

Final Order No. DOH-03-1490-5 -MOA
FILED DATE - 12/11/03
Department of Health

By: Heather Coleman
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2002-07257

License No.: ME0014909

MICHAEL J. BENJAMIN, 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 December 6, 2003, in Tampa, 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 11th day of December,

2003.

BOARD OF MEDICINE

Cynthia A. Lutz for
Larry McPherson, Jr., Executive Director
for Raghavendra Vijayanagar, 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 MICHAEL J. BENJAMIN, M.D., 7707 North University Drive, Suite 205, Tamarac, Florida 33321; to Julie Gallagher, Esquire, Greenberg & Traurig, P.A., 101 East College Avenue, P.O. Drawer 1838, Tallahassee, Florida 32302; 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 11 day of December, 2003.

Erica Prime

Graham, Cheryl

From: McPherson, Larry
Sent: Wednesday, December 10, 2003 11:19 AM
To: Ails, Wendy; Alphin, Lynda; Anglin, Margaret H; Austin, Cheryl; Brutton, Tiffany; Canfield, Shawn P; Davis, Bettye; Davis, Joanne (MQA-Tallahassee); Denson, Angela; Dickens, Kamell D; Gilley, Carmelette; Graham, Cheryl; Gray, Melinda; Henderson, Lakeisha; Hills, Tangela; Johnson, Vera M; Kodaj, Jo Ann; Langston, Ashley; List, Crystal A; McBride, Martha; Morss, Shirley B; Nelson, Gloria J; Nelson, Tracie L; Oliver, Cynthia; Pelt, Ellen; Pouncey, Jamie; Price, Chandra; Randolph, Camela; Rivers, Kimberly; Smiley, Cheryl; Welch, Jessica M; Williams, Lauren; Willis, Gwyn; Baker, Joe Jr; Coble, Dan; Foster, Sue; Gee, Lucy; Hentz, James; Howerton, Kaye; Jones, Amy M; King, Pamela E; Orcutt, Diane; Sanders, Sylvia (MQA); Schneider, Lucy
Subject: Delegation of Authority

Citizens,

I delegate authority to Crystal List (245-4132) during my absence from Wednesday afternoon December 10 through Thursday, December 11, 2003.

Larry McPherson
Executive Director
Board of Medicine

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2002-07257

MICHAEL J. BENJAMIN, M.D.

Respondent.

CONSENT AGREEMENT

MICHAEL J. BENJAMIN, 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.

Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes. Pursuant to the provisions of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 0014909.
2. The Department, through its agent, the Agency for Health Care Administration, received a complaint against Respondent alleging a violation 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.
3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint and enters into this agreement to avoid further administrative proceedings.

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 set forth 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 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 64B, Florida Administrative Code. Respondent acknowledges that he will personally obtain the patient's informed consent in accordance with the Board's current rule.

2. **FINE.** Respondent shall pay an administrative fine in the amount of \$5,000 to the Board. Respondent shall pay this fine within six (6) months of its imposition by Final Order of the Board. **THE RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE 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, PARAGRAPH I OF THIS CONSENT AGREEMENT FOR BOARD ADDRESS AND STANDARD TERMS).**

3. **COST OF INVESTIGATION AND PROSECUTION.** Respondent shall pay costs of investigation and prosecution in the amount of \$5,263.00. Respondent shall pay the costs of investigation and prosecution within six (6) months of its imposition by Final Order of the Board.

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

5. **CONTINUING MEDICAL EDUCATION.** Respondent shall complete four (4) hours of Continuing Medical Education in Risk Management within one (1) year.

STANDARD PROVISIONS

1. It is expressly understood that this Agreement is subject to the approval of the Board and the Agency. 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 Agency fully understand that this 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. The parties agree the Final Order and the Consent Agreement incorporated by the Final Order, or the fact of such Final Order and Consent Agreement, shall not be used by the Department or Board for any purpose adverse to Respondent other than as may be permitted in a subsequent administrative proceeding against Respondent's medical license, should such a proceeding ever be initiated.

5. Upon the Board's adoption of this Agreement, the parties hereby agree that, except as noted above, each party will bear his 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 Agency 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 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.

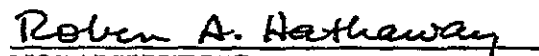
SIGNED this 29th day of August, 2003.


Michael J. Benjamin, M.D.

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

Sworn to and subscribed before me this 29th day of August, 2003.

ROBIN A. HATHAWAY
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION #00153563
EXPIRES 9/25/2006
BONDED THRU F-888-NOTARY1


NOTARY PUBLIC

My Commission Expires: 09/25/2006

Consent Agreement
2002-07257

APPROVED this 17th day of October, 2003.

