

Public

STATE OF NEW YORK DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

BASIM IBRAHIM ELHABASHY, M.D.
CO-12-05-2396-A

COMMISSIONER'S
SUMMARY
ORDER

TO: Basim Ibrahim Elhabashy, M.D.
REDACTED

Basim Ibrahim Elhabashy, M.D.
REDACTED

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Florida, Department of Health, has made a finding substantially equivalent to a finding that the practice of medicine by **BASIM IBRAHIM ELHABASHY, M.D.**, Respondent, New York license number 232247, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Order of Emergency Suspension of License, dated May 3, 2012, attached, hereto, as Appendix "A," and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **BASIM IBRAHIM ELHABASHY, M.D.**, shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN VIOLATION OF THIS ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY DEFINED BY NEW YORK EDUCATION LAW §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in Florida.

The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the Florida proceeding. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

RESPONDENT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, NEW YORK STATE DEPARTMENT OF HEALTH, 150 Broadway, SUITE 355, ALBANY, NY 12204, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE FINAL CONCLUSION OF THE PROCEEDING IMMEDIATELY UPON SUCH CONCLUSION.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR
LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR
SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER
SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a.
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN
THIS MATTER.

DATE: Albany, New York
Nov 8, 2012

REDACTED

NIRAV R. SHAH, M.D., M.P.H.
Commissioner of Health
New York State Department of Health

Inquires should be directed to:

Joel E. Abelove
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower – Room 2512
Empire State Plaza
Albany, New York 12237
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

IN RE: The Emergency Suspension of the License of
Basim Ibrahim Elhabashy, M.D.
License Number: ME 94356
Case Number: 2011-17168

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Steven L. Harris, M.D., M.Sc., Interim Florida State Surgeon General,
ORDERS the Emergency Suspension of the license of Basim Ibrahim Elhabashy,
M.D. ("Dr. Elhabashy") to practice as a physician in the State of Florida. Dr.
Elhabashy holds license number ME 94356. His address of record is 660 Linton
Boulevard, Suite 110A, Delray Beach, Florida 33444. The following Findings of
Fact and Conclusions of Law support the Emergency Suspension of Dr.
Elhabashy's license to practice as a physician in the State of Florida.

INTRODUCTION

At all times relevant to this Order, Dr. Elhabashy practiced medicine at
Peace of Mind Lab and Pain Clinic, a pain management clinic located in Delray
Beach, Florida (the "Clinic"). While practicing at the Clinic, Dr. Elhabashy treated
multiple patients with extremely high doses of controlled substances without
medical justification for doing so. The Department retained an independent
medical expert to review the medical records for several of Dr. Elhabashy's

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patients, and the expert opined Dr. Elhabashy failed to meet applicable standards of care in prescribing large quantities of controlled substances to his patients.

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). Section 456.073(8), Florida Statutes (2011), empowers the State Surgeon General to summarily suspend Dr. Elhabashy's license to practice as a physician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2011).

2. At all times material to this Order, Dr. Elhabashy was licensed to practice as a physician in the State of Florida, pursuant to Chapter 458, Florida Statutes (2011).

3. At all times material to this Order, Dr. Elhabashy treated patients at the Clinic, which is located at 660 Linton Boulevard, Suite 110A, Delray Beach, Florida 33444.

4. In October 2011, the Department commenced an investigation of Dr. Elhabashy based upon information received from the Palm Beach County Sheriff's Department indicating that Dr. Elhabashy may have been inappropriately prescribing controlled substances.

5. As part of its investigation, the Department obtained patient records for five separate patients (hereafter identified as "R.W.," "T.B.," "S.G.," "P.B.," and "P.H.") treated by Dr. Elhabashy at the Clinic. In treating these patients, Dr. Elhabashy prescribed: Roxicodone, Oxycontin, Percocet, Dilaudid, Xanax, Flexeril, Mobic, Motrin, Amoxicillin, Azithromycin, and Keflex.

- a. Roxicodone is a brand name for Oxycodone. Roxicodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2011), Roxicodone 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 Roxicodone may lead to severe psychological or physical dependence. Roxicodone is an opioid. 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.
- b. Percocet is the brand name for a drug that contains oxycodone and is prescribed to treat pain. According to Section 893.03(2), Florida

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Statutes, Percocet 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.

