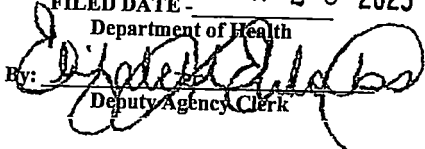


Final Order No. DOH-23-0378-5 -MQA  
FILED DATE - APR 28 2023  
Department of Health  
By:   
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,  
Petitioner,

vs.

DOH CASE NO.: 2019-39960  
LICENSE NO.: ME00106951

ERWIN FLORES RAMOS, 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 March 31, 2023, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise 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 \$5,263.85.

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 25th day of April, 2023.

BOARD OF MEDICINE

Paul A. Vazquez  
Paul A. Vazquez, J.D., Executive Director

Paul A. Vazquez, J.D., Executive Director  
For Scot Ackerman, 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: Erwin Flores Ramos, M.D., 6520 Samuel Lane, Vero Beach, FL 32966 and Robert Rappel, Esq., 601 21<sup>st</sup> Street, Suite 300, Vero Beach, FL 32960; by email to Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Christopher R. Dierlam, Senior Assistant Attorney General, at Christopher.Dierlam@myfloridalegal.com this 28 day of April, 2023.

*Elizabeth Eubanks*  
Deputy Agency Clerk

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**DOH Case No. 2019-39960**

**Erwin Flores Ramos, M.D.,**

**Respondent.**

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Petitioner, Department of Health ("Department"), and Respondent, Erwin Flores Ramos, pursuant to section 120.57(4), Florida Statutes, offer this Settlement Agreement ("Agreement") and agree to the entry of a Final Order of the Board of Medicine ("Board") incorporating this Agreement as disposition of this matter, in lieu of any other administrative proceedings.

**STIPULATED FACTS**

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 106951.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 456 and/or 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 their capacity as a licensed physician, they are 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 456 and/or 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 ***Five Thousand Dollars (\$5000.00)*** against Respondent's license which Respondent shall pay to:

Payments – DOH Compliance Management Unit  
Bin C-76  
P.O. Box 6320  
Tallahassee, FL 32314-6320

**All fines shall be paid by cashier's check or money order.** Payments must be made within thirty (30) days of the date of filing of the Final Order accepting this Agreement. 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.**

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 ***Five Thousand Two Hundred Sixty-Three Dollars and Eighty-Five Cents (\$5,263.85).***

Respondent shall pay such Department costs to:

Payments – DOH Compliance Management Unit  
Bin C-76  
P.O. Box 6320  
Tallahassee, FL 32314-6320

**All costs shall be paid by cashier's check or money order.** Payments must be made within thirty (30) days of the date of filing of the Final Order accepting this Agreement. 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.**

4. **Drug Course** – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in prescribing amphetamines within one (1) year from the date the Final Order is filed.

6. **Risk Management Course** – Respondent shall document completion of five (5) hours of Continuing Medical Education (CME) in risk management within one (1) year from the date the Final Order is filed.

7. **Probation Language** – Effective on the date of the filing of the Final Order, Respondent shall be placed on probation for a period of one (1) year subject to the following terms and conditions:

(a) Respondent's Required Appearance Before Probation Committee – Respondent shall appear before the Probationer's Committee at the **first** meeting after said probation commences, at the **last** meeting of the Probationer's Committee preceding termination of probation, quarterly and at such other times requested by the Committee. Respondent shall be noticed by Board staff of the date, time, and place of the Board's Probationer's Committee where at Respondent's appearance is required. **Failure of Respondent to appear as requested or directed shall be considered a violation of the terms of probation and shall subject Respondent to disciplinary action.**

(b) Indirect Supervision – Respondent shall not practice except under the indirect supervision of a BOARD-CERTIFIED physician (hereinafter "Monitor") fully licensed under Chapter 458 to be approved by the Board's Probation Committee. 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 below.

