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By Melissa Nohles
Deputy Agency Clerk

**STATE OF FLORIDA
BOARD OF OSTEOPATHI MEDICINE**

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2009-08763
2009-12446
2009-17026
2009-20648
2009-04912
License No.: OS 3977

ALFRED EVERSLEY BOYCE, D.O.

Respondent,

_____ /

**FINAL ORDER ACCEPTING VOLUNTARY
RELINQUISHMENT OF LICENSE**

This matter appeared before the Board of Osteopathic Medicine (Board) at a duly-noticed public meeting on February 19, 2011, in Orlando, Florida. Alfred Eversley Boyce, D.O., Respondent, is a licensed Osteopathic Physician the Board of Osteopathic Medicine. The Department of Health (hereinafter the "Department") issued an Administrative Complaint against the Respondent for violation of Sections 459.015(1)(o),(t),(x), and (pp), Florida Statutes (2008-2009), a copy of which is attached hereto as Exhibit "A" and incorporated by reference into this Order. The Petitioner was represented by Tobey Schultz, Assistant General Counsel, with the Department of Health. The Respondent was not present nor represented by counsel.

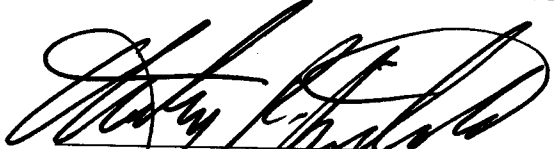
Respondent has chosen to voluntarily relinquish Respondent's license as an Osteopathic Physician in the state of Florida in lieu of undergoing further disciplinary proceedings in this matter. Moreover, the Respondent agrees to never reapply for

licensure as an Osteopathic Physician state of Florida. After considering the presentation of the parties and reviewing the record of the case, the Board voted to accept Respondent's voluntary relinquishment. A copy of the voluntary relinquishment is attached hereto as Exhibit "B" and made a part of this Order.

WHEREFORE, the Board accepts the voluntary relinquishment of license by Alfred Eversley Boyce. The Order shall be placed in and made part of Alfred Eversley Boyce's official records. This Order shall become effective upon filing with the Clerk for the Department of Health.

DONE AND ORDERED this 14 day of March, 2011.

BOARD OF OSTEOPATHIC MEDICINE



Anthony Jusevitch, Executive Director
on behalf of JOEL B. ROSE, D.O., CHAIR

CERTIFICATE OF SERVICE

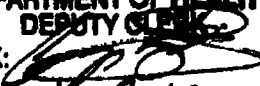
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by **Certified U.S. Mail** to **ALFRED EVERSLEY BOYCE, D.O.**, 1007 W. Commercial Boulevard, Fort Lauderdale, Florida 33309; to **Bradford M. Cohen, Esquire**, 1132 SE 3rd Avenue, Fort Lauderdale, Florida 33301; and by interoffice mail to **Donna C. McNulty**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; to **Tobey Schultz**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265, this 11^e day of March, 2011.

Melissa Nobles
Deputy Agency Clerk

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

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CLERK: 
DATE 11-2-10

DEPARTMENT OF HEALTH,
Petitioner,

DOH Case Nos. 2009-08763
2009-12446
2009-17026
2009-20648
2009-04912

v.

ALFRED EVERSLEY BOYCE, D.O.,

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent Alfred Eversley Boyce, D.O., license no. 3977, hereby voluntarily relinquishes Respondent's license to practice osteopathic medicine in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Osteopathic Medicine (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.
2. Respondent agrees not to reapply for licensure pursuant to Chapter 459 in the State of Florida.
3. Respondent agrees to voluntarily cease practicing osteopathic medicine in Florida immediately upon executing this Voluntary Relinquishment. Respondent further

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agrees to refrain from the practice of osteopathic medicine in Florida until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

5. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

6. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 1st day of November, 2010.

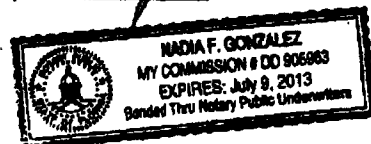
X Alfred Boyce
Alfred Boyce, D.O.

STATE OF FLORIDA

COUNTY OF: BROWARD

Before me, personally appeared Alfred Boyce, whose identity is known to me by DL and Personal Info. (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 1st day of November, 2010.

