate to severe pain. The tablet must be taken whole and only by mouth. When the tablet is crushed and its contents are injected intravenously or snorted into the nostrils, the controlled release mechanism is defeated and a potentially lethal dose of oxycodone is released immediately. The ingestion of Oxycontin intravenously or snorted into the nostrils provides a sense of euphoria similar to heroin.

14. On or about March 29, 2007, the United States Attorney for the Southern District of Florida filed an indictment against Dr. Pizarro charging him with knowingly, willfully, and illegally dispensing quantities of a controlled substance in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(c). The indictment alleged

that Dr. Pizarro illegally dispensed methadone and oxycodone. The clerk assigned case number 2:S07-cr-37-FtM-34-SPC to the indictment.

15. Dr. Pizarro is currently out of jail on bond and continues to maintain his medical license, which is presently listed as "Clear/Active."

16. 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.

17. Dr. Pizarro prescribed, dispensed, administered, mixed, or otherwise prepared a legend drug, other than in the course of his professional practice, from in or around October 2006 through on or about February 9, 2007, in Fort Myers, Florida, in one or more of the following ways:

A. By prescribing, dispensing, or administering a legend drug, to-wit: methadone and Xanax, to Patient A.G., who had no complaints of pain, in or around March 2006 and continuing through in or around November 2006, without taking a history from Patient A.G. and without performing a physical examination on Patient A.G.

B. By prescribing, dispensing, or administering a legend drug, to-wit: methadone and Valium, to Patient J.P., in or around October 2006, without performing a physical examination on Patient J.P.

C. By prescribing, dispensing, or administering a legend drug, to-wit: methadone, Xanax and Dilaudid, to Patient S.Y. in or around October 2006 in exchange for Patient S.Y.'s agreement to engage in sexual intercourse with Dr. Pizarro.

D. By prescribing, dispensing, or administering a legend drug, to-wit: methadone and Xanax, to Detective R.P. on or about January 31, 2007, without performing physical examination or inquiring about her medical condition.

E. By prescribing, dispensing, or administering a legend drug, to-wit: Oxycontin, to Detective R.P. on or about February 9, 2007, without performing physical examination or inquiring about her medical condition.

18. 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, including suspension, by the Board of Medicine.

19. 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.

20. Dr. Pizarro failed to meet the standards for the use of controlled substances in pain control in one or more of the following ways:

A. By prescribing methadone to Patient A.G., who had no complaints of pain, in or around March 2006 and continuing through in or around November 2006, without taking a history from Patient A.G. and without performing a physical examination on Patient A.G.

B. By prescribing methadone to Patient J.P., in or around October 2006 without performing a physical examination on Patient J.P.

C. By prescribing methadone, to Detective R.P. on or about January 31, 2007, without performing a physical examination or inquiring about her medical condition.

D. By prescribing Oxycontin to Detective R.P. on or about February 9, 2007, without performing physical examination or inquiring about her medical condition.

21. Respondent has violated Section 458.331(1)(nn), Florida Statutes, by violating Rule 64B8-9.013(3), Florida Administrative Code.

22. Section 456.072(1)(v), Florida Statutes (2006), provides that engaging or attempting to engage in sexual misconduct as defined and prohibited in Section

456.063(1), Florida Statutes (2006), constitutes grounds for disciplinary action, including suspension, by the Board of Medicine.

23. Section 456.063(1), Florida Statutes (2006), states as follows:

Sexual misconduct in the practice of a health care profession means violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

24. Respondent engaged in sexual misconduct in the practice of medicine in one or more of the following ways:

A. By establishing a physician-patient relationship with Patient S.Y. in or around October 2006, and then using this professional relationship to engage Patient S.Y. in sexual intercourse in his office.

B. By establishing a physician-patient relationship with Detective R.P. on or about January 31, 2007, and then using his professional relationship to attempt to engage Detective R.P. in sexual intercourse.

25. Dr. Pizarro violated Section 456.072(1)(v), Florida Statutes (2006), by engaging Patient S.Y. in sexual activity outside the scope of professional practice and/or attempting to engage Detective R.P. in sexual activity outside the scope of professional practice.

