

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

By: Angelo Sander
Deputy Agency Clerk

In Re: Emergency Restriction of the License of
James A. Yelton Rossello, M.D.
License No.: ME 63876
Case No.: 2010-23877

ORDER OF EMERGENCY RESTRICTION OF LICENSE

The State Surgeon General ORDERS the emergency restriction of the license of James A. Yelton Rossello, M.D., to practice as a physician. Dr. Yelton holds license number ME 63876. His address of record is 7906 East U.S. Highway 90, Lake City, Florida, 32055. The following Findings of Fact and Conclusions of Law support the emergency restriction of Dr. Yelton's license to practice as a physician in the State of Florida.

FINDINGS OF FACT

1. The Department of Health (Department) is the state agency charged with regulating the practice of medicine pursuant to Chapters 20, 456, and 458, Florida Statutes. Section 456.073(8), Florida Statutes (2010), authorizes the State Surgeon General to summarily restrict Dr. Yelton's license to practice medicine in the State of Florida pursuant to Section 120.60(6), Florida Statutes (2010).
2. At all times material to this Order, Dr. Yelton was licensed as a physician in the State of Florida, pursuant to Chapter 458, Florida Statutes.
3. At all times material to this Order, Dr. Yelton was employed as a staff psychiatrist with the Corrections Corporation of America (CCA). CCA is a private

company that operated the Hernando County Jail during the time period material to this Order.

4. Between approximately November 2009 and approximately August 2010, Dr. Yelton provided mental health / psychiatric treatment to patients incarcerated at the Hernando County Jail.

5. At all times material to this Order, Dr. Yelton provided one-on-one mental health / psychiatric treatment to female patients outside the presence of a third party and behind a closed door in a small room without any windows. The room contained a desk and two chairs and previously was used as a medication closet.

6. The community standard for the provision of psychiatric treatment is for the physician and patient to be separated by four to six feet in order to create a safe, non-threatening, and comfortable environment for the provision of beneficial therapy.

7. The treatment provided by Dr. Yelton to Patients S.B., T.A., J.W., and C.A. was detrimental to the patients' therapy because Dr. Yelton and the patients were not separated by four to six feet, which is the community standard for psychiatric treatment.

FINDINGS OF FACT SPECIFIC TO PATIENT S.B.

8. Between approximately November 2, 2009, and approximately April 25, 2010, Patient S.B., a 24-year-old female, presented to Dr. Yelton at the Hernando County Jail for mental health / psychiatric treatment.

9. During the course of Dr. Yelton's psychiatric treatment of Patient S.B., Dr Yelton requested Patient S.B. to show him her bare breasts, and Patient S.B.

complied. Dr. Yelton's request for Patient S.B. to expose her breasts was extraneous to her psychiatric treatment. After informing Patient S.B. that he would send her a Christmas card, Dr. Yelton mailed Patient S.B. an anonymous Christmas card at the Hernando County Jail, which provided the following message:

I do what I promise.

XOXOXO

("XOXOXO" is a vernacular term meaning "hugs and kisses.") The card was anonymous and possessed a fictitious return address from Tampa, but Dr. Yelton informed Patient S.B. that he sent the card.

10. In an interview with the Hernando County Sheriff's Office (HCSO) on or about August 18, 2010, Dr. Yelton admitted to sending the anonymous Christmas card to Patient S.B. with the "XOXOXO" signature line. Dr. Yelton also admitted to sometimes allowing female patients to hug him.

11. At her final mental health treatment session with Dr. Yelton, Patient S.B. initiated a mouth-to-mouth kiss with Dr. Yelton, at which time Dr. Yelton embraced Patient S.B. and returned her kiss. Dr. Yelton also requested that Patient S.B. call him upon her release from jail so he could take her shopping. Patient S.B. interpreted this statement by Dr. Yelton as a proposition to exchange sex for material goods.

FINDINGS OF FACT SPECIFIC TO PATIENT T.A.

12. Between approximately January 21, 2010, and approximately July 2010, Patient T.A., a 21-year-old female, presented to Dr. Yelton at the Hernando County Jail for mental health / psychiatric treatment.

13. At a mental health treatment session on or about March 2, 2010, Dr. Yelton requested to touch, then rubbed, a tattoo on Patient T.A.'s arm. Dr. Yelton's request to touch, and rubbing of, Patient T.A.'s tattoo was extraneous to her psychiatric treatment. At a subsequent mental health evaluation, Dr. Yelton requested a hug from Patient T.A., at which time Patient T.A. hugged him. Dr. Yelton also placed his hand on her leg and attempted to hold her hand. Dr. Yelton's placement of his hand on Patient T.A.'s leg and attempt to hold her hand were extraneous to her psychiatric treatment.