- c. Oxycontin is the brand name for a drug that contains oxycodone hydrochloride and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, Oxycontin 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.
- d. Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, Dilaudid 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 Dilaudid may lead to severe psychological or physical dependence. Dilaudid is an opioid.
- e. Xanax is the brand name of alprazolam. Xanax is used to treat anxiety disorders, panic disorders, and anxiety caused by depression. According to Section 893.03(4), Florida Statutes

(2011), Xanax 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 Xanax may lead to limited physical or psychological dependence relative to the substances in Schedule III.

- f. Flexeril is the brand name for cyclobenzaprine. Flexeril is a muscle relaxant used to treat pain from skeletal muscle conditions or injury.
- g. Mobic is the brand name of meloxicam. Mobic is a nonsteroidal anti-inflammatory drug (NSAID) commonly used to treat pain and inflammation.
- h. Motrin is a brand name of ibuprofen. Motrin is a nonsteroidal anti-inflammatory drug (NSAID) commonly used to reduce fever and treat pain or inflammation.
- i. Amoxicillin is a penicillin antibiotic. Amoxicillin is used to treat infections caused by bacteria.
- j. Azithromycin is an antibiotic used to treat infections caused by bacteria.

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k. Keflex is a brand name for cephalosporin. Cephalosporin is an antibiotic used to treat infections caused by bacteria.

6. According to U.S. Drug Enforcement Agency statistics, Dr. Elhabashy was the 48th largest purchaser of Oxycodone in the United States in 2010. Dr. Elhabashy purchased 283,220 units of Oxycodone in 2010; an average 776 units per day.

7. The Department provided the patient records of R.W., T.B., S.G., P.B., and P.H. to an independent medical expert for review.

8. The expert retained by the Department is a medical doctor board certified in pain management and physical medicine and rehabilitation. The Department's expert opined Dr. Elhabashy fell below the standard of care in his treatment of Patients R.W., T.B., S.G., P.B., and P.H.

9. In the expert's opinion, Dr. Elhabashy's records for R.W., T.B., S.G., P.B., and P.H. indicate a substantial failure to: a) compile adequate patient histories; b) obtain adequate records from physicians who treated the patients prior to presentation at the Clinic; c) verify a recent history or indication for the multiple large prescriptions of controlled substances; d) verify the patients were properly taking their prescription medications; e) establish a comprehensive multi-modality plan of care; f) establish and modify legitimate treatment objectives; and g)

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perform substantive physical evaluations.

10. Specific details concerning Dr. Elhabashy's failure to meet the standard of care in relation to each patient are set forth below.

Facts specific to Patient R.W.

11. On July 28, 2010, R.W., a 34 year-old white male first presented to Dr. Elhabashy. The patient record indicates that R.W. had previously received treatment from Dr. A.T. on June 23, 2010 at another Peace of Mind Lab and Pain Clinic located in Deerfield, Florida. The patient record, however, contains no initial evaluation notes by Dr. A.T. or Dr. Elhabashy. None of the nine "Follow Up Visit" forms completed by Dr. Elhabashy in the patient record contain a diagnosis or description of R.W.'s chief complaint.

12. In total, R.W. presented to Dr. Elhabashy nine times between July 2010 and April 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of R.W. were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of R.W.'s visits.

13. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and

Xanax. The medications prescribed by Dr. Elhabashy to R.W. are set forth below.

14. July 28, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

15. August 24, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Flexeril 10 mg.

16. September 24, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Percocet 10/325 mg, and 20 dosage units of Motrin 800 mg.

17. October 20, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Percocet 10/325 mg, and 20 dosage units of Motrin 800 mg.

18. December 27, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 40 dosage units of Dilaudid 4 mg, 10 dosage units of Motrin 800 mg, and 30 dosage units of Amoxicillin 500 mg.

19. January 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 45 dosage units of Dilaudid 4 mg, 30 dosage units of Motrin 800 mg, and 5 dosage units of Azithromycin 500 mg.

20. February 21, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 60 dosage units of Dilaudid 4 mg, 20 dosage units of Flexeril 10 mg, and 30 dosage units of Mobic 7.5 mg.

21. March 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 45 dosage units of Dilaudid 4 mg, and 20 dosage units of Flexeril 10 mg.

