STATE MEDICAL BOARD

2009 SEP -2 A 11: 02

STATE OF OHIO
THE STATE MEDICAL BOARD
SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

I, James Mauch, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein.

I, James Mauch, M.D., do hereby voluntarily, knowingly, and intelligently surrender my certificate to practice medicine and surgery, License #35.076608, to the State Medical Board of Ohio, thereby relinquishing all rights to practice medicine and surgery in Ohio in the future. Further, I acknowledge that I have not been legally authorized to practice medicine or surgery in Ohio since July 1, 2008, the date upon which said certificate expired due to non-renewal.

I agree that I shall be ineligible for, and shall not apply for, reinstatement or restoration of certificate to practice medicine and surgery License #35.076608 or issuance of any other certificate pursuant to the authority of the State Medical Board of Ohio, on or after the date of signing this Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I, James Mauch, M.D., hereby release the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

It is understood and agreed that this Surrender of Certificate to Practice Medicine and Surgery is not a disciplinary action, and will not be reported to the Federation of State Medical Boards or National Practitioner Data Bank as a disciplinary action. This Surrender of Certificate to Practice Medicine and Surgery shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations and governmental bodies. I, James Mauch, M.D., acknowledge that my social security number will be used if this information is so reported and agree to provide my social security number to the Board for such purposes.

Surrender of Certificate
James Mauch, M.D.

STATE MEDICAL BOARD
OF OHIO

2008 SEP -2 A 11: 02

EFFECTIVE DATE

It is expressly understood that this Surrender of Certificate is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

JAMES MAUCH, M.D.

8/25/08
DATE

LANCE A. TALMAGE, M.D.
Secretary

9-10-08
DATE

RAYMOND J. ALBERT
Supervising Member

9/10/08
DATE

REBECCA ~~J.~~ MARSHALL
Chief Enforcement Attorney

September 2, 2008
DATE

CONSENT AGREEMENT
BETWEEN
JAMES CARL MAUCH., M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement is entered into by and between James Carl Mauch, M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Mauch enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

A. The Board is empowered by R.C. 4731.22(B), to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations.

B. The Board and Dr. Mauch enter into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Opportunity for Hearing issued by the Board to Dr. Mauch on November 9, 2005, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4731., whether occurring before or after the effective date of this Consent Agreement.

C. Dr. Mauch is licensed to practice medicine and surgery in the State of Ohio, License # 35-076608. Dr. Mauch also holds a current, valid license to practice medicine in the state of New York and Florida.

D. Dr. Mauch admits the factual and legal allegations set forth in the Notice of Opportunity for Hearing issued by the Board to Dr. Mauch on November 9, 2005, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of further formal proceedings at this time, Dr. Mauch knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

Reprimand

1. Dr. Mauch is hereby REPRIMANDED.

Compliance with Florida Order

2. Within ninety (90) days of the effective date of this Consent Agreement, Dr. Mauch shall submit documentation acceptable to this Board demonstrating that he has completed the medical records course and the fifty hours of community service as required by the Florida Board Final Order of June 2005.

Required Reporting By Licensee

3. Within thirty days of the effective date of this Consent Agreement, Dr. Mauch shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Further, for a period of five years following the effective date of this Consent Agreement, Dr. Mauch shall provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Mauch shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

4. Within thirty days of the effective date of this Consent Agreement, Dr. Mauch shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, for a period of five years following the effective date of this Consent Agreement, Dr. Mauch shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Mauch appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Mauch acknowledges that he has had an opportunity to ask questions concerning the

terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., and Ohio Revised Code.

Dr. Mauch hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Mauch agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

JAMES CARL MAUCH, M.D

4/24/06

DATE

LANCE TALMAGE, M.D.,
Secretary

5-10-06

DATE

JAMES M. McGOVERN
Attorney for Dr. Mauch

4/25/06

DATE

RAYMOND F. ALBERT
Supervising Member

5/10/06

DATE

KYLE C. WILCOX
Assistant Attorney General

5-5-06

DATE

Exhibit A

State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

November 9, 2005

James Carl Mauch, M.D.
1935 Brightwaters Blvd NE
St. Petersburg, Florida 33704

Dear Doctor Mauch:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

(1) On or about June 16, 2005, the State of Florida Board of Medicine [Florida Board] issued a Final Order which approved and adopted a Consent Agreement, imposed a fine of $8,000.00, and required you to perform fifty hours of community service and complete a medical records course. A copy of the Final Order is attached hereto and incorporated herein.

