



STATE OF FLORIDA
DEPARTMENT OF HEALTH
SUBPOENA DUCES TECUM

Case No. 2010-0000

TO: [Redacted], MD
Medical Record Custodian

SUBPOENA NO. A 006 [Redacted]

YOU ARE HEREBY COMMANDED to produce for inspection and copying at 400 West Robinson Street, Suite S-827 in Orlando, Florida on May 9, 2011 at 2:00 P.M., for the Department of Health the following:

The material requested is All electronic and/or paper medical records and reports for E.V., R.J.M., S.G., S.V., M.S., V.H., A.Z., D.B., G.C., J.C., T.F.C., T.C., J.E., M.H., & R.M.M. including but not limited to, patient histories, examination results, treatments, radiograph films or digital copy, laboratory, pathology and other test results, operative procedures, records of drugs prescribed, dispensed or administered, reports of consultations and hospitalizations, admission and discharge reports and billing records and payment records from 1/1/2007-through 11/30/2010.

The Department and the probable cause panel of the Board of Medicine have found that reasonable cause exists to believe that you have practiced your profession below that level of care, skill and treatment required, as defined by Chapter 456, Florida Statutes, and your professional practice act. Pursuant to Sections 456.057,(9)(a)1, Florida Statutes, the Department may obtain medical records without a patient release upon such a finding of reasonable cause. Pursuant to Sections 456.071 and 456.057(10), Florida Statutes, all patient records obtained by the Department are confidential and exempt from the provisions of Section 119.07, Florida Statutes. A copy of the affidavit for subpoena and application affidavit for patient records subpoena without release are attached. These records may be copied for use in other related investigations initiated as a result of our review/analysis of this incident.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), authorizes a covered entity to disclose protected health information without the written authorization of an individual, or without the opportunity for an individual to agree or object, when such disclosure is to a health oversight agency for oversight activities authorized by law. The Department of Health, Division of Medical Quality Assurance, is an agency of the State of Florida, authorized by Florida Statutes to oversee the healthcare system.

In lieu of producing these records for inspection and copying as described above, you may choose to comply with this subpoena by mailing a copy of these records to the below identified investigator with the attached verification fully executed by the above date. The Department will reimburse actual copying or reproduction costs, not to exceed the following limits: Hard copies at \$1.00 per written page for the first 25 pages and \$.25 per written page thereafter; X-Rays or other photographs or images at \$10.00 per x-ray or image; Electronic records from scanning, digital imaging, or other digital format at \$10.00 per filled CD Rom, DVD or other storage media.

YOU SHALL RESPOND to this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Department of Health.

Issued this [Redacted] of April, 2011.

THIS SUBPOENA HAS BEEN ISSUED UPON THE REQUEST OF:

NAME: [Redacted], Medical Malpractice Investigator
ADDRESS: 400 West Robinson St., Suite S-827
Orlando, FL 32801
PHONE: (407) [Redacted]

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



By: [Redacted]
Investigation Manager

OFFICE ISSUANCE NO OI- [Redacted]



Rick Scott
Governor

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

AFFIDAVIT FOR SUBPOENA

FIELD OFFICE Orlando

CASE NUMBER 2010- [REDACTED]

- The Department is reviewing a report of a closed civil claim filed pursuant to Section 627.912, F.S.
- The Department is reviewing an incident report filed by a hospital or ambulatory surgical center pursuant to Section 395.0197, F.S.
- The Department is reviewing an incident report filed by a nursing home pursuant to Section 400.147(12), F.S., or by an assisted living facility pursuant to Section, 429.23(8)F.S.
- The Department is reviewing a report of discipline by a peer review organization pursuant to Section 395.0193, 458.337 or 459.016, F.S.
- The Department is initiating an investigation, investigating a complaint, or conducting a preliminary inquiry pursuant to Section 456.073, F.S.
- The Department is initiating an investigation, investigating a complaint, or conducting a preliminary inquiry pursuant to Section 468.3101(i), F.S., Radiologic Personnel.
- The Department is reviewing a report of a birth-related neurological injury filed pursuant to section 766.305, or a civil malpractice suit pursuant to Section 766.106(2), F.S.