14. During the course of Dr. Yelton's psychiatric treatment of Patient T.A. between approximately March 2010, and approximately July 2010, Dr. Yelton questioned Patient T.A. about her occupation as an exotic dancer; stated that he would like to receive a "lap dance" from her; inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail; and had Patient T.A. sit on his lap. These inquiries and actions by Dr. Yelton were extraneous to Patient T.A.'s psychiatric treatment.

15. At a mental health treatment session in or about July 2010, Dr. Yelton stated that Patient T.A.'s breasts looked larger, asked her to stand up, and requested to feel her legs, but Patient T.A. refused. Dr. Yelton then asked to see Patient T.A.'s naked body. Based on the context of the conversation, Patient T.A. inferred that Dr. Yelton's prescription of her medications was dependent upon her compliance with the request. Patient T.A. then pulled down her pants as requested, at which time Dr. Yelton grabbed her underwear. Patient T.A. then pulled away from Dr. Yelton and left the room.

Dr. Yelton's requests to feel Patient T.A.'s legs, for Patient T.A. to pull down her pants, and his grabbing of her underwear were extraneous to her psychiatric treatment.

16. On or about March 11, 2010, Dr. Yelton prescribed 100 mg of Seroquel at bedtime to Patient T.A. for the treatment of psychiatric disorders. Seroquel is Seroquel (quetiapine) is an antipsychotic medication used to treat schizophrenia, bipolar disorder, and other psychiatric disorders. The appropriate dosage of Seroquel for the treatment of psychiatric disorders is approximately 300 to 800 mg per day. On or about April 5, 2010, Dr. Yelton increased the dosage of Seroquel to 100 mg per day and 200 mg at bedtime. On or about June 9, 2010, Dr. Yelton increased the dosage of Seroquel to one 100 mg tablet per day, one 200 mg tablet per day, and one 300 mg tablet at bedtime. On or about July 1, 2010, Dr. Yelton increased the dosage of Seroquel to 200 mg per day and 300 mg at bedtime.

17. At a mental health treatment session on or about August 2, 2010, Dr. Yelton apologized to Patient T.A. for his previous behavior. Dr. Yelton informed Patient T.A. that he would like to see her socially upon her release from jail and requested her telephone number, but Patient T.A. provided him with a fictitious telephone number. Dr. Yelton requested a hug from Patient T.A., and Patient T.A. complied. Dr. Yelton then requested a kiss from Patient T.A., but she refused the request, at which time Dr. Yelton kissed her on the cheek. These inquiries and actions by Dr. Yelton were extraneous to Patient T.A.'s psychiatric treatment.

FINDINGS OF FACT SPECIFIC TO PATIENT J.W.

18. Between approximately February 2, 2010, and approximately August 3, 2010, Patient J.W., a 29-year-old female, presented to Dr. Yelton at the Hernando County Jail for mental health / psychiatric treatment.

19. During the course of Dr. Yelton's psychiatric treatment of Patient J.W. between approximately February 2, 2010, and approximately August 4, 2010, Dr. Yelton requested to see Patient J.W.'s tattoo on her lower back and rubbed the tattoo with his fingers. Dr. Yelton's request to touch, and rubbing of, Patient J.W.'s tattoo was extraneous to her psychiatric treatment. In addition, Dr. Yelton informed Patient J.W. that he had been married for approximately 20 years but implied that he was faithful to his wife only "98% of the time"; and requested that Patient J.W. could meet him at a hotel upon her release from jail. Based on the context of the conversation, Patient J.W. inferred that Dr. Yelton would exchange prescriptions of Ativan for sex. During one medical evaluation, an individual attempted to open the door to the counseling room but was unable to gain entry because Dr. Yelton locked the door from the inside.

20. At a mental health treatment session on or about August 3, 2010, Dr. Yelton requested Patient J.W. to pull down her pants and requested her personal telephone number, but she refused both requests. These inquiries and actions by Dr. Yelton were extraneous to Patient J.W.'s psychiatric treatment. Later that day, Patient J.W. informed a correctional officer at the Hernando County Jail about the incident, and a formal complaint and investigation were subsequently initiated.

21. In addition, on or about August 3, 2010, Dr. Yelton prescribed to Patient J.W. 1 mg of Ativan twice per day. Ativan (lorazepam) is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, lorazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of lorazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

22. The Department of Health retained an independent medical expert in the field of psychiatry, who opined that Dr. Yelton's medical records do not justify the course of this treatment, and such prescription was inappropriate due to Patient J.W.'s presenting complaints and history of medication abuse.

23. Dr. Yelton provided treatment to Patient J.W. for approximately six months. However, Dr. Yelton's medical records only document that he evaluated Patient J.W. on or about February 15, 2010.

