

FILED DATE APR 19 2013

Department of Health

By: Angel Sandoval
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-23877
LICENSE NO.: ME0063876

JAMES A. YELTON ROSSELLO, 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 April 5, 2013, in Deerfield Beach, 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 full 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 9, 2013, counsel for Respondent accepted the Board's Counter Settlement Agreement on behalf of the 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 \$26,366.59.

2. The restriction on practice set forth in Paragraph 8 of the Stipulated Disposition shall be deleted.

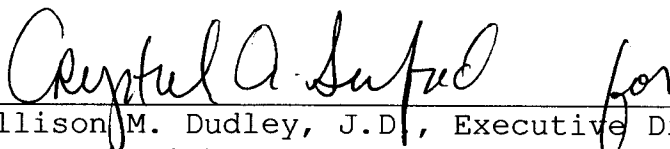
3. Respondent's license is **permanently restricted** as follows: Respondent may not examine or treat female patients.

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 17th day of April, 2013.

BOARD OF MEDICINE



Allison M. Dudley, J.D., Executive Director
For Zachariah P. Zachariah, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **Certified Mail** to

JAMES A. YELTON ROSSELLO, M.D., P.O. Box 142366, Gainesville,
Florida 32614; and 7906 E. U.S. Highway 90, Lake City, Florida
32055; by email to Alex Barker, Esquire, at
ABarker@adamscoogler.com; by email to the Professionals Resource
Network (PRN) at admin@flprn.org; and by interoffice delivery to
Doug Sunshine, Department of Health, 4052 Bald Cypress Way, Bin
#C-65, Tallahassee, Florida 32399-3253 this 19th day of
April, 2013.

Angel Sanders

Deputy Agency Clerk

PO Box 142366

7012 1010 0002 2383 2974

Lake City, FL

7012 1010 0002 2383 2981

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

INTEROFFICE MEMORANDUM

DATE: April 16, 2013

TO: Cassandra Pasley, Bureau Chief
Health Care Practitioner Regulation

FROM: Allison Dudley, Executive Director
Board of Medicine

SUBJECT: Delegation of Authority

This is to advise that I will be out of the office, Monday afternoon through Friday afternoon, April 15th through 19th, 2013, attending a court case in Bartow, Florida and then flying to Boston, Massachusetts for the AIM and FSMB Annual Conference Meeting. Chandra Prine is delegated to serve as acting Executive Director for the Board of Medicine for Monday afternoon, April 15th. Crystal Sanford is delegated to serve as acting Executive Director for the Board of Medicine for Tuesday morning, Wednesday, Thursday and Friday. Gloria Nelson is delegated to serve as acting Executive Director for the Board of Medicine for Tuesday afternoon. Mrs. Prine can be reached at (850) 245-4135. Mrs. Sanford can be reached at (850) 245-4132. Mrs. Nelson can be reached at (850) 245-4516. I will return to the office on Monday, April 22nd, 2013.

Florida Department of Health

Division of Medical Quality Assurance • Bureau of Health Care Practitioner Regulation
4052 Bald Cypress Way, Bin C-03 • Tallahassee, FL 32399-3256
PHONE: 850/245-4131 • FAX 850/488-0596

www.FloridasHealth.com

TWITTER: HealthyFLA
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YOUTUBE: fldoh

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

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v.

Case No. 2010-23877

JAMES A. YELTON-ROSSELLO, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

James A. Yelton-Rossello, M.D., referred to as the "Respondent," and the Department of Health, referred to as the "Department," stipulate and agree to the following Settlement Agreement and to the entry of a Final Order of the Board of Medicine, referred to as the "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapters 456 and 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 63876.
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. **Reprimand** - The Board shall reprimand the license of Respondent.

2. **Fine** - The Board of Medicine shall impose an administrative fine of **TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00)** against the license of Respondent, to be paid by Respondent to Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date his license is reinstated by the Board. **All fines shall be paid by cashiers 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. If

Respondent is unable to pay the fine within thirty (30) days, he may ask the Probation Committee for an extension or a payment plan.