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


By: Wings S. Benton
Deputy General Counsel

Department of Health

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 set forth in paragraph F, below. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

B. COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS. Unless otherwise 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 ONE YEAR OF THE DATE OF THE FINAL ORDER.**

C. 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. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Board within ten (10) days in the event that 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 costs 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 costs directly associated with Respondent's probation.

E. BOARD ADDRESS. Unless otherwise directed by the Board office, all fines, reports, correspondence and inquiries shall be sent to: Department of Health, HMQAMS/Client Services Unit, 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, HMQAS/Client Services/BIN# C01, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251, Attn: Medical Compliance Officer.

F. CONTINUITY OF PRACTICE

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

- (a) The time period of probation shall be tolled.
- (b) The provisions regarding supervision whether direct or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.
- (c) The provisions regarding preparation of investigative reports detailing compliance with this Stipulation shall be tolled.
- (d) Any provisions regarding community service shall be tolled.

(2) ACTIVE PRACTICE. In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Probation Committee may require Respondent to appear before the Probation Committee and demonstrate his ability to practice medicine with skill and safety to patients prior to resuming the practice of medicine or respiratory therapy in this State.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2002-07257

MICHAEL J. BENJAMIN, 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, Michael J. Benjamin, 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 and was issued license number ME 14909.
3. Respondent's address of record is 7707 North University Drive, Suite #205, Tamarac, Florida 33321.
4. Respondent is board certified in obstetrics and gynecology.
5. On or about December 10, 2001, the Respondent gave a deposition in an unrelated case regarding his medical practice in which he specializes in obstetrics and gynecology.

6. In December of 2001, the Respondent practiced medicine at two locations: his private practice in Tamarac, Florida, and at the Presidential Women's Center (hereinafter referred to as "Presidential") in West Palm Beach, Florida, as a contract physician. He worked at Presidential an average of 1 ½ days per week and at his private practice an average of 3 ½ days per week.

7. In December of 2001, the Respondent's practice at Presidential was limited to performing abortions and tubal ligations (sterilizations). At Presidential, he performed approximately 55-60 abortions per week.

8. In December of 2001, it was the custom and routine at Presidential for staff employees to review the consent materials with the first or second trimester abortion patients. Those staff employees included certified medical assistants, licensed practical nurses, registered nurses, and designated counselors. The staff employees were not equivalently trained doctors of medicine or osteopathy or physicians practicing within a Board approved postgraduate training program. A staff employee would also perform an ultrasound on the abortion patients.

9. In December of 2001, it was the Respondent's custom and routine to have initial contact with the first trimester abortion patients in the procedure room. At that time, he reviewed the ultrasound which had previously been performed by a Presidential employee. Typically, the Respondent spent approximately two minutes with each patient before placing the patient under sedation.

10. During that two minute period of time in which the first trimester abortion patients were not yet sedated, the Respondent would customarily introduce himself and ask the patients if they had any questions. Then, while starting the intravenous

sedatives, he attempted to establish some sort of conversation and rapport with the first trimester abortion patients.

11. The Respondent did not explain the abortion procedure to the first trimester abortion patients, advise the patients of the alternatives to the abortion procedure, or advise the patients of the substantial risks and hazards of the procedure.

12. A reasonably prudent physician under similar facts and circumstances would have explained the abortion procedure to the first trimester abortion patients, advised the patients of the alternatives to the abortion procedure, and advised the patients of the substantial risks and hazards of the procedure.

13. In December of 2001, it was the Respondent's custom and routine to have initial contact with the second trimester abortion patients in the procedure room. At that time, he would ask the second trimester abortion patients if they had any additional questions before sedating the patients and performing the abortion procedure.

14. The Respondent did not explain the abortion procedure to the second trimester abortion patients, advise the patients of the alternatives to the abortion procedure, or advise the patients of the substantial risks and hazards of the procedure.

15. A reasonably prudent physician under similar facts and circumstances would have explained the abortion procedure to the second trimester abortion patients, advised the patients of the alternatives to the abortion procedure, and advised the patients of the substantial risks and hazards of the procedure.

16. Rule 64B8-9.007, Florida Administrative Code, provides that it is the responsibility of the operating surgeon or an equivalently trained doctor of medicine or

osteopathy or a physician practicing within a Board approved postgraduate training program to explain the procedure to and obtain the informed consent of the patient. It is not necessary, however, that the operating surgeon obtain or witness the signature of the patient on the written form evidencing informed consent.

17. Section 766.103, Florida Statutes, provides, in part, that informed consent is valid when the physician's actions in obtaining the consent of the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and a reasonable individual, from the information provided by the physician, under the circumstances, would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other physicians in the same or similar community who perform similar treatments or procedures.