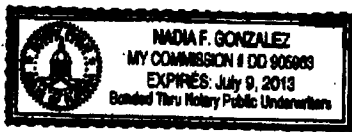
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My Commission Expires:

NOTARY PUBLIC



**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

**CASE NOS. 2009-08763
2009-12446
2009-17026
2009-20648
2009-04912**

ALFRED EVERSLEY BOYCE, D.O.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Osteopathic Medicine against Respondent, Alfred Eversley Boyce, D.O., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of osteopathic medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 459, Florida Statutes.
2. At all times material to this Order, Respondent was licensed to practice as an osteopathic physician having been issued license number OS 3977 on about March 26, 1979. During all times relevant to this order, Respondent was practicing pain management at Broward Chronic Pain and Recovery Center.

Respondent is not board-certified in pain management.

3. Respondent's address of record is 1007 West Commercial Boulevard, Fort Lauderdale, Florida 33309.

4. From about July 23, 2009 through December 11, 2009, the Department of Health received five separate complaints that Respondent appeared to be prescribing excessive quantities of controlled substances. The allegations were supported by pharmacy records indicating out-of-state patients attempted to fill prescriptions for controlled substances written by Respondent in Fort Lauderdale, Florida.

5. Reasonable cause subpoenas were issued, in accordance with Section 456.057(9)(a)1, Florida Statutes (2009), to obtain the medical records of six (6) patients who were being prescribed high dosages of controlled substances such as oxycodone, Percocet and Xanax.

6. Opioid, or opiate, drugs have similar actions as the drug opium and are typically prescribed to treat pain. Opioid drugs are synthetically manufactured, while opiate drugs are naturally occurring, but the terms opioid and opiate are often used interchangeably. Opioid drugs are addictive and subject to abuse.

7. Benzodiazepines are a class of drugs that cause sedation and can be habit forming. Benzodiazepines are typically prescribed to treat anxiety or insomnia.

8. Oxycodone is a semi-synthetic opioid that is prescribed to treat

pain. 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, and abuse of oxycodone may lead to severe psychological or physical dependence.

9. OxyContin is the brand name for a drug that contains oxycodone, which is described above.

10. Percocet is the brand name for a drug that contains oxycodone, which is described above. Percocet also contains acetaminophen, or Tylenol.

11. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, 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, and abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III. Alprazolam is a benzodiazepine.

11. The investigation prompted a Department osteopathic medicine expert review of the records for patients DT, JC, RD, WM, JF, and JL.

12. Of the six (6) patients, two (2) are residents of Kentucky, three (3) are residents of West Virginia, and one (1) is a resident of Tennessee.

13. The expert's medical opinion for each of these six (6) patients confirmed the allegations of inappropriate prescribing of excessive and

inappropriate quantities and combinations of controlled substances without medical records justifying these prescriptions.

14. During the course of approximately ten (10) months, for the six (6) patients described above, Respondent prescribed a total of about 10,800 tablets of controlled substances.

Facts Specific to Patient DT

15. From on or about August 14, 2009, through on or about September 17, 2009, patient DT presented to Respondent with complaints of lower back pain.

16. Respondent's medical records show that he prescribed multiple prescriptions for large amounts of oxycodone and Xanax for patient DT on the dates, dosages, and in the quantities described in the following table:

Oxycodone 15mg	Oxycodone 30mg	Xanax 2mg
8/14/09 180 tablets	8/14/09 240 tablets	8/14/09 30 tablets
9/17/09 180 tablets	9/17/09 240 tablets	9/17/09 30 tablets

17. The above chart represents a total of 900 tablets of controlled substances prescribed to patient DT over the course of an approximately one (1) month period.

18. On or about August 14, 2009, Respondent documented performing a cursory physical examination revealing only "exaggerated lordosis, normal reflexes." Lordosis is an increased curving of the spine.

19. A reasonably prudent osteopathic physician would not consider the August 14, 2009, physical examination minimally adequate for the condition complained of by patient DT.

20. Neither prior to nor while prescribing these drugs on or about September 17, 2009, did Respondent perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.

21. According to the expert, Respondent's medical records do not contain medical justification for the frequency and simultaneous prescription of such large quantities of oxycodone together with Xanax.

22. According to the expert, the medications prescribed to patient DT were excessive and inappropriate.

23. A reasonably prudent osteopathic physician would not have simultaneously prescribed such large quantities of oxycodone together with Xanax and would have performed at least minimally adequate physical examinations appropriate for the condition complained of by the patient.

Facts Specific to Patient JC

24. From on or about February 12, 2009, through on or about October 1, 2009, patient JC presented to Respondent with complaints of lower back pain.

