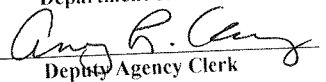


FILED DATE - **5-15-13**

Department of Health

By: 
Deputy Agency ClerkSTATE OF FLORIDA
DEPARTMENT OF HEALTH

IN RE: The Emergency Suspension of the License of
Konstantine K. Yankopolus, M.D.
License Number: ME 22595
Case Number 2013-02532

ORDER OF EMERGENCY SUSPENSION OF LICENSE

John H. Armstrong, MD, FACS, State Surgeon General and Secretary of Health, ORDERS the Emergency Suspension of the License of Konstantine K. Yankopolus, M.D., to practice as a physician in the State of Florida. Dr. Yankopolus holds license number ME 22595. His address of record is 3880 Colonial Boulevard, Suite 2, Fort Myers, Florida 33966. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Yankopolus' license to practice as a physician in the State of Florida.

INTRODUCTION

Between July 2009 and February 2013, Dr. Yankopolus treated four patients with controlled substances for the treatment of pain. The Department retained an independent medical expert to review Dr. Yankopolus' medical records for each of these four patients. The Department's expert opined that Dr. Yankopolus fell below the applicable

standard of care in his treatment of these four patients by: failing to perform complete physical examinations and prescribing controlled substances to patients without medical justification, among other things.

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 (2012). Section 456.073(8), Florida Statutes (2012), empowers the State Surgeon General to summarily suspend Dr. Yankopolus' license to practice as a physician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2012).

2. At all times material to this Order, Dr. Yankopolus was licensed to practice medicine in the State of Florida pursuant to Chapter 458, Florida Statutes (2012).

3. On March 19, 2012, the Department issued an Order of Emergency Restriction of License ("ERO") against Dr. Yankopolus' Florida medical license. The ERO restricted Dr. Yankopolus from providing, collaborating, facilitating, procuring, referring, or advising on any stem cell treatment, and from providing, collaborating, facilitating, procuring, referring, or advising on the injection, and/or infusion or transplantation or

introduction into the human body of any autologous materials, including stem cells. Dr. Yankopolus was hand-served the ERO on March 19, 2012.

Facts Specific to Patient A.Y.

4. Patient A.Y., then a 46 year old male, first presented to Dr. Yankopolus on July 13, 2009. A.Y. indicated that he suffered from "back injuries and high pain level" and was taking Xanax, oxycodone 30 mg, and Oxycontin 40 mg. A.Y. submitted some of his medical records from his previous treating physician, Dr. F.L. The medical record indicates that A.Y. changed physicians because the wait at Dr. F.L.'s office was too long and A.Y. did not want to receive injections.

5. A.Y.'s records from Dr. F.L. include a master medication sheet showing that Dr. F.L. recently prescribed 120 tablets of Oxycontin 40 mg, 30 tablets of Xanax 2 mg, and an unknown amount of oxycodone 30 mg tablets to A.Y. on June 9, 2009. The June 9th progress note indicates that Dr. F.L. diagnosed A.Y. with lumbar herniated nucleus pulposus with radiculitis, lumbago, anxiety disorder, and insomnia. A.Y. also submitted a lumbar spine series magnetic resonance imaging ("MRI") report dated September 14, 2007, to Dr. Yankopolus. The MRI report indicates that the lumbar vertebral bodies and posterior elements were intact, there was no

evidence of fracture or destructive lesion, the disc spaces were normal, there was no significant spurring, and there was minor levoscoliosis.

6. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2009), alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

7. Oxycontin is the brand name for oxycodone. Oxycodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2009), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

8. Dr. Yankopolus diagnosed A.Y. with lumbago, anxiety, lumbar herniated nucleus pulposus, tennis elbow, and cervicalgia. Dr. Yankopolus prescribed to A.Y. 120 tablets of Oxycontin 40 mg, 150 tablets of oxycodone 30 mg, 35 tablets of Xanax 2 mg, and 60 Flector Patches. Dr.