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 45 DAYS OF THE DATE HIS LICENSE IS REINSTATED BY THE BOARD, 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 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 is currently **TWENTY-FOUR THOUSAND NINE HUNDRED FOURTEEN DOLLARS AND EIGHT CENTS (\$24,914.08)**, but shall not exceed **TWENTY-SIX THOUSAND NINE HUNDRED FOURTEEN DOLLARS AND EIGHT CENTS (\$26,914.08)**. Respondent will pay costs to Payments, Department of Health,

Compliance Management Unit, Bin C-76, P. O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date his license is reinstated by the Board. All costs shall be paid by cashiers check or money order. Any post-Board costs, such as the costs associated with probation, are not included in this agreement. If Respondent is unable to pay the costs within thirty (30) days, he may ask the Probation Committee for an extension or a payment plan.

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 45 DAYS OF THE DATE HIS LICENSE IS REINSTATED, 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. Laws And Rules Course - Respondent shall complete the course, "Legal and Ethical Implications in Medicine Physician's Survival Guide-Laws and Rules," administered by the Florida Medical Association, or a Board-approved equivalent, within eighteen (18) months of the date of filing of the Final Order of the Board. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education

course within eighteen (18) months of the date of filing of the Final Order incorporating this Settlement Agreement.

5. Drug Course - Respondent shall complete the course, "Prescribing Controlled Drugs: Critical Issues and Common Pitfalls of Misprescribing," sponsored by the University of Florida, or a Board-approved equivalent, within eighteen (18) months of the date of filing of the Final Order. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education course within eighteen (18) months of the date of filing of the Final Order incorporating this Settlement Agreement.

6. Records Course - Respondent shall complete the course, "Quality Medical Record Keeping for Health Care Professionals," sponsored by the Florida Medical Association, or a Board-approved equivalent, within eighteen (18) months of the date of filing of the Final Order. In addition, Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education course within eighteen (18) months of the date of filing of the Final Order incorporating this Settlement Agreement.

7. Continuing Medical Education - Within eighteen (18) months of the date of the filing of a Final Order in this cause, Respondent shall attend ten (10) hours of Continuing Medical Education which shall include the subject of professional boundaries in the practice of medicine. In addition, Respondent shall

submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical education course within eighteen (18) months of the date of filing of the Final Order incorporating this Settlement Agreement.

8. **Restriction** – Respondent's practice is restricted in that Respondent may not examine or treat female patients until such time as Respondent has been assessed by and complies with any terms and recommendations made by the Professionals Resource Network ("PRN"), and PRN recommends the removal of such restriction to the Board. Respondent shall petition the Board in writing for the removal of the restriction from his license. The Board reserves jurisdiction in this matter to impose additional terms and conditions at the time the restriction is removed from Respondent's license. In addition, Respondent agrees that when the above described restriction is removed from his license, Respondent's practice is permanently restricted in that Respondent may not examine or treat female patients without the presence of a Florida health care provider licensed under Chapters 458, 459, or 464, Florida Statutes, who shall maintain a log of each such patient contact with said log immediately available to a Department inspector upon request.

9. **Suspension Language** - Respondent's license to practice medicine in the State of Florida is hereby SUSPENDED until such time as he demonstrates to the Board the ability to practice medicine with reasonable skill and safety. Such demonstration of skill and safety shall include an evaluation by PRN. The Board reserves jurisdiction in

this matter to impose additional terms and conditions, including a period of probation, with said terms and conditions of said probation to be determined by the Board at the time of reinstatement of Respondent's license to practice medicine. Respondent shall not practice medicine in Florida until he petitions the Board for reinstatement, appears before the Board, and has his license reinstated.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Settlement Agreement is considered.
2. **No Force or Effect Until Final Order** - It is expressly understood that this Settlement 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 Settlement Agreement.
3. **Continuing Medical Education** - Unless otherwise provided in this Settlement Agreement, Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education courses. 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 these medical courses within eighteen (18) months 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(s) shall consist of a formal, live lecture format.

4. **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.

5. **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 Settlement Agreement, Respondent shall read Chapters 456, 458, and 893, Florida Statutes, and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Settlement 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.

7. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Settlement 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 this Settlement Agreement. Respondent agrees

to support this Settlement 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 Settlement Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Settlement 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.

8. No Preclusion of Additional Proceedings - Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating the 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.


9. Waiver of Attorney's Fees and Costs - Upon the Board's adoption of this Settlement 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 the 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.

10. Waiver of Further Procedural Steps - Upon the Board's adoption of this Settlement 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 this Settlement Agreement and the Final Order of the Board incorporating said Settlement Agreement.

Remainder of this page intentionally left blank.

SIGNED this 6 day of FEBRUARY, 2013.