FINDINGS OF FACT SPECIFIC TO PATIENT C.A.

24. Between approximately July 17, 2010, and approximately August 3, 2010, Patient C.A., a 24-year-old female presented to Dr. Yelton at the Hernando County Jail for mental health / psychiatric treatment.

25. At a mental health treatment session on or about July 17, 2010, Dr. Yelton asked Patient C.A. if she had any tattoos and/or piercings, and whether he could see and/or touch them. Patient C.A. allowed him to touch a tattoo on her wrist and a scar on her arm, however, she refused to allow him to see and/or touch any

tattoos or piercings that were not plainly visible. Dr. Yelton's request to touch, and touching of, Patient C.A.'s tattoos were extraneous to her psychiatric treatment. Dr. Yelton also inquired as to whether Patient C.A. was an exotic dancer, the locations where she performed exotic dances, and whether she was attracted to older men. These inquiries by Dr. Yelton were extraneous to Patient C.A.'s psychiatric treatment.

26. At a mental health treatment session on or about August 3, 2010, Patient C.A. informed Dr. Yelton that she had been lactating, at which time Dr. Yelton informed her that such an occurrence likely was the result of her medication. Dr. Yelton then requested to see Patient C.A.'s breasts, but Patient C.A. refused. Dr. Yelton's request to see Patient C.A.'s breasts was extraneous to her psychiatric treatment. Patient C.A. then stood up to exit the room, at which time Dr. Yelton requested that Patient C.A. hug him. Dr. Yelton then pushed her against a wall, kissed her neck and lips, placed his hand on her vagina inside her underwear, and attempted to stimulate her. These inquiries and actions by Dr. Yelton were extraneous to Patient C.A.'s psychiatric treatment.

27. During the course of Dr. Yelton's psychiatric treatment of Patient C.A. between approximately July 17, 2010, and approximately August 3, 2010, Dr. Yelton also informed Patient C.A. that he had been married for approximately 25 years, implied that he was faithful to his wife "98% of the time," and stated that he became a "bad boy" with women like Patient C.A. In addition, Dr. Yelton provided Patient C.A. with his purported personal telephone number.

COMPREHENSIVE FINDINGS OF FACT / ANALYSIS

28. Section 456.072(1)(v), Florida Statutes (2009-2010), subjects a licensee to discipline, including restriction or restriction of license, for engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes.

29. Section 456.063(1), Florida Statutes (2009-2010), defines sexual misconduct in the practice of a health care profession as a 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 the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

30. Dr. Yelton engaged or induced, or attempted to engage or induce, a patient in sexual activity outside the scope of the professional practice of medicine, in violation of Section 456.072(1)(v), Florida Statutes (2009-2010), in one or more of the following manners:

a. Dr. Yelton requested that Patient S.B. expose her bare breasts; mailed Patient S.B. a Christmas card stating "I do what I promise, XOXOXO"; requested Patient S.B. to call him upon her release from jail so he could take her shopping, which Patient S.B. interpreted as a proposition to exchange sexual relations for material goods; and/or exchanged a mouth-to-mouth kiss with Patient S.B.;

b. Dr. Yelton requested to, and touched, Patient T.A.'s tattoo; requested a hug from Patient T.A.; stated that Patient T.A.'s breasts looked larger, asked her to stand up, and requested that she pull down her pants, at which time he grabbed her underwear; inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail; had Patient T.A. sit on his lap; requested a kiss from Patient T.A.; kissed Patient T.A. on her cheek; requested to see Patient T.A. socially when she was released from jail; and/or stated that he would like to receive a "lap dance" from Patient T.A.;

c. Dr. Yelton requested to, and touched, Patient J.W.'s tattoo on her lower back; requested Patient J.W. to pull down her pants; requested Patient J.W.'s personal telephone number; requested that he and Patient J.W. could meet at a hotel to engage in sex upon her release; and/or implying that he would exchange prescriptions of Ativan for sex with Patient J.W.; and/or

d. Dr. Yelton requested to touch Patient C.A.'s tattoos and/or piercings; provided Patient C.A. with his purported personal telephone number; requested to see Patient C.A.'s breasts; requested a hug from Patient C.A.; implied that he would engage in a sexual relationship with Patient C.A.; inquired as to whether Patient C.A. was an exotic dancer, the locations where she performed exotic dances, and whether she was attracted to older men; and/or restrained Patient C.A. against a wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

31. Section 458.331(1)(j), Florida Statutes (2009-2010), subjects a licensee to discipline, including restriction, for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

32. Rule 64B8-9.008(1)(a), Fla. Admin. Code, sets forth "sexual misconduct" with a patient as:

(a) Sexual behavior or involvement with a patient including verbal or physical behavior which

1. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it;

