

DOH-21-0774-S-6

STATE OF FLORIDA
BOARD OF MEDICINE

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Amy Farraway*

DATE JUN 25 2021

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2017-21484
LICENSE NO.: ME0088217

SHERYL MARIE HAKALA, M.D.,

Respondent.

NOTICE OF SCRIVENER'S ERROR

The Final Order filed in this matter on June 16, 2021, contained an incorrect spelling of Respondent's name. The correct spelling is Sheryl Marie Hakala, M.D. All other terms of the Final Order filed in this matter remain in full force and effect.

DONE AND ORDERED this 24th day of June, 2021.

BOARD OF MEDICINE

Paul A. Vazquez

Paul A. Vazquez (Jun 24, 2021 13:53 EDT)

Paul A. Vazquez, J.D., Executive Director
For Zachariah P. Zachariah, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice has been provided by U.S. Mail to: Sheryl Marie Hakala, M.D., 701 S. Howard Avenue 106-301, Tampa, FL 33606 and Bruce D. Lamb, Esq., Gunster, Yoakley & Stewart, P.A., 401 E. Jackson Street, 25th Floor, Tampa, FL 33602; by email to: Chad Dunn, Assistant General Counsel, Department of Health, at Chad.Dunn@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 25 day of June, 2021.



Deputy Agency Clerk

FILED DATE - JUN 16 2021
Department of Health

By: Aimee Morris
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2017-21484
LICENSE NO.: ME0088217

SHERLY MARIE HAKALA, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 4, 2021, via a duly noticed video conference meeting, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

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

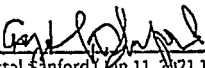
The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$6,778.18.

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

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

DONE AND ORDERED this 11th day of June, 2021.

BOARD OF MEDICINE


Crystal Ballford (Jun 11, 2021 17:04 EDT)

Paul A. Vazquez, J.D., Executive Director
For Zachariah P. Zachariah, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: Sherly Marie Hakala, M.D., 701 S. Howard Avenue 106-301, Tampa, FL 33606 and Bruce D. Lamb, Esq., Gunster, Yoakley & Stewart, P.A., 401 E. Jackson Street, 25th Floor, Tampa, FL 33602; by email to: Chad Dunn, Assistant General Counsel, Department of Health, at Chad.Dunn@flhealth.gov; and Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 16th day of June, 2021.

Annex M...
Deputy Agency Clerk

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Ron DeSantis
Governor

Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

MEMORANDUM

DATE: June 11, 2021

TO: Joe Baker, Interim Bureau Chief
Bureau of Health Care Practitioner Regulation

FROM: Paul A. Vazquez
Executive Director, Board of Medicine

SUBJECT: Delegation of Authority

This is to advise you that while I am out of the office Friday afternoon, June 11, 2021, the following individual is delegated to serve as Acting Executive Director for the Board of Medicine:

Crystal Sanford Program Operations Administrator

Crystal can be reached at 850-245-4132.

PAV/rh

cc: Jessica Hollingsworth
Board of Medicine Staff
Board and Council Chairs



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2017-21484

SHERYL MARIE HAKALA, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Sheryl Marie Hakala, 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 the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes, and chapter 456, Florida Statutes, and chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 88217.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

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

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in her capacity as a licensed physician, she 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.

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

STIPULATED DISPOSITION

1. **Reprimand** – The Board shall issue a Reprimand against Respondent's license.

2. **Fine** – The Board shall impose an administrative fine of *Ten Thousand Dollars and Zero Cents (\$10,000.00)* against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of any fine imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

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

3. **Reimbursement of Costs** - Pursuant to section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is *Six Thousand One Hundred Eighty-One Dollars and Fifty-Two Cents (\$6,181.52)*, but shall not exceed *Eight Thousand One Hundred Eighty-One Dollars and Fifty-Two Cents (\$8,181.52)*. Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier's check or money order.** Any

change in the terms of payment of costs imposed by the Board must be approved in advance by the Probation Committee of the Board.