(c) Temporary Approval of Monitor/Supervisor – The Board confers authority on the Chairman of the Probation Committee to temporarily approve Respondent's Monitor/Supervisor. To obtain temporary approval, Respondent shall submit to the

Chairman of the Probation Committee the name and curriculum vitae of the proposed monitor/supervisor 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/Supervisor. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.**

(d) Formal Approval of Monitor/Supervisor – Prior to the consideration of the Monitor/Supervisor by the Probation Committee, Respondent shall provide a copy of the Administrative Complaint and Final Order in this case to the Monitor/Supervisor. Respondent shall submit a copy of the proposed Monitor/Supervisor's current curriculum vita and a description of their 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/Supervisor is present with Respondent at Respondent's first appearance before the Probation Committee, and at such other times as directed by the Committee. **It shall be Respondent's responsibility to ensure the appearance of the Monitor/Supervisor as directed. If the approved Monitor/Supervisor fails to appear as directed by the Probation Committee, Respondent shall immediately cease practicing medicine until such time as the approved Monitor/Supervisor or alternate approved monitor appears before the Probation Committee.**

(e) Change in Monitor/Supervisor – In the event that the Monitor/Supervisor is unable or unwilling to fulfill the responsibilities of a Monitor/Supervisor as described above, Respondent shall immediately advise the Probation Committee of this fact and



submit the name of a temporary Monitor/Supervisor for consideration. **Respondent shall not practice pending approval of the temporary Monitor/Supervisor by the Chairman of the Probation Committee.** Furthermore, Respondent shall make arrangements with their temporary Monitor/Supervisor to appear before the Probation Committee at its next regularly scheduled meeting. Respondent shall only practice under the auspices of the temporary Monitor/Supervisor (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/Supervisor shall be addressed.

(f) Alternate Monitor – In view of the need for ongoing and continuous monitoring or supervision, Respondent shall also submit the curriculum vitae and name of an alternate supervising/monitoring physician who shall be approved by Probation Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the same duties and responsibilities as specified for Respondent's monitoring/supervising physician during those periods of time which Respondent's monitoring/supervising physician is temporarily unable to provide supervision. Prior to practicing under the indirect supervision of the alternate monitoring physician or the direct supervision of the alternate supervising physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the supervision of the alternate monitoring/supervising physician. Respondent shall not practice unless Respondent is under the supervision of either the approved supervising/monitoring physician or the approved alternate.

- (g) Responsibilities of the Monitor/Supervisor – The Monitor/Supervisor shall:
- (1) Review 25 percent of Respondent's active patient records at least once every quarter for the purpose of ascertaining proper documentation and follow-up for treatment. The Monitor shall go to Respondent's office once every quarter and shall review Respondent's calendar or patient log and shall select the records to be reviewed.
  - (5) 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/Supervisor'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/Supervisor went to Respondent's office, the number of records reviewed, the overall quality of the records reviewed, and the dates Respondent contacted the Monitor/Supervisor.
  - (6) Report immediately to the Board any violations by Respondent of Chapters 456 or 458, Florida Statutes, and the rules promulgated thereto.
- (h) 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/Supervisor;
- (6) A statement advising the Board of any problems that have arisen;  
and
- (7) A statement addressing compliance with any restrictions or requirements imposed.

(i) Tolling Provisions – In the event Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of medicine in the State of Florida, then certain provisions of the requirements in the Final Order adopting this Agreement shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida. **Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of Florida.** Unless otherwise set forth in the Final Order, **the following requirements and only the following requirements** shall be tolled until Respondent returns to active practice:

- (1) The time period of probation shall be tolled;
- (2) The provisions regarding supervision whether direct or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.

(j) Supervision of Physician Assistants and/or Anesthesiologist Assistants – Respondent is required to notify, in writing, any physician assistant and/or anesthesiologist assistant whom the Probationer supervises, of Respondent's probationary status. A copy of said written notification(s) shall be submitted to the Board's Compliance Officer within ten (10) days of the filing of the Final Order.

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

### **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 fifteen (15) 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 presentation of this Agreement to the Board, 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.]*

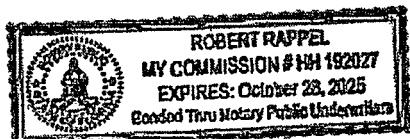
SIGNED this 6 day of December, 2022.

[Signature]  
Erwin Flores Ramos, M.D.

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

BEFORE ME personally appeared ERWIN FLORES RAMOS, MD whose identity is known to me or who produced \_\_\_\_\_ (type of identification) and who, under oath, acknowledges that their signature appears above.

SWORN TO and subscribed before me this 17th day of December 2022



[Signature]  
NOTARY PUBLIC

My Commission Expires:

APPROVED this 25th day of January, 2022.

Joseph A. Ladapo, MD, PhD  
State Surgeon General

x [Signature]  
By: Justin R. Ravelo  
Assistant General Counsel  
Department of Health



**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2019-39960**

**ERWIN FLORES RAMOS, M.D.,**

**Respondent.**

\_\_\_\_\_ /

**ADMINISTRATIVE COMPLAINT**

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against Respondent, Erwin Flores Ramos, 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 medical doctor within the state of Florida, having been issued license number ME 106951.
3. Respondent's address of record is 333 17th Street Suite C, Vero Beach, Florida 32960.

4. From in or around November 2018 to in or around August 2019, Respondent treated Patient P.B. for generalized anxiety disorder, major depressive disorder, and post-traumatic stress disorder.

5. During the treatment period, Respondent prescribed various quantities and varieties of legend drugs, including controlled substances, which included: amphetamine<sup>1</sup>; alprazolam<sup>2</sup>; diazepam<sup>3</sup>; and lisdexamfetamine<sup>4</sup>.

6. On or about November 1, 2018, Respondent prescribed Patient P.B. 60 20 mg tablets of amphetamine twice daily.

7. On or about November 7, 2018, Respondent prescribed Patient P.B. a thirty (30) day supply of 30 mg tablets of lisdexamfetamine.

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<sup>1</sup> Amphetamine, sold under the brand name Adderall®, is prescribed to treat attention deficit hyperactivity disorder and narcolepsy. 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. Abuse of amphetamine may lead to severe psychological or physical dependence.

<sup>2</sup> Alprazolam, sold under the brand name Xanax®, 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. Abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

<sup>3</sup> Diazepam, sold under the brand name Valium, is prescribed to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms. 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. Abuse of diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

<sup>4</sup> Lisdexamfetamine, sold under the brand name Vyvanse, is prescribed to treat attention deficit hyperactivity 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. Abuse of lisdexamfetamine may lead to severe psychological or physical dependence.

8. On or about November 20, 2018, Respondent increased Patient P.B.'s dose of lisdexamfetamine to 60 mg daily.

9. On or about November 20, 2018, Respondent renewed Patient P.B.'s prescription of 60 20 mg tablets of amphetamine twice daily.

10. On or about December 4, 2018, Respondent prescribed Patient P.B. 60 10 mg tablets of diazepam twice daily.

11. On or about February 19, 2019, Respondent increased Patient P.B.'s dose of amphetamine to 30 mg daily after Patient P.B. agreed to discontinue taking lisdexamfetamine.

12. Although Patient P.B. failed to attend the scheduled doctor's appointment with Respondent in or around May 2019, Respondent continued to refill Patient P.B.'s prescriptions for amphetamine and diazepam for June and July of 2019.

13. On or about August 4, 2019, Patient P.B. accidentally died due to polydrug toxicity due to fentanyl and acetyl fentanyl.

14. During Respondent's treatment of Patient P.B., Respondent excessively and/or inappropriately prescribed quantities and/or combinations of amphetamine and lisdexamfetamine.

15. During the treatment period, Respondent did not have justification, or did not document adequate justification, for the quantities

and/or combinations of amphetamine and lisdexamfetamine prescribed to Patient P.B.

16. During the treatment period, Respondent did not create, or failed to maintain, adequate medical records which justify prescribing amphetamine and lisdexamfetamine simultaneously.

17. During the treatment period, Respondent did not create, or failed to maintain, adequate medical records which justify switching Patient P.B from alprazolam to diazepam.

18. Prescribing controlled substances or combinations of controlled substances without medical justification constitutes prescribing controlled substances inappropriately. Prescribing excessive quantities of controlled substances constitutes prescribing controlled substances inappropriately.