25. Respondent's medical records show that he prescribed multiple simultaneous prescriptions for large amounts of oxycodone and Xanax for patient

JC on the dates and in the quantities and dosages described in the following table:

Oxycodone 30mg	Oxycodone 15mg	Xanax 2mg
		6/12/09 30 tablets
7/15/09 240 tablets	7/15/09 150 tablets	7/15/09 30 tablets
8/18/09 240 tablets	8/18/09 150 tablets	8/18/09 30 tablets
10/1/09 240 tablets	10/1/09 150 tablets	10/1/09 30 tablets

26. The above chart represents a total of 1,290 tablets of controlled substances prescribed to patient JC over the course of approximately eight (8) months.

27. Neither prior to nor while prescribing these drugs, did Respondent perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.

28. According to the expert, Respondent's medical records do not contain medical justification for the high frequency and simultaneous prescription of such large quantities of oxycodone together with Xanax.

29. According to the expert, the medications prescribed to patient JC were excessive and inappropriate.

30. A reasonably prudent osteopathic physician would not have simultaneously prescribed such large quantities of oxycodone together with

Xanax and would have performed a minimally adequate physical examination appropriate for the condition complained of by the patient.

Facts Specific to Patient RD

31. From on or about February 17, 2009 through on or about April 9, 2009, patient RD presented to Respondent with complaints of lower back pain.

32. Respondent's medical records show that he prescribed 240 30mg oxycodone tablets for patient RD on both February 17, 2009, and April 9, 2009.

33. This represents a total of 480 tablets of controlled substances prescribed to patient RD over the course of approximately two months.

34. Neither prior to nor while prescribing these drugs, did Respondent ~~perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.~~

35. According to the expert, Respondent's medical records do not contain medical justification for the quantity of oxycodone provided to patient RD.

36. According to the expert, the medications prescribed to patient RD were excessive and inappropriate.

37. A reasonably prudent osteopathic physician would not have prescribed such large quantities of oxycodone and would have performed at least a minimally adequate physical examination appropriate for the condition complained of by the patient.

Facts Specific to Patient WM

38. From on or about February 10, 2009, through on or about July 28, 2009, patient WM presented to Respondent with complaints of lower back pain.

39. Respondent's medical records show that he prescribed multiple simultaneous prescriptions for large amounts of oxycodone and Xanax for patient WM on the dates and in the quantities and dosages described in the following table:

Oxycodone	Xanax
2/10/09 15mg 150 tablets	
2/10/09 30mg 240 tablets	
3/10/09 30mg 240 tablets	3/10/09 2mg 30 tablets
5/5/09 15mg 150 tablets	5/5/09 2mg 30 tablets
5/5/09 30mg 240 tablets	
6/2/09 30mg 240 tablets	6/2/09 2mg 30 tablets
6/30/09 30mg 240 tablets	6/30/09 2mg 30 tablets
7/28/09 30mg 240 tablets	7/28/09 2mg 30 tablets
7/28/09 15mg 150 tablets	

40. The above chart represents a total of 2,040 tablets of controlled substances prescribed to patient WM over the course of approximately six (6) months.

41. Neither prior to nor while prescribing these drugs, did Respondent perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.

42. According to the expert, Respondent's medical records do not contain medical justification for the frequency and simultaneous prescription of such large quantities of oxycodone together with Xanax to patient WM.

43. According to the expert, the medications prescribed to patient WM were excessive and inappropriate.

44. A reasonably prudent osteopathic physician would not have simultaneously prescribed such large quantities of oxycodone together with Xanax and would have performed a minimally adequate physical examination appropriate for the condition complained of by the patient.

Facts Specific to Patient JF

45. From on or about March 23, 2009, through on or about November 16, 2009, patient JF presented to Respondent with back pain.

46. Respondent's medical records show that he prescribed multiple simultaneous prescriptions for large amounts of oxycodone along with Percocet, OxyContin and Xanax for patient JF on the dates and in the dosages and quantities described in the following table:

Oxycodone (15 mg)	Oxycodone (30mg)	OxyContin (20mg)	Xanax	Percocet
		3/24/09 120 tablets	3/23/09 2mg 30 tablets	3/23/09 10/325mg 120 tablets
	4/22/09 240 tablets		4/22/09 2mg 30 tablets	4/22/09 10/325mg 120 tablets
	5/27/09 240 tablets		5/27/09 2mg 30 tablets	5/27/09 10/325mg 120 tablets
	6/30/09 240 tablets		6/30/09 2mg 30 tablets	6/30/09 10/325mg 120 tablets
7/29/09 180 tablets	7/29/09 240 tablets		7/29/09 2mg 30 tablets	
8/27/09 180 tablets	8/27/09 240 tablets		8/27/09 2mg 30 tablets	
9/24/09 180 tablets	9/24/09 240 tablets		9/24/09 2mg 30 tablets	
11/16/09 180 tablets	11/16/09 240 tablets		11/16/09 2mg 30 tablets	

47. The above chart represents a total of 3,240 tablets of controlled substances prescribed to patient JF over the course of approximately eight (8) months.

