

WB

Final Order No. DOH-08-2411-S-MOA  
FILED DATE - 10.14.08  
Department of Health  
By: Rachel Blr  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2007-27710  
LICENSE NO.: ME0027608

AURELIO A. ORTIZ, M.D.,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on October 3, 2008, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise full advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which was accepted on the record by the parties. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$2,301.15.

2. Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 50 hours of community service. Community service shall be provided without fee or cost to the person or entity benefiting from the service, for the good of the people of the State of Florida. A community service plan must be pre-approved by the Board's Probation Committee. Affidavits detailing the completion of community service requirements shall be filed with the Board's Probation Committee.

3. Respondent shall document completion of the Laws and Rules course sponsored by the Florida Medical Association (FMA) within one year from the date this Final Order is filed.

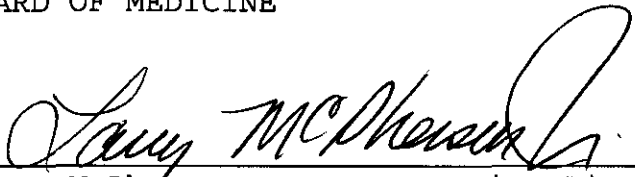
IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

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

DONE AND ORDERED this 14 day of OCTOBER,

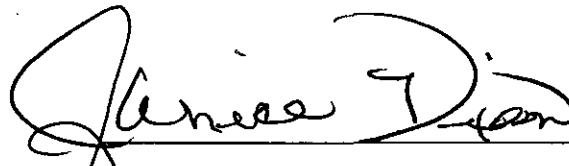
2008.

BOARD OF MEDICINE

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to AURELIO A. ORTIZ, M.D, 3610 SW 113<sup>th</sup> Place, Miami, Florida 33165; to Wilson Jerry Foster, Esquire, 1342 Timberlane Road, Suite 102-A, Tallahassee, Florida 32312; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 16 day of October, 2008.

  
Deputy Agency Clerk

A-08  
GMART

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2007-27710

AURELIO A. ORTIZ, M.D.,

RESPONDENT.

MAY 1 11 2008

**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, Aurelio A. Ortiz, 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 27608.

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3. Respondent's address of record is 3610 Southwest 113th Place, Miami, Florida 33165.

4. By Complaint filed on or about July 18, 2005, by the Texas State Board of Medical Examiners, Respondent was charged with failure to practice medicine in an acceptable professional manner, unprofessional or dishonorable conduct, failure to treat a patient according to the generally accepted standard of care, negligence in performing medical services, and failure to maintain adequate medical records.

5. On or about February 27, 2006, Respondent consented to an Agreed Order (hereinafter "Agreed Order") by the Texas Medical Board, executed on April 7, 2006, resolving the heretofore referenced Complaint, and imposing disciplinary sanctions against Respondent, including a license suspension, which was stayed, three years probation, and a public reprimand, and, by certain deadlines: 10 hours of ethics courses, successful completion (score of 75 or above) of the Texas State Medical Board Medical Jurisprudence Examination (hereinafter "JP Exam"), and a Three thousand dollar (\$3,000.00) administrative penalty. This constitutes discipline of Respondent's license by Texas.

6. On or about August 24, 2007, the Texas Medical Board executed an Agreed Order Modifying Prior Order (hereinafter "Modified Order"), finding that Respondent failed to comply with the Agreed Order by not successfully completing the JP Exam by the prescribed deadline, granting a 90-day extension to complete that requirement, and imposing an additional administrative penalty of One thousand dollars (\$1,000.00).

7. Respondent failed to report to the Florida Board of Medicine the disciplinary action taken by the Texas Medical Board, on or about August 24, 2007, against Respondent's license to practice medicine in Texas.

#### COUNT ONE

8. Petitioner realleges and incorporates paragraphs one (1) through seven (7), above, as if fully set forth herein.

9. Section 458.331(1)(b), Florida Statutes (2007), subjects a licensee to discipline for having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

10. Respondent's license or the authority to practice medicine was revoked, suspended, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or subdivisions, in one or more of the following ways:

Respondent's license to practice medicine in the State of Texas was disciplined on or about August 24, 2007, for failure to comply with requirements as set forth by a previous disciplinary order.