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

4. Records Course – Respondent shall document completion of a Board-approved medical records course within one (1) year from the date the Final Order is filed.
5. Continuing Medical Education – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in boundaries within one (1) year from the date the Final Order is filed.
6. Continuing Medical Education – “Risk Management” – Respondent shall complete this requirement and document such completion within one (1) year from the date the Final Order is filed. **Respondent shall satisfy this requirement in one of the two following ways:**

(a) Respondent shall complete five (5) hours of CME in "Risk Management" after first obtaining written advance approval from the Board's Probation Committee of such proposed course, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee; or

(b) Respondent shall complete (5) five hours of CME in risk management by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine. In order to receive such credit, Respondent must sign in with the Executive Director of the Board before the meeting day begins, Respondent must remain in continuous attendance during the full day or eight (8) hours of disciplinary hearings, whichever is more, and Respondent must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. Respondent may not receive CME credit in risk management for attending the disciplinary hearings portion of a Board meeting unless the Respondent is attending the disciplinary hearings portion for the **sole** purpose of obtaining the CME credit in risk management. In other words, Respondent may not receive such credit if appearing at the Board meeting for any other purpose, such as pending action against Respondent's medical license.

7. **Restriction on Prescribing/Ordering Schedule I and Schedule II Controlled Substances** – Respondent is restricted from prescribing, ordering, and/or delegating the prescribing or ordering of, any substances listed in Schedules I-II, as defined in section 893.03, Florida Statutes (2020), and may from time-to-time be

redefined in Florida Statutes and/or the Florida Administrative Code. This restriction will remain in effect unless and until it is lifted or modified by the Board of Medicine upon a petition filed by Respondent. In the review of such a petition Respondent shall have the burden of proof to establish to the satisfaction of the Board, in its sole discretion, that Respondent can safely prescribe or order such substances. Any decision of the Board on such a petition shall not be subject to appeal or review.

8. **Probation Language** – Effective on the date of the filing of the Final Order, Respondent's license to practice medicine shall be placed on probation for a period of one (1) year. The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the obligations and restrictions set forth in this Paragraph.

(a) **Indirect Supervision** – Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "Monitor," whose responsibilities are set by the Board. Indirect supervision does not require that the Monitor practice on the same premises as Respondent; however, the Monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board, and shall be readily available for consultation. The Monitor shall be Board Certified, and actively engaged, in

Respondent's specialty area unless otherwise provided by the Board. Respondent shall allow the Monitor access to Respondent's medical records, calendar, patient logs or other documents necessary for the Monitor to perform the duties set forth in this Paragraph.

(b) Restriction – Respondent shall not practice medicine without an approved Monitor, as specified in this Agreement, unless otherwise ordered by the Board.

(c) Eligibility of Monitor – The Monitor must be a licensee under chapter 458, Florida Statutes, in good standing and without restriction or limitation on his/her license. In addition, the Board may reject any proposed Monitor on the basis that he/she has previously been subject to any disciplinary action against his/her medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The Board may also reject any proposed Monitor for good cause shown.

(d) Temporary Approval Of Monitor – The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's Monitor. To obtain temporary approval, Respondent shall submit to the Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor at the time this agreement is considered by the Board. **Once a Final Order adopting the Agreement is filed, Respondent shall not practice medicine without an approved Monitor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

(e) Formal Approval Of Monitor – Prior to the consideration of the Monitor by the Probation Committee, Respondent shall provide a copy of the

Administrative Complaint and Final Order in this case to the Monitor. Respondent shall submit a copy of the proposed Monitor's current curriculum vita and a description of his/her current practice to the Board office no later than fourteen (14) days before Respondent's first scheduled probation appearance. Respondent shall ensure that the Monitor is present with Respondent at Respondent's first appearance before the Probation Committee. **It shall be Respondent's responsibility to ensure the appearance of the Monitor as directed.** If the Monitor fails to appear as required, this shall constitute a violation of this Settlement Agreement and shall subject Respondent to disciplinary action.

(f) Change In Monitor – In the event that the Monitor is unable or unwilling to fulfill the responsibilities of a Monitor as described above, Respondent shall immediately advise the Probation Committee of this fact and submit the name of a temporary Monitor for consideration. **Respondent shall not practice pending approval of the temporary Monitor by the Chairman of the Probation Committee.** Furthermore, Respondent shall make arrangements with her temporary Monitor to appear before the Probation Committee at its next regularly scheduled meeting. Respondent shall only practice under the auspices of the temporary Monitor (after approval by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the formal approval of Respondent's new Monitor shall be addressed.

