



State Medical Board of Ohio

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August 9, 2006

Jose Raul Quintana, M.D.
12620 Catamaran Place
Tampa, FL 33618

Dear Doctor Quintana:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 9, 2006, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of an original Notice of Appeal with the State Medical Board of Ohio and a copy of the Notice of Appeal with the Franklin County Court of Common Pleas. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 9095
RETURN RECEIPT REQUESTED

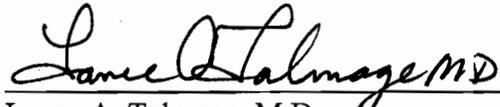
Cc: Paul J. Coval, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 9071
RETURN RECEIPT REQUESTED

Mailed 8-11-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on August 9, 2006, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Jose Raul Quintana, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.



Lance A. Talmage, M.D.
Secretary

(SEAL)

August 9, 2006

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

JOSE RAUL QUINTANA, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on August 9, 2006.

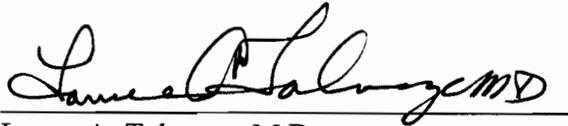
Upon the Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board of Ohio for the above date.

It is hereby ORDERED that:

- A. The application of Jose Raul Quintana, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements.
- B. Dr. Quintana is REPRIMANDED.

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)



Lance A. Talmage, M.D.
Secretary

August 9, 2006
Date

**REPORT AND RECOMMENDATION
IN THE MATTER OF JOSE RAUL QUINTANA, M.D.**

The Matter of Jose Raul Quintana, M.D., was heard by R. Gregory Porter, Esq., Hearing Examiner for the State Medical Board of Ohio, on March 21, 2006.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated November 9, 2005, the State Medical Board of Ohio [Board] notified Jose Raul Quintana, M.D., that it had proposed to deny his application for a certificate to practice medicine and surgery in Ohio or to take other disciplinary action. The Board's action was based on allegations that: (1) the State of Florida Department of Health Board of Medicine [Florida Board] had issued a Consent Order that required Dr. Quintana to pay a fine, perform community service, complete additional continuing medical education [CME], and pay costs; and (2) Dr. Quintana had falsely answered a question on an application for privileges at a Florida hospital. (State's Exhibit 1A)

The Board alleged that the Florida Board's action constituted "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * 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." (State's Exhibit 1A)

In addition, the Board alleged that Dr. Quintana's conduct constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery * * *; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,' as that clause is used in Section 4731.22(B)(5), Ohio Revised Code."

Further, the Board alleged that Dr. Quintana's conduct constitutes "a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code." (State's Exhibit 1A)

Accordingly, the Board advised Dr. Quintana of his right to request a hearing in this matter. (State's Exhibit 1A)

- B. On December 6, 2006, Paul J. Coval, Esq., submitted a written request for hearing on behalf of Dr. Quintana. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Damion M. Clifford, Assistant Attorney General.
- B. On behalf of the Respondent: Paul J. Coval, Esq.

EVIDENCE EXAMINED

I. Testimony Heard

- A. Presented by the State

Jose Raul Quintana, M.D., as upon cross-examination
- B. Presented by the Respondent
 - 1. Jose Raul Quintana, M.D.
 - 2. Raul B. Zelaya, M.D.

II. Exhibits Examined

- A. Presented by the State
 - 1. State's Exhibits 1A through 1N: Procedural exhibits.
 - 2. State's Exhibit 2: Certified copy of documents maintained by the Board including Dr. Quintana's application for an Ohio license and related documents.
 - 3. State's Exhibit 3: Not presented.
 - 4. State's Exhibit 4: Certified copy of documents from the file of the Florida Department of Health in *Board of Medicine vs. Jose Raul Quintana* (Case no. 2002-25371).
 - 5. State's Exhibit 5: Letter from Shands HealthCare Credentialing Services regarding Dr. Quintana. (Note: A portion of this document has been redacted per agreement of the parties at hearing.)
- B. Presented by the Respondent
 - 1. Respondent's Exhibit A: Dr. Quintana's curriculum vitae.

