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Final Order No. DOH-08-0212-S-MOA  
FILED DATE - 2.12.08

STATE OF FLORIDA  
BOARD OF MEDICINE

Department of Health  
By: Rachel Brown  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2006-20862  
LICENSE NO.: ME0015444

DAVID SALL, M.D.,

Respondent.

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FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on February 1, 2008, in Jacksonville, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

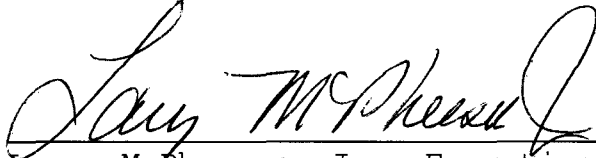
The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$4,500.00.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

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

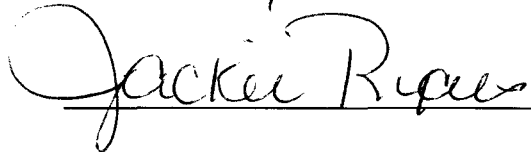
DONE AND ORDERED this 11 day of FEBRUARY, 2008.

BOARD OF MEDICINE

  
Larry McPherson, Jr., Executive Director  
for ROBERT CLINE, 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 DAVID SALL, M.D., 1357 Palm Avenue, Jacksonville, Florida 32207-8432; to Robert A. Cole, Esquire, Cole, Stone, Stoudemire & Morgan, 201 North Hogan Street, Suite 200, Jacksonville, Florida 32202; and by interoffice delivery to Ephraim Livingston, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 12th day of February, 2008.



**Deputy Agency Clerk**

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-20862

DAVID SALL, M.D.,

RESPONDENT.

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**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, David Sall, 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 15444.

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3. Respondent's last known address of record is 1357 Palm Avenue, Jacksonville, FL 32207.

4. Respondent is board certified in psychiatry.

5. Patient C.D., a forty-nine (49) year old female with a history of depression and seizures, was treated for several years by a neurologist who monitored her seizures and maintained her on a medication regimen which included Neurontin (for seizures) and Remeron (an antidepressant).

6. The neurologist's medical records contain a notation in May 2002 that Patient C.D. would benefit from psychiatric treatment for her depression.

7. Patient C.D. presented to Respondent for treatment of depression in or about April 2003.

8. Respondent diagnosed Patient C.D. with major depressive disorder/rule out borderline personality disorder, and initially continued the same medication regimen of Neurontin and 15 mg Remeron (2.5 tablets at bedtime) for one month.

9. Beginning on May 6, 2003, Respondent replaced Neurontin with 100 mg Dilantin TID.

10. In or about September 2004 Respondent added 100 mg TID of Neurontin to Patient C.D.'s medication regimen.

11. Respondent maintained Patient C.D. on a medication regimen which included (a) 100 mg Dilantin TID for approximately three years and (b) 100 mg Neurontin TID for approximately one year and six months.

12. Both Dilantin and Neurontin can produce adverse effects including dizziness and ataxia.

13. Respondent's medical records include notations that Patient C.D. presented several times complaining of dizziness and ataxia.

14. A reasonably prudent similar physician under similar conditions and circumstances would ensure that a patient receiving Dilantin had blood serum levels of this medication monitored approximately once per year.

15. Respondent did not issue orders for Dilantin blood serum level monitoring of Patient C.D.

16. A reasonably prudent similar physician under similar conditions and circumstances would ensure that a patient receiving Neurontin had blood serum levels for this medication monitored once per year.

17. Respondent did not issue orders for Neurontin blood serum level monitoring of Patient C.D.

18. Respondent did not verify that any of Patient C.D.'s other medical providers was monitoring her Dilantin blood serum level during the time period when he prescribed this medication to her.

19. Respondent did not verify that any of Patient C.D.'s other medical providers was monitoring her Neurontin blood serum level during the time period when he prescribed this medication to her.

20. Section 458.331(1)(t), Florida Statutes (2002-2004) provides that 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 is grounds for disciplinary action by the Board of Medicine.

21. 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 in one or more of the following ways:

- (a) by failing to order blood serum monitoring of Patient C.D. for the Dilantin he prescribed;
- (b) by failing to order blood serum monitoring of Patient C.D. for the Neurontin he prescribed;

(c) by failing to verify that any of Patient C.D.'s other medical providers was monitoring her blood serum levels for the Dilantin he prescribed.

(d) by failing to verify that any of Patient C.D.'s other medical providers was monitoring her blood serum levels for the Neurontin he prescribed.

22. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2002-2004), 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.

WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation, or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case as provided for in Section 456.072(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 26 day of March, 2007.

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

*Maura M. Bolívar*

Maura M. Bolívar  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar No. 0295840  
(850) 245-4640 Telephone  
(850) 245-4680 Facsimile

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK: *Racine Jones*  
DATE: 3-28-07

MMB:cj

PCP Members: El-Bahri, Farmer, Long  
PCP: March 23, 2007



STATE OF FLORIDA  
DEPARTMENT OF HEALTH

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PRACTITIONER REGULATION  
LEGAL

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2006-20862

DAVID SALL, M.D.,

Respondent,

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**SETTLEMENT AGREEMENT**

David Sall, 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 15444.
2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent with violations of

Chapter 458, Florida Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint for purposes of these proceedings only.

### **STIPULATED CONCLUSIONS OF LAW**

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

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

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

### **STIPULATED DISPOSITION**

1. **Letter Of Concern** - Respondent shall receive a Letter of Concern from the Board of Medicine.

2. **Fine** - The Board of Medicine shall impose an administrative fine of two thousand, five hundred (\$2,500.00) dollars 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 SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN FORTY-FIVE (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 prosecution 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 includes but shall not exceed four thousand, five hundred

(\$4,500). 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 SETTLEMENT AGREEMENT, SPECIFICALLY: IF WITHIN FORTY-FIVE (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 twenty-five (25) hours of community service, within one (1) year 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 – "Risk Management"** - Respondent shall complete five (5) hours of Continuing Medical Education in "Risk Management" within one (1) year of the date of filing of the Final Order. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). However, the Board has approved five (5) hours of risk management continuing education for attending the first day of a full Board of Medicine meeting.

#### **STANDARD PROVISIONS**

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

2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

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

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

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

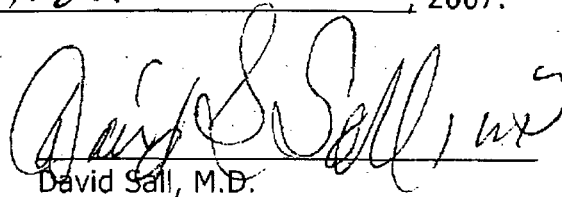
6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction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

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

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

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

SIGNED this 31 day of October, 2007.

  
David Sall, M.D.

Before me, personally appeared DAVID SALL, whose identity is known to me by Fla. Driv. License (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed before me this 2nd day of November, 2007.

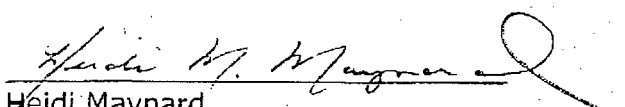
  
NOTARY PUBLIC

My Commission Expires



APPROVED this 14 day of November, 2007.

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

By:   
Heidi Maynard  
Assistant General Counsel  
Department of Health