2. May reasonably be interpreted as intended for the sexual arousal or gratification of the physician, the patient or any third party; or

3. May reasonably be interpreted by the patient as being sexual.

33. Dr. Yelton exercised influence within a physician-patient relationship for the purpose of engaging in sexual activity in violation of Section 458.331(1)(j), Florida Statutes (2009-2010), by engaging in one or more of the following activities during the medical evaluation of a patient:

a. Dr. Yelton requested that Patient S.B. expose her bare breasts; mailed Patient S.B. a Christmas card stating "I do what I promise, XOXOXO"; requested Patient S.B. to call him upon her release from jail so he could take her shopping, which

Patient S.B. interpreted as a proposition to exchange sexual relations for material goods; and/or exchanged a mouth-to-mouth kiss with Patient S.B.;

b. Dr. Yelton requested to, and touched, Patient T.A.'s tattoo; requested a hug from Patient T.A.; stated that Patient T.A.'s breasts looked larger, asked her to stand up, and requested that she pull down her pants, at which time he grabbed her underwear; inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail; had Patient T.A. sit on his lap; requested a kiss from Patient T.A.; kissed Patient T.A. on her cheek; requested to see Patient T.A. socially when she was released from jail; and/or stated that he would like to receive a "lap dance" from Patient T.A.;

c. Dr. Yelton requested to, and touched, Patient J.W.'s tattoo on her lower back; requested Patient J.W. to pull down her pants; requested Patient J.W.'s personal telephone number; requested that he and Patient J.W. could meet at a hotel to engage in sex upon her release; and/or implying that he would exchange prescriptions of Ativan for sex with Patient J.W.; and/or

d. Dr. Yelton requested to touch Patient C.A.'s tattoos and/or piercings; provided Patient C.A. with his purported personal telephone number; requested to see Patient C.A.'s breasts; requested a hug from Patient C.A.; implied that he would engage in a sexual relationship with Patient C.A.; inquired as to whether Patient C.A. was an exotic dancer, the locations where she performed exotic dances, and whether she was attracted to older men; and/or restrained Patient C.A. against a

wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

34. Section 458.331(1)(t)1., Florida Statutes (2009-2010), subjects a physician to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2009-2010), 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."

35. Section 456.50(1)(e), Florida Statutes (2009-2010), provides that the "level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care that is specified in Section 766.102(1), Florida Statutes, as follows:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

36. Dr. Yelton failed to meet the prevailing standard of care in one or more of the following manners:

- a. By providing psychiatric treatment to Patients S.B., T.A., C.A., and J.W. without maintaining a distance of four to six feet to foster the provision of beneficial therapy;
- b. By allowing patients to hug him;
- c. By failing to adequately prescribe Seroquel to Patient T.A.; and/or

d. By prescribing Ativan to Patient J.W. without an indication for the medication and despite her history of medication abuse.

37. Section 458.331(1)(m), Florida Statutes (2009-2010), allows the Board of Medicine to discipline a physician for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

38. Dr. Yelton violated Section 458.331(1)(m), Florida Statutes (2009-2010), in one or more of the following manners:

a. Dr. Yelton's medical records do not justify the course of treatment provided to Patient J.W.; and/or

b. Dr. Yelton's medical records fail to document multiple treatments he provided to Patient J.W.

39. Section 120.60(6), Florida Statutes (2010), authorizes the Department to summarily suspend or restrict a physician's license if the Department finds that the physician presents an immediate serious danger to the public health, safety, or welfare.

40. The physician-patient relationship is one of the foundations of the practice of medicine. Physicians are in positions of trust and often provide treatment to

emotionally and physically vulnerable patients in settings where they can easily abuse patients. Due to the potential for abuse that is inherent in these circumstances, physicians must possess good judgment and good moral character in order to safely practice medicine. Within the course of the medical treatment of his patients, Dr. Yelton's willingness to exceed the boundaries of the physician-patient relationship by touching patients' tattoos; requesting that patients expose their breasts or bodies; requesting to meet patients for sex upon their release from jail; hugging and seeking hugs from patients; kissing and requesting kisses from patients; implying that he would have sexual affairs with patients; and restraining a patient against a wall while kissing her neck, kissing her lips, and placing his hand on her vagina in an attempt to sexually stimulate her, demonstrate a serious defect in Dr. Yelton's judgment and moral character. Dr. Yelton's actions regarding his patients were egregious and constitute a threat to the public health and safety. Dr. Yelton's actions demonstrate such a disregard for the laws and regulations governing physicians that the safety of patients cannot be assured as long as Dr. Yelton continues to practice medicine without restriction in the State of Florida.