2. Respondent's Exhibit B: Copy of a Medical Staff Pre-Application Questionnaire completed by Dr. Quintana in February 2001.
3. Respondent's Exhibit C: Copy of a letter dated April 13, 1999, from Shands HealthCare to Dr. Quintana.
4. Respondent's Exhibit D: Copy of a letter dated August 11, 2000, from Dr. Quintana to the Credentialing Board at Shands at AGH/UF [Shands AGH].
5. Respondent's Exhibit E: Copy of a memorandum from Dr. Quintana to the Chief of Staff at Shands AGH, sent by facsimile transmission on August 30, 2000.
6. Respondent's Exhibit F: Copy of a letter dated October 9, 2000, from Shands HealthCare regarding Dr. Quintana's termination from the medical staff at Shands AGH.
7. Respondent's Exhibit G: Copy of a letter dated December 13, 2000, from Dr. Quintana to Shands AGH, requesting extension of privileges.
8. Respondent's Exhibit H: Letter dated December 15, 2000, from Shands AGH to Dr. Quintana, denying extension of privileges.
9. Respondent's Exhibit I: Letter dated January 9, 2001, from Shands HealthCare to Dr. Quintana.
10. Respondent's Exhibit J through L: Letters in support of Dr. Quintana

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background

1. According to his testimony and curriculum vitae, Jose Raul Quintana, M.D., received his undergraduate and medical degrees in 1977 upon completing an eight-year program at the University of Nicaragua in Leon, Nicaragua. Dr. Quintana testified that, in 1981, he completed a Nicaraguan residency in obstetrics and gynecology [OB/GYN]. (Respondent's Exhibit [Resp. Ex.] A; Transcript [Tr.] at 15-18)

Dr. Quintana immigrated to the United States in 1981. He testified that he had studied English and medicine at the University of Miami to prepare for the ECFMG and had also worked at several hospitals. Dr. Quintana stated that he had been accepted into an OB/GYN residency program at Meharry Medical College and trained there for two years. However, Dr. Quintana

stated that the program had closed when the hospital did not have enough deliveries for accreditation, and that he had transferred in 1991 to the Erlanger Medical Center at the University of Tennessee at Chattanooga, where he completed his OB/GYN residency in 1993. (State's Exhibit [St. Ex.] 2; Tr. at 17-19)

On May 13, 2005, the Board received from Dr. Quintana an application to practice medicine and surgery in Ohio. According to his licensure application, Dr. Quintana practiced from August 1993 to September 1995 at Santa Fe Medical Services in Lake City, Florida. During that period, he had privileges at Lake Shore Hospital (also known as Shands Lake Shore). Dr. Quintana testified that he had moved in 1995 to Gainesville, Florida, although he had kept an office in Lake City, thus maintaining two offices. Dr. Quintana further testified that, while in Gainesville, he had practiced at North Florida Regional Medical Center and Alachua General Hospital. Alachua General Hospital is also known as Shands at AGH [Shands AGH]. (St. Exs. 2, 5; Tr. at 19-22)

Nonrenewal of Privileges at Shands AGH in 2000

2. In April 1999, Lynn Mercadante, Director of Medical Staff Services for Shands HealthCare in Gainesville, Florida, sent a letter to Dr. Quintana advising that the credentials committee had learned that he was not yet board certified, a requirement for holding staff privileges at Shands AGH. Ms. Mercadante noted that the bylaws allowed five years to attain certification and that Dr. Quintana's five years would expire on August 31, 1999. (Resp. Ex. C)
3. By letter dated August 11, 2000, Dr. Quintana wrote to the credentialing board at Shands AGH in Gainesville, Florida, and asked it to grant him a waiver of the certification requirement, as authorized under the bylaws.¹ Dr. Quintana stated in the letter: "I have taken my Boards several times and failed to pass by 5-10 points of the passing grade." He outlined plans for review courses and working with a language specialist to improve his English comprehension in order to pass the specialty boards. (Resp. Ex. D; Tr. at 22, 51, 55)
4. In an August 30, 2000, memorandum to Nick Cassisi, M.D., the Chief of Staff at Shands AGH, Dr. Quintana explained that he planned to take his written examination in June 2001 for board certification and the oral examination in November 2001. (Resp. Exs. E-F; Tr. at 55-57)
5. By letter dated October 9, 2000, Jodi J. Mansfield, the Executive Vice President and Chief Operating Officer of Shands HealthCare, notified Dr. Quintana that his request for a waiver of the certification requirement had been denied and that he would not be reappointed to the medical staff at Shands AGH. Dr. Quintana was given six weeks to make alternative arrangements for his patients. (Resp. Ex. F)

¹ Although Ms. Mercadante stated that Dr. Quintana's privileges would expire in August 1999, it appears that he received a one-year extension of his privileges at Shands AGH: the evidence indicates that he was still practicing at the hospital in 2000, and there is no further discussion of privileges at Shands AGH until Dr. Quintana's letter in August 2000 requesting a waiver.