48. Neither prior to nor while prescribing these drugs, did Respondent perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.

49. According to the expert, Respondent's medical records do not contain medical justification for the frequency and simultaneous prescription of

such large quantities of oxycodone together with Percocet, OxyContin and Xanax to patient JF.

50. According to the expert, the medications prescribed to patient JF were excessive and inappropriate.

51. A reasonably prudent osteopathic physician would not have simultaneously prescribed such large quantities of oxycodone together with Percocet, OxyContin and Xanax and would have performed a minimally adequate physical examination appropriate for the condition complained of by the patient.

Facts Specific to Patient JL

52. From on or about December 30, 2008, through on or about August 31, 2009, patient JL presented to Respondent with pain "through her back, knee & carpal tunnel."

53. Respondent's medical records show that he prescribed multiple prescriptions for large amounts of oxycodone along with Percocet and Xanax for patient JL on the dates and in the dosages and quantities described in the following table:

Oxycodone	Percocet	Xanax
12/30/08 30mg 240 tablets	12/30/08 10/325mg 120 tablets	12/30/08 2mg 90 tablets
1/30/09 30mg 240 tablets	1/30/09 10/325 120 tablets	1/30/09 2mg 30 tablets
3/24/09 30mg 240 tablets	3/24/09 10/325 120 tablets	3/24/09 2mg 30 tablets

Oxycodone	Percocet	Xanax
5/27/09 15mg 120 tablets		5/27/09 2mg 30 tablets
5/27/09 30mg 240 tablets		
6/30/09 30mg 240 tablets		6/30/09 2mg 30 tablets
6/30/09 15mg 120 tablets		
7/31/09 15mg 150 tablets		7/31/09 2mg 30 tablets
7/31/09 30mg 240 tablets		
8/31/09 30mg 240 tablets		8/31/09 2mg 30 tablets
8/31/09 15mg 150 tablets		

54. The above chart represents a total of 2,850 tablets of controlled substances prescribed to patient JL over the course of approximately nine (9) months.

55. Neither prior to nor while prescribing these drugs, did Respondent perform and/or document the performance of a minimally adequate physical examination appropriate for the condition complained of by the patient.

56. According to the expert, Respondent's medical records do not contain medical justification for the frequency and simultaneous prescription of

such large quantities of oxycodone together with Percocet, and Xanax to patient JL.

57. According to the expert, the medications prescribed to patient JL were excessive and inappropriate.

58. According to Respondent's records, Patient JL submitted to a drug test on January 30, 2009 that was negative for both opiates and benzodiazepines.

59. According to the expert, the negative drug test is an "overt indication of drug diversion by JL."

60. A reasonably prudent osteopathic physician would have stopped prescribing controlled substances to patient JL in light of the negative drug test.

61. A reasonably prudent osteopathic physician would not have simultaneously prescribed such large amounts of oxycodone together with Percocet and Xanax and would have performed a minimally adequate physical examination appropriate for the condition complained of by the patient.

Count One

62. Petitioner realleges and incorporates paragraphs one (1) through sixty-one (61) as if fully set forth herein.

63. Section 459.015(1)(x), Florida Statutes (2008-2009), provides that committing medical malpractice constitutes grounds for disciplinary action by the Board of Osteopathic Medicine. Medical Malpractice is defined in Section 456.50, Florida Statutes (2008-2009), 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. For purposes of Section 459.015(1)(x), Florida Statutes (2008-2009), the Board shall give great weight to the provisions of Section 766.102, Florida Statutes (2008-2009), which provides that 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.

64. Respondent failed to practice medicine with that level of care, skill and treatment, which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, in the treatment of patients DT, JC, RD, WM, JF, and JL in one or more of the following ways: by failing to conduct appropriate examinations; by prescribing excessive and/or inappropriate amounts of opioids and benzodiazepines; by continuing to prescribe narcotics and/or benzodiazepines in light of a negative drug test; or by failing to show in the medical record the justification for prescribing opioids or benzodiazepines in the dosages prescribed.

65. Based on the foregoing, Respondent has violated Section 459.015(1)(x), Florida Statutes (2008-2009), by committing medical malpractice in treating Patients DT, JC, RD, WM, JF and JL.