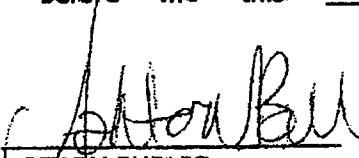

James A. Yelton-Rossello, M.D.
Case Number 2010-23877

STATE OF FLORIDA }
COUNTY OF Alachua }

Before me, personally appeared James A. Yelton-Rossello, M.D., whose identity is known to me by FLOL [REDACTED] (type of identification) and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 6 day of February, 2013.




NOTARY PUBLIC
My Commission Expires: 3/27/2016

APPROVED this 7th day of February, 2013.

John H. Armstrong, MD, FACS, FCCP
Surgeon General & Secretary of Health
State of Florida, Department of Health



By: Alicia E. Adams, Esq.
Assistant General Counsel
Department of Health

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2010-23877

JAMES A. YELTON ROSSELLO, 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 the Respondent, James A. Yelton Rossello, M.D., and in support thereof alleges:

1. 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.

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 63876.

3. Respondent's address of record is 7906 East U.S. Highway 90, Lake City, Florida, 32055.

4. At all times material to this Complaint, Respondent was employed as a staff psychiatrist with the Corrections Corporation of America (CCA). CCA is a private company that operated the Hernando County Jail during the time period material to this Order.

5. Between approximately November 2009 and approximately August 2010, Respondent provided mental health / psychiatric treatment to patients incarcerated at the Hernando County Jail.

6. At all times material to this Complaint, Respondent provided one-on-one mental health / psychiatric treatment to female patients outside the presence of a third party and behind a closed door in a small room without any windows. The room contained a desk and two chairs and previously was used as a medication closet.

7. The community standard for the provision of psychiatric treatment is for the physician and patient to be separated by four to six feet in order to create a safe, non-threatening, and comfortable environment for the provision of beneficial therapy.

8. The treatment provided by Respondent to Patients S.B., T.A., J.W., and C.A. was detrimental to the patients' therapy because Respondent and the patients were not separated by four to six feet, which is the community standard for psychiatric treatment.

FACTS SPECIFIC TO PATIENT S.B.

9. Between approximately November 2, 2009, and approximately April 25, 2010, Patient S.B., a 24-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

10. During the course of Respondent's psychiatric treatment of Patient S.B., Dr. Yelton requested Patient S.B. to show him her bare breasts, and Patient S.B. complied. Respondent's request for Patient S.B. to expose her breasts was extraneous to her psychiatric treatment. After informing Patient S.B. that he would send her a Christmas card, Respondent mailed Patient S.B. an anonymous Christmas card at the Hernando County Jail, which provided the following message:

I do what I promise.

XOXOXO

("XOXOXO" is a symbol for the phrase "hugs and kisses.") The card was anonymous and possessed a fictitious return address from Tampa, but Respondent informed Patient S.B. that he sent the card.

11. In an interview with the Hernando County Sheriff's Office (HCSO) on or about August 18, 2010, Respondent admitted to sending the anonymous Christmas card to Patient S.B. with the "XOXOXO" signature line. Respondent also admitted to sometimes allowing female patients to hug him.

12. At her final mental health treatment session with Respondent, Patient S.B. initiated a mouth-to-mouth kiss with Respondent, at which time Respondent embraced Patient S.B. and returned her kiss. Respondent also requested that Patient S.B. call him upon her release from jail so he could take her shopping. Patient S.B. interpreted this statement by Respondent as a proposition to exchange sex for material goods.

FACTS SPECIFIC TO PATIENT T.A.

13. Between approximately January 21, 2010, and approximately July 2010, Patient T.A., a 21-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

14. At a mental health treatment session on or about March 2, 2010, Respondent requested to touch, then rubbed, a tattoo on Patient T.A.'s arm. Respondent's request to touch, and rubbing of, Patient T.A.'s tattoo was extraneous to her psychiatric treatment. At a subsequent mental health evaluation, Respondent requested a hug from Patient T.A., at which time Patient T.A. hugged him. Respondent also placed his hand on her leg and attempted to hold her hand. Respondent's placement of his hand on Patient T.A.'s leg and attempt to hold her hand were extraneous to her psychiatric treatment.

15. During the course of Respondent's psychiatric treatment of Patient T.A. between approximately March 2010 and approximately July 2010, Respondent questioned Patient T.A. about her occupation as an exotic dancer; stated that he would like to receive a "lap dance" from her; inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail; and had Patient T.A. sit on his lap. These inquiries and actions by Respondent were extraneous to Patient T.A.'s psychiatric treatment.

