

# State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934  
med.ohio.gov

December 12, 2012

Case number: 12-CRF- 143

Michael C. Bengala, M.D.  
2237 SE 9<sup>th</sup> Street  
Pompano Beach, Florida 33062

Dear Doctor Bengala:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about June 26, 2012, the Florida Surgeon General and Secretary of Health issued an Order of Emergency Suspension of License [Florida Order], a copy of which is attached hereto and incorporated herein, related to your alleged involvement in a "pill mill." The Florida Order immediately suspended your Florida medical license, based on a finding that your continued practice presented an immediate, serious danger to the public health, safety, or welfare. The Florida Order also included findings that you inappropriately prescribed and distributed controlled substances to patients and that you failed to appropriately monitor patients for drug diversion or abuse.

The Florida Order as alleged in paragraph (1) above constitutes "[a]ny of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

*Mailed 12-13-12*

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,



J. Craig Strafford, M.D., M.P.H.  
Secretary

JCS/CDP/pev  
Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2768 1212  
RETURN RECEIPT REQUESTED

cc: Dale R. Sisco  
P. O. Box 3382  
Tampa, Florida 33601-3382

CERTIFIED MAIL #91 7199 9991 7031 2768 1205  
RETURN RECEIPT REQUESTED

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

IN RE: The Emergency Suspension of the License of  
Michael C. Bengala, M.D.  
License Number: ME 98278  
Case Number: 2012-06505

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**ORDER OF EMERGENCY SUSPENSION OF LICENSE**

John H. Armstrong, M.D., State Surgeon General and Secretary of Health, ORDERS the Emergency Suspension of the license of Michael C. Bengala, M.D. ("Dr. Bengala"), to practice as a physician in the State of Florida. Dr. Bengala holds license number ME 98278. His address of record is 2237 SE 9<sup>th</sup> Street, Pompano Beach, Florida 33062. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Bengala's license to practice as a physician in the State of Florida.

**INTRODUCTION**

Beginning in May 2010, the Federal Drug Enforcement Administration ("DEA"), the Florida Department of Law Enforcement ("FDLE"), the Florida Division of Insurance Fraud ("FDIF"), the Vero Beach Police Department ("VBPD"), the Jacksonville County Sheriff's Office ("JCSO"), the Sarasota County Sheriff's Office ("SCSO") and the Indian River County Sheriff's Office ("IRCSO") (hereafter collectively referred to as "Law Enforcement")

and the Florida Department of Health commenced a joint undercover investigation of Dr. Bengala. The investigation was predicated upon information received by Law Enforcement that Dr. Bengala was inappropriately prescribing large quantities of controlled substances from Miami-Dade Medical Solutions, a pain management clinic (the "Clinic") Law Enforcement suspect of being an illegal pill mill<sup>1</sup>. According to Law Enforcement officials, Dr. Bengala is conspiring with members of a major drug trafficking organization that is illegally distributing controlled substances in exchange for cash.

As part of their undercover investigation, Law Enforcement officers posed as patients during visits to Dr. Bengala between February 2012 and April 2012. During these visits, undercover officers openly exhibited drug-seeking behavior. In particular, the officers repeatedly tested negative for controlled substances on drug screens administered by the Clinic despite reporting that they were taking controlled substances and, on several occasions, they informed Dr. Bengala they had run out of medication early and were not suffering significant pain. Dr. Bengala disregarded this drug-seeking behavior and prescribed large quantities of highly-addictive

<sup>1</sup> The term "pill mill" is used by law enforcement agencies in Florida to refer to a clinic from which prescriptions for controlled substances are dispensed for illegal purposes.

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controlled substances to the officers over the course of several visits. During each visit, Dr. Bengala performed little or no examination of each undercover officer.