(g) Responsibilities of Respondent – In addition to the other responsibilities set forth in this Agreement, Respondent shall be solely responsible for ensuring that:

- (1) The Monitor submits tri-annual reports as required by this Agreement or directed by the Board;
- (2) Respondent submits tri-annual reports as required by this Agreement or directed by the Board;
- (3) The Monitor appears before the Probation Committee as required by this Agreement or directed by the Board; and
- (4) Respondent appears before the Probation Committee as required by this Agreement or directed by the Board.
- (5) Respondent shall pay all costs associated with probation.

Respondent understands and agrees that if either the approved Monitor or Respondent fails to appear before the Probation Committee as required, Respondent shall immediately cease practicing medicine until such time as both the approved Monitor (or approved alternate) and Respondent appear before the Probation Committee.

(h) Responsibilities of the Monitor – The Monitor shall:

- (1) Review **all** of Respondent's patient records for patients treated with controlled substances. In this regard, Respondent shall maintain a log documenting all such patients.

(2) Submit reports to the Probation Committee on a tri-annual basis, in affidavit form, which shall include:

- a. A brief statement of why Respondent is on probation;
- b. A description of Respondent's practice (type and composition);
- c. A statement addressing Respondent's compliance with the terms of probation;
- d. A brief description of the Monitor's relationship with Respondent;
- e. A statement advising the Probation Committee of any problems that have arisen; and
- f. A summary of the dates the Monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed.

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

(i) Respondent's Required Appearance Before Probation Committee -- Respondent shall appear before the Probation Committee at the **first** meeting of said Committee following commencement of the probation, at the **last** meeting of the Committee preceding scheduled termination of the probation, **and** at such other times as directed by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting at which Respondent's appearance is required. **Failure of Respondent to appear as directed, and/or failure of Respondent to comply with any of the terms of this Agreement, shall be considered a violation**

of the terms of this Agreement, and shall subject Respondent to disciplinary action.

(j) Monitor's Required Appearance – Respondent's Monitor shall appear before the Probation Committee at the first meeting of said Committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of Respondent's monitor to appear as directed. **If the approved Monitor fails to appear as directed by the Probation Committee, Respondent shall immediately cease practicing medicine until such time as the approved Monitor or alternate approved monitor appears before the Probation Committee.**

(k) Reporting by Respondent – Respondent shall submit tri-annual reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- (1) A brief statement of why Respondent is on probation;
- (2) A description of practice location;
- (3) A description of current practice (type and composition);
- (4) A brief statement of compliance with probationary terms;
- (5) A description of the relationship with the Monitor;
- (6) A statement advising the Board of any problems that have arisen; and
- (7) A statement addressing compliance with any restrictions or requirements imposed.

(l) Tolling Provisions – In the event Respondent physically leaves the State of Florida for a period of thirty (30) days or more or otherwise does not engage in the active practice of medicine in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

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

(m) Active Practice – In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Board may require Respondent to appear before the Board and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine in this State.

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. **Continuing Medical Education** – Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit documentation to the Board's Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board's Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board's Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** – Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses

5. **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 to include, but not limited to, all statutory requirements related to practitioner

profile and licensure renewal updates. 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.

6. **Violation of Terms** – 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.

7. **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.

8. **No Preclusion Of Additional Proceedings** – Respondent and the Department fully understand that this Agreement and subsequent Final Order 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.

9. **Waiver Of Attorney's Fees And Costs** – Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department 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.

10. **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.

[Signatures appear on the following page.]


SIGNED this 2nd day of April, 2021.

Sheryl Marie Hakala
Sheryl Marie Hakala, M.D.

STATE OF FLORIDA
COUNTY OF Hillsborough

BEFORE ME personally appeared Sheryl Marie Hakala, whose identity is known to me or who produced Florida ID (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 2nd day of April, 2021.

 Demetrius A. Williams
Notary Public
State of Florida
Comm# HH087746
Expires 2/1/2025

[Signature]
NOTARY PUBLIC

My Commission Expires: 2/1/25

APPROVED this 5th day of April, 2021.

Scott Rivkees, MD
State Surgeon General

By: Sarah Corrigan
Sarah Corrigan
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2017-21484

SHERYL MARIE HAKALA, M.D.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint ("Complaint") before the Board of Medicine ("Board") against Respondent, Sheryl Marie Hakala, M.D., and 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 88217.