6. By letter dated December 13, 2000, Dr. Quintana acknowledged receipt of the notice regarding nonrenewal of his privileges. However, he requested an additional extension because he had a number of patients whose insurance required them to deliver at Shands AGH. In a letter dated December 15, 2000, Cynthia Toth, the Interim Administrator at Shands AGH, advised Dr. Quintana that his request for an extension had been denied. (Resp. Exs. G-H)

Denial of Privileges by Shands Lake Shore in 2001

7. Dr. Quintana testified that, in 2001, he had moved back to Lake City, where he had retained privileges at Lake City Medical Center. (Tr. at 20-22)
8. On or about February 20, 2001, Dr. Quintana submitted an application to Shands HealthCare for medical staff privileges at Shands Lake Shore Hospital. The application form indicates that the same application is used for seven locations of the Shands HealthCare network of hospitals, including Shands AGH and Shands Lake Shore. In an accompanying letter, Dr. Quintana stated that he had previously held privileges at Shands Lake Shore from 1995 to 2000 and was seeking to reinstate those privileges. (Resp. Ex. B; Tr. at 48-49)

In the application for privileges, Dr. Quintana answered “No” the following question:

Have you ever been examined by any specialty board, but failed to pass the examination? If yes, please explain[.]

(Resp. Ex. B; Tr. at 26, 50-51)

9. In an August 2005 letter to Board staff, Carol A. Shaw, the Director of Credentialing Services at Shands HealthCare, confirmed that Dr. Quintana had applied in 2001 to rejoin the medical staff at Shands Lake Shore but that his application had been “denied based on the provision of false information” on his application. (St. Ex. 5)
10. Dr. Quintana testified at hearing with regard to his negative response to the question on the privileges application concerning failing a specialty board examination. Dr. Quintana testified that the examination for OB/GYN board certification consists of two parts. First, the candidate must take a written examination. Passing the written examination qualifies the candidate to take an oral examination before a panel of physicians. Dr. Quintana stated that, because he had not passed the written portion of the examination, he had never appeared before a panel for the oral examination. (Tr. at 26-28, 39, 50-51)

Dr. Quintana testified that he had thought that being examined by a specialty board had meant “to go in front of the board and take the oral boards.” He said he had thought of the written test as a prerequisite to taking the oral examination. In addition, Dr. Quintana testified that, in a bulletin from the American Board of Obstetrics and Gynecology, “they say that you can take the written portion in order to be considered to take the oral for Board certification. To me, that is the real thing.” Dr. Quintana further testified that he had therefore not believed that he had

failed a specialty board examination, and had answered “No” to the question on the application for privileges. (Tr. at 50-51, 73-76)

11. In addition, Dr. Quintana testified that Shands HealthCare “is a conglomerate of hospitals[]” with a central administrative office in Gainesville, Florida. Dr. Quintana further testified that physician credentialing for each of the hospitals in the Shands HealthCare network goes through a central credentialing office. Moreover, Dr. Quintana testified that, prior to his application for reinstatement of his privileges at Shands Lake Shore, he had communicated with Shands HealthCare regarding his failure to pass the written component of the board examination with regard to his privileges at Shands AGH. Furthermore, Dr. Quintana testified that he had communicated this information to, among others, Dr. Cassisi, the Chief of Staff at Shands AGH; and Ms. Mercadante, whom Dr. Quintana testified is “the medical staff coordinator in several locations.” Finally, Dr. Quintana believes that his prior communications demonstrate that he had had no intention to deceive anyone in the Shands HealthCare network with respect to his Board certification status. (Tr. at 47-55)
12. At hearing, Dr. Quintana expressed his belief that Shands Lake Shore had been motivated by a desire to reduce competition when it denied his application for privileges. Dr. Quintana stated that, in 2001, at the time he had applied for privileges at Shands Lake Shore, the hospital had just hired a female OB/GYN and had also hired a midwife. He testified that, had he been granted privileges at Shands Lake Shore, he would have been in competition with them. Further, Dr. Quintana testified, “I had 80% of the market in that area and they were following me to Gainesville * * *.” Finally, Dr. Quintana testified that, when his application for privileges was denied, he had lost all of his patients to the OB/GYN department at Shands Lake Shore, which was the only hospital in Lake City that delivered babies. (Tr. at 58, 63-64)

**February 17, 2004, Consent Agreement between Dr. Quintana and the State of Florida
Department of Health Board of Medicine**

13. On November 24, 2003, Dr. Quintana signed a Consent Agreement with the State of Florida Department of Health Board of Medicine [Florida Board] in Case Number 2002-25371. In the Consent Agreement, Dr. Quintana neither admitted nor denied allegations contained in a previously filed Florida Board Administrative Complaint, and the Florida Board made no findings of wrongdoing. Nonetheless, to resolve the complaint, Dr. Quintana agreed to accept a disposition that included the following: an administrative fine of \$5,000.00 to be paid within 30 days; reimbursement of costs in the amount of \$2,033.78 to be paid within 30 days; performance of 50 hours of community service within one year (consisting of delivery of medical services to patients, outside Dr. Quintana’s regular practice setting, as approved by the Florida Board); a “letter of concern” from the Florida Board; and completion of eight hours of CME on the topic of risk management. (St. Ex. 4; Tr. at 44-47)