When they visited the Clinic, the undercover Law Enforcement officers were each equipped with hidden video and audio equipment, which they used to record their visits with Dr. Bengala. Law Enforcement retained an independent medical expert who is Board-Certified in Pain Management, Anesthesiology and Interventional Pain Management, to review the audio and video recordings of these visits, as well as patient records for each undercover officer. As detailed below, the expert opined Dr. Bengala fell below the minimum standards of care applicable to the use of controlled substances for the treatment of pain.

#### FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of medicine, pursuant to Chapters 20, 456 and 458, Florida Statutes (2011).

2. At all times material to this Order, Dr. Bengala was licensed to practice medicine in the State of Florida pursuant to Chapter 458, Florida Statutes (2011), and was authorized to prescribe controlled substances

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classified under schedules two through five of Section 893.03, Florida Statutes (2011) to patients.

Facts Specific to S.M.

3. On February 27, 2012, Law Enforcement officer S.M. ("SM"), acting in an undercover capacity, first presented to the Clinic as a forty-one year old male patient with complaints of upper back pain near his shoulder blades. SM submitted to a urine drug screening during which was negative for controlled substances. SM provided a copy of the results of a magnetic resonance imaging ("MRI") study of SM's lumbar spine (lower back) dated August 22, 2011, and SM's prescription history. SM's medical records revealed a mild annular bulge, foraminal herniation, mild desiccation, degenerative changes, and evidence of an annular tear. SM did not complain of pain to his lower back during his visit to the Clinic. SM's medical record included a history of receiving Oxycodone 30 mg and Xanax 2 mg from January 10, 2011, through September 2, 2011.

4. Oxycodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010-2011), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the

United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

5. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2010-2011), alprazolam 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 alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

6. During the course of this initial visit, SM reported a pain level of five on a scale of one-through-ten without pain medication and two on a scale of one-through-ten with pain medication.

7. After paying his visit fee of \$200.00, SM was escorted into an examination room. Dr. Bengala entered the room a few minutes later and inquired about SM's history of pain treatment. SM stated that he had a car wreck in the 1980's but was not diagnosed with back problems at that time. SM said that he first sought treatment in 2010 for pain in his upper back between his shoulder blades. Dr. Bengala briefly reviewed SM's lumbar spine MRI and asked SM if he had considered surgery. SM stated

that he would not consider surgery. SM further revealed that he had not tried alternative treatments such as physical therapy, chiropractic care, or injections.

8. Dr. Bengala's physical exam of SM lasted less than 35 seconds and was limited to asking SM to squeeze his fingers and checking SM's patellar reflexes. Dr. Bengala failed to evaluate the range of motion of SM's spine and performed no examination of SM's back. SM remained seated during the entire visit with Dr. Bengala.

9. Dr. Bengala briefly counseled SM in regard to new guidelines and law pertaining to pain management and controlled substances, as well as the benefits of physical therapy, exercise, and diet. He also recommended that SM take a "medication holiday" one day per week during which SM would only take half his normal dosage of medications. Dr. Bengala explained that a "medication holiday" would help prevent tolerance and habituation.

10. At the conclusion of this visit, Dr. Bengala asked if SM was satisfied with the medications previously prescribed by another physician at the Clinic. SM answered affirmatively and Dr. Bengala provided SM with



prescriptions for 120 dosage units of oxycodone 30 mg, 30 dosage units of Valium 10 mg, and 90 dosage units of Motrin 800 mg.

11. Valium is a brand name for diazepam which is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, diazepam 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 diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

12. Motrin is a brand name for ibuprofen. Ibuprofen is a nonsteroidal anti-inflammatory drug (NSAID) and is used to treat pain or inflammation.

13. On March 26, 2012, SM went to the Clinic for a follow-up visit with Dr. Bengala. After paying a visit fee of \$200.00, SM was escorted to an examination room where a medical assistant took SM's blood pressure and asked if there were any changes since the previous visit. In response, SM indicated that there were no changes.