22. April 18, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone, 45 dosage units of Dilaudid 4 mg, 30 dosage units of Flexeril 10 mg, 10 dosage units of Motrin 800 mg, and 30 dosage units of Keflex 500 mg.

23. Dr. Elhabashy did not include additional handwritten remarks on any of the Follow Up Visit forms for the above-referenced dates.

24. Dr. Elhabashy discharged R.W. on May 14, 2011. In discharging R.W., Dr. Elhabashy cited the fact that the patient "Refused to get another MRI." The patient record reveals that Dr. Elhabashy treated R.W. for more than 8 months before prescribing a lumbar spine MRI to diagnose back pain.

25. The patient record for R.W. contained no confirmation of previous treatment other than a single lumbar spine Magnetic Resonance Imaging ("MRI") report dated January 29, 2008, and a medication log for the period from February 2008 through May 2008.

26. The patient records indicate the administration of only one drug screening during Dr. Elhabashy's treatment of R.W. A urine drug screening report dated March 22, 2011, indicated a positive result for morphine. This drug screening occurred nearly eight months after R.W. first presented to Dr. Elhabashy. Although Dr. Elhabashy had not prescribed morphine to R.W. during this period, the patient record reflected no action or explanation concerning this discrepancy.

27. Morphine is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, morphine 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.

28. Based upon his review of R.W.'s patient record, the Department's expert opined Dr. Elhabashy's treatment of the patient fell below the standard of care in the following ways:

- a. Dr. Elhabashy failed to confirm R.W.'s previous treatment during his initial visit;
- b. Dr. Elhabashy failed to establish a multi-modality plan of care for R.W. and chose instead to use high doses of controlled substances and analgesics as the sole treatment modality for R.W.'s pain;

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- c. Dr. Elhabashy failed to implement a compliance monitoring program and consequently failed to monitor R.W.'s compliance with the plan of care; and
 - d. Dr. Elhabashy prescribed more than a 72-hour supply of controlled substances to R.W. during each visit occurring after October 1, 2010, without documenting a valid reason for doing so.
29. Based upon his review of R.W.'s patient record, the Department's expert also opined:
- a. Dr. Elhabashy failed to document any significant abnormal exam findings which would justify the high amount of strong pain medications prescribed to R.W.;
 - b. Dr. Elhabashy failed to document any diagnosis that would warrant the prescribing of Xanax to R.W.; and
 - c. Dr. Elhabashy failed to document reasons for medication adjustments.

Facts Specific to Patient T.B.

30. On April 23, 2010, T.B., a 30 year-old male, first presented to Dr. Elhabashy. T.B. complained of middle and lower back pain stemming from a fall from a building three years earlier. Dr. Elhabashy indicated a diagnosis of a

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herniated disc at the T10-11 level with "impingement." The patient record included lumbar spine MRI report dated May 29, 2008, a lumbar spine MRI report dated March 12, 2010, and a prescription profile from September and October 2009. At the conclusion of this visit, Dr. Elhabashy prescribed 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg.

31. In total, T.B. presented to Dr. Elhabashy 17 times for follow up visits between May 2010 and November 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of T.B. were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of T.B.'s visits.

32. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to T.B., as well as a description of any written comments included on the patient notes, if any, are set forth below.

33. May 21, 2010 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

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34. June 29, 2010 -- 60 dosage units of Xanax 2 mg and 180 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

35. August 9, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 45 dosage units of Percocet 10/325 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

36. September 8, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Mobic 15 mg.

37. October 4, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated October 5, 2010. Dr. Elhabashy's handwritten remarks consisted only of "ok."

38. November 12, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

39. December 8, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage

units of Motrin 800 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

40. January 6, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

41. February 2, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

42. March 9, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

43. March 29, 2011 -- Dr. Elhabashy prescribed a lumbar spine MRI to diagnose back pain. There are no patient notes for this date and no indication in the patient record that T.B. subsequently underwent a lumbar spine MRI.

44. April 5, 2011-- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that T.B.'s blood pressure was elevated because "he just had a long walk for 2 miles."

45. May 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of

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Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that follow up would be required because T.B.'s blood pressure was still elevated.

46. July 11, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that T.B.'s blood pressure was "better than last month." The patient record, however, contains no follow visit notes for the previous month, June 2011.