3. Respondent's address of record is 701 S. Howard Avenue, 06-301, Tampa, FL 33606.

4. On or about February 6, 2011, Patient C.S. presented to Respondent with complaints of opiate withdrawal, anxiety, depression, and sleep disturbances.

5. From on or about February 6, 2011 through August 4, 2018 (hereinafter "the treatment period"), Respondent treated Patient C.S. for numerous complaints.

6. During the treatment period, Respondent prescribed Suboxone¹, Subutex², Adderall³, Xanax⁴, Valium⁵, Ambien⁶, and Tramadol⁷ to Patient C.S. in various quantities and doses.

¹ Suboxone contains buprenorphine and is prescribed to treat pain. According to Section 893.03(5), Florida Statutes, buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Suboxone also contains naloxone (Narcan) an opioid antagonist that minimizes the CNS effects of opioid drugs – often used to manage chronic pain in an opioid/opiate dependent person or to wean an opioid/opiate dependent person)

² Subutex is the brand name for buprenorphine.

³ Adderall is the brand name for a drug that contains amphetamine, commonly prescribed to treat attention deficit disorder. According to Section 893.03(2), Florida Statutes, amphetamine is a Schedule II controlled substance that 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 amphetamine may lead to severe psychological or physical dependence.

⁴ Xanax is the brand name for alprazolam. Alprazolam is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, alprazolam 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, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.

⁵ Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, diazepam 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, and abuse of diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

⁶ Zolpidem, commonly known by the brand name Ambien, is prescribed to treat insomnia. According to Title 21, Section 1308.14, Code of Federal Regulations, zolpidem is a Schedule IV controlled substance. Zolpidem can cause dependence and is subject to abuse.

⁷ Tramadol, commonly known by the brand name Ultram, is an opioid class medication prescribed to treat pain. Tramadol is a legend drug, but not a controlled substance. Tramadol, like all opioid class drugs, can affect mental alertness, is subject to abuse, and can be habit forming.

7. At no point during the treatment period did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with attention-deficit hyperactivity disorder (ADHD).

8. At no point during the treatment period did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with insomnia.

9. During the treatment period, Respondent prescribed Tramadol to Patient C.S., specifically for the treatment of obsessive compulsive disorder.

10. At no point during the course of treatment did Respondent appropriately diagnose, or document appropriately diagnosing, Patient C.S. with obsessive compulsive disorder.

11. At no point during the treatment period did Respondent perform, or document performing, an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.

12. During the treatment period, Respondent prescribed the aforementioned controlled substances inappropriately and/or without justification.

13. At no point during the treatment period did Respondent develop and execute, or document developing and executing, a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances.

14. Respondent prescribed the aforementioned controlled substances to Patient C.S. in the absence of a signed patient treatment contract.

15. After the patient treatment contract was executed, Respondent did not adhere to the signed patient treatment contract.

16. Respondent saw Patient C.S. infrequently, and in an erratic and inconsistent manner.

17. At no point during the treatment period did Respondent attempt to, or document attempting to, coordinate with Patient C.S.'s other treating physicians and medical providers.

18. At no point during the treatment period did Respondent utilize, or document utilizing, non-pharmacological psychosocial treatments for Patient C.S.'s complaints.

19. At no point during the treatment period did Respondent establish and/or enforce, or document establishing and/or enforcing, consequences for non-compliance, relapse, and/or treatment failure.

20. At no point during the treatment period did Respondent appropriately treat, or document appropriately treating, Patient C.S.'s withdrawal symptoms.

21. At no point during the treatment period did Respondent adequately monitor, or document adequately monitoring, Patient C.S.'s ongoing drug abuse.

22. At no point during the treatment period did Respondent recognize, or document recognizing, Patient C.S.'s failure to progress with the treatment Respondent provided.

23. At no point during the treatment period did Respondent address, or document addressing, Patient C.S.'s multiple relapses.

24. At no point during the treatment period did Respondent monitor, or document monitoring, Patient C.S. for illicit drug use, non-compliance, and/or diversion.

25. Respondent did not consider and/or discuss, or did not document considering and discussing, the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.

26. Respondent prescribed Adderall to Patient C.S. in excessive quantities.

27. Respondent adjusted the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification.

28. Respondent provided refills and changed Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit.

29. At no point during the treatment period did Respondent obtain, or document obtaining, a thorough medical history.

30. At no point during the treatment period did Respondent obtain, or document obtaining, Patient C.S.'s pharmacy profile.