14. When Dr. Bengala entered the exam room, SM informed Dr. Bengala that the "medication holiday" did not work and caused him to take

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more medication on the other days. Dr. Bengala asked a few questions regarding SM's efforts to lose weight and performed a very brief physical exam. The physical exam consisted only of Dr. Bengala checking SM's patellar reflexes and asking SM if he could feel the coolness of the metal part of the reflex hammer with his hand.

15. After Dr. Bengala concluded his exam, SM asked for an increase in the quantity of oxycodone prescribed. Dr. Bengala stated that he would increase the amount to 150 tablets per month but that the most he would prescribe would be 180 tablets.

16. At the conclusion of this visit, Dr. Bengala provided SM with prescriptions for 150 dosage units of oxycodone 30 mg, 30 dosage units of Valium 10 mg, and 90 dosage units of Motrin 800 mg.

17. Dr. Bengala's second visit with SM lasted approximately seven and a half minutes.

18. An independent medical expert, who is Board-Certified in Pain Management, Anesthesiology and Interventional Pain Management, reviewed the treatment provided by Dr. Bengala to SM and opined Dr. Bengala fell below the standard of care in several respects. In particular, the expert found Dr. Bengala failed to utilize a multi-disciplinary

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approach in his treatment of SM; prescribed large amounts of controlled substances to the SM without medical justification; failed to perform physical examinations of SM's back (the patient's main complaint); failed to provide a written treatment plan to SM; failed to order diagnostic or objective tests; and prescribed increased amounts of controlled substances to SM after the patient reported running out of medication early when SM reported no increases in pain and tested negative for the substances during drug screens.

Facts Specific to M.M.

19. On February 2012, Law Enforcement officer M.M. ("MM"), acting in an undercover capacity, first presented to the Clinic as a forty-one year-old female patient with complaints of shoulder pain. After MM completed various intake paperwork, a medical assistant weighed MM and asked her to submit to a urine drug screening. MM provided a urine sample without being observed. The drug screening was negative for controlled substances. MM provided copies of her medical records from a prior-treating physician to the Clinic. MM's prior medical records included the results of an MRI study of MM's left shoulder area dated March 2,

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2010, which revealed a mild enlargement of the AC joint and mild fluid in the glenohumeral joint.

20. MM indicated that her prior treating physician prescribed 90 dosage units of oxycodone 30 mg, 30 dosage units of Xanax 2 mg, and 90 dosage units of Soma 350 mg, between January 10, 2011, and January 10, 2012.

21. Soma is a brand name for carisoprodol, which is a muscle relaxant prescribed to treat muscular pain. According to Section 893.03(4), Florida Statutes, carisoprodol 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 carisoprodol may lead to limited physical or psychological dependence relative to the substances in Schedule III.

22. After entering the examination room, Dr. Bengala advised MM that the clinic treated only neck and back pain. He further observed that MM's MRI findings were insignificant and questioned why she had not considered surgery. Although Dr. Bengala expressed concern about MM taking such strong medications for a mild condition, he indicated he would

continue the treatment because she had already started taking the medications.

23. Before the visit concluded, BT, an owner/operator of the Clinic, entered the exam room. BT is not medically licensed or trained. BT inquired about MM's medical history and prescriptions. BT stated that MM's shoulder pain would likely cause back or neck problems due to MM overcompensating for the injury. BT stated that she would refer MM for an MRI. BT then instructed Dr. Bengala to write MM prescriptions for two weeks of medications while MM obtained an MRI. In doing so, BT instructed Dr. Bengala to decrease the quantity of carisoprodol prescribed to MM.

24. Thereafter, Dr. Bengala performed a brief physical exam of MM which consisted of him raising MM's arm slightly, having her grip his fingers, and having her feel the reflex hammer. The exam lasted approximately 35 seconds.

25. At the conclusion of this visit, Dr. Bengala prescribed MM 60 dosage units of oxycodone 30 mg, 45 dosage units of carisoprodol 600 mg and 15 dosage units of Xanax 2 mg.