47. August 10, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included a handwritten note concerning T.B.'s "rt A/C joint separation" but no mention of the fact that T.B.'s blood pressure was 147/97mm Hg versus 130/90mm Hg the previous month.

48. September 8, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

49. October 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated October 6,

2011. Dr. Elhabashy noted "L1-5" tenderness and included a brief written observation concerning T.B.'s muscle tone.

50. November 5, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 45 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. The foregoing prescriptions, however, were dated November 4, 2011. Dr. Elhabashy noted "T12-L3" tenderness and included a brief written observation concerning T.B.'s muscle tone.

51. The patient record contains one drug screening report dated November 12, 2010. That drug screening revealed a positive result for tetrahydrocannabinol (THC). There is no explanation or documentation concerning any action taken by Dr. Elhabashy concerning the positive result for THC.

52. THC is the psychoactive ingredient in marijuana, or cannabis. According to Section 893.03(1), Florida Statutes, THC is a Schedule I controlled substance that has a high potential for abuse and has no currently accepted medical use in treatment in Florida.

53. Based upon his review of T.B.'s patient record, the Department's expert opined Dr. Elhabashy's treatment of the patient fell below the standard of care in the following ways:

- a. Dr. Elhabashy failed to adequately confirm T.B.'s prior treatment;

- b. Dr. Elhabashy failed to establish a multi-modality plan of care for T.B. and chose instead to use high doses of controlled substances and analgesics as the sole treatment modality for T.B.'s pain;
- c. Dr. Elhabashy failed to implement a compliance monitoring program and consequently failed to monitor T.B.'s compliance with the plan of care; and
- d. Dr. Elhabashy prescribed more than a 72-hour supply of controlled substances to T.B. during each visit occurring after October 1, 2010, without documenting a valid reason for doing so.

54. Based upon his review of T.B.'s patient record, the Department's expert also opined:

- a. Dr. Elhabashy failed to document any significant abnormal exam findings which would justify the high amount of strong pain medications prescribed T.B.; and
- b. Dr. Elhabashy failed to document any diagnosis that would warrant the prescribing of Xanax to T.B.

Facts Specific to Patient S.G.

55. On May 3, 2011, S.G., a 28 year-old male, first presented to Dr. Elhabashy. S.G. complained of lower back and left leg pain resulting from an

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automobile accident in 2005. The exam notes indicate a herniated disc at the L5-S1 level "encroaching on the SI nerve." The patient record contained a lumbar spine MRI report dated September 14, 2010, and a prescription record from January 2011 through March 2011. At the conclusion of this visit, Dr. Elhabashy prescribed 30 dosage units of Xanax 2 mg, 120 dosage units of Roxicodone 30 mg, 60 dosage units of Roxicodone 15 mg, and 30 dosage units of Motrin 800 mg.

56. In total, S.G. presented to Dr. Elhabashy 5 times for follow up visits between July 2011 and December 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of S.G. were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of S.G.'s visits.

57. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to S.G., as well as a description of any written comments included on the patient notes, if any, are set forth below.

58. July 15, 2011 -- 30 dosage units of Xanax 2 mg, 120 dosage units of Roxicodone 30 mg, 60 dosage units of Roxicodone 15 mg, and 30 dosage units of

Motrin 800 mg. Dr. Elhabashy noted that S.G. had left town due to his mother's death.

59. September 5, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included handwritten notes referencing his instructions for S.G. to monitor his blood pressure.

60. October 4, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg.

61. November 2, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted that he would continue to follow up on S.G.'s blood pressure.

62. December 3, 2011 -- 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy again noted that he would continue to follow up on S.G.'s blood pressure.

63. The patient record contains two drug screening reports for the period during which Dr. Elhabashy treated S.G. dated May 3, 2011, and July 15, 2011. Each report indicated a negative result for benzodiazepines. Despite S.G.'s history of being prescribed Xanax, the patient record shows no explanation or action by Dr. Elhabashy to follow up on S.G.'s compliance.