Yankopolus also referred A.Y. to obtain a MRI of his cervical spine and lumbar spine and an x-ray of his left elbow.

9. Flector Patches contain diclofenac, a nonsteroidal anti-inflammatory drug ("NSAID") that is used to treat pain caused by minor sprains, strains, or bruising. Flector Patches are legend drugs, but not controlled substances.

10. On July 17, 2009, A.Y. obtained an x-ray of his left elbow which showed no evidence of a fracture. On the same date, A.Y. obtained a MRI of his lumbar spine which showed a circumferential disc bulge with an annular tear at the L4-5 level, mild multilevel facet arthropathy, and multiple bilateral subcentimeter renal cysts. A.Y. also obtained a MRI of his cervical spine which showed mild multilevel facet arthropathy. The results of the x-ray and MRI's were provided to Dr. Yankopolus.

11. On August 7, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 150 tablets of oxycodone 30 mg, 120 tablets of Oxycontin 40 mg, and 30 tablets of Xanax 2 mg to A.Y. The Xanax prescription allowed two refills.

12. On September 3, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 150 tablets of oxycodone 30

mg, 120 tablets of Oxycontin 40 mg, and 30 tablets of Flexeril 10 mg to A.Y.

13. Flexeril is a muscle relaxant that is used to treat skeletal muscle conditions such as pain or injury. Flexeril is a legend drug, but not a controlled substance.

14. On October 1, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 120 tablets of Oxycontin 40 mg and 150 tablets of oxycodone 30 mg to A.Y.

15. On November 2, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen which was consistent with his prescribed medications. Dr. Yankopolus prescribed 120 tablets of Oxycontin 40 mg, 150 tablets of oxycodone 30 mg, and 30 tablets of Xanax 2 mg to A.Y. The Xanax prescription allowed two refills.

16. On November 30, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 120 tablets of Oxycontin 40 mg, 150 tablets of oxycodone 30 mg, 30 tablets of Flexeril 10 mg, and Voltaren Gel to A.Y.

17. Voltaren Gel contains diclofenac, an NSAID, and is used to treat joint pain in the hands, wrists, elbows, knees, ankles, or feet caused by osteoarthritis.

18. On December 29, 2009, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 150 tablets of oxycodone 30 mg and 120 tablets of Oxycontin 40 mg to A.Y.

19. On January 26, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg with two refills, 150 tablets of oxycodone 30 mg, and 120 tablets of Oxycontin 40 mg to A.Y. However, a note in the medical record indicates that A.Y. returned the Oxycontin prescription due to the cost of the medication. There is no indication in the medical record that Dr. Yankopolus prescribed an alternative medication to A.Y.

20. On February 25, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg to A.Y., indicating in the medical record that the quantity of the prescription would be increased due to A.Y.'s inability to afford Oxycontin.

21. On March 22, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg and 60 tablets of tizanidine 4 mg to A.Y.

22. Tizanidine is a short-acting muscle relaxer that is used to treat spasticity by temporarily relaxing muscle tone. Tizanidine is a legend drug, but not a controlled substance.

23. On April 20, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg and 30 tablets of Xanax 2 mg to A.Y. The Xanax prescription allowed three refills.

24. On May 18, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen which was consistent with his prescribed medications. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg to A.Y. and authorized A.Y. to refill a previous prescription for 30 tablets of Flexeril 10 mg.

25. On June 17, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg and 35 tablets of Soma 350 mg to A.Y.

26. Soma is the brand name for carisoprodol, a muscle relaxant commonly prescribed to treat muscular pain. According to Section 893.03(4), Florida Statutes (2009), carisoprodol is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of carisoprodol may lead to limited physical or psychological dependence relative to the substances in Schedule III.

27. On July 16, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg to A.Y.

28. On August 3, 2010, Dr. Yankopolus authorized A.Y. to refill a previous prescription for 30 tablets of Flexeril 10 mg.