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26. An independent medical expert, who is Board-Certified in Pain Management, Anesthesiology and Interventional Pain Management, reviewed the treatment provided by Dr. Bengala to MM and opined Dr. Bengala fell below the standard of care. The expert found Dr. Bengala performed an inadequate physical examination of MM and prescribed controlled substances to MM without medical justification.

Facts Specific to K.C.

27. On April 9, 2012, Law Enforcement officer K.C. ("KC"), acting in an undercover capacity, first presented to the Clinic as a thirty-two year-old female patient with complaints of upper back pain between her shoulder blades. KC submitted to a urine drug screening during which was negative for controlled substances. KC provided a copy of the results of an MRI study of her lumbar spine dated March 21, 2012, and KC's prescription history. KC's MRI revealed no abnormalities. KC's medical records included a history of receiving Oxycodone 30 mg and Xanax 2 mg from September 29, 2011, through February 27, 2012.

28. When Dr. Bengala entered the exam room in which KC was waiting, he reviewed her chart and asked her some questions regarding

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her pain history. He noted that KC's MRI indicated no lumbar spine problems and that he did not believe her pain was chronic.

29. Dr. Bengala performed a very brief examination of KC, which consisted of him checking her patellar reflexes and having her feel the metal part of the reflex hammer.

30. Upon concluding the physical exam, Dr. Bengala told KC that he would have to check with BT in regard to prescribing KC any medication.

31. BT entered the exam room shortly thereafter and asked KC some questions regarding her medical history and her occupation. KC claimed to be a cleaning lady and stated that her pain radiated all over her back. BT told KC that she would not prescribe oxycodone until KC underwent another MRI. BT informed KC that she would prescribe her a one week supply of Percocet and an MRI. At the conclusion of the visit, KC received prescriptions for 42 dosage units of Percocet 10-325 mg, 4 dosage units of Vitamin D tablets, and a cervical spine MRI.

32. Percocet is a brand name for oxycodone/APAP which contains oxycodone and acetaminophen, or Tylenol. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted

but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

33. KC presented to Dr. Bengala on April 16, 2012 for a follow up visit after submitting to a cervical spine MRI on April 12, 2012. A medical assistant directed KC to an exam room and took her blood pressure.

34. When Dr. Bengala entered the exam room, he asked KC if she had spoken with BT. When KC answered "no," Dr. Bengala advised KC that he would have to speak with BT before beginning the follow up visit.

35. BT subsequently entered the exam room and directed KC to follow her to another exam room where Dr. Bengala was waiting. BT told KC that she was waiting on additional paperwork from the MRI facility and would only be able to prescribe 90 oxycodone tablets at that time. BT then advised Dr. Bengala that he did not need to examine KC because the medical assistant had already taken KC's vital signs.

36. At the conclusion of the follow up visit, Dr. Bengala prescribed KC 90 dosage units of oxycodone 30 mg.

37. KC presented to the clinic on April 30, 2012, for another follow up visit. The receptionist at the Clinic took KC's blood pressure, asked her

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weight, and asked her if she had participated in a "med holiday." The receptionist then directed KC to an exam room where Dr. Bengala was waiting.

38. Dr. Bengala performed no physical exam of KC during this follow up visit. Dr. Bengala briefly reviewed KC's chart and asked a few questions about KC's adjustment to the medications prescribed and her ability to work with the medications prescribed. Dr. Bengala told KC that he wished he had not prescribed oxycodone 30 mg tablets so quickly after prescribing Percocet 10/325 mg, but said "it's too late now." Ultimately, Dr. Bengala prescribed KC 90 dosage units of oxycodone 30 mg and 4 Vitamin D tablets. The follow up visit lasted less than seven and a half minutes.