Count Two

66. Petitioner realleges and incorporates paragraphs one (1) through sixty-one (61) as if fully set forth herein.

67. Section 459.015(1)(t), Florida Statutes (2008-2009), subjects a licensee to discipline, including suspension, for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the osteopathic physician's professional practice. For purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

68. Respondent prescribed, dispensed, and/or administered controlled substances other than in the course of his professional practice by prescribing, dispensing, and/or administering controlled substances inappropriately, without regard to the patient's best interests or in excessive or inappropriate quantities to patients DT, JC, RD, WM JL, and JF on or about the dates and in the quantities and combinations more particularly described above.

69. Based on the foregoing, Respondent has violated Section 459.015(1)(t), Florida Statutes, (2008-2009), by inappropriately prescribing

excessive and inappropriate quantities of controlled substances to patients DT, JC; RD, WM, JF and JL.

Count Three

70. Petitioner realleges and incorporates paragraphs one (1) through sixty-one (61) as if fully set forth herein.

71. Section 459.015(1)(pp), Florida Statutes (2008-2009), provides that violating any provision of chapters 456 or 459, Florida Statutes, or any rules adopted pursuant thereto, is grounds for discipline by the Board of Osteopathic Medicine.

72. Rule 64B15-14.005(3), Florida Administrative Code, provides as follows:

The Board has adopted the following guidelines when evaluating 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 should 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 should document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan should state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and should indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the osteopathic physician should adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including osteopathic manipulative treatment and applications, 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.

(c) Informed Consent and Agreement for Treatment. The osteopathic physician should discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The patient should receive prescriptions from one osteopathic physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the osteopathic physician may employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. Urine/serum medication levels screening when requested;
2. Number and frequency of all prescription refills; and
3. Reasons for which drug therapy may be discontinued (i.e., violation of agreement).

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the osteopathic physician should review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy should depend on the osteopathic physician's evaluation of progress toward stated treatment objectives such as improvement in patient's pain intensity and improved physical and/or psychosocial function, i.e., ability to work, need of health care resources, activities of daily living, and quality of social life. If treatment goals are not being achieved, despite medication adjustments, the osteopathic physician should reevaluate the appropriateness of continued treatment. The osteopathic physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The osteopathic physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk 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 may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

73. On or about the dates set forth above, Respondent violated Rule 64B15-14.005(3), Florida Administrative Code, by prescribing one or more of the

following controlled substances: oxycodone, Percocet and, Xanax to patients DT, JC, RD, WM, JF and JL in the quantities and combinations described above, without conducting or documenting complete physical examinations of DT, JC, RD, WM, JF or JL.

74. Respondent also violated Rule 64B15-14.005(3), F.A.C., by prescribing these substances without documenting one or more of the following: written treatment plans that state objectives that will be used to determine treatment success or indicate if any further diagnostic evaluations or other treatments are planned; the nature and intensity of the patients' pain; current and past treatments for pain; underlying or coexisting diseases or conditions; the effect of the pain on physical and psychosocial function or history of substance abuse; and, the presence of one or more recognized medical indications for the use of a controlled substance.

75. Based on the foregoing, Respondent has violated Section 459.015(1)(pp), Florida Statutes, (2008-2009), by violating a rule adopted pursuant to Chapter 459 because he failed to document and adhere to the Florida Board of Osteopathic Medicine standards for the use of controlled substances for pain control contained within Rule 64B15-14.005(3), Florida Administrative Code, (2008-2009) in his treatment of patients DT, JC, RD, WM, JF and JL.

Count Four

76. Petitioner realleges and incorporates paragraphs one (1) through sixty-one as if fully set forth herein.

77. Section 459.015(1)(o), Florida Statutes (2008-2009), subjects a licensee to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic 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.

78. On or about the dates set forth above, Respondent violated Section 459.015(1)(o), Florida Statutes (2008-2009), by failing to keep medical records that justified the course of treatment of patients DT, JC, RD, WM, JF and JL.

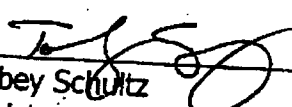
79. Based on the foregoing, Respondent has violated Section 459.015(1)(o), Florida Statutes, (2008- 2009), by failing to keep medical records that justified the course of treatment of patients DT, JC, RD, WM, JF and JL.

WHEREFORE, Petitioner respectfully requests that the Board of Osteopathic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license,

restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 13th day of May, 2010.

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



Tobey Schultz
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 0542131
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(850) 245-4684 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Angel Sanders*
DATE **5-13-10**

PCP: 5/11/10 Andriole + Rose

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.