29. On August 13, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg, 60 tablets of Soma 350 mg, and 240 tablets of oxycodone 30 mg to A.Y. The Xanax and Soma prescriptions allowed two refills each.

30. On September 9, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg to A.Y. On September 17, 2010, Dr. Yankopolus prescribed 90 tablets of

Flexeril 10 mg to A.Y. On September 20, 2010, Dr. Yankopolus authorized A.Y. to refill a previous prescription for 30 tablets of Flexeril 10 mg.

31. On October 5, 2010, and November 2, 2010, A.Y. presented for follow-up visits with Dr. Yankopolus. On each of these visits, Dr. Yankopolus prescribed 240 tablets of oxycodone 30 mg to A.Y.

32. On November 16, 2010, Dr. Yankopolus prescribed 120 tablets of Percocet 10/325 mg to A.Y. There is no indication in the medical record that A.Y. presented to Dr. Yankopolus for an evaluation on this date.

33. Percocet is the brand name for a drug that contains oxycodone and is prescribed to treat pain.

34. On December 7, 2010, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 112 tablets of Embeda 50 mg to A.Y.

35. Embeda contains a combination of morphine and naltrexone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2009), 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. Abuse of morphine may lead to severe psychological or physical dependence.

36. On January 4, 2011, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of Soma 350 mg, 90 tablets of Opana 40 mg, and 90 tablets of Dilaudid 8 mg to A.Y.

37. Opana is the brand name of a drug that contains oxymorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2009), oxymorphone 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 oxymorphone may lead to severe psychological or physical dependence.

38. Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2009), hydromorphone 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 hydromorphone may lead to severe psychological or physical dependence.

39. On February 1, 2011, A.Y. presented for a follow-up visit with Dr. Yankopolus. The medical record indicates that the Dilaudid prescription would be increased instead of also prescribing Opana. Dr. Yankopolus

prescribed 180 tablets of Dilaudid 8 mg and 60 tablets of Xanax 2 mg to A.Y.

40. On March 1, 2011, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen that was positive for the previously prescribed medications and positive for morphine, which Dr. Yankopolus did not prescribe to A.Y. during the previous visit. There is no indication in the medical record that Dr. Yankopolus counseled A.Y. on the discordant urine drug screen result. Dr. Yankopolus prescribed 180 tablets of Dilaudid 8 mg and 60 tablets of Xanax 2 mg to A.Y.

41. On March 29, 2011, and April 26, 2011, A.Y. presented for follow-up visits with Dr. Yankopolus. On each date, Dr. Yankopolus prescribed 180 tablets of Dilaudid 8 mg and 60 tablets of Xanax 2 mg to A.Y.

42. On May 24, 2011, A.Y. presented for a follow-up visit with Dr. Yankopolus. The medical record indicates that A.Y. borrowed his wife's Neurontin and reported that it helped his pain. There is no indication in the medical record that Dr. Yankopolus counseled A.Y. on using a medication which was prescribed to A.Y.'s wife. Dr. Yankopolus prescribed 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, and 90 tablets of Neurontin 300 mg to A.Y.

43. "MS IR" refers to immediate release morphine sulfate and is prescribed to treat pain.

44. Neurontin is an anti-epileptic or anticonvulsant medication that is used to treat seizures and is also used to treat nerve pain caused by the herpes virus or shingles. Neurontin is a legend drug, but not a controlled substance.

45. On June 21, 2011, A.Y. presented for a follow-up visit with Dr. Yankopolus. A note in the medical record indicates that A.Y. asked to be prescribed Oxycontin again. Dr. Yankopolus prescribed 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, 120 tablets of Oxycontin 40 mg, and 90 tablets of Neurontin 300 mg to A.Y.