26. Section 458.331(1)(j), Florida Statutes (2006), subjects a licensee to discipline, including suspension, for exercising influence within a patient-physician

relationship for purposes of engaging a patient in sexual activity. For purposes of this section, a patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

27. Dr. Pizarro exercised influence within the physician-patient relationship for purposes of engaging a patient in sexual activity in one or more of the following ways:

A. By engaging in sexual intercourse with Patient S.Y. during four office visits.

B. By asking Detective R.P. to engage in sexual intercourse during her office visit on or about January 31, 2007.

28. Dr. Pizarro violated Section 458.331(1)(j), Florida Statutes (2006), by exercising influence within a physician-patient relationship for purposes of engaging the patient in sexual activity.

29. Section 120.60(6), Florida Statutes, authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate serious danger to the public health, safety, or welfare.

30. Dr. Pizarro has consistently prescribed controlled substances to his patients without taking an adequate patient history and without performing a physical examination. Dr. Pizarro's willingness to disregard the rules for prescribing controlled substances, poses an immediate and serious danger to his patients. A physician licensed in the State of Florida is one of a small number of licensed professionals allowed to prescribe, administer, and dispense controlled substances by the State. The

Legislature has vested a trust and confidence in these licensed professionals by permitting them to dispense drugs with a high potential for abuse and harm. Inappropriate prescribing of addictive controlled substances to Patients A.G., J.P., and S.Y. demonstrates a pattern that presents a danger to the public health, safety and welfare and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

31. Dr. Pizarro's ongoing willingness to engage in sexual misconduct towards his patients demonstrates a serious defect in Dr. Pizarro's judgment and moral character. Physicians often care for vulnerable patients in settings where they can easily abuse these patients. Due to the potential for abuse that is inherent under these circumstances, doctors must possess good judgment and good moral character in order to safely practice medicine. Dr. Pizarro's conduct constitutes such a threat to the public health and safety and demonstrates such a disregard for the laws and regulations governing physicians in this state that the safety of Dr. Pizarro's patients cannot be assured as long as he continues to practice medicine in the State of Florida. Nothing short of suspending Dr. Pizarro's license will adequately protect the public.

CONCLUSIONS OF LAW

32. The Secretary of the Department of Health has jurisdiction over this matter pursuant to Sections 20.43 and 456.073, Florida Statutes, and Chapter 458, Florida Statutes.

33. The Secretary concludes that Dr. Pizarro violated Section 458.331(1)(q), Florida Statutes (2006), 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.

34. The Secretary concludes that Dr. Pizarro violated Section 458.331(1)(nn), Florida Statutes (2006), by violating any provision of Chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto, and by violating Rule 64B8-9.013(3), Florida Administrative Code.

35. The Secretary concludes that Dr. Pizarro violated Section 456.072(1)(v), Florida Statutes (2006), by engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes (2006).

36. The Secretary concludes that Dr. Pizarro violated Section 458.331(1)(j), Florida Statutes (2006), by exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.

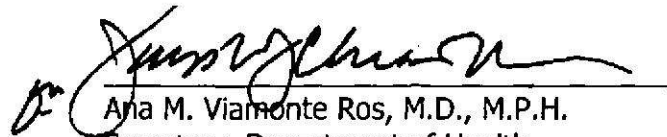
37. The Secretary concludes that Dr. Pizarro's continued practice as a physician constitutes an immediate and serious danger to the health, safety, and welfare of the public, and that this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes, it is ORDERED THAT:

1. The license of Cecilio D. Pizarro, M.D., license number ME 59711, is immediately suspended.

2. A proceeding seeking formal suspension or discipline of the license of Cecilio D. Pizarro, M.D., to practice as a physician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes.

DONE and ORDERED this 16th day of May, 2007.


Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health

PREPARED BY:

Allison M. Dudley
Assistant General Counsel
Florida Bar No. 159913
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
(850) 245-4640 Office
(850) 245-4680 Facsimile

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to sections 120.60(6) and 120.68, Florida Statutes, the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within 30 days of the date this Order is filed.

In Re: Emergency Suspension of the License of
Cecilio D. Pizarro, M.D.
License Number: 59711
Case Number: 2007-10073
K:\turnagelx\Pizarro 2007-10073.DOC