64. Based upon his review of S.G.'s patient record, the Department's expert opined Dr. Elhabashy's treatment of the patient fell below the standard of care in the following ways:

- a. Dr. Elhabashy failed to adequately confirm S.G.'s prior treatment;
- b. Dr. Elhabashy failed to establish a multi-modality plan of care for S.G. and chose instead to use opioids as the sole treatment modality;
- c. Dr. Elhabashy failed to implement a compliance monitoring program and consequently failed to monitor S.G.'s compliance with the plan of care; and
- d. Dr. Elhabashy prescribed more than a 72-hour supply of controlled substances to S.G. during each visit without documenting a valid reason for doing so.

65. Based upon his review of S.G.'s patient record, the Department's expert also opined that Dr. Elhabashy failed to:

- a. Dr. Elhabashy failed to document any significant abnormal exam findings which would justify the high amount of strong pain medications prescribed S.G.; and

b. Dr. Elhabashy failed to document any diagnosis that would warrant the prescribing of Xanax to S.G.

Facts Specific to P.B.

66. On April 26, 2011, P.B., a 34 year-old female, first presented to Dr. Elhabashy. P.B. complained of lower back and leg pain resulting from an automobile accident in 2009. The exam notes indicate a herniated disc at the L4-L5 level. The patient record contained a lumbar spine MRI report dated January 6, 2011, and a prescription record from February and March 2011. At the conclusion of this visit, Dr. Elhabashy prescribed 30 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Flexeril 10 mg, and 30 dosage units of Mobic 7.5 mg.

67. In total, P.B. presented to Dr. Elhabashy 4 times for follow up visits between May 2011 and August 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of P.B. were documented by checking exam parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of P.B.'s visits.

68. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and

Xanax. The medications prescribed by Dr. Elhabashy to P.B., as well as a description of any written comments included on the patient notes, if any, are set forth below.

69. May 25, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

70. June 22, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

71. July 20, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Motrin 800 mg.

72. August 19, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Motrin 800 mg.

73. The patient record contains two drug screening reports for the period during which Dr. Elhabashy treated P.B. dated April 26, 2011, and June 22, 2011. Each report indicated a negative result for benzodiazepines. The June 22, 2011, report indicated a positive result for morphine. Despite the fact that these results were discordant with P.B.'s prescription history, the patient record shows no explanation or action by Dr. Elhabashy to follow up on P.B.'s compliance.

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74. Based upon his review of P.B.'s patient record, the Department's expert opined Dr. Elhabashy's treatment of the patient fell below the standard of care in the following ways:

- a. Dr. Elhabashy failed to adequately confirm P.B.'s prior treatment;
- b. Dr. Elhabashy failed to establish a multi-modality plan of care for P.B. and chose instead to use high doses of controlled substances and analgesics as the sole treatment modality for P.B.'s pain;
- c. Dr. Elhabashy failed to implement a compliance monitoring program and consequently failed to monitor P.B.'s compliance with the plan of care; and
- d. Dr. Elhabashy prescribed more than a 72-hour supply of controlled substances to P.B. during each visit without documenting a valid reason for doing so.

75. Based upon his review of P.B.'s patient record, the Department's expert also opined:

- a. Dr. Elhabashy failed to document any significant abnormal exam findings which would justify the high amount of strong pain medications prescribed P.B.; and

- b. Dr. Elhabashy failed to document any diagnosis that would warrant the prescribing of Xanax to P.B.

Facts Specific to Patient P.H.

76. On June 26, 2008, P.H., a 58 year-old female, first presented to Dr. Elhabashy. P.H. complained of lower back, neck, shoulder, and arm pain resulting from a work related accident in 2001. The exam notes indicated an unspecified cervical disc disorder with an additional handwritten notation indicating degenerative disc disease, spondylosis, and neural foraminal narrowing at the C3 through C6 levels. The patient record contained a cervical spine MRI report from May 2001, a normal thoracic spine MRI report from May 2001, a copy of a neurosurgery consult from January 2002, a cervical spine plain film report from June 22, 2008, a bone scan report from October 2009, and prescription records from April and May 2008. At the conclusion of this visit, Dr. Elhabashy prescribed 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

77. In total, P.H. presented to Dr. Elhabashy 40 times for follow up visits between July 2008 and November 2011. In each case, the patient record reflects Dr. Elhabashy performed a cursory examination of the patient. Dr. Elhabashy's cursory physical examinations of P.H. were documented by checking exam

parameters on a pre-printed form. No substantive examination notes were made by Dr. Elhabashy during the course of any of P.H.'s visits.