On February 17, 2004, the Florida Board entered a Final Order approving and adopting Dr. Quintana’s Consent Agreement. (St. Ex. 4)

14. In the Consent Agreement, Dr. Quintana agreed that he would be legally obliged to pay the fine and costs as set forth therein. He further agreed that, if he did not receive “written confirmation that [those amounts had] been received by the [Florida] Board office within six months of the filing of [the] Final Order,” he would cease practicing medicine until he received such confirmation from the Florida Board. Further, Dr. Quintana agreed that his community service and CME requirements must be completed and documentation of such completion sent to the Florida Board within six months of the date of the Final Order. (St. Ex. 4)
15. At hearing, Dr. Quintana testified that he has satisfied all requirements of his Consent Agreement with the Florida Board. (Tr. at 26, 45-47)
16. Dr. Quintana testified that his Florida attorney had advised him that a Letter of Concern does not rise to the level of a reprimand; rather, it is more like a warning. Dr. Quintana further testified that it is his understanding that a Letter of Concern is not reportable to the National Practitioner Data Bank. He also testified that he had never received the Florida Board’s Letter of Concern. (Tr. at 45-46)

Finally, Dr. Quintana testified that his Consent Agreement with the Florida Board had not in any way restricted him in his ability to practice medicine. (Tr. at 47)

Additional Information

17. In July 2004, Dr. Quintana took a leave of absence from Lake City Medical Center to sell his medical practice and look for new employment. He testified that he had sold the practice in December 2004 and, from January 2005 to May 2005, worked part-time with a friend at Faith Clinic Women’s Health Center in Jacksonville, Florida, while studying for his written certification examination. (St. Ex. 2; Resp. Ex. A; Tr. at 20-24)
18. Dr. Quintana testified concerning his reasons for applying for an Ohio medical license. Dr. Quintana testified that he had been contacted by a recruiter who told him there was a need for an OB/GYN at the Ashtabula Medical Center in Ohio, and that he had been interested in the opportunity because it would be a new start for him. He stated that he and his family had visited Ashtabula, enjoyed their visit, and would be happy to move there. (Tr. at 42-43; 70-71)

In his application for an Ohio medical license, Dr. Quintana answered “Yes” when asked whether he had ever been denied staff membership at any hospital. He explained that Shands AGH had not renewed his privileges in 2000 because he did not have board certification. (St. Ex. 2) With respect to the denial of privileges by Shands Lake Shore, Dr. Quintana explained as follows:

In September 2001, Shands [Lake Shore] did not grant me privileges due to inaccuracy in my application. After this, I withdrew my application. Three months later, they recruited the OB/GYN physician that had been working for me for only three months.

(St. Ex. 2) When asked on the application whether any board had limited, restricted, suspended or revoked any professional license or certificate, placed him on probation, or imposed a fine, censure, or reprimand against him, Dr. Quintana again answered "Yes."
(St. Ex. 2) Dr. Quintana further wrote,

The Florida Medical Board disciplined me on February 6, 2004, * * * with a \$5,000 fine, eight hours of Risk Management CME and fifty community service hours. * * * I have already complied with all the specific obligations imposed by the board and my Florida's Medical License is clear now."

(St. Ex. 2)

19. Dr. Quintana stated that, as the new school year approached in 2005, he and his wife had enrolled their children in an Ashtabula school. However, Dr. Quintana testified that, in September 2005, when the Ohio medical license was not forthcoming, he took a temporary job in Florida with Tampa Obstetrics. Dr. Quintana stated that he is still hoping to accept the OB/GYN opening in Ashtabula, which remains available to him. Dr. Quintana indicated that he has not yet passed his specialty board examinations but expects to take them again in June 2006. (St. Ex. 2; Resp. Ex. A; Tr. at 23-24, 42-44, 70-71)
20. Dr. Quintana presented letters of support written on his behalf by Raul B. Zelaya, M.D., Andres W. Bhatia, M.D., and George Buchanan, M.D. These physicians commended Dr. Quintana's knowledge, clinical and interpersonal skills, honesty, and moral character. They particularly noted their high regard for him and his compassion for his patients. (Resp. Exs. J through L)
21. Raul B. Zelaya, M.D., testified that he is a board-certified orthopedic surgeon in Lake City, Florida, where he has been practicing for more than 20 years. Dr. Zelaya testified that he has known Dr. Quintana since Dr. Quintana was a resident in Nicaragua and Dr. Zelaya was his chief resident in surgery. In addition, Dr. Zelaya testified that he was the Chief of Surgery at Lake City Medical Center when Dr. Quintana came to practice at that hospital, and that Dr. Quintana had served under him in the OB/GYN department. Dr. Zelaya complimented Dr. Quintana's clinical skills and testified that he is a "very compassionate, caring, and hard-working individual." Dr. Zelaya also stated that Dr. Quintana has a good reputation in Lake City and that "everybody liked him." He felt that it was "a great loss for us" when Dr. Quintana decided to leave the rural area of Lake City and move to a bigger city. Finally, Dr. Zelaya testified that he has no doubts at all about Dr. Quintana's moral character. (Tr. at 82-86)