41. Dr. Yelton's actions toward Patients S.B., T.A., J.W., and C.A. exhibit a lack of good judgment and moral character and demonstrate a pattern of recent and repeated disregard for the laws and rules governing the practice of medicine, all of which represent a significant likelihood that Dr. Yelton will continue to cause harm to patients. This probability constitutes an immediate and serious danger to the health, safety, or welfare of the citizens of the State of Florida. Dr. Yelton currently maintains

an active medical license in the State of Florida. Nothing short of restricting Dr. Yelton's license will adequately protect the public.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction pursuant to Sections 20.43 and 456.073(8), Florida Statutes, and Chapter 458, Florida Statutes.
2. Dr. Yelton violated Section 458.331(1)(j), Florida Statutes (2009-2010), by exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity.
3. Dr. Yelton violated Section 456.072(1)(v), Florida Statutes (2009-2010), by engaging or attempting to engage in sexual misconduct, as defined by Section 456.063(1), Florida Statutes (2009-2010).
4. Dr. Yelton violated Section 458.331(1)(t)1., Florida Statutes (2009-2010), by:
 - a. Providing psychiatric treatment to Patients S.B., T.A., C.A., and J.W. without maintaining a distance of four to six feet to foster the provision of beneficial therapy
 - b. Allowing patients to hug him;
 - c. Failing to adequately prescribe Seroquel to Patient T.A.; and/or
 - d. Prescribing Ativan to Patient J.W. without an indication for the medication and despite her history of medication abuse.

5. Dr. Yelton violated Section 458.331(1)(m), Florida Statutes (2009-2010),
by:

a. Failing to justify the course of treatment provided to Patient J.W. in
the medical records; and/or

b. Failing to document multiple treatments he provided to Patient J.W.
in the medical records.

6. Dr. Yelton's continued unrestricted practice as a physician constitutes an
immediate serious danger to the health, safety, or welfare of the public, and this
summary procedure is fair under the circumstances to adequately protect the public.

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

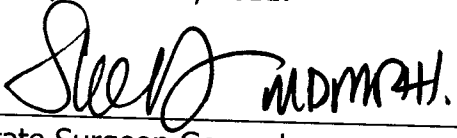
1. The license of Dr. James A. Yelton Rossello, M.D., license number
ME 63876, is immediately restricted as follows:

a. Dr. Yelton shall not provide medical, mental health, or psychiatric
treatment to any female patient.

b. Dr. Yelton shall not provide medical, mental health, or psychiatric
treatment to any male patient without being visibly and audibly supervised by a third
party who is a medical professional licensed under Chapters 464, 458, or 459, Florida
Statutes.

2. A proceeding seeking formal restriction or discipline of the license of
Dr. James A. Yelton Rossello, 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 22nd day of March, 2011.



State Surgeon General

PREPARED BY:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

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

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2010-23877

JAMES A. YELTON ROSSELLO, 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 the Respondent, James A. Yelton Rossello, M.D., and in support thereof alleges:

1. Petitioner is the state agency 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 63876.

3. Respondent's address of record is 7906 East U.S. Highway 90, Lake City, Florida, 32055.

4. At all times material to this Complaint, Respondent was employed as a staff psychiatrist with the Corrections Corporation of America (CCA). CCA is a private company that operated the Hernando County Jail during the time period material to this Order.

5. Between approximately November 2009 and approximately August 2010, Respondent provided mental health / psychiatric treatment to patients incarcerated at the Hernando County Jail.

6. At all times material to this Complaint, Respondent provided one-on-one mental health / psychiatric treatment to female patients outside the presence of a third party and behind a closed door in a small room without any windows. The room contained a desk and two chairs and previously was used as a medication closet.

7. The community standard for the provision of psychiatric treatment is for the physician and patient to be separated by four to six feet in order to create a safe, non-threatening, and comfortable environment for the provision of beneficial therapy.

8. The treatment provided by Respondent to Patients S.B., T.A., J.W., and C.A. was detrimental to the patients' therapy because Respondent and the patients were not separated by four to six feet, which is the community standard for psychiatric treatment.

FACTS SPECIFIC TO PATIENT S.B.

9. Between approximately November 2, 2009, and approximately April 25, 2010, Patient S.B., a 24-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

10. During the course of Respondent's psychiatric treatment of Patient S.B., Dr. Yelton requested Patient S.B. to show him her bare breasts, and Patient S.B. complied. Respondent's request for Patient S.B. to expose her breasts was extraneous to her psychiatric treatment. After informing Patient S.B. that he would send her a Christmas card, Respondent mailed Patient S.B. an anonymous Christmas card at the Hernando County Jail, which provided the following message:

I do what I promise.

XOXOXO

("XOXOXO" is a symbol for the phrase "hugs and kisses.") The card was anonymous and possessed a fictitious return address from Tampa, but Respondent informed Patient S.B. that he sent the card.