78. Upon the conclusion of each follow up visit, Dr. Elhabashy prescribed a variety of medications which consistently included large quantities of opiates and Xanax. The medications prescribed by Dr. Elhabashy to P.H., as well as a description of any written comments included on the patient notes, if any, are set forth below.

79. July 25, 2008 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "good pain control."

80. August 22, 2008 -- 60 dosage units of Xanax 2 mg, 220 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "pain score 4-5."

81. September 19, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing fine."

82. October 17, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxycodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing ok."

83. November 14, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing ok."

84. December 12, 2008 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing ok."

85. January 9, 2009 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "doing ok."

86. February 6, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxicodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

87. March 6, 2009 -- 60 dosage units of Xanax 2 mg, 200 dosage units of Roxicodone 30 mg, and 60 dosage units of Percocet 10/325 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

88. March 17, 2009 -- 100 dosage units of Roxicodone 15 mg and 100 dosage units of Oxycontin 40 mg. The patient record contains no documentation of a follow up visit on March 17, 2009.

89. April 7, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok" and "pt quite" [sic] in reference to smoking.

90. May 2, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

91. May 29, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

92. June 25, 2009 -- 60 dosage units of Xanax 2 mg and 200 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

93. July 23, 2009 -- 300 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

94. August 19, 2009 -- 60 dosage units of Xanax 2 mg and 220 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

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95. September 16, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

96. October 13, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

97. November 10, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

98. December 8, 2009 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

99. January 5, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

100. February 2, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

101. February 27, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

102. March 27, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

103. April 24, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

104. May 22, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

105. June 21, 2010 -- 60 dosage units of Xanax 2 mg and 240 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

106. July 20, 2010 -- 60 dosage units of Xanax 2 mg and 180 dosage units of Roxycodone 30 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

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107. October 7, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg. Dr. Elhabashy's handwritten remarks consisted only of "ok."

108. November 4, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Mobic 7.5 mg.

109. December 3, 2010 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg.

110. January 7, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg.

111. February 7, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, and 30 dosage units of Motrin 800 mg.

112. March 8, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg.

113. April 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxicodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy also prescribed a cervical spine MRI to diagnose neck pain. There is no indication in the patient record that P.H. subsequently underwent a cervical spine MRI.

114. May 23, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy also prescribed a lumbar spine MRI to diagnose back pain. There is no indication in the patient record that P.H. subsequently underwent a lumbar spine MRI.

115. June 20, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted "mild L4-5" tenderness and included a brief written observation concerning P.H.'s muscle tone.

116. July 19, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy included a brief written observation concerning P.H.'s muscle tone.

117. August 16, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, Dr. Elhabashy noted "mild L1-2" tenderness and included a brief written observation concerning P.H.'s muscle tone.

118. October 4, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 30 dosage units of Percocet 10/325 mg, and 30 dosage units

of Motrin 800 mg. Dr. Elhabashy noted "mild L1-5" tenderness and included a brief written observation concerning P.H.'s muscle tone.

119. November 2, 2011 -- 60 dosage units of Xanax 2 mg, 180 dosage units of Roxycodone 30 mg, 60 dosage units of Percocet 10/325 mg, and 30 dosage units of Motrin 800 mg. Dr. Elhabashy noted "mild L1-3" tenderness and included a brief written observation concerning P.H.'s muscle tone.

120. The patient record contains no drug screening reports for P.H.

121. Based upon his review of P.H.'s patient record, the Department's expert opined Dr. Elhabashy's treatment of the patient fell below the standard of care in the following ways:

- a. Dr. Elhabashy failed to adequately confirm P.H.'s prior treatment;
- b. Dr. Elhabashy failed to establish a multi-modality plan of care for P.H. and chose instead to use high doses of controlled substances and analgesics as the sole treatment modality for P.H.'s pain;
- c. Dr. Elhabashy failed to implement a compliance monitoring program and consequently failed to monitor P.H.'s compliance with the plan of care; and

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- d. Dr. Elhabashy prescribed more than a 72-hour supply of controlled substances to P.H. during each visit occurring after October 1, 2010, without documenting a valid reason for doing so.