16. At a mental health treatment session in or about July 2010, Respondent stated that Patient T.A.'s breasts looked larger, asked her to

stand up, and requested to feel her legs, but Patient T.A. refused. Respondent then asked to see Patient T.A.'s naked body. Based on the context of the conversation, Patient T.A. inferred that Respondent's prescription of her medications was dependent upon her compliance with the request. Patient T.A. then pulled down her pants as requested, at which time Respondent grabbed her underwear. Patient T.A. then pulled away from Respondent and left the room. Respondent's requests to feel Patient T.A.'s legs, for Patient T.A. to pull down her pants, and his grabbing of her underwear were extraneous to her psychiatric treatment.

17. On or about March 11, 2010, Respondent prescribed 100 mg of Seroquel at bedtime to Patient T.A. for the treatment of psychiatric disorders. Seroquel is Seroquel (quetiapine) is an antipsychotic medication used to treat schizophrenia, bipolar disorder, and other psychiatric disorders. The appropriate dosage of Seroquel for the treatment of psychiatric disorders is approximately 300 to 800 mg per day. On or about April 5, 2010, Respondent increased the dosage of Seroquel to 100 mg per day and 200 mg at bedtime. On or about June 9, 2010, Respondent increased the dosage of Seroquel to one 100 mg tablet per day, one 200 mg tablet per day, and one 300 mg tablet at bedtime. On or about July 1,

2010, Respondent increased the dosage of Seroquel to 200 mg per day and 300 mg at bedtime.

18. At a mental health treatment session on or about August 2, 2010, Respondent apologized to Patient T.A. for his previous behavior. Respondent informed Patient T.A. that he would like to see her socially upon her release from jail and requested her telephone number, but Patient T.A. provided him with a fictitious telephone number. Respondent requested a hug from Patient T.A., and Patient T.A. complied. Respondent then requested a kiss from Patient T.A., but she refused the request, at which time Respondent kissed her on the cheek. These inquiries and actions by Respondent were extraneous to Patient T.A.'s psychiatric treatment.

FACTS SPECIFIC TO PATIENT J.W.

19. Between approximately February 2, 2010, and approximately August 3, 2010, Patient J.W., a 29-year-old female, presented to Respondent at the Hernando County Jail for mental health / psychiatric treatment.

20. During the course of Respondent's psychiatric treatment of Patient J.W. between approximately February 2, 2010, and approximately

August 4, 2010, Respondent requested to see Patient J.W.'s tattoo on her lower back and rubbed the tattoo with his fingers. Respondent's request to touch, and rubbing of, Patient J.W.'s tattoo was extraneous to her psychiatric treatment. In addition, Respondent informed Patient J.W. that he had been married for approximately 20 years but implied that he was faithful to his wife only "98% of the time"; and requested that Patient J.W. could meet him at a hotel upon her release from jail. Based on the context of the conversation, Patient J.W. inferred that Respondent would exchange prescriptions of Ativan for sex. During one medical evaluation, an individual attempted to open the door to the counseling room but was unable to gain entry because Respondent locked the door from the inside.

21. At a mental health treatment session on or about August 3, 2010, Respondent requested Patient J.W. to pull down her pants and requested her personal telephone number, but she refused both requests. These inquiries and actions by Respondent were extraneous to Patient J.W.'s psychiatric treatment. Later that day, Patient J.W. informed a correctional officer at the Hernando County Jail about the incident, and a formal complaint and investigation were subsequently initiated.

22. In addition, on or about August 3, 2010, Respondent prescribed to Patient J.W. 1 mg of Ativan twice per day. Ativan (lorazepam) is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, lorazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of lorazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

23. The Department of Health retained an independent medical expert in the field of psychiatry, who opined that Respondent's medical records do not justify the course of this treatment, and such prescription was inappropriate due to Patient J.W.'s presenting complaints and history of medication abuse.

24. Respondent provided treatment to Patient J.W. for approximately six months. However, Respondent's medical records only document that he evaluated Patient J.W. on or about February 15, 2010.

FACTS SPECIFIC TO PATIENT C.A.

25. Between approximately July 17, 2010, and approximately August 3, 2010, Patient C.A., a 24-year-old female presented to

Respondent at the Hernando County Jail for mental health / psychiatric treatment.