39. An independent medical expert, who is Board-Certified in Pain Management, Anesthesiology and Interventional Pain Management, reviewed the treatment provided by Dr. Bengala to KC and opined Dr. Bengala fell below the standard of care in several respects. In particular, the expert found Dr. Bengala failed to utilize a multi-disciplinary approach in his treatment of KC; prescribed large amounts of controlled substances to KC without medical justification; failed to perform an

adequate physical examination of KC on the first visit; failed to perform physical examinations on the follow up visits; failed to provide a written treatment plan to KC; prescribed increased amounts of controlled substances to KC after the patient reported running out of medication early, reported no increases in pain and tested negative for the substances during drug screens; and prescribed Vitamin D with no discussion, laboratory tests or medical indication. The expert further noted that Dr. Bengala apparently took direction from BT in regard to prescribing controlled substances.

40. The fact that Dr. Bengala is prescribing large quantities of controlled substances without performing sufficient examinations of his patients, without a clear showing that such prescriptions are medically necessary, and despite strong indications that his patients are abusing or diverting the controlled substances he prescribed for them, supports a finding that Dr. Bengala is using his medical license as a means to prescribe controlled substances for improper purposes as part of the DTO.

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

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1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2011), and Chapter 458, Florida Statutes (2011).

2. Section 120.60(6), Florida Statutes (2011), authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate, serious danger to the public health, safety, or welfare.

3. Section 458.331(1)(t)1, Florida Statutes (2011), subjects a physician to discipline, including suspension, for committing medical malpractice as defined in Section 456.50, Florida Statutes (2011). "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2011), 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." Section 456.50(1)(e), Florida Statutes (2011), 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(1), Florida Statutes (2011), which states 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

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recognized as acceptable and appropriate by reasonably prudent similar health care providers.

Section 458.331(1)(t)1., Florida Statutes (2011), directs the Board of Medicine to give "great weight" to this provision of Section 766.102, Florida Statutes (2011).

4. Dr. Bengala failed to meet the prevailing standard of care in one or more of the following manners:

a. By prescribing inappropriate quantities of controlled substances to Patients SM, MM, and KC without justification;

b. By failing to employ other modalities for the treatment of pain in connection with Patients SM, MM, and KC; and

c. By failing to order appropriate diagnostic or objective tests for Patients SM and MM.

5. Section 458.331(1)(nn), Florida Statutes (2011), subjects a physician to discipline, including suspension, for violating any provision of Chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto.

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6. Rule 64B8-9.013, Florida Administrative Code, sets forth the standards for the use of controlled substances for the treatment of pain, in part, as follows:

(3) Standards. The Board has adopted the following standards for the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record shall document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also shall document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician shall adjust drug therapy, if necessary, to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

\* \* \*

(e) Consultation. The physician shall be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention must be given to those pain patients who are at risk

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for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence, as appropriate;
2. Diagnostic, therapeutic, and laboratory results;
3. Evaluations and consultations;
4. Treatment objectives;

7. Dr. Bengala violated Rule 64B8-9.013, Florida Administrative Code, in one or more of the following manners:

- a. By failing to document an adequate treatment plan for Patients SM, MM, and KC;
  - b. By failing to conduct or document adequate physical examinations of Patients SM, MM, and KC;
  - c. By failing to document adequate justification for the prescription of controlled substances to Patients SM, MM, and KC;
- and

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d. By failing to appropriately monitor Patients SM, MM, and KC for drug diversion or drug abuse.

8. Physicians who liberally prescribe controlled substances without following the minimum standards of care applicable to the prescribing of those drugs pose a serious danger to the public health, welfare and safety. This is so because the controlled substances prescribed by these physicians are often potentially addictive and the misuse or abuse of these drugs can cause serious and lasting medical injury and death.<sup>2</sup>

9. The facts recited above support the conclusion that Dr. Bengala is using his medical license to prescribe large quantities of controlled substances without following the minimum standards of care applicable to the prescribing of those drugs and without any regard for the health, safety and well-being of the individuals receiving these addictive and potentially lethal drugs. Dr. Bengala's acts manifest such a pattern and propensity to practice below the appropriate standard of care and that a continuation of this practice poses an immediate serious danger to the public health, safety or welfare.

