

By: *Angela Barton*
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-09208
LICENSE NO.: ME0074131

ALICIA CHILITO, 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 December 2, 2011, in Orlando, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

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

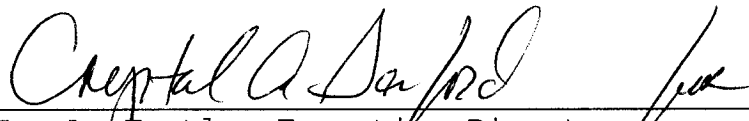
The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at \$3,415.00.

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

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

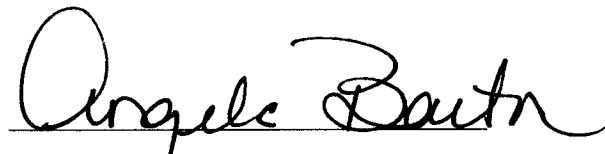
DONE AND ORDERED this 12th day of December, 2011.

BOARD OF MEDICINE


Joy A. Footle, Executive Director
For GEORGE THOMAS, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to ALICIA CHILITO, M.D., 10220 SW 121st Street, Miami, Florida 33176; to Julia Ingle, Esquire, 200 S. Andrews Avenue, Suite 602, Fort Lauderdale, Florida 33301; and by interoffice delivery to Veronica Donnelly, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 13 day of December, 2011.



Deputy Agency Clerk




Rick Scott
Governor

H. Frank Farmer, Jr., MD, PhD, FACP
State Surgeon General

INTEROFFICE MEMORANDUM

DATE: December 9, 2011

TO: Cassandra Pasley, BSN, J.D., Bureau Chief
Health Care Practitioner Regulation

FROM: Joy A. Tootle, Executive Director
Board of Medicine 

SUBJECT: Delegation of Authority

This is to advise you that while I am out of the office on Monday December 12, 2011, Crystal Sanford is delegated to serve as acting Executive Director for the Board of Medicine. Ms. Sanford can be reached at (850) 245-4132.

JAT

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2010-09208

ALICIA CHILITO, M.D.,

Respondent.

SETTLEMENT AGREEMENT

Alicia Chilito, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department" stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes, and Chapter 456, Florida Statutes, and Chapter 458, Florida Statutes.

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 74131.
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 her capacity as a licensed physician, she is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

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

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

STIPULATED DISPOSITION

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

2. **Fine** - The Board of Medicine shall impose an administrative fine of five thousand dollars and zero cents (\$5,000.00) against the license of Respondent, to be paid by Respondent to Payments, Department of Health, Compliance Management Unit, Bln C-

76, P. O. Box 6320, Tallahassee, FL 32314-6320, within thirty-days (30) from the date of filing of the Final Order accepting this Agreement. 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.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER 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 OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

3. Reimbursement Of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for any 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 one thousand nine hundred thirteen dollars and thirty-seven cents (\$1,913.37), but shall not exceed three thousand four hundred fifteen dollars (\$3,415.00). Respondent will pay costs to Payments, Department of Health,

Compliance Management Unit, Bln C-76, P. O. Box 6320, Tallahassee, FL 32314-6320, within thirty-days (30) from the date of filing of the Final Order in this cause. **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.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER 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 OF FILING OF THE FINAL ORDER, RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL SUCH WRITTEN CONFIRMATION IS RECEIVED BY RESPONDENT FROM THE BOARD.

4. **Laws And Rules Course** - Respondent shall complete 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 Agreement.

5. **Continuing Medical Education** - Within eighteen (18) months of the date of the filing of a Final Order in this cause, Respondent shall attend twelve (12) hours of Continuing Medical Education (CME) which shall cover the following: lawful dispensing of prescription drugs, legal requirements for the writing of prescriptions, legal prohibitions pertaining to adulterated drugs, and legal requirements for the receipt of wholesale prescription drugs. However, Respondent will be exempted from this requirement if she voluntarily and permanently relinquishes her Dispensing Practitioner registration within ten (10) days of the date of filing of a Final Order in this cause.

6. **Continuing Medical Education - "Risk Management"** - Respondent shall complete five (5) hours of Continuing Medical Education in "Risk Management" within one (1) year of the date of filing of the Final Order. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). However, the Board has approved five (5) hours of risk management continuing education for attending the first day of a full Board of Medicine meeting.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.
2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall

have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** - Unless otherwise provided in this written agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said continuing medical education course(s). Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician's recognition awards, documenting completion of this medical course within one (1) year of the date of filing of the Final Order in this matter. All such documentation shall be sent to the Board of Medicine, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing medical education course(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 agreement, the Respondent shall read

Chapters 456, 458 and 893 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 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 Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

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

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

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

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

(Signatures contained on the following page.)