46. A.Y. presented for follow-up visits with Dr. Yankopolus on July 19, 2011; August 16, 2011; September 13, 2011; and October 11, 2011. During each of these visits, Dr. Yankopolus prescribed 180 tablets of MS IR 30 mg, 60 tablets of Xanax 2 mg, and 120 tablets of Oxycontin 40 mg to A.Y. In October 2011, Dr. Yankopolus referred A.Y. to physical therapy for the pain in his back and legs.

47. On November 4, 2011, and December 6, 2011, A.Y. presented for follow-up visits with Dr. Yankopolus. During each of these visits, Dr.

Yankopolus prescribed 180 tablets of MS IR 30 mg, 60 tablets of Xanax 2 mg, and 60 tablets of Oxycontin 80 mg to A.Y.

48. On January 3, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 60 tablets of Xanax 2 mg, and 180 tablets of MS IR 15 mg to A.Y.

49. On January 31, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 60 tablets of Xanax 2 mg, 30 tablets of trazodone 100 mg, and 180 tablets of MS IR 15 mg to A.Y.

50. Trazodone is an antidepressant medication and is used to treat depression, as well as for the relief of anxiety disorders and chronic pain. Trazodone is a legend drug, but not a controlled substance.

51. On February 28, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 60 tablets of Xanax 2 mg, 30 tablets of trazodone 100 mg, and 180 tablets of MS IR 15 mg to A.Y.

52. On March 27, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen which was positive for all of the previously prescribed medications except Oxycontin. There is no

indication in the medical record that Dr. Yankopolus counseled A.Y. on the discordant urine drug screen result or the possibility that A.Y. was misusing or diverting his medication. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 60 tablets of Xanax 2 mg, 30 tablets of trazodone 100 mg, and 180 tablets of MS IR 15 mg to A.Y.

53. On April 24, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. indicated that he hurt his back while lifting heavy objects earlier in the week. Dr. Yankopolus referred A.Y. for an MRI of his low back. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, and 30 tablets of trazodone 100 mg to A.Y.

54. On May 22, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. The medical record indicates that Dr. Yankopolus again referred A.Y. for an MRI. Dr. Yankopolus prescribed 60 tablets of Xanax 2 mg and 30 tablets of trazodone 100 mg to A.Y. Dr. Yankopolus also gave A.Y. prescriptions, dated May 22, 2012, for 60 tablets of Oxycontin 80 mg and 180 tablets of MS IR 15 mg with notes indicating that the prescriptions could not be filled until May 28, 2012.

55. On June 19, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. There is no indication in the medical record that A.Y. had the MRI Dr. Yankopolus previously referred for him. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, and 30 tablets of trazodone 100 mg to A.Y.

56. On July 17, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. A note on the medical record indicates that A.Y. needs an MRI and should consider back surgery. Dr. Yankopolus prescribed 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, 60 tablets of Oxycontin 80 mg, and 30 tablets of Topamax 50 mg to A.Y.

57. Topamax is a seizure medication or anticonvulsant. Topamax is used to treat seizures and to prevent migraine headaches. Topamax is a legend drug, but not a controlled substance.

58. A.Y. presented for follow-up visits with Dr. Yankopolus on August 14, 2012,; September 11, 2012; and October 9, 2012. During each of these visits, Dr. Yankopolus prescribed 180 tablets of MS IR 15 mg, 60 tablets of Xanax 2 mg, 60 tablets of Oxycontin 80 mg, and 30 tablets of trazodone 100 mg to A.Y.

59. On December 4, 2012, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen which was negative for all medications and drugs, despite A.Y. receiving prescriptions at his previous visit with Dr. Yankopolus. There is no indication in the medical record that Dr. Yankopolus counseled A.Y. on the discordant urine drug screen results or the possibility that A.Y. was misusing or diverting his medications. Dr. Yankopolus prescribed 60 tablets of Xanax 2 mg, 180 tablets of MS IR 15 mg, 30 tablets of trazodone 100 mg, and 60 tablets of Oxycontin 80 mg to A.Y. Dr. Yankopolus also gave A.Y. four additional prescriptions, dated December 4, 2012, for 60 tablets of Xanax 2 mg, 180 tablets of MS IR 15 mg, 30 tablets of trazodone 100 mg, and 60 tablets of Oxycontin 80 mg, with notations that the prescriptions could not be filled until January 2, 2013.