The Florida Board's Final Order, as alleged in paragraph (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments,

Mailed 11-10-05

or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4333 3799
RETURN RECEIPT REQUESTED

Final Order No. DOH-05-0946-S -MQA
FILED DATE - 6-16-05
Department of Health
By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-21395
LICENSE NO.: ME0078907

JAMES CARL MAUCH, M.D.,

Respondent.
_____/

FINAL ORDER

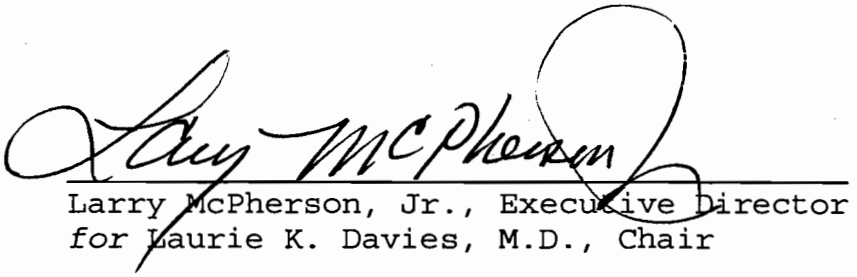
THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 3, 2005, in Orlando, Florida, for the purpose of considering a Consent Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Consent 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 Consent Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Consent Agreement.

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

DONE AND ORDERED this 14 day of JUNE, 2005.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Laurie K. Davies, 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 JAMES CARL MAUCH, M.D., 601 7th Street, St. Petersburg, Florida 33701; and 1935 Brightwaters Boulevard, St. Petersburg, Florida 33704; to Troy J. Crotts, Esquire, 501 1st Avenue North, Suite 900, St. Petersburg, Florida 33701; and by interoffice delivery to Denise O'Brien and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 16 day of June, 2005.

Shalonda Lewis

F:\Users\ADMIN\NANCY\MED\ORD\June-2005\MauchCA.wpd

Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. **DOH Case No. 2002-21395**

JAMES C. MAUCH, M.D.

Respondent.
_____/

CONSENT AGREEMENT

James C. Mauch, 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 78907.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with 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. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes, as alleged in the Administrative Complaint.

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

STIPULATED DISPOSITION

1. **Fine** - The Board of Medicine shall impose an administrative fine of eight thousand dollars ($8,000.00) against the license of Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post

Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer, within thirty days (30) of the Final Order accepting this Agreement. All fines shall be paid by check or money order. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN 30 DAYS OF THE FILING OF THE FINAL ORDER, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

2. **Reimbursement Of Costs** - Pursuant to Section 458, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs include, but are not limited to obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with Respondent's probation, if any. The amount of costs incurred as of the date of this proposal of this settlement agreement is

three thousand two hundred thirty-four dollars and sixty-four cents (3,234.64). Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Medicine Compliance Officer within thirty-days (30) from the entry of the Final Order in this cause.

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

3. **Community Service** - During the next year, Respondent shall perform on fifty (50) hours of community service. Community service shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services in the community, without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice

setting. Respondent shall submit a written plan for performance and completion of the community service to the Probation Committee for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board as required by the Probation Committee.

4. **FMA MEDICAL RECORDS COURSE.** Respondent shall complete the Florida Medical Association course entitled "Quality Medical Record Keeping for Health Care Professionals" within one (1) year of the filing of the Final Order of the Board. In addition, Respondent shall submit documentation 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 education course within one (1) year of the Final Order incorporating this Agreement. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was previously provided during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education courses shall consist of a live, lecture format.

5. **LETTER OF CONCERN.** Respondent shall receive a Letter of Concern from the Board of Medicine.

STANDARD PROVISIONS

1. **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.

2. **Appearance** – Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

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

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine.

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

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

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

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

right to seek any attorney's fees or costs from the Department and the Board in connection with this matter

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

SIGNED this 22 day of April, 2005.

James C. Mauch, M.D.

Before me, personally appeared James C. Mauch M.D. whose identity is known to me by Personally (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 22nd day of April, 2005.

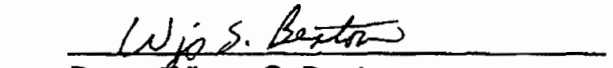
NOTARY PUBLIC

My Commission Expires:

Catharine Hogan
My Commission DD077547
Expires March 23, 2006

APPROVED this 29th day of April, 2005.

John O. Agwunobi, M.D., M.B.A.
Secretary, Department of Health



By: Wings S. Benton
Deputy General Counsel
Department of Health

Ellen M. Simon
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0976792
(850) 414-8126
(850) 414-1989 FAX

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v. CASE NO. 2002-21395

JAMES CARL MAUCH, 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 Respondent, James Carl Mauch, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number 78907.

3. Respondent's address of record is 1935 Brightwaters Boulevard N.E., St. Petersburg, Florida 33704.

4. Respondent is board certified in dermatology.

5. At all times material hereto, Respondent was employed as a physician at the St. Petersburg Clinic in St. Petersburg, Florida.

6. On or about May 11, 2000, Patient R.C., a 52 year-old female, presented to Respondent for a total body skin check.

7. On or about May 11, 2000, Respondent failed to note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

8. On or about May 11, 2000, Respondent noted and treated various lesions on Patient R.C.'s face.

9. A reasonably prudent similar physician under similar conditions and circumstances would note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

10. On or about June 12, 2000, Patient R.C. presented to Respondent for follow-up care regarding the facial lesions.

11. On or about June 12, 2000, Patient R.C. also inquired of Respondent regarding several skin lesions on her legs.

12. On or about June 12, 2000, Respondent failed to note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

13. A reasonably prudent similar physician under similar conditions and circumstances would note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

14. On or about October 10, 2000, Patient R.C. presented to Respondent for an exam.

15. On or about October 10, 2000, Patient R.C. also inquired of Respondent regarding several skin lesions on her legs.

16. On or about October 10, 2000, Respondent failed to note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

17. A reasonably prudent similar physician under similar conditions and circumstances would note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s legs.

18. On or about October 15, 2001, Patient R.C. presented to Respondent for a total body skin check.

19. On or about October 15, 2001, Respondent noted three (3) questionable lesions on Patient R.C.'s right lower leg, performed shave biopsies of these areas, and sent the specimens for analysis.

20. The resulting pathology report showed two (2) lesions to be basal cell carcinoma.

21. On or about October 15, 2001, Respondent failed to note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s left leg.

22. A reasonably prudent similar physician under similar conditions and circumstances would note in Patient R.C.'s record the presence or absence of any skin lesions on Patient R.C.'s left leg.

23. On or about November 15, 2001, Patient R.C. presented for treatment to another provider, who treated the two carcinomas identified by Respondent and subsequently diagnosed and treated six (6) additional carcinomas on Patient R.C.'s legs, including skin lesions on her left leg.

COUNT ONE

24. Petitioner realleges and incorporates paragraphs one (1) through twenty-three (23) as if fully set forth herein.

25. Section 458.331(1)(m), Florida Statutes (1999-2001), provides that failing to keep legible medical records that identify the licensed physician by name and professional title 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 constitutes grounds for disciplinary action by the Board of Medicine.

26. Respondent failed to maintain complete medical records in that Respondent failed to note in the records of Patient R.C.'s May 11, 2000 visit, June 12, 2000 visit, and October 10, 2000 visit the presence or absence of any skin lesions on Patient R.C.'s legs.

27. Respondent failed to maintain complete medical records in that Respondent failed to note in the records of Patient R.C.'s October 15, 2001 visit the presence or absence of any skin lesions on Patient R.C.'s left leg.

28. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (1999-2001), by failing to keep legible medical records that justify the course of treatment of Patient R.C.

COUNT TWO

29. Petitioner realleges and incorporates paragraphs one (1) through twenty-three (23) as if fully set forth herein.

30. Section 458.331(1)(t), Florida Statutes (1999-2001), provides that the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances constitutes grounds for disciplinary action by the Board of Medicine.

31. Respondent failed to biopsy any of the various skin lesions on Patient R.C.'s legs at her May 11, 2000 visit, June 12, 2000 visit, or October 10, 2000 visit.

32. Chapter 64B8-9, Florida Administrative Code, sets forth standards of practice for medical doctors. Rule 64B8-9.003(2), Florida Administrative Code (1999-2001), defines the standard of practice for adequacy of medical records and provides that a licensed physician shall maintain patient medical records in a legible manner and with sufficient detail to clearly demonstrate why the course of treatment was undertaken or why an apparently indicated course of treatment was not undertaken.

33. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, as further defined by Rule 64B8-9.003(2), Florida Administrative Code

(1997-2001), in that he failed to maintain Patient R.C.'s medical records with sufficient detail to clearly demonstrate why an apparently indicated course of treatment was not undertaken.

34. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (1999-2001), by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances by failing to biopsy any of the various skin lesions on Patient R.C.'s legs at her May 11, 2000 visit, June 12, 2000 visit, or October 10, 2000 visit; and Respondent has violated Section 458.331(1)(t), Florida Statutes (1999-2001), as further defined by Rule 64B8-9.003(2), Florida Administrative Code (1999-2001), by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances by failing to maintain Patient R.C.'s medical records with sufficient detail to clearly demonstrate why an apparently indicated course of treatment was not undertaken.

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

14761

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 20th **day of** January, **200**4.

John O. Agwunobi, M.D., M.B.A.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Heather Coleman
DATE 1/21/04

Deirdre A. Farrington
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 488690
(850) 414-8126
(850) 414-4989 FAX

DAF/daf

Reviewed and approved by: DMC (initials) 11/12/03 (date)

PCP: 1/20/2004
PCP Members: El-Bahri, Vijayanagar, Beebe

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.