SIGNED this 21 day of October, 2011.

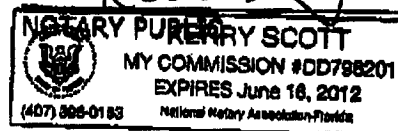
Alicia Chilito
Alicia Chilito, M.D.

STATE OF Florida
COUNTY OF Broward

BEFORE ME, personally appeared ALICIA CHILITO, whose identity is known to me, or by _____ (type of identification), and who, under oath, acknowledges that his signature appears above.

SWORN TO AND SUBSCRIBED before me this 21 day of October, 2011.

My Commission Expires:



APPROVED this 21st day of October, 2011.

H. Frank Farmer, Jr, MD, PhD, FACP
State Surgeon General

By: Laura L. Glenn
Laura L. Glenn
Assistant General Counsel
Department of Health

STATE OF FLORIDA
DEPARTMENT OF HEALTH

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PRACTITIONER REGULATION
LEGAL
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DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2010-09208

ALICIA CHILITO, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health (Department), by and through its undersigned counsel, hereby files this Administrative Complaint before the Board of Medicine against Respondent, Alicia Chilito, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 74131.

3. Respondent's current address of record is 10220 S.W. 121st Street, Miami, Florida 33176.

4. At all times relevant to the Complaint, Respondent was board certified in Family Medicine by the American Board of Family Medicine.

5. At all times relevant to the Complaint, Respondent was registered as a Dispensing Practitioner pursuant to Section 465.0276, Florida Statutes, and was required to comply with and be subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, Chapters 465, 499 and 893, Florida Statutes, and all federal laws and federal regulations.

6. At all times relevant to the Complaint, Respondent was dispensing controlled substances as a part of her practice.

7. On or about April 30, 2010, the Department performed a routine, unannounced dispensing practitioner inspection at Respondent's medical office, 6741 Coral Way, Suite 45, Miami, Dade County, 33155.

8. During the April 30, 2010, inspection, the Department's inspector found that more than 20 bottles of medications, dispensed by other pharmacies to persons who were not Respondent's patients ("non-

patient medications") were intermingled with Respondent's active stock of medications.

9. During the April 30, 2010, Inspection, the Department's Inspector found that 10 out of 29 applicable inspection requirements were failed, seven of which related to controlled substances.

10. In particular, during the April 30, 2010, Inspection, the Department's inspector found that:

(a) Stock medications, particularly non-patient medications, were not appropriately labeled for dispensing from a licensed manufacturer, in violation of Section 499.007(2), Florida Statutes (2009);

(b) Medications, particularly non-patient medications, were not purchased from a Florida licensed wholesaler/distributor, in violation of Section 499.005(14), Florida Statutes (2009);

(c) Respondent did not provide a written prescription for the non-patient medications to be dispensed, in violation of Section 465.0276(2)(c), Florida Statutes (2009).

(d) Controlled substance prescriptions, particularly for non-patient medications, were not initialed and dated by Respondent, did

not provide patient's name and address, did not provide Respondent's name, address, and DEA number, and controlled substance prescription refills for controlled substances were not signed and dated by Respondent, in violation of Sections 893.04(1)(b), 893.04(1)(c)1, and 893.04(1)(c)2, Florida Statutes (2009);

(e) Controlled substance prescription records, particularly for non-patient medications, were not properly maintained, in violation of Sections 893.04 and 893.07, Florida Statutes (2009);

(f) Controlled substance purchase records, i.e., the biennial inventory, were not available for inspection and were not properly maintained, particularly for non-patient medications, in violation of Section 893.07(1)(a) and (b), Florida Statutes (2009);

(g) Respondent's employees were unable to produce a prescription disposition log for the non-patient medications, in violation of Rule 64B16-28.140(3)(d) and (e), Florida Administrative Code (eff. October 15, 2001);

(h) Respondent's employees were unable to produce any pedigree records for the non-patient medications, in violation of rule

64F-12.012(3)(a)2 and (d), Florida Administrative Code (eff. August 6, 2006).

11. During the April 30, 2010, inspection, Respondent indicated that she is the owner of a "public charity" called Wings of Hope, a tax-exempt organization, and that the un-used non-patient medications were donated to her from her relatives for the purpose of assisting sick persons who were poor.