31. Respondent prescribed the aforementioned controlled substances, despite evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse.

32. During the treatment period, Respondent failed to maintain appropriate physician-patient boundaries with Patient C.S.

33. Respondent has only received training and education in psychiatry.

34. During the treatment period, Respondent prescribed Linzess⁸ to Patient C.S. for his complaints of gastrointestinal issues.

35. During the treatment period, Respondent also prescribed Amitiza⁹ to Patient C.S. for his complaints of gastrointestinal issues.

36. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, gastrointestinal issues.

37. During the treatment period, Respondent prescribed Podofilox¹⁰ to Patient C.S. for complaints on an infection on his inner thigh.

38. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, external genital warts.

39. During the treatment period, Respondent prescribed Valtrex¹¹ to Patient C.S. for the treatment of blisters in his genital area.

⁸Linzess is a medication prescribed for the treatment of irritable bowel syndrome and chronic idiopathic constipation.

⁹ Amitiza is a medication used to treat chronic idiopathic constipation and irritable bowel syndrome with constipation.

¹⁰ Podofilox is a medication used to treat external genital warts.

¹¹ Valtrex is a medication used to treat herpes.

40. Respondent also prescribed Valtrex to Patient C.S. for the treatment of shingles.

41. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, herpes.

42. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, shingles.

43. During the treatment period, Respondent prescribed Cialis to Patient C.S. for complaints related to Patient C.S.'s Peyronie's disease¹².

44. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for the treatment of, Peyronie's disease.

45. During the treatment period, Respondent prescribed Zithromax¹³ to Patient C.S. without sufficient documentation and justification.

¹² Peyronie's disease is the development of scar tissue inside the penis, which results in erectile dysfunction.

¹³ Zithromax is the brand name of azithromycin, an antibiotic.

46. During the treatment period, Respondent prescribed clindamycin¹⁴ to Patient C.S. without sufficient documentation and justification.

47. Based on her lack of training and experience, Respondent was not competent to prescribe antibiotics to Patient C.S.

48. During the treatment period, Respondent prescribed anastrozole¹⁵ to Patient C.S. for complaints of depression.

49. Based on her lack of training and experience, Respondent was not competent to prescribe anastrozole.

50. During the treatment period, Respondent prescribed buprenorphine to Patient C.S. for complaints of acute pain.

51. Based on her lack of training and experience, Respondent was not competent to treat, and/or to prescribe medication for, acute pain.

52. During the treatment period, Respondent failed to keep legible and complete records that justified the course of treatment.

53. The prevailing professional standard of care required Respondent to:

¹⁴ Clindamycin is an antibiotic.

¹⁵ Anastrozole is an estrogen blocker and is commonly used to treat breast cancer.

- a. Appropriately diagnose Patient C.S. with attention-deficit hyperactivity disorder (ADHD);
- b. Appropriately diagnose Patient C.S. with insomnia;
- c. Appropriately diagnose Patient C.S. with obsessive compulsive disorder;
- d. Perform an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;
- e. Prescribe the aforementioned controlled substances appropriately and/or with justification;
- f. Develop and execute a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;
- g. Prescribe the aforementioned controlled substances under a signed patient treatment contract;
- h. Adhere to the signed patient treatment contract;
- i. See Patient C.S. frequently and regularly;
- j. Attempt to coordinate with Patient C.S.'s other treating physicians and medical providers;

- k. Utilize non-pharmacological psychosocial treatments for Patient C.S.'s complaints;
- l. Establish and/or enforce, consequences for non-compliance, relapse, and/or treatment failure;
- m. Appropriately treat Patient C.S.'s withdrawal symptoms;
- n. Adequately monitor Patient C.S.'s ongoing drug abuse;
- o. Recognize Patient C.S.'s failure to progress with the treatment Respondent provided;
- p. Address Patient C.S.'s multiple relapses;
- q. Monitor Patient C.S. for illicit drug use, non-compliance, and/or diversion;
- r. Consider and/or discuss the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;
- s. Refrain from prescribing Adderall to Patient C.S. in excessive quantities;
- t. Refrain from adjusting the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification;

- u. Refrain from providing refills and changing Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit;
- v. Obtain a thorough medical history;
- w. Obtain Patient C.S.'s pharmacy profile;
- x. Cease prescribing the aforementioned controlled substances, when faced with evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse;
- y. Maintain appropriate physician-patient boundaries with Patient C.S.