COUNT ONE-STANDARD OF CARE

18. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.

19. Section 458.331(1)(t), Florida Statutes (2001), sets forth grounds for disciplinary action by the Board of Medicine and provides that a physician may be subject to discipline for gross or repeated malpractice or 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.

20. 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, in one or more of the following ways:

- a. Respondent failed to explain the abortion procedure to the first trimester abortion patients at Presidential;
- b. Respondent failed to advise the first trimester abortion patients at Presidential of the alternatives to the abortion procedure;
- c. Respondent failed to advise the first trimester abortion patients at Presidential of the substantial risks and hazards of the abortion procedure;
- d. Respondent failed to explain the abortion procedure to the second trimester abortion patients at Presidential;
- e. Respondent failed to advise the second trimester abortion patients at Presidential of the alternatives to the abortion procedure; and/or
- f. Respondent failed to advise the second trimester abortion patients at Presidential of the substantial risks and hazards of the abortion procedure.

21. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by committing gross or repeated malpractice or 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.

COUNT TWO-STATUTORY OBLIGATION

22. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth in this count two.

23. Section 458.331(1)(g), Florida Statutes (2001), sets forth grounds for disciplinary action by the Board of Medicine and provides that a physician may be subject to discipline for failing to perform any statutory or legal obligation placed upon a licensed physician.

24. Respondent failed to perform the statutory or legal obligation as set forth in Rule 64B8-9.007, Florida Administrative Code, in one or more of the following ways:

- a. Respondent did not explain the abortion procedures to his first or second trimester patients, but rather, allowed a staff member at Presidential, a certified medical assistant, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure when that employee was not an equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program;
- b. Respondent did not explain the abortion procedures to his first or second trimester patients, but rather, allowed a staff member at Presidential, a certified medical assistant, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure when that employee was not an

- equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program;
- c. Respondent did not explain the abortion procedures to his first trimester patients, but rather, allowed a staff member at Presidential, a licensed practical nurse, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure when that employee was not an equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program;
 - d. Respondent did not explain the abortion procedures to his second trimester patients, but rather, allowed a staff member at Presidential, a licensed practical nurse, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure when that employee was not an equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program;
 - e. Respondent did not explain the abortion procedures to his second trimester patients, but rather, allowed a staff member at Presidential, a registered nurse, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of

the procedure when that employee was not an equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program; and/or

- f. Respondent did not explain the abortion procedures to his second trimester patients, but rather, allowed a staff member at Presidential, a registered nurse, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure when that employee was not an equivalently trained doctor of medicine or osteopathy or physician practicing within a Board approved postgraduate training program.

25. Based on the foregoing, Respondent has violated Section 458.331(1)(g), Florida Statutes, by failing to perform any statutory or legal obligation placed upon a licensed physician.

COUNT THREE-DELEGATING RESPONSIBILITIES

26. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth in this count three.

27. Section 458.331(1)(w), Florida Statutes (2001), sets forth grounds for disciplinary action by the Board of Medicine and provides that a physician may be subject to discipline for delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

28. Based on the requirements of Rule 64B8-9.007, Florida Administrative Code, Respondent improperly delegated professional responsibilities to a person when he knew or had reason to know that such person is not qualified by training, experience, or licensure to perform them, in one or more of the following ways:

- a. Respondent allowed a staff member at Presidential, a certified medical assistant, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure;
- b. Respondent allowed a staff member at Presidential, a certified medical assistant, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure;
- c. Respondent allowed a staff member at Presidential, a licensed practical nurse, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure;
- d. Respondent allowed a staff member at Presidential, a licensed practical nurse, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks

of the procedure, and the potential complications of the procedure;

- e. Respondent allowed a staff member at Presidential, a registered nurse, to advise the first trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure;
- f. Respondent allowed a staff member at Presidential, a registered nurse, to advise the second trimester abortion patients of the alternatives to the abortion procedure, the possible risks of the procedure, and the potential complications of the procedure.

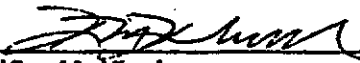
29. Based on the foregoing, Respondent has violated Section 458.331(1)(w), Florida Statutes, by delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

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 28th **day of** May, 2003.

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

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Vicki R. Kenyon*
DATE *5/29/03*


Kim M. Kluck
Assistant General Counsel
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DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0040967
(850) 488-4451
(850) 414-1989 FAX

kmk

Reviewed and approved by: *DK* (initials) *3/18/03* (date)

PCP: *5/23/2003*

PCP Members: *El-Bahri, Long, mcmillin*

Michael Benjamin, M.D., 2002-07257

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.