11. In an interview with the Hernando County Sheriff's Office (HCSO) on or about August 18, 2010, Respondent admitted to sending the anonymous Christmas card to Patient S.B. with the "XOXOXO" signature line. Respondent also admitted to sometimes allowing female patients to hug him.

12. At her final mental health treatment session with Respondent, Patient S.B. initiated a mouth-to-mouth kiss with Respondent, at which time Respondent embraced Patient S.B. and returned her kiss. Respondent also requested that Patient S.B. call him upon her release from jail so he could take her shopping. Patient S.B. interpreted this statement by Respondent as a proposition to exchange sex for material goods.

FACTS SPECIFIC TO PATIENT T.A.

13. Between approximately January 21, 2010, and approximately July 2010, Patient T.A., a 21-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

14. At a mental health treatment session on or about March 2, 2010, Respondent requested to touch, then rubbed, a tattoo on Patient T.A.'s arm. Respondent's request to touch, and rubbing of, Patient T.A.'s tattoo was extraneous to her psychiatric treatment. At a subsequent mental health evaluation, Respondent requested a hug from Patient T.A., at which time Patient T.A. hugged him. Respondent also placed his hand on her leg and attempted to hold her hand. Respondent's placement of his hand on Patient T.A.'s leg and attempt to hold her hand were extraneous to her psychiatric treatment.

15. During the course of Respondent's psychiatric treatment of Patient T.A. between approximately March 2010 and approximately July 2010, Respondent questioned Patient T.A. about her occupation as an exotic dancer; stated that he would like to receive a "lap dance" from her; inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail; and had Patient T.A. sit on his lap. These inquiries and actions by Respondent were extraneous to Patient T.A.'s psychiatric treatment.

16. At a mental health treatment session in or about July 2010, Respondent stated that Patient T.A.'s breasts looked larger, asked her to

stand up, and requested to feel her legs, but Patient T.A. refused. Respondent then asked to see Patient T.A.'s naked body. Based on the context of the conversation, Patient T.A. inferred that Respondent's prescription of her medications was dependent upon her compliance with the request. Patient T.A. then pulled down her pants as requested, at which time Respondent grabbed her underwear. Patient T.A. then pulled away from Respondent and left the room. Respondent's requests to feel Patient T.A.'s legs, for Patient T.A. to pull down her pants, and his grabbing of her underwear were extraneous to her psychiatric treatment.

17. On or about March 11, 2010, Respondent prescribed 100 mg of Seroquel at bedtime to Patient T.A. for the treatment of psychiatric disorders. Seroquel is Seroquel (quetiapine) is an antipsychotic medication used to treat schizophrenia, bipolar disorder, and other psychiatric disorders. The appropriate dosage of Seroquel for the treatment of psychiatric disorders is approximately 300 to 800 mg per day. On or about April 5, 2010, Respondent increased the dosage of Seroquel to 100 mg per day and 200 mg at bedtime. On or about June 9, 2010, Respondent increased the dosage of Seroquel to one 100 mg tablet per day, one 200 mg tablet per day, and one 300 mg tablet at bedtime. On or about July 1,

2010, Respondent increased the dosage of Seroquel to 200 mg per day and 300 mg at bedtime.

18. At a mental health treatment session on or about August 2, 2010, Respondent apologized to Patient T.A. for his previous behavior. Respondent informed Patient T.A. that he would like to see her socially upon her release from jail and requested her telephone number, but Patient T.A. provided him with a fictitious telephone number. Respondent requested a hug from Patient T.A., and Patient T.A. complied. Respondent then requested a kiss from Patient T.A., but she refused the request, at which time Respondent kissed her on the cheek. These inquiries and actions by Respondent were extraneous to Patient T.A.'s psychiatric treatment.

FACTS SPECIFIC TO PATIENT J.W.

19. Between approximately February 2, 2010, and approximately August 3, 2010, Patient J.W., a 29-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

20. During the course of Respondent's psychiatric treatment of Patient J.W. between approximately February 2, 2010, and approximately

August 4, 2010, Respondent requested to see Patient J.W.'s tattoo on her lower back and rubbed the tattoo with his fingers. Respondent's request to touch, and rubbing of, Patient J.W.'s tattoo was extraneous to her psychiatric treatment. In addition, Respondent informed Patient J.W. that he had been married for approximately 20 years but implied that he was faithful to his wife only "98% of the time"; and requested that Patient J.W. could meet him at a hotel upon her release from jail. Based on the context of the conversation, Patient J.W. inferred that Respondent would exchange prescriptions of Ativan for sex. During one medical evaluation, an individual attempted to open the door to the counseling room but was unable to gain entry because Respondent locked the door from the inside.