FINDINGS OF FACT

1. On May 13, 2005, Jose Raul Quintana, M.D., submitted to the Board an application for a certificate to practice medicine and surgery in Ohio. That application remains pending.
2. On February 17, 2004, the State of Florida Department of Health Board of Medicine [Florida Board] filed a Final Order approving and adopting the Consent Agreement entered

into by Dr. Quintana in Case No. 2002-25371. Pursuant to that Final Order, the Florida Board imposed the following: an administrative fine in the amount of \$5,000.00; costs in the amount of \$2,033.78; a letter of concern; a requirement to perform fifty hours of community service within one year; and a requirement to complete eight hours of Continuing Medical Education on the topic of risk management within one year.

3. In 2001, Dr. Quintana completed and submitted an application for privileges to Shands Lake Shore, a hospital in Lake City, Florida. On that application, Dr. Quintana answered “No” when asked whether he had “ever been examined by any specialty board, but failed to pass the examination.” This answer was false, as he had taken and failed the written component of the examination for specialty board certification in obstetrics and gynecology. Shands Lake Shore denied Dr. Quintana’s application for privileges due to his “provision of false information” on the application.

CONCLUSIONS OF LAW

1. The Board is within its authority and discretion to interpret the phrase “an order of censure or other reprimand” in Section 4731.22(B)(22), Ohio Revised Code, as encompassing a Letter of Concern imposed on a Florida licensee by Final Order of the State of Florida Department of Health Board of Medicine [Florida Board]. The Florida Board’s letter of concern is sufficient, in and of itself, to support disciplinary action by the Ohio Board pursuant to Section 4731.22(B)(22), Ohio Revised Code.

Moreover, the Board is within its authority and discretion to interpret the phrase “the limitation * * * of an individual’s license to practice” in Section 4731.22(B)(22), Ohio Revised Code, as encompassing an order of another state’s medical board where the order requires the licensee to undertake specific CME that the individual would not otherwise be obliged to undertake, and to perform community service that the individual would not otherwise be obliged to perform. With a free and unrestricted license, a licensee in Florida is not obliged to attend an eight-hour CME course in risk management nor required to perform 50 hours of board-approved community service within a specified period of time. Regardless of whether these requirements were described in the Final Order as a “limitation” on a license, the portion of the Final Order that requires specific CME and community service is sufficient, in and of itself, to support disciplinary action by the Ohio Board under Section 4731.22(B)(22), Ohio Revised Code.

Accordingly, the Final Order of the Florida Board concerning Jose Raul Quintana, M.D., as set forth above in Findings of Fact 2, constitutes one of “the following actions taken by the agency responsible for regulating the practice of medicine and surgery * * * 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.

3. In order to find a violation of Section 4731.22(B)(5), Ohio Revised Code, the State must prove in this matter that Dr. Quintana intended to deceive or mislead Shands HealthCare and/or Shands Lake Shore by incorrectly answering a question on an application for hospital privileges as set forth above in Findings of Fact 3.² The evidence is clear that Dr. Quintana's answer to the question was incorrect. However, Dr. Quintana testified that he had understood the question to refer to an oral examination before a panel of physicians, which he had not yet taken due to his inability to pass the written portion of the examination. In addition, the evidence indicates that the Shands HealthCare network of hospitals has a central credentialing office. Several months earlier, Dr. Quintana had had an issue at another Shands HealthCare hospital during which Dr. Quintana had communicated his inability to pass the written portion of the OB/GYN certification exam. The earlier communication makes it less likely that Dr. Quintana intentionally tried to fool Shands HealthCare or Shands Lake Shore into believing that he had never failed a specialty board examination.