122. Based upon his review of P.H.'s patient record, the Department's expert also opined:

- a. Dr. Elhabashy failed to document any significant abnormal exam findings which would justify the high amount of strong pain medications prescribed P.H.;
- b. Dr. Elhabashy failed to document any diagnosis that would warrant the prescribing of Xanax to P.H.; and
- c. Dr. Elhabashy failed to document reasons for medication adjustments.

COMPREHENSIVE FINDINGS OF FACT

123. Since 2005, the State of Florida has experienced a surge of pill mills¹ and a resulting widespread abuse of prescription drugs among its citizens.² In 2010, prescription drugs were responsible for more deaths in Florida than illicit drugs. Oxycodone was the first leading cause of drug-related deaths, and the incidence of

¹ The term "pill mill" is commonly used by law enforcement to identify a pain management clinic that issues prescriptions for controlled substances illegally and without medical necessity.

² This health emergency is not restricted to the State of Florida. Indeed, the United States Centers for Disease Control and Prevention has declared prescription drug overdose a public health epidemic.

oxycodone identified in toxicology reports increased by 10.9% in January through June 2010 when compared to July through December 2009. Benzodiazepines were the second leading cause of drug-related deaths in the State of Florida from January 2010 through June 2010, and the incidence of benzodiazepines identified in toxicology reports increased by 3% during that time period.

124. Florida is widely viewed as a major source of prescription drugs for people from other states. According to the DEA, of the top 50 practitioners dispensing oxycodone in the United States during the period of October 2008 to March 2009, all but one physician were located in Florida. Physicians in this state purchased more than 85% of the oxycodone and more than 93% of the methadone purchased by all practitioners in the United States in 2006. The prescribing of medically unjustifiable amounts of controlled substances contributes to the problems of addiction and the illegal sale of controlled substances.

125. In September 2010, the U.S. Department of Health and Human Services (HHS) issued the results of a 2009 National Survey on Drug Use and Health. The HHS report found that there were seven million individuals in the U.S. who used prescription drugs for non-medical reasons within a one-month period during 2009. Of those individuals, 55.3% received the prescription drug from a friend or relative; 17.6% reported that they received the drug from one doctor;

4.8% received the medication from a drug dealer or a stranger; and 0.4% purchased the drug on the Internet.

126. Physicians who liberally provide prescriptions for controlled substances to patients who have no legitimate medical need for the drugs pose a serious danger to the public health, welfare and safety. The patients of such physicians often divert and resell the drugs to others. The potentially addictive nature of these controlled substances often leads to abuse which results in serious and lasting medical injury and death.³

127. Given the unique physical makeup of each patient as well as each patient's unique medical problems, each patient should have an individualized treatment plan that adheres to appropriate medical standards. With rare exception, Dr. Elhabashy's patient treatment was not individualized in any manner. Dr. Elhabashy treated all of his patients with large dosages and combinations of controlled substances.

CONCLUSIONS OF LAW

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

³ The Proliferation of Pain Clinics in South Florida, November 19, 2009, Broward County Grand Jury report.

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 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 is set forth as follows:

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

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

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

a. By prescribing excessive or inappropriate quantities and doses of controlled substances to patients;

b. By prescribing excessive or inappropriate quantities of controlled substances to patients without justification; and/or

c. By prescribing excessive or inappropriate doses and quantities of controlled substances to patients without performing an adequate evaluation of the patient(s).

5. Section 458.331(1)(q), Florida Statutes (2011), subjects a physician to discipline for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the 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

6. Dr. Elhabashy violated Section 458.331(1)(q), Florida Statutes (2011), by prescribing excessive or inappropriate quantities and doses of controlled substances to patients.

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

8. 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 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 physician should adjust drug therapy 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.

* * *

(d) Periodic Review. At reasonable intervals based on the individual circumstances of the patient, the 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 physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician should reevaluate the appropriateness of continued treatment. The physician should monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The 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 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 medical history and physical examination, including history of drug abuse or dependence, as appropriate;
2. Diagnostic, therapeutic, and laboratory results;
3. Evaluations and consultations;
4. Treatment objectives;
5. Discussion of risks and benefits;
6. Treatments;

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7. Medications (including date, type, dosage, and quantity prescribed);

8. Instructions and agreements; and

9. Periodic reviews. Records must remain current and be maintained in an accessible manner and readily available for review.

Records must remain current and be maintained in an accessible manner and readily available for review.

9. Dr. Elhabashy violated Section 458.331(1)(nm), Florida Statutes (2011), by violating Rule 64B8-9.013, Florida Administrative Code, in one or more of the following manners:

a. By failing to obtain a complete medical history for patients;

b. By failing to conduct adequate physical examinations or meaningful medical evaluations of patients;

c. By failing to set forth an adequate treatment plan for patients;

d. By failing to refer patients to evaluations or consultations with specialists or other treatment providers;

e. By failing to perform a periodic review of the treatment of patients and/or;

f. By failing to adequately monitor patients for diversion or substance abuse.

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10. The facts recited above support the conclusion that Dr. Elhabashy is using his medical license to prescribe excessive and inappropriate quantities of dangerous controlled substances to patients. In doing so, Dr. Elhabashy demonstrated no regard for the health, safety and well-being of the individuals he sees as patients. Dr. Elhabashy's acts manifest such a pattern and propensity to practice below the appropriate standard of care that a continuation of this practice poses an immediate serious danger to the public health, safety or welfare.

11. 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.

12. Dr. Elhabashy's distribution of drugs to patients constitutes a violation of his statutory duties relating to the prescribing of controlled substances. Moreover, Dr. Elhabashy's actions represent a consistent and ongoing breach of the professional and medical standards that govern physicians in the State of

Florida. Dr. Elhabashy's below-standard practice of medicine is evidenced by his inadequate initial evaluations, failure to obtain prior medical records, performance of substandard physical exams, and failure to refer patients to specialists where appropriate.

13. Dr. Elhabashy consistently acted with indifference to the health of his patients by prescribing the most highly addictive drugs to his patients on a repeated basis with little or no demonstration of medical need and in contravention of the well-known warnings, dangers and contraindications pertaining to the drugs. Dr. Elhabashy treated most patients with the same dosages and combinations of drugs. Dr. Elhabashy prescribed excessive quantities and strengths of these controlled substances without stating any legitimate medical justification.

14. Illegal or dishonest 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. A physician's integrity and trustworthiness is necessary for delivery of health care services. The prevention of breaches of trust is vital to maintain the integrity of the medical profession, and thereby insure the care given to patients is justifiable and proper. This is true also where the breach of trust involves the substandard practice of medicine or improper maintenance of medical records. Dr. Elhabashy's improper prescribing of

controlled substances and his egregious substandard practice of medicine manifest a lack of the professional judgment that are necessary to practice medicine in the State of Florida. Dr. Elhabashy's willingness to practice medicine below the minimum standards of care and to endanger the lives of his patients also demonstrate a lack of the good moral character required for licensure as a physician in the State of Florida.

15. Dr. Elhabashy's professional and medical incompetence, his lack of good moral character, his keenness to use his medical license to prescribe dangerous drugs in violation of state law, his indifference to the safety of patients and his failure to carry out even the most basic functions required of physicians in the State of Florida, when taken together, plainly demonstrate that Dr. Elhabashy is incapable of, or unwilling to, practice medicine safely and that his continued practice of medicine poses an immediate serious danger to the public health, safety or welfare.

16. Dr. Elhabashy's failure to practice within the standard of care with respect to any category of medical care he provided to his patients makes obvious that a less restrictive sanction, such as an emergency restriction order preventing Dr. Elhabashy from prescribing controlled substances, would not be sufficient to protect the public from the immediate serious danger posed by Dr. Elhabashy's

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continued practice as a medical doctor. Dr. Elhabashy's actions constitute a willful violation of the laws, regulations and standards that govern the practice of medicine in the State of Florida. Nothing short of the immediate suspension of Dr. Elhabashy's license to practice medicine would be sufficient to protect the public from the danger of harm presented by Dr. Elhabashy.

17. Dr. Elhabashy's propensity to practice below the standard of care, 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 a likelihood that Dr. Elhabashy's unsafe practice of medicine is likely to recur.

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

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

ORDERED THAT:

1. The license of Basim Ibrahim Elhabashy, M.D., license number ME 94356, is hereby immediately suspended.

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2. A proceeding seeking formal suspension or discipline of the license of Basim Ibrahim Elhabashy, 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 3rd day of May, 2012.

REDACTED

Steven L. Harris, M.D., M.Sc.
Interim State Surgeon General
Department of Health

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, 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.