26. At a mental health treatment session on or about July 17, 2010, Respondent asked Patient C.A. if she had any tattoos and/or piercings, and whether he could see and/or touch them. Patient C.A. allowed him to touch a tattoo on her wrist and a scar on her arm, however, she refused to allow him to see and/or touch any tattoos or piercings that were not plainly visible. Respondent's request to touch, and touching of, Patient C.A.'s tattoos were extraneous to her psychiatric treatment. Respondent also inquired as to whether Patient C.A. was an exotic dancer, the locations where she performed exotic dances, and whether she was attracted to older men. These inquiries by Respondent were extraneous to Patient C.A.'s psychiatric treatment.

27. At a mental health treatment session on or about August 3, 2010, Patient C.A. informed Respondent that she had been lactating, at which time Respondent informed her that such an occurrence likely was the result of her medication. Respondent then requested to see Patient C.A.'s breasts, but Patient C.A. refused. Respondent's request to see Patient C.A.'s breasts was extraneous to her psychiatric treatment. Patient C.A.

then stood up to exit the room, at which time Respondent requested that Patient C.A. hug him. Respondent then pushed her against a wall, kissed her neck and lips, placed his hand on her vagina inside her underwear, and attempted to stimulate her. These inquiries and actions by Respondent were extraneous to Patient C.A.'s psychiatric treatment.

28. During the course of Respondent's psychiatric treatment of Patient C.A. between approximately July 17, 2010, and approximately August 3, 2010, Respondent also informed Patient C.A. that he had been married for approximately 25 years, implied that he was faithful to his wife "98% of the time," and stated that he became a "bad boy" with women like Patient C.A. In addition, Respondent provided Patient C.A. with his purported personal telephone number.

COUNT ONE

29. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

30. Section 456.072(1)(v), Florida Statutes (2009-2010), subjects a licensee to discipline for engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes.

31. Section 456.063(1), Florida Statutes (2009-2010), defines sexual misconduct in the practice of a health care profession as a violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client, or an immediate family member, guardian, or representative of the patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession. Sexual misconduct in the practice of a health care profession is prohibited.

32. Rule 64B8-9.008(1)(a), Fla. Admin. Code, sets forth "sexual misconduct" with a patient as:

(a) Sexual behavior or involvement with a patient including verbal or physical behavior which

1. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it;

2. May reasonably be interpreted as intended for the sexual arousal or gratification of the physician, the patient or any third party; or

3. May reasonably be interpreted by the patient as being sexual.

33. Respondent engaged or attempted to engage in sexual misconduct in one or more of the following manners:

- a. Respondent requested that Patient S.B. expose her bare breasts;
- b. Respondent mailed Patient S.B. a Christmas card with a signature line containing symbols denoting the phrase "hugs and kisses";
- c. Respondent requested Patient S.B. to call him upon her release from jail so he could take her shopping, which Patient S.B. interpreted as a proposition to exchange sexual relations for material goods;
- d. Respondent exchanged a mouth-to-mouth kiss with Patient S.B.;
- e. Respondent requested Patient T.A. stand up and pull down her pants, at which time he grabbed her underwear;
- f. Respondent inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail;
- g. Respondent had Patient T.A. sit on his lap;

- h. Respondent requested a kiss from Patient T.A.;
- i. Respondent kissed Patient T.A. on her cheek;
- j. Respondent requested to see Patient T.A. socially when she was released from jail;
- k. Respondent stated that he would like to receive a "lap dance" from Patient T.A.;
- l. Respondent requested to, and touched, Patient J.W.'s tattoo on her lower back;
- m. Respondent requested Patient J.W. to pull down her pants;
- n. Respondent requested that he and Patient J.W. could meet at a hotel to engage in sexual activities upon her release from jail;
- o. Respondent implied that he would exchange prescriptions of Ativan for sex with Patient J.W.;
- p. Respondent requested to touch Patient C.A.'s tattoos and/or piercings;
- q. Respondent requested to see Patient C.A.'s breasts;
- r. Respondent requested a hug from Patient C.A.;

s. Respondent implied that he would engage in a sexual relationship with Patient C.A.;

t. Respondent inquired as to whether Patient C.A. was attracted to older men;

u. Respondent restrained Patient C.A. against a wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

34. Based on the foregoing, Respondent has violated Section 456.072(1)(v), Florida Statutes (2009-2010), by engaging or attempting to engage in sexual misconduct.