Accordingly, the evidence is insufficient to support a conclusion that the conduct of Dr. Quintana as set forth above in Findings of Fact 3 constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery * * *; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code. Nevertheless, based upon Dr. Quintana's incorrect response to the question on the privileges application, there was substantial justification for the Board to bring this allegation.

4. For the reasons discussed above in Conclusions of Law 3, the evidence is insufficient to support a conclusion that the conduct of Dr. Quintana as set forth in Findings of Fact 3 constitutes "a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, Ohio Revised Code." Nevertheless, based upon Dr. Quintana's incorrect response to the question on the privileges application, there was substantial justification for the Board to bring this allegation.

PROPOSED ORDER

It is hereby ORDERED that:

- A. The application of Jose Raul Quintana, M.D., for a certificate to practice medicine and surgery in Ohio is GRANTED, provided that he otherwise meets all statutory and regulatory requirements.
- B. Dr. Quintana is REPRIMANDED.

² See *Webb v. State Med. Bd. Of Ohio*, 146 Ohio App.3d 621, 2001-Ohio-3991.

Report and Recommendation
In the Matter of Jose Raul Quintana, M.D.
Page 11

This Order shall become effective immediately upon the mailing of notification of approval by the Board.

A handwritten signature in black ink, appearing to be 'R. Gregory Porter', written over a horizontal line.

R. Gregory Porter, Esq.
Hearing Examiner



State Medical Board of Ohio

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

EXCERPT FROM THE DRAFT MINUTES OF AUGUST 9, 2006

REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He advised that the Board has been unable to achieve service in the matter of Suzanne A. Haritatos, D.P.M. The Report and Recommendation in her case will therefore be considered at a future meeting. Also, the Board has granted Terri Lynne Savage, M.D.'s request for a postponement of consideration of her case until the September meeting. Dr. Savage has signed an agreement to continue her summary suspension until such time as the Board takes final action on her case.

Dr. Kumar asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Cynthia Y. Alston, M.D.; Richard C. Gause, M.D.; Jorge Arturo Martinez, M.D.; Chijioke Victor Okoro, M.D.; and Jose Raul Quintana, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Mr. Browning	- aye

Ms. Sloan	- aye
Dr. Davidson	- aye
Dr. Madia	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

Dr. Kumar noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. Dr. Kumar advised that Dr. Talmage and Mr. Albert were the Secretary and Supervising Member and must abstain in the matters of: Dr. Martinez, Dr. Okoro, Dr. Quintana and Dr. Savage. They may participate in the discussion and vote in the matters of Dr. Alston and Dr. Gause. The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

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JOSE RAUL QUINTANA, M.D.

.....

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JOSE RAUL QUINTANA, M.D. DR. MADIA SECONDED THE MOTION.

.....

A vote was taken on Dr. Steinbergh's motion to approve and confirm:

ROLL CALL:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Mr. Browning	- aye
	Ms. Sloan	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

The motion carried.



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

Jose Raul Quintana, M.D.
174 NW Harris Lake Drive
Lake City, FL 32055

Dear Doctor Quintana:

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 May 13, 2005, you caused to be submitted an Application for Certificate – Medicine or Osteopathic Medicine [License Application] to the Board. Your License Application is currently pending.
- (2) On or about February 17, 2004, the Florida Board of Medicine filed a Final Order [Florida Final Order] approving and adopting the Consent Order in Department of Health Case No. 2002-25371, which issued you a Letter of Concern; imposed an administrative fine in the amount of \$5,000.00; required you to reimburse the administrative costs incurred in the investigation and preparation of the case in the amount of \$2,033.78; required you to perform 50 hours of community service within one year; and directed you to complete eight hours of Continuing Medical Education in risk management within one year. A copy of the Florida Final Order is attached hereto and incorporated herein.
- (3) You falsely answered a question on a privileges application that you caused to be submitted to the Shands at Lake Shore Hospital [Lake Shore] located in Lake City, Florida, by indicating that you had not taken the American Board of Medical Specialties OB/GYN certification examination [ABMS exam] when you had, in fact, taken and failed the written component of the ABMS exam. Your Lake Shore privileges application was subsequently denied in or about 2001 due to the “provision of false information.”

The Florida Final Order, as alleged in paragraph (2) above, constitutes “[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine

Mailed 11-10-05

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.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute "[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board," as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraph (3) above, individually and/or collectively, constitute a failure to furnish satisfactory proof of good moral character as required by Sections 4731.29 and 4731.08, 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, 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."

Jose Raul Quintana, M.D.

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Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", with a stylized flourish at the end.

Lance A. Talmage, M.D.
Secretary

LAT/blt
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4333 4956
RETURN RECEIPT REQUESTED

By: Nicole Singlet
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2002-25371

License No.: ME0064594

JOSE R. QUINTANA, 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 February 6, 2004, in Pensacola, 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.