21. At a mental health treatment session on or about August 3, 2010, Respondent requested Patient J.W. to pull down her pants and requested her personal telephone number, but she refused both requests. These inquiries and actions by Respondent were extraneous to Patient J.W.'s psychiatric treatment. Later that day, Patient J.W. informed a correctional officer at the Hernando County Jail about the incident, and a formal complaint and investigation were subsequently initiated.

22. In addition, on or about August 3, 2010, Respondent prescribed to Patient J.W. 1 mg of Ativan twice per day. Ativan (lorazepam) is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, lorazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of lorazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

23. The Department of Health retained an independent medical expert in the field of psychiatry, who opined that Respondent's medical records do not justify the course of this treatment, and such prescription was inappropriate due to Patient J.W.'s presenting complaints and history of medication abuse.

24. Respondent provided treatment to Patient J.W. for approximately six months. However, Respondent's medical records only document that he evaluated Patient J.W. on or about February 15, 2010.

FACTS SPECIFIC TO PATIENT C.A.

25. Between approximately July 17, 2010, and approximately August 3, 2010, Patient C.A., a 24-year-old female presented to

Respondent at the Hernando County Jail for mental health / psychiatric treatment.

26. At a mental health treatment session on or about July 17, 2010, Respondent asked Patient C.A. if she had any tattoos and/or piercings, and whether he could see and/or touch them. Patient C.A. allowed him to touch a tattoo on her wrist and a scar on her arm, however, she refused to allow him to see and/or touch any tattoos or piercings that were not plainly visible. Respondent's request to touch, and touching of, Patient C.A.'s tattoos were extraneous to her psychiatric treatment. Respondent also inquired as to whether Patient C.A. was an exotic dancer, the locations where she performed exotic dances, and whether she was attracted to older men. These inquiries by Respondent were extraneous to Patient C.A.'s psychiatric treatment.

27. At a mental health treatment session on or about August 3, 2010, Patient C.A. informed Respondent that she had been lactating, at which time Respondent informed her that such an occurrence likely was the result of her medication. Respondent then requested to see Patient C.A.'s breasts, but Patient C.A. refused. Respondent's request to see Patient C.A.'s breasts was extraneous to her psychiatric treatment. Patient C.A.

then stood up to exit the room, at which time Respondent requested that Patient C.A. hug him. Respondent then pushed her against a wall, kissed her neck and lips, placed his hand on her vagina inside her underwear, and attempted to stimulate her. These inquiries and actions by Respondent were extraneous to Patient C.A.'s psychiatric treatment.

28. During the course of Respondent's psychiatric treatment of Patient C.A. between approximately July 17, 2010, and approximately August 3, 2010, Respondent also informed Patient C.A. that he had been married for approximately 25 years, implied that he was faithful to his wife "98% of the time," and stated that he became a "bad boy" with women like Patient C.A. In addition, Respondent provided Patient C.A. with his purported personal telephone number.

COUNT ONE

29. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

30. Section 456.072(1)(v), Florida Statutes (2009-2010), subjects a licensee to discipline for engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes.

31. Section 456.063(1), Florida Statutes (2009-2010), defines sexual misconduct in the practice of a health care profession as a 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 the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

32. Rule 64B8-9.008(1)(a), Fla. Admin. Code, sets forth "sexual misconduct" with a patient as:

(a) Sexual behavior or involvement with a patient including verbal or physical behavior which

1. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it;

2. May reasonably be interpreted as intended for the sexual arousal or gratification of the physician, the patient or any third party; or

3. May reasonably be interpreted by the patient as being sexual.

33. Respondent engaged or attempted to engage in sexual misconduct in one or more of the following manners:

- a. Respondent requested that Patient S.B. expose her bare breasts;
- b. Respondent mailed Patient S.B. a Christmas card with a signature line containing symbols denoting the phrase "hugs and kisses";
- c. Respondent requested Patient S.B. to call him upon her release from jail so he could take her shopping, which Patient S.B. interpreted as a proposition to exchange sexual relations for material goods;
- d. Respondent exchanged a mouth-to-mouth kiss with Patient S.B.;
- e. Respondent requested Patient T.A. stand up and pull down her pants, at which time he grabbed her underwear;
- f. Respondent inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail;
- g. Respondent had Patient T.A. sit on his lap;