COUNT ONE
Section 458.331(1)(t)

54. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-three (53) as if fully set forth herein.

55. Section 458.331(1)(t), Florida Statutes (2013-2018), subjects a doctor to discipline for committing medical malpractice as defined in Section 456.50. Section 456.50, Florida Statutes (2013-2018), defines medical malpractice as the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure.

56. Level of care, skill, and treatment recognized in general law related to health care licensure means the standard of care specified in Section 766.102. Section 766.102(1), Florida Statutes, defines the standard of care to mean "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 healthcare providers...."

57. Respondent failed to meet the required standard of care in one or more of the following ways:

- a. By failing to correctly diagnose Patient C.S. with ADHD;
- b. By failing to diagnose Patient C.S. with insomnia;
- c. By failing to appropriately diagnose Patient C.S. with obsessive compulsive disorder;
- d. By failing to perform an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;
- e. By prescribing the aforementioned controlled substances inappropriately and/or without justification;
- f. By seeing Patient C.S. infrequently, erratically, and/or inconsistently;

- g. By failing to develop and execute a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;
- h. By prescribing the aforementioned controlled substances to Patient C.S. in the absence of a signed patient treatment contract;
- i. By failing to adhere to the signed patient treatment contract after it was signed;
- j. By seeing Patient C.S. infrequently, and in an erratic and inconsistent manner;
- k. By failing to attempt to coordinate with Patient C.S.'s other treating physicians and medical providers;
- l. By failing to utilize non-pharmacological psychosocial treatments for Patient C.S.'s complaints;
- m. By failing to establish and/or enforce consequences for non-compliance, relapse, and/or treatment failure;
- n. By failing to appropriately treat Patient C.S.'s withdrawal symptoms;

- o. By failing to adequately monitor Patient C.S.'s ongoing drug abuse;
- p. By failing to recognize Patient C.S.'s failure to progress with the treatment Respondent provided;
- q. By failing to address Patient C.S.'s multiple relapses;
- r. By failing to monitor Patient C.S. for illicit drug use, non-compliance, and/or diversion;
- s. By failing to consider and/or discuss the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;
- t. By prescribing Adderall to Patient C.S. in excessive quantities;
- u. By failing to address Patient C.S.'s non-compliance in relation to his prescription for Adderall;
- v. By adjusting the dosages of the aforementioned controlled substances based solely on Patient C.S.'s requests and without medical justification;
- w. By providing refills and changing Patient C.S.'s medications and dosages without seeing Patient C.S. for an office visit;
- x. By failing to obtain a thorough medical history;

- y. By failing to obtain Patient C.S.'s pharmacy profile;
- z. By continuing to prescribe the aforementioned controlled substances despite evidence of their ineffectiveness and evidence of tolerance, dependence, and abuse;
- aa. By prescribing Zithromax to Patient C.S. without justification;
- bb. By prescribing clindamycin to Patient C.S. without justification;
and/or
- cc. By failing to maintain appropriate physician-patient boundaries with Patient C.S.

58. Based on the foregoing, Respondent has violated section 458.331(1)(t), Florida Statutes (2013-2018), by committing medical malpractice.

COUNT TWO
Violation of Section 458.331(1)(m)
and/or Section 458.331(1)(nn)

59. Petitioner re-alleges and incorporates paragraphs one (1) through fifty-three (53) as if fully set forth herein.

60. Section 458.331(1)(m), Florida Statutes (2013-2018), subjects a licensee 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.

61. Section 458.331(1)(nn), Florida Statutes (2013-2018), provides that violating any provision of Chapter 458 or 456, or any rules adopted pursuant thereto constitutes grounds for disciplinary action by the Board of Medicine.

62. Chapter 64B8-9.003(d)(3), Florida Administrative Code (2006), provides that medical records shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician

and relied upon by the physician in determining the appropriate treatment of the patient.