12. On or about July 15, 2010, the Department performed an unannounced dispensing practitioner re-inspection at Respondent's medical office, at the address indicated above.

13. During the July 15, 2010, inspection, the Department's Inspector found that:

(a) Respondent was not on the premises while the medication room and cabinets were unlocked and accessible to persons not licensed in Florida to practice the profession of pharmacy, in violation of Rule 64B16-28.109, Florida Administrative Code (eff. April 10, 2005);

(b) Items 4 through 29 of the inspection report requirements could not be inspected because Respondent's employee was

unwilling to allow the inspection in Respondent's absence, in violation of Rules 64B16-28.101, Florida Administrative Code (eff. May 4, 2005).

14. In a July 2, 2010, written response, Respondent indicated that she engages in volunteer work in Grenada, Mexico, Honduras, Nicaragua, Ecuador, Ethiopia, and India, and that the un-used non-patient medications were donated to her from her relatives for the purpose of assisting sick persons who were poor.

15. Respondent has not identified any provision which would exempt the donated medications in Respondent's possession from the requirements of all laws and rules applicable to pharmacists and pharmacies, with respect to the allegations contained in this Complaint.

16. Section 458.331(1)(g), Florida Statutes (2009, 2010), provides that failing to perform any statutory or legal obligation placed upon a licensed physician constitutes grounds for disciplinary action.

17. Section 465.0276(2)(b), Florida Statutes (2009, 2010), provides that a practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must comply with and be subject to all laws and rules applicable to pharmacists

and pharmacies, including, but not limited to, Chapters 465, 499 and 893, Florida Statutes, and all federal laws and federal regulations.

18. Respondent violated Section 458.331(1)(g), Florida Statutes (2009, 2010), in one or more of the following ways:

(a) By failing to appropriately label stock medications, in violation of Section 499.007(2), Florida Statutes (2009);

(b) By failing to purchase medications from a Florida licensed wholesaler/distributor, in violation of Section 499.005(14), Florida Statutes (2009);

(c) By failing to provide a written prescription for medications to be dispensed, in violation of Section 465.0276(2)(c), Florida Statutes (2009).

(d) By failing to do the following, with regard to controlled substance prescriptions: initial and date them, provide the patient's name and address on them, provide Respondent's name, address, and DEA number on them; and by failing to sign and date controlled substance prescription refills; in violation of Sections 893.04(1)(b), 893.04(1)(c)1, and 893.04(1)(c)2, Florida Statutes (2009);

(e) By failing to properly maintain controlled substance prescription records, in violation of Sections 893.04 and 893.07, Florida Statutes (2009);

(f) By failing to properly maintain and make available for inspection the controlled substance purchase records, in violation of Section 893.07(1)(a) and (b), Florida Statutes (2009);

(g) By failing to produce a prescription disposition log for all medications, in violation of Rule 64B16-28.140(3)(d) and (e), Florida Administrative Code (eff. October 15, 2001);

(h) By failing to produce pedigree records for all medications, in violation of rule 64F-12.012(3)(a)2 and (d), Florida Administrative Code (eff. August 6, 2006); and/or

(i) By failing to be present and on the premises while the medication room and cabinets were unlocked and accessible to persons not licensed in Florida to practice the profession of pharmacy, in violation of Rule 64B16-28.109, Florida Administrative Code (eff. April 10, 2005).

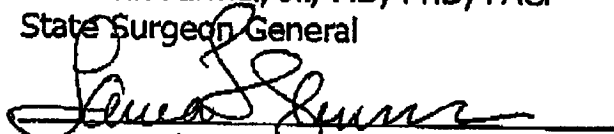
19. Based on the foregoing, Respondent has violated Section 458.331(1)(g), Florida Statutes (2009, 2010), by failing to perform any

legal or statutory obligation placed upon a licensed physician by the Board and/or Department.

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

SIGNED this 26th day of August 2011.

H. Frank Farmer, Jr., MD, PhD, FACP
State Surgeon General


Laura L. Glenn

Assistant General Counsel
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar No. 0861413
Telephone: (850) 245-4640
Facsimile: (850) 245-4681

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE AUG 29 2011

LLG

PCP Date: August 26, 2011

PCP Members: Dr. El-Bahri, Dr. Nuss, Mr. Mullins

DOH VS. ALICIA CHILITO, M.D., Case No. 2010-09208

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.