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<sup>2</sup> The Proliferation of Pain Clinics in South Florida, November 19, 2009, Broward County Grand Jury report.

10. A physician licensed in the State of Florida is one of a small number of licensed professionals allowed to prescribe, administer, and dispense controlled substances. The Legislature has vested a trust and confidence in these licensed professionals by permitting them to prescribe drugs with a high potential for abuse and harm. Inappropriate prescribing of highly addictive controlled substances to patients presents a danger to the public health, safety, or welfare, and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

11. In addition to Dr. Bengala's distribution of drugs to patients in violation of state law, Dr. Bengala consistently violated the standards governing the practice of medicine in Florida by failing to document adequate justification for the prescription of controlled substances to Patients SM, MM, and KC, performing inadequate or no physical exams and ignoring signs of drug dependency and diversion in patients. Dr. Bengala's below-standard practice of medicine evidences his inability or unwillingness to comply with the professional and medical standards that govern physicians in the State of Florida.

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12. Dr. Bengala acted with indifference to the health of patients by prescribing the most highly addictive drugs to patients with no demonstration of medical need and in contravention of the well-known warnings, dangers and contraindications pertaining to the drugs.

13. Illegal activity by a physician necessarily affects that physician's ability to practice medicine as a physician's professional judgment and ethical standards are all implicated in these activities. Dr. Bengala's involvement in an illegal drug trafficking organization manifests a lack of the professional judgment and ethical standards that are necessary to practice medicine in the State of Florida. Dr. Bengala's willingness to practice medicine below the minimum standards of care and to endanger the lives of patients also demonstrates a lack of the good moral character required for licensure as a physician in the State of Florida.

14. Dr. Bengala's professional and medical incompetence, his lack of good moral character, his willingness to use his medical license to facilitate the distribution of drugs in violation of state law, his indifference to the safety of patients and his unwillingness to carry out even the most basic functions required of physicians in the State of Florida, when taken together, demonstrate that Dr. Bengala is incapable of, or unwilling to,

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practice medicine safely and that his continued practice of medicine poses an immediate serious danger to the public health, safety or welfare.

15. Dr. Bengala's moral turpitude and unwillingness to practice within the standard of care makes obvious that his unsafe practice of medicine is likely to recur and that a less restrictive sanction, such as an emergency restriction order preventing Dr. Bengala from prescribing controlled substances, would not be sufficient to protect the public from the immediate serious danger posed by Dr. Bengala's continued practice as a medical doctor. Dr. Bengala's actions in this case are not the result of carelessness or ignorance on his part; instead Dr. Bengala's actions demonstrate his willingness to violate the laws, regulations and standards that govern the practice of medicine in the State of Florida. Nothing short of the immediate suspension of Dr. Bengala's license to practice medicine would be sufficient to protect the public from the danger of harm presented by Dr. Bengala.

16. Dr. Bengala's continued practice as a physician constitutes an immediate serious danger to the health, safety and welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

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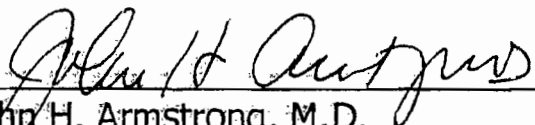
In accordance with Section 120.60(6), Florida Statutes (2011), it is

**ORDERED THAT:**

1. The license of Michael C. Bengala, M.D., license number ME 98278, is hereby immediately suspended.

2. A proceeding seeking formal discipline of the license of Michael C. Bengala, M.D., to practice as a physician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2011).

**DONE and ORDERED** this 26<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
John H. Armstrong, M.D.  
State Surgeon General and  
Secretary of Health.

PREPARED BY:  
Martin Randall  
Assistant General Counsel  
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**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes (2011), the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within thirty (30) days of the date this Order is filed.

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