This investigation/claim/report/complaint against or involving [REDACTED], MD alleges Possible violation of FS458.331.(1)(k)(q)(i): (g)Failing to perform any statutory or legal obligation placed upon a licensed physician(k) Making deceptive, untrue, or fraudulent representations

1. All electronic and/or paper medical records and reports for E.V. [REDACTED] R.J.M. [REDACTED] S.G. [REDACTED] S.V. [REDACTED] M.S. [REDACTED] V.H. [REDACTED] A.Z. [REDACTED] D.B. [REDACTED] G.C. [REDACTED] J.C. [REDACTED] T.F.C. [REDACTED] J.E. [REDACTED] M.H. [REDACTED] & R.M.M. [REDACTED] including but not limited to, patient histories, examination results, treatments, radiograph films or digital copy, laboratory, pathology and other test results, operative procedures, records of drugs prescribed, dispensed or administered, reports of consultations and hospitalizations, admission and discharge reports and billing records and payment records from 1/1/2007- through 11/30/2010 this material is requested from [REDACTED], [REDACTED], [REDACTED], FL [REDACTED]
2. This material or information is necessary to adequately review this matter, or to substantiate the allegations or show them to be unsubstantiated.
3. This Affiant feels that the recipient of this subpoena will be able to provide the material/information requested because recipient is the custodian of records

Name of Affiant (print or type) [REDACTED]
 Signature of Affiant [REDACTED]

[REDACTED], 2011
 Date Requested
 Subpoena Issued No. ADD 6 [REDACTED]

STATE OF FLORIDA
 COUNTY OF Orange
 Before me, personally appeared Roxanne McCarthy, whose identity is known to me by Co-Worker (type of identification) and who acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this [REDACTED] day of [REDACTED] 2011.

[REDACTED]
Notary Public-State of Florida



Type or Print Name _____ My Commission Expires _____
 This affidavit has been reviewed as to sufficiency and approved by [REDACTED] on _____, 2011





2011

Rick Scott
Governor

State Surgeon General

APPLICATION AFFIDAVIT FOR PATIENT RECORDS SUBPOENA WITHOUT PATIENT RELEASE

Please Type

SUBJECT OF COMPLAINT: [redacted] CASE NO: 2010 [redacted]

SUBJECT'S LICENSE NO: [redacted] BOARD: Medicine

PATIENT RECORD(S) REQUESTED: All Medical Records for patients E.V., R.J.M., S.G., S.V., M.S., V.H., A.Z., D.B., G.C., J.C., T.F.C., T.C., J.E., M.H., and R.M.M., including but not limited to all hospital and practitioner records from 01/01/2007 through 11/30/2010.

REASONABLE CAUSE STATEMENT: Possible violation of S.S. 458.331(q)(t) F.S. - Complainant alleges that Dr. [redacted] is prescribing large amounts of medication to Medicaid population. Patients who were treated by Dr. [redacted] paid for visits in cash. Attempts to obtain signed patient releases included Accurant searches and were met with negative results.

The undersigned requests that this matter be considered by the probable cause panel and the State Surgeon General or his/her designee for a determination as to whether reasonable cause exists to believe that:

- (X) the above referenced practitioner has excessively and/or inappropriately prescribed controlled substances as specified in Chapter 893 in violation of Chapter 456, Florida Statutes or of any professional practice act of a profession regulated under the Department.
- (X) the above referenced practitioner has practiced his/her profession below that level of care, skill and treatment required as defined by Chapter 456, Florida Statutes or of any professional practice act of a board regulated under the Department.
- () the above practitioner has made fraudulent representations in the practice of his/her profession as specified by 456.057(9)(a)3.
- () the above practitioner has inappropriately prescribed, overprescribed, or diverted controlled substance and the offense involves a pain management clinic; the department need not attempt to obtain a patient release pursuant to 456.057(9)(a)1.

I, [redacted] am a representative of the Department of Health and state that the reasonable cause statement and the supporting information is true and correct, to the best of my knowledge and belief.

Signature of Affiant

[redacted], 2011
Date Requested

STATE OF FLORIDA
COUNTY OF Leon

Before me, personally appeared [redacted] whose identity is known to me by Person
and who, acknowledges that his/her signature appears above. (type of identification)

Sworn to or affirmed by Affiant before me this [redacted] day of [redacted], 2011.

Notary Public - State of Florida

My commission expires: [redacted] 2013

Type or Print Name



This affidavit has been reviewed as to sufficiency and approved by:

Signature of Investigation Manager/Supervisor

on [redacted], 2011

REASONABLE CAUSE EXISTS

A finding of reasonable cause was made by the Probable Cause Panel (PCP) of the Board of Medicine on [redacted], 2011. PCP members present were: (printed names)

The attorney presenter at PCP was: (printed name) [redacted] (signature) [redacted]

Frank Farmer, Jr. M.D. The Department of Health hereby finds that reasonable cause exists.
Ana M. Viamonte-Ros, M.D., M.P.H., State Surgeon General
By Chief Attorney [redacted]

Date signed: [redacted]

Division of Medical Quality Assurance, Consumer Services Unit
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