60. On February 4, 2013, A.Y. presented for a follow-up visit with Dr. Yankopolus. A.Y. submitted to a urine drug screen which returned positive for benzodiazepines, marijuana, and opiates. The drug screen returned negative for all other medications and drugs. There is no indication in the medical record that Dr. Yankopolus counseled A.Y. on the discordant urine drug screen results, A.Y.'s use of illegal substances, or the possibility that

A.Y. was misusing or diverting his medications. Dr. Yankopolus prescribed 60 tablets of Oxycontin 80 mg, 180 tablets of MS IR 15 mg, 30 tablets of trazodone 100 mg, and 60 tablets of Xanax 2 mg to A.Y.

61. Tetrahydrocannabinols ("THC") are the psychoactive ingredients in marijuana or cannabis. According to Section 893.03(1), Florida Statutes (2009-2012), 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. Its use under medical supervision does not meet accepted safety standards.

62. Opiate, or opioid, drugs have similar actions as the drug opium and are typically prescribed to treat pain. While opioid drugs are synthetically manufactured and opiate drugs are naturally occurring, the terms "opioid" and "opiate" often are used interchangeably. Opiate drugs are addictive and subject to abuse.

63. The Department retained Dr. E.D., M.D., a physician who specializes in the treatment of chronic musculoskeletal painful conditions and is a Diplomate of the American Academy of Pain Management, to review Dr. Yankopolus' medical records for A.Y. In Dr. E.D.'s opinion, Dr. Yankopolus fell below the minimum standard of care in his treatment of

A.Y. by performing rudimentary and incomplete physical examinations of A.Y.; obtaining a rudimentary and incomplete history for A.Y.; failing to try other modalities of therapy, such as physical therapy or NSAID, before prescribing controlled substances to A.Y.; failing to state the objectives he would use to determine the success of his treatment of A.Y.; failing to prevent drug abuse and diversion with routine urine drug screens or pill counts; failing to perform a point of care urine drug screen prior to prescribing A.Y. a large amount of controlled substances at the first visit; and failing to consult with specialists such as neurosurgeons, spine surgeons, or orthopedic pain specialists regarding the treatment of A.Y. Dr. Yankopolus' medical records for A.Y. do not contain medical justification for the controlled substances prescribed by Dr. Yankopolus to A.Y. Dr. Yankopolus did not refer A.Y. to an addictionologist despite the discordant urine drug screen results. Dr. E.D. also opined that Dr. Yankopolus failed to maintain complete and legible medical records for A.Y.

Facts Specific to Patient B.R.

64. Patient B.R., then a 49 year old female, first presented to Dr. Yankopolus on December 27, 2010. B.R. indicated that the main reason for her visit was to address pain she was experiencing due to a 1988 motor

vehicle accident in which she was involved. B.R. provided Dr. Yankopolus with a MRI report of her lumbar spine dated March 6, 2009, which showed multilevel degenerative disc and joint disease of the lumbar spine, and a small central disc annular tear at the posterior disc margin of the L5-S1 level.

65. B.R. indicated that she was taking oxycodone and that on a scale from 1 to 10 with 10 being the highest, her pain level was a three or four with medication and a seven or eight without medication. B.R. provided Dr. Yankopolus with a prescription history showing that on September 9 and 10, 2010, she filled prescriptions for 30 tablets of diazepam 10 mg, 30 tablets of meloxicam 15 mg, 200 tablets of oxycodone 30 mg, 90 tablets of methadone 10 mg, 24 tablets of naproxen 220 mg, and 100 tablets of aspirin 81 mg. These prