

MM

By: Rachelle Brooks
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2003-29906
LICENSE NO.: ME0056209

GOLDSMITH DORVAL, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on March 30, 2007, in Miami, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises, the Board rejected the Settlement Agreement and offered a Counter Settlement Agreement which Respondent was given 7 days to accept. By letter dated April 24, 2007, counsel for Respondent accepted the Board's Counter Settlement Agreement on behalf of Respondent. The Counter Settlement Agreement incorporates the original Settlement Agreement with the following amendments:

1. The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$3,657.18.

2. The probation set forth in Paragraph 7 of the Stipulated Disposition shall be amended to delete the phrase "in the event the Respondent has billing responsibility."

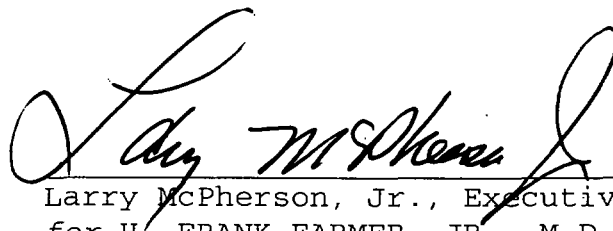
3. Paragraph 8 of the Stipulated Disposition with regard to the requirement for an Annual Financial Audit shall be deleted.

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the amendments set forth above. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as amended.

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

DONE AND ORDERED this 30 day of APRIL,
2007.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director
for H. FRANK FARMER, JR., 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 GOLDSMITH DORVAL, M.D., 1161 NW 101st Avenue, Plantation, Florida 33322; to Mark Dresnick, Esquire, Dresnick & Rodriguez, One Datran Center, Suite 1610, 9100 South Dadeland Boulevard, Miami, Florida 33156-7617; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 1 day of may, 2007.

Kellie Dawds

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Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2003-29906

GOLDSMITH DORVAL, 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, Goldsmith Dorval, 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 ME 56209.

2/24/07

3. Respondent's address of record is 1161 N.W. 101 Avenue, Plantation, Florida 33322.

4. On or about October 20, 2004, Respondent pled nolo contendere in case number 2001-0510-SFB in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, to one (1) count of Grand Theft in an Amount Less Than Five Thousand (\$5,000.00) Dollars, in violation of Sections 812.014(1)(2)(c) and 777.011, Florida Statutes (2001), based on Respondent's billing to Medicaid. The remaining three (3) counts of the criminal information were dismissed.

5. On or about October 20, 2004, adjudication of guilt was withheld and Respondent was sentenced to four (4) years of probation.

6. Respondent's conviction was for a crime related to his practice of medicine or to his ability to practice medicine.

7. Section 458.331(1)(c), Florida Statutes (2004), provides that being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine constitutes grounds for disciplinary action by the Board of Medicine.

8. Based on the foregoing, Respondent has violated Section 458.331(1)(c), Florida Statutes (2004), by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

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 22nd day of February, 2007.

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Kelli Michael*
DATE: 2/20/07

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health


Don Freeman
Assistant General Counsel

DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0736171
(850) 245-4640/(850) 245-4681 FAX

PCP: Probable Cause Waived by Respondent

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.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2003-29906

GOLD SMITH DORVAL, M.D.,

Respondent.

SETTLEMENT AGREEMENT

Goldsmith Dorval, 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 a 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 56209.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with a violation 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 a violation 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. **Reprimand** - The Board shall reprimand the license of Respondent.

2. **Fine** - The Board of Medicine shall impose an administrative fine of ten thousand dollars (\$10,000) 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) from the date of filing 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 WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. Reimbursement Of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any administrative costs incurred in the investigation and preparation of this case. Such costs exclude the costs of 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 agreed upon amount of Department costs to be paid in this case is not to exceed FOUR THOUSAND, THREE HUNDRED dollars (\$4,300.00). 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

date of filing of the Final Order in this cause. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.

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 WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Community Service** - Respondent shall perform two hundred (200) hours of community service, within two (2) years of the date of filing of the Final Order. 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.

5. **Continuing Medical Education** - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend five (5) hours of Continuing Medical Education (CME) in Ethics. 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 date of filing 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 provided previously 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.

6. **Suspension** - Respondent's license shall be suspended for a period of one (1) year, however all but ninety (90) days of this suspension will be stayed if Respondent timely and completely complies with all the other conditions of this agreement. Violation of the terms of this agreement will result in imposition of the stayed balance of the suspension and may also result in additional discipline beyond that imposed under this agreement.

7. **Probation** - Effective at the conclusion of the suspension period, Respondent's license to practice medicine shall be placed on probation for a period

of four (4) years. The purpose of probation is not to prevent Respondent from practicing medicine. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physician in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

(A) **Restrictions During Probation** - During the period of probation, in the event that Respondent has billing responsibility Respondent's license shall be restricted as follows:

1. **Indirect Supervision** - Respondent shall practice only under the indirect supervision of a Board-approved physician, hereinafter referred to as the "monitor", whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as Respondent, however, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise provided by the Board and shall be readily available for consultation. The monitor shall be Board Certified in Respondent's specialty area unless otherwise provided by the Board. In this regard, Respondent shall allow the monitor access to Respondent's medical records, calendar, patient

logs or other documents necessary for the monitor to supervise Respondent as detailed below.

ii. **Required Supervision:**

a) If the terms of the Consent Agreement include indirect monitoring of the licensee's practice or direct monitoring of the licensee's practice, Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Agreement, unless otherwise ordered by the Board.

b) The monitor/supervisor must be a licensee under Chapter 458, Florida Statutes, in good standing and without restriction or limitation on his license. In addition, the Board may reject any proposed monitor/supervisor on the basis that he has previously been subject to any disciplinary action against his medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise provided by the Board and be practicing within a reasonable distance of Respondent's practice, a distance of twenty (20) miles unless otherwise specifically provided for in the Consent Agreement. The Board may also reject any proposed monitor/supervisor for good cause shown.