OHIO STATE MEDICAL BOARD

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DONE AND ORDERED this 16 day of FEBRUARY.

2004.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for Elisabeth Tucker, 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 JOSE R. QUINTANA, M.D., 1717 SW Newland Way, Lake City, Florida 32025; to Gregory A. Chaires, Esquire, Post Office Box 2310, 1936 Lee Road, Suite 101, Winter Park, Florida 32790; and by interoffice delivery to Denise O'Brien and Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 17 day of February, 2004.


Erica Dine
Deputy Agency Clerk

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OHIO STATE MEDICAL BOARD

MAY 25 2005

**STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH CASE NUMBER 2002-25371

JOSE RAUL QUINTANA, M.D.,

Respondent.

_____ /

CONSENT AGREEMENT

Jose Raul Quintana, 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 department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, the Respondent was a licensed physician in the State of Florida having been issued license number ME 64594.
2. The Respondent was charged by an Administrative Complaint filed by the Agency and properly served upon the Respondent with violations of Chapter 458, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

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3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

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

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

STIPULATED DISPOSITION

1. FUTURE CONDUCT. The Respondent shall not in the future violate Chapters 456, 458 and 893, Florida Statutes, or the rules promulgated pursuant thereto. Prior to signing this agreement, the Respondent shall read Chapters 456, 458, 893 and the Rules of the Board of Medicine, at Section 64B8, Florida Administrative Code.

2. ADMINISTRATIVE FINE. The Board shall impose an administrative fine in the amount of five thousand dollars (\$5,000.00) against the Respondent. The fine shall be paid by the Respondent to the Board of Medicine within thirty days (30) days of its imposition by Final Order of the Board. THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINES IS HIS LEGAL OBLIGATION AND RESPONSIBILITY AND THE RESPONDENT AGREES TO CEASE PRACTICING IF

THE FINE IS NOT PAID AS AGREED TO IN THIS CONSENT AGREEMENT, SPECIFICALLY: IF THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIX (6) MONTHS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

3. REIMBURSEMENT OF COSTS. In addition to the amount of any fine noted above, the Respondent agrees to reimburse the Department for any administrative costs incurred in the investigation, prosecution, and preparation of this case, including costs assessed by the Division of Administrative Hearings, if applicable, and by the Board of Medicine office. The agreed upon Department costs to be reimbursed in this case is two thousand, thirty-three dollars and seventy-eight cents (\$2,033.78). The costs shall be paid by the Respondent to the Board of Medicine within ^{30 days} ~~six (6)~~ months of its imposition by Final Order of the Board. THE 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 THE RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS

OHIO STATE MEDICAL BOARD

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BEEN RECEIVED BY THE BOARD OFFICE WITHIN SIX (6) MONTHS OF THE FILING OF THIS FINAL ORDER, THE RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY THE RESPONDENT FROM THE BOARD. (SEE EXHIBIT B OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).

4. **COMMUNITY SERVICE.** During the next twelve months following the filing date of a Final Order in this case, Respondent shall perform fifty (50) hours of community service. Community service shall consist of the delivery of medical services directly to patients, without fee or cost to the patient, for the good of the people of the state of Florida. Such community service shall be performed outside the Respondent's regular practice setting. Respondent shall submit a written plan for performance and completion of the community service to the Board for approval prior to performance of said community service. Affidavits detailing the completion of community service requirements shall be filed with the Board quarterly.

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

6. **CONTINUING MEDICAL EDUCATION.** Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend eight (8) hours of Continuing Medical Education (CME), on risk management. Respondent shall submit a written plan to the Chairman of the Board for approval prior to the completion of said continuing education hours and course. The Board confers authority on the Chairman of the Board to approve or disapprove said continuing education hours or course. 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 course within one (1) year of the entry of the Final Order in this matter. 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 hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education course shall consist of a formal, live lecture format.

STANDARD PROVISIONS

1. 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 a Final Order incorporating the terms of this Agreement is entered by the Board.
2. Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.
3. Respondent and the Department fully understand that this joint agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit "A" herein.
4. 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.

5. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this matter.

6. This agreement is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. 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. Furthermore, should this joint 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.

SIGNED this 24 day of November, 2003.

[Signature]
Jose Raul Quintana, M.D.

Before me, personally appeared Jose Raul Quintana MD, whose identity is known to me by Personally known (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 24 day of November, 2003.

[Signature]
NOTARY PUBLIC
My Commission Expires:



APPROVED this 16th day of December, 2003.