19. At all times material to this Administrative Complaint, the prevailing professional standard of care required Respondent not treat Patient P.B. with two amphetamine-based medications, such as amphetamine and lisdexamfetamine, simultaneously.

COUNT I  
Violation of § 458.331(1)(t), F.S.

20. Petitioner re-alleges and incorporates paragraphs one (1) through nineteen (19) as if fully set forth herein.

21. Section 458.331(1)(t)1., Florida Statutes (2018), subjects a licensed physician to discipline for committing medical malpractice as defined in section 456.50, Florida Statutes. Sections 456.50(1)(e) and (g), Florida Statutes (2018), define 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. Section 766.102(1), Florida Statutes, states:

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

22. Respondent fell below the prevailing professional standard of care of Patient P.B. by prescribing two amphetamine-based medications simultaneously.

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

24. Based on the foregoing, Respondent has violated section 458.331(1)(t)1., Florida Statutes, by committing medical malpractice in treatment of Patient P.B., as outlined above.

COUNT II  
Violation of § 458.331(1)(q), F.S.

25. Petitioner re-alleges and incorporates by reference paragraphs one (1) through nineteen (19), as if fully set forth herein.

26. Section 458.331(1)(q), Florida Statutes (2018), subjects a licensed physician to discipline for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. Section 458.331(1)(q), Florida Statutes, further states that it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

27. As set forth above, Respondent prescribed, dispensed, and/or administered legend drugs, including controlled substances, other than in the course of his professional practice in treating P.B. in one or more of the following ways:

- a. by prescribing legend drugs to P.B., including amphetamine and lisdexamfetamine, without adequate justification; and/or

b. by prescribing legend drugs to P.B., including amphetamine and lisdexamfetamine, in excessive or inappropriate quantities and/or combinations.

28. Based on the foregoing, Respondent has violated section 458.331(1)(q), Florida Statutes, by prescribing a legend drug, including any controlled substance, other than in the course of the physician's professional practice.

COUNT III  
Violation of § 458.331(1)(m), F.S.

29. Petitioner re-alleges and incorporates by reference paragraphs one (1) through nineteen (19), as if fully set forth herein.

30. Section 458.331(1)(m), Florida Statutes (2018), subjects a licensed 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 who is 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.

31. Rule 64B8-9.003(2)–(3), F.A.C. (2018), provides standards for adequacy of medical records and states that a licensed physician shall maintain patient medical records with sufficient detail to clearly demonstrate why the course of treatment was undertaken and the medical record 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 minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed or administered; reports of consultations; 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.

32. During P.B.'s treatment period, Respondent failed to create, keep, and/or maintain written legible medical records that justified the course of treatment of Patient P.B. in one or more of the following ways:

- a. by failing to create, keep, and/or maintain legible medical records with justify prescribing amphetamine and lisdexamfetamine simultaneously;



b. by failing to create, keep, and/or maintain legible medical records with justify which justify switching Patient P.B from alprazolam to diazepam.

33. Based on the foregoing, Respondent has violated section 458.331(1)(m), Florida Statutes, by failing to keep legible medical records which justify the course of treatment of Patient P.B., as outlined above.

34. Based on the foregoing, Respondent has violated section 458.331(1)(m), Florida Statutes, by failing to keep legible medical records that justify the course of treatment of the patient.

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

SIGNED this 22<sup>nd</sup> day of November 2021.

**FILED**

DEPARTMENT OF HEALTH  
DEPUTY CLERK

CLERK: *Annika Morris*

DATE: JAN 25 2021

Scott A. Rivkees, MD  
State Surgeon General

*Jamal Burk*

Jamal Burk, Esq. Assistant General  
Counsel Florida Bar No. 0125198  
FDOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, Florida 32399-3265  
(850) 558-9907 Telephone  
(850) 245 - 4662 Facsimile  
[Jamal.burk@flhealth.gov](mailto:Jamal.burk@flhealth.gov)

PCP Date: January 22, 2021

PCP Members: Georges El Bahri, M.D.; Scot Ackerman, M.D.; Nicholas Romanello

## 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.