iii. **Mechanism For Approval Of Monitor/Supervisor:**

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

b) **Formal Approval** - Respondent shall have the monitor/supervisor with Respondent at Respondent's first probation appearance before the Probation Committee. Prior to the consideration of the monitor/supervisor by the Probation Committee, Respondent shall provide to the monitor/supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vita and a description of current practice from the proposed monitor/supervisor to the Board office no later than fourteen

(14) days before Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such other times as directed by the Probation Committee. It shall be Respondent's responsibility to ensure the appearance of the monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of this Consent Agreement and shall subject Respondent to disciplinary action.

iv. **Change In Monitor/Supervisor** - In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill the responsibilities of a monitor/supervisor as described above, Respondent shall immediately advise the Probation Committee of this fact. Respondent shall immediately submit to the Chairman of the Probation Committee the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chairman of the Probation Committee. Furthermore, Respondent shall make arrangements with his temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Probation Committee. Respondent

shall only practice under the auspices of the temporary monitor/supervisor (approved by the Chairman) until the next regularly scheduled meeting of the Probation Committee at which the issue of the Probation Committee's approval of Respondent's new monitor/supervisor shall be addressed.

v. **Responsibilities Of The Monitor/Supervisor** - The Monitor shall:

a) Review Respondent's billing records at least once every month for the purpose of ascertaining that the billing records contain no fraudulent charges. The monitor shall go to Respondent's office once every month and shall review Respondent's calendar or patient log and select Respondent's billing records to be reviewed.

b) Maintain contact with Respondent on a frequency of at least once per month. In the event that the monitor is not timely contacted by Respondent, then the monitor shall immediately report this fact in writing to the Probation Committee.

c) Submit reports on a quarterly basis, in affidavit form, which shall include:

1) A brief statement of why Respondent is on probation;

2) A description of Respondent's practice (type and composition);

3) A statement addressing Respondent's compliance with the terms of probation;

4) A brief description of the monitor's relationship with Respondent;

5) A statement advising the Probation Committee of any problems which have arisen; and

6) A summary of the dates the monitor went to Respondent's office, the number of records reviewed, and the overall quality of the records reviewed, and the dates Respondent contacted the monitor pursuant to subsection b, above.

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

e) Respondent's monitor shall appear before the Probation Committee at the first meeting of said committee following commencement of the probation, and at such other times as directed by the Committee. It shall be Respondent's responsibility to ensure the appearance of Respondent's

monitor to appear as requested or directed. If the approved monitor falls to appear as requested or directed by the Probation Committee, **Respondent shall immediately cease practicing medicine until such time as the approved monitor or alternate monitor appears before the Probation Committee.**

vi. **Reports From Respondent** - Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- a) A brief statement of why Respondent is on probation;
- b) A description of practice location;
- c) A description of current practice (type and composition);
- d) A brief statement of compliance with probationary terms;
- e) A description of the relationship with monitoring physician;
- f) A statement advising the Board of any problems which have arisen; and

g) A statement addressing compliance with any restrictions or requirements imposed.

vii. **Continuity Of Practice:**

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

- 1) The time period of probation shall be tolled;
- 2) The provisions regarding supervision whether direct or indirect by another physician, and required reports from the monitor/supervisor shall be tolled;
- 3) The provisions regarding preparation of investigative reports detailing compliance with this Consent Agreement shall be tolled; and
- 4) Any provisions regarding community service shall be tolled.

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

(B) **Obligations/Requirements Of Probation** - During the period of probation, Respondent shall comply with the following obligations and requirements:

i. Respondent shall appear before the Probation Committee of the Board of Medicine at the first Committee meeting after probation commences, at the last meeting of the Committee preceding scheduled termination of the probation, and at such other times as requested by the Committee. Respondent shall be noticed by the Board staff of the date, time and place of the Committee meeting at which Respondent's appearance is required. Failure of Respondent to appear as requested or directed or failure of Respondent to comply with **any** of the terms of this agreement shall be considered a violation of the terms of this Agreement, and shall subject Respondent to disciplinary action.

ii. Respondent shall be responsible for ensuring that the monitor submits all required reports.

iii. Other requirements of probation.

8. **Other:** In the event that Respondent has billing responsibility once his license is reinstated, Respondent shall have an Annual Financial Audit performed once a year for four (4) years by a licensed accountant approved by the Probation Committee.

STANDARD PROVISIONS

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

10. **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.

11. **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.

12. **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. Prior to signing this agreement, the Respondent shall read

Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

13. **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.

14. **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.

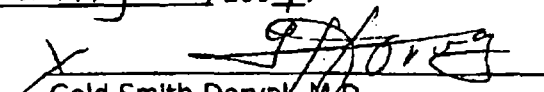
15. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board

and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

16. 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.

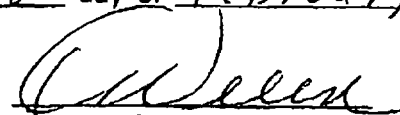
17. Waiver of further procedural steps - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board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

SIGNED this 22nd day of February, 2007.

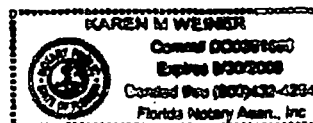

Gold Smith Dorval, M.D.

Before me, personally appeared Gold Smith Dorval, 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 22 day of February, 2007.


NOTARY PUBLIC

My Commission Expires:



APPROVED this 22nd day of February, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.
Secretary, Department of Health



By: Don Freeman
Assistant General Counsel
Department of Health

Don Freeman
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