John O. Agwunobi, M.D., Secretary

[Signature]
By: Wings Benton
Deputy General Counsel-Practitioner Regulation

Exhibit B

STANDARD TERMS APPLICABLE TO CONSENT AGREEMENTS

The following are the standard terms applicable to all Consent Agreements, including supervision and monitoring provisions applicable to licensees on probation.

A. PAYMENT OF FINES. Unless otherwise directed by the Consent Agreement, all fines shall be paid by check or money order and sent to the Board address as set forth in paragraph E, below. The Board office does not have the authority to change terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless other wise directed by the Consent Agreement, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to the Board of Medicine at the address set forth below in paragraph E, **WITHIN SIX (6) MONTHS OF THE DATE OF THE FINAL ORDER.**

C. ADDRESSES. The Respondent must keep current residence and practice addresses on file with the Board. The Respondent shall notify the Board within ten (10) days of any changes of said addresses. Furthermore, if the Respondent's license is on probation, the Responcent shall notify the Board within ten (10) days in the event that the Respondent leaves the active practice of medicine in Florida.

D. **COSTS.** Pursuant to Section 458.331(2), Florida Statutes, the Respondent shall pay all costs necessary to comply with the terms of this Consent Agreement. Such costs include, but are not limited to, the cost of preparation of Investigative Reports detailing compliance with the terms of the Consent Agreement, obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, and the Board's administrative cost directly associated with the Respondent's probation.

E. **BOARD ADDRESS.** Unless otherwise directed by the Board office, all fines, reports, correspondence and inquires shall be sent to: **Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, ATTN: Medical Compliance Officer.** Unless otherwise directed by the board office, all other correspondence shall be sent to **Department of Health, HMQAMS/Client Services/BIN #C01, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251, ATTN: Medical Compliance Officer.**

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No. 2002-25371

JOSE RAUL QUINTANA, 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, JOSE RAUL QUINTANA, M.D., and in support thereof alleges:

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

2. Respondent is, and has been at all times material hereto, a Medical Doctor (M.D.) in the State of Florida, having been issued license number 64594.

3. Respondent's last known address is 1717 SW Newland Way, Lake City, Florida 32025.

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4. On or about November 11, 2000, patient Y.W., a twenty-nine year-old female, presented to the Emergency Room at Shands Hospital (Shands) in Gainesville, Florida.

5. On or about November 11, 2000, an ultrasound of Y.W.'s pelvis was taken revealing an ectopic pregnancy in that Y.W.'s gestational sac was located outside the uterus, in between the uterus and the left ovary, consistent with an ectopic pregnancy.

6. Regardless of the ultrasound taken, Respondent performed a laparoscopic right salpingectomy on patient Y.W. resulting in a removal of her right fallopian tube. Y.W. was released from the hospital the following day.

7. On or about November 13, 2000, a pathology report revealed "NO PRODUCTS OF CONCEPTION IDENTIFIED", from a specimen (i.e. a portion of Y.W.'s right fallopian tube and contents) taken from the aforementioned surgical procedure.

8. On or about December 3, 2000, Y.W. presented to the Emergency Room at Shands complaining of abdominal pain, vaginal bleeding, and dysuria.

9. On or about December 4, 2000, Y.W. underwent a laparotomy with evacuation of clots and left salpingectomy, after being diagnosed with an ectopic pregnancy, resulting in a removal of her left fallopian tube and

thus rendering her sterile.

10. Section 458.331(1)(t), Florida Statutes (2000), makes it a violation of the Medical Practice Act to fail 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.

11. Respondent failed to practice medicine with the appropriate level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances in one or more of the following ways:

- a. By inappropriately removing Y.W.'s right fallopian tube when the radiology report indicated an ectopic pregnancy consistent with a removal of left fallopian tube;
- b. By failing to address or follow up on the pathology report which did not confirm products of conception;
- c. By precipitating the need for Y.W. to undergo a subsequent surgical procedure to remove the ectopic pregnancy and ultimately resulting in the removal of both her fallopian tubes.

12. Based on the foregoing, the Respondent is subject to discipline pursuant to Section 458.331(1)(t), Florida Statutes (2000), by failing to

practice medicine with the appropriate level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar circumstances or conditions.

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 15th day of October, 2003.

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

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Heather Coleman*
DATE 10/16/03


BY: Naji Israoui, Asst. General Counsel
Florida Bar No. 0610364
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin #C-65
Tallahassee, FL 32399-3265
(850) 414-8126 Business
(850) 414-1991 Facsimile

NI:ni

PCP
PCP: DATE: October 10, 2003
PCP Members: Gustavo Leon, M.D. (Chairperson), Kriston Kent, M.D., and John Beebe
Reviewed and approved by me on 9/14/03.

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.

OHIO STATE MEDICAL BOARD

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