63. Respondent failed to create and/or maintain adequate, legible medical records that justify the course of treatment of Patient C.S. and/or satisfy the requirements of Chapter 64B8-9.003(d)(3), Florida Administrative Code (2006), in one or more of the following ways:

- a. By failing to create and/or maintain adequate, legible medical records that document correctly diagnosing Patient C.S. with ADHD;
- b. By failing to create and/or maintain adequate, legible medical records that document diagnosing Patient C.S. with insomnia;
- c. By failing to create and/or maintain adequate, legible medical records that document appropriately diagnosing Patient C.S. with obsessive compulsive disorder;
- d. By failing to create and/or maintain adequate, legible medical records that document performing an appropriate assessment to determine whether the aforementioned controlled substances were appropriate treatments for Patient C.S.;

- e. By failing to create and/or maintain adequate, legible medical records that document developing and executing a mutually agreed upon treatment plan for Patient C.S.'s treatment with the aforementioned controlled substances;
- f. By failing to create and/or maintain adequate, legible medical records that document attempting to coordinate with Patient C.S.'s other treating physicians and medical providers;
- g. By failing to create and/or maintain adequate, legible medical records that document utilizing non-pharmacological psychosocial treatments for Patient C.S.'s complaints;
- h. By failing to create and/or maintain adequate, legible medical records that document establishing and/or enforcing, consequences for non-compliance, relapse, and/or treatment failure;
- i. By failing to create and/or maintain adequate, legible medical records that document appropriately treating Patient C.S.'s withdrawal symptoms;

- j. By failing to create and/or maintain adequate, legible medical records that document adequately monitoring Patient C.S.'s ongoing drug abuse;
- k. By failing to create and/or maintain adequate, legible medical records that document recognizing Patient C.S.'s failure to progress with the treatment Respondent provided;
- l. By failing to create and/or maintain adequate, legible medical records that document addressing Patient C.S.'s multiple relapses;
- m. By failing to create and/or maintain adequate, legible medical records that document monitoring Patient C.S. for illicit drug use, non-compliance, and/or diversion;
- n. By failing to create and/or maintain adequate, legible medical records that document considering and discussing, the risks, benefits, and side effects of the aforementioned controlled substances with Patient C.S.;
- o. By failing to create and/or maintain adequate, legible medical records that document obtaining a thorough medical history;

- p. By failing to create and/or maintain adequate, legible medical records that document prescribing Zithromax to Patient C.S.;
- q. By failing to create and/or maintain adequate, legible medical records that document prescribing clindamycin to Patient C.S.;
and/or
- r. By failing to create and/or maintain adequate, legible medical records that document obtaining Patient C.S.'s pharmacy profile.

64. Based on the foregoing, Respondent violated section 458.331(1)(m), Florida Statutes (2013-2018), and/or section 458.331(1)(nn), Florida Statutes (2013-2018).

COUNT THREE
Section 458.331(1)(v)

65. Petitioner re-alleges and incorporates paragraphs thirty-three (33) through fifty-three (53) as if fully set forth herein.

66. Section 458.331(1)(v), Florida Statutes (2013-2018), subjects a licensee to discipline for accepting and performing professional responsibilities which she knows or has reason to know that she is not competent to perform.

67. Respondent accepted and performed professional responsibilities which she knows or has reason to know that she is not competent to perform in one or more of the following ways:

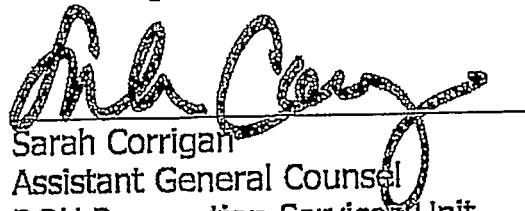
- a. By treating, and/or prescribing medication for the treatment of, gastrointestinal issues;
- b. By treating, and/or prescribing medication for the treatment of, external genital warts;
- c. By treating, and/or prescribing medication for the treatment of, herpes;
- d. By treating, and/or prescribing medication for the treatment of, shingles;
- e. By treating, and/or prescribing medication for the treatment of, Peyronie's disease;
- f. By prescribing antibiotics;
- g. By prescribing anastrozole; and/or
- h. By treating, and/or prescribing medication for the treatment of, acute pain.

68. Based on the foregoing, Respondent violated section 458.331(1)(v), Florida Statutes (2013-2018).

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 9th day of SEPTEMBER, 2019.

Scott Rivkees, M.D.
State Surgeon General



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FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Christina Morris*
DATE: SEP 09 2019

SEC/

PCP: September 6, 2019

PCP Members: Mark Avila, M.D.; Zachariah Zachariah, M.D.

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. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

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.