11. Based on the foregoing, Respondent violated Section 458.331(1)(b), Florida Statutes (2007), by having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

#### COUNT TWO

12. Petitioner realleges and incorporates paragraphs one (1) through seven (7), above, as if fully set forth herein.

13. Section 458.331(1)(kk), Florida Statutes (2005), provides that failing to report to the board, in writing, within thirty (30) days if action as

defined in Section 458.331(1)(b), Florida Statutes, has been taken against one's license to practice medicine in another state, territory or country constitutes grounds for disciplinary action by the Board of Medicine.

14. Respondent failed to report to the board, in writing, within thirty (30) days; if action as defined in Section 458.331(1)(b), Florida Statutes, had been taken against his license to practice medicine in another state, territory or country, in one or more of the following ways:

Respondent failed to report in writing, within thirty (30) days, to the Florida Board of Medicine, the disciplinary action taken on August 24, 2007, by the Texas Medical Board against Respondent's license to practice medicine in Texas.

15. Based on the foregoing, Respondent has violated Section 458.331(1)(kk), Florida Statutes (2005), by failing to report to the board, in writing, within thirty (30) days if any action as defined in Section 458.331(1)(b), Florida Statutes, has been taken against one's license to practice medicine in another state, territory or country.

WHEREFORE, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties:

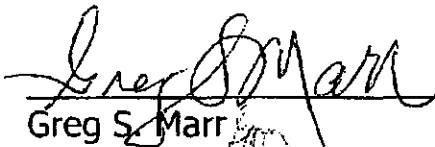
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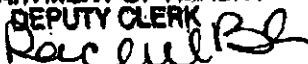
permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 28<sup>th</sup> day of April, 2008.

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



Greg S. Marr  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar No.: 131369  
(850) 245-4640 Ext. 8165  
(850) 245-4681 Facsimile

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK:   
DATE 5.1.08

GSM/sk

PCP: April 25, 2008

PCP Members: Dr. El Bahri, Dr. Bearison, Ms. Long

Case Name: Aurelio A. Ortiz, M.D.

Case No. 2007-27710

### 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.**

**DOH Case No. 2007-27710**

**AURELIO A. ORTIZ, M.D.**

**Respondent.**

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**SETTLEMENT AGREEMENT**

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

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

### **STIPULATED FACTS**

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 27608.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of Chapter 458, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.
3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

### **STIPULATED CONCLUSIONS OF LAW**

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.
2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

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

### **STIPULATED DISPOSITION**

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

2. **Fine** - The Board of Medicine shall impose an administrative fine of Seven thousand five hundred dollars (\$7,500.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

**RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN 45 DAYS**

**OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.**

3. **Reimbursement Of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The agreed upon amount of Department costs to be paid in this case includes One thousand two hundred twenty-four dollars and two cents (\$1,224.02) but shall not exceed two thousand five hundred dollars (\$2,500.00). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the date of filing of the

Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

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

#### **STANDARD PROVISIONS**

1. **Appearance**: Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.
2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and

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

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

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.



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

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

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

9. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.


SIGNED this 25<sup>th</sup> day of August, 2008.

  
\_\_\_\_\_  
Aurelio A. Ortiz, M.D.

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

Sworn to and subscribed before me this 25<sup>th</sup> day of August, 2008.

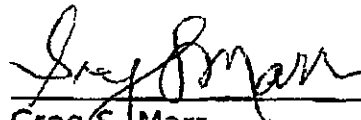


  
NOTARY PUBLIC

My Commission Expires: 09/11/09

APPROVED this 27<sup>th</sup> day of August, 2008.

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

  
By: Greg S. Marr  
Assistant General Counsel  
Florida Bar No.: 131369  
Department of Health  
Prosecution Services Unit  
4052 Bald Cypress Way  
Bin C-65  
Tallahassee, Florida 32399-3265  
(850) 245-4640 ext. 8165 Telephone  
(850) 245-4681 Fax

GSM/