COUNT TWO

35. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

36. Section 458.331(1)(j), Florida Statutes (2009-2010), subjects a licensee to discipline for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

37. Respondent exercised influence within a physician-patient relationship for the purpose of engaging in sexual activity in violation of Section 458.331(1)(j), Florida Statutes (2009-2010), in one or more of the following manners:

- a. Respondent requested that Patient S.B. expose her bare breasts;
- b. Respondent requested Patient S.B. to call him upon her release from jail so that they could engage in sexual activities;
- c. Respondent exchanged a mouth-to-mouth kiss with Patient S.B.;
- d. Respondent requested Patient T.A. stand up and pull down her pants, at which time he grabbed her underwear;
- e. Respondent inquired as to whether Patient T.A. would engage in sexual activities with him upon her release from jail;
- f. Respondent had Patient T.A. sit on his lap;
- g. Respondent requested a kiss from Patient T.A.;
- h. Respondent kissed Patient T.A. on her cheek;

i. Respondent stated that he would like to receive a "lap dance" from Patient T.A.;

j. Respondent requested Patient J.W. to pull down her pants;

k. Respondent requested that he and Patient J.W. could meet at a hotel to engage in sexual activities upon her release from jail;

l. Respondent implied that he would exchange prescriptions of Ativan for sex with Patient J.W.;

m. Respondent requested to see Patient C.A.'s breasts;

n. Respondent requested a hug from Patient C.A.;

and/or

o. Respondent restrained Patient C.A. against a wall while he kissed her neck, kissed her lips; and/or placed his hand beneath her underwear on her vagina in order to stimulate her.

38. Based on the foregoing, Respondent has violated Section 458.331(1)(j), Florida Statutes (2009-2010), by exercising influence within a patient-physician relationship for purposes of engaging a patient in

sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician

COUNT THREE

39. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

40. Section 458.331(1)(t)1., Florida Statutes (2009-2010), subjects a physician to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2009-2010), as "the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure."

41. Section 456.50(1)(e), Florida Statutes (2009-2010), provides that the "level of care, skill, and treatment recognized in general law related to health care licensure" means the standard of care that is specified in Section 766.102, Florida Statutes, as follows:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

42. Respondent failed to meet the prevailing standard of care in one or more of the following manners:

a. By providing psychiatric treatment to Patients S.B., T.A., C.A., and/or J.W. without maintaining a distance of four to six feet to foster the provision of beneficial therapy;

b. By allowing patients to hug him;

c. By failing to adequately prescribe Seroquel to Patient T.A.; and/or

d. By prescribing Ativan to Patient J.W. without an indication for the medication and despite her history of medication abuse.

43. Based on the foregoing, Respondent has violated Section 458.331(1)(t)1., Florida Statutes (2009-2010), by committing medical malpractice.

COUNT FOUR

44. Petitioner realleges and incorporates Paragraphs 1 through 28, as if fully set forth herein.

45. Section 458.331(1)(m), Florida Statutes (2009-2010), subjects a physician to discipline for failing to keep legible, as defined by

department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

46. Respondent violated Section 458.331(1)(m), Florida Statutes (2009-2010), in one or more of the following manners:

a. Respondent's medical records fail to justify Respondent's prescription for Ativan to Patient J.W.; and/or

b. Respondent's medical records fail to document multiple treatments he provided to Patient J.W.

47. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes (2009-2010), by failing to keep legible medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for

each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

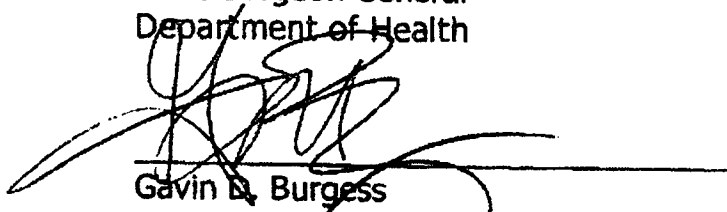
WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

DOH vs. James A. Yelton Rossello, M.D.

Case No.: 2010-23877

SIGNED this 8th day of April, 2011.

H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General
Department of Health



Gavin D. Burgess
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 013311
(850) 245-4640
(850) 245-4681 FAX

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Melissa Nollan*

DATE: 4-8-2011

gdb

PCP Date: April 8, 2011
PCP Members: Ashkar, Levine

DOH vs. James A. Yelton Rossello, M.D.

Case No.: 2010-23877

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 any other discipline imposed.