- h. Respondent requested a kiss from Patient T.A.;
- i. Respondent kissed Patient T.A. on her cheek;
- j. Respondent requested to see Patient T.A. socially when she was released from jail;
- k. Respondent stated that he would like to receive a "lap dance" from Patient T.A.;
- l. Respondent requested to, and touched, Patient J.W.'s tattoo on her lower back;
- m. Respondent requested Patient J.W. to pull down her pants;
- n. Respondent requested that he and Patient J.W. could meet at a hotel to engage in sexual activities upon her release from jail;
- o. Respondent implied that he would exchange prescriptions of Ativan for sex with Patient J.W.;
- p. Respondent requested to touch Patient C.A.'s tattoos and/or piercings;
- q. Respondent requested to see Patient C.A.'s breasts;
- r. Respondent requested a hug from Patient C.A.;

s. Respondent implied that he would engage in a sexual relationship with Patient C.A.;

t. Respondent inquired as to whether Patient C.A. was attracted to older men;

u. Respondent restrained Patient C.A. against a wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

34. Based on the foregoing, Respondent has violated Section 456.072(1)(v), Florida Statutes (2009-2010), by engaging or attempting to engage in sexual misconduct.

COUNT TWO

35. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

36. Section 458.331(1)(j), Florida Statutes (2009-2010), subjects a licensee to discipline for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

37. Respondent exercised influence within a physician-patient relationship for the purpose of engaging in sexual activity in violation of Section 458.331(1)(j), Florida Statutes (2009-2010), in one or more of the following manners:

- a. Respondent requested that Patient S.B. expose her bare breasts;
- b. Respondent requested Patient S.B. to call him upon her release from jail so that they could engage in sexual activities;
- c. Respondent exchanged a mouth-to-mouth kiss with Patient S.B.;
- d. Respondent requested Patient T.A. stand up and pull down her pants, at which time he grabbed her underwear;
- e. Respondent inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail;
- f. Respondent had Patient T.A. sit on his lap;
- g. Respondent requested a kiss from Patient T.A.;
- h. Respondent kissed Patient T.A. on her cheek;

i. Respondent stated that he would like to receive a "lap dance" from Patient T.A.;

j. Respondent requested Patient J.W. to pull down her pants;

k. Respondent requested that he and Patient J.W. could meet at a hotel to engage in sexual activities upon her release from jail;

l. Respondent implied that he would exchange prescriptions of Ativan for sex with Patient J.W.;

m. Respondent requested to see Patient C.A.'s breasts;

n. Respondent requested a hug from Patient C.A.;
and/or

o. Respondent restrained Patient C.A. against a wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

38. Based on the foregoing, Respondent has violated Section 458.331(1)(j), Florida Statutes (2009-2010), by exercising influence within a patient-physician relationship for purposes of engaging a patient in

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

COUNT THREE

39. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

40. Section 458.331(1)(t)1., Florida Statutes (2009-2010), subjects a physician to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2009-2010), 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."

41. Section 456.50(1)(e), Florida Statutes (2009-2010), provides that the "level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care that is specified in Section 766.102, Florida Statutes, as follows:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

42. Respondent failed to meet the prevailing standard of care in one or more of the following manners:

- a. By providing psychiatric treatment to Patients S.B., T.A., C.A., and/or J.W. without maintaining a distance of four to six feet to foster the provision of beneficial therapy;
- b. By allowing patients to hug him;
- c. By failing to adequately prescribe Seroquel to Patient T.A.; and/or
- d. By prescribing Ativan to Patient J.W. without an indication for the medication and despite her history of medication abuse.

43. Based on the foregoing, Respondent has violated Section 458.331(1)(t)1., Florida Statutes (2009-2010), by committing medical malpractice.

COUNT FOUR

44. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

45. Section 458.331(1)(m), Florida Statutes (2009-2010), subjects a physician to discipline for failing to keep legible, as defined by

department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

46. Respondent violated Section 458.331(1)(m), Florida Statutes (2009-2010), in one or more of the following manners:

- a. Respondent's medical records fail to justify Respondent's prescription for Ativan to Patient J.W.; and/or
- b. Respondent's medical records fail to document multiple treatments he provided to Patient J.W.

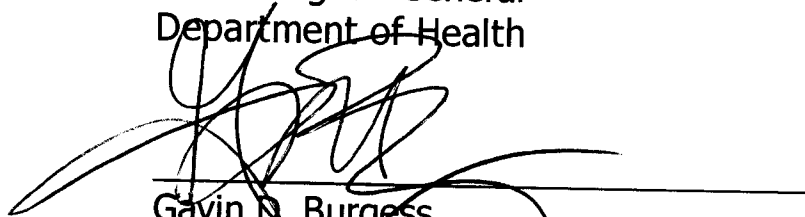
47. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2009-2010), by failing to keep legible medical records medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for

each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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

SIGNED this 8th day of April, 2011.

H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General
Department of Health



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FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: Melissa Nobile

DATE: 4-8-2011

gdb

PCP Date: April 8, 2011
PCP Members: Ashkar, Levine

DOH vs. James A. Yelton Rossello, M.D.

Case No.: 2010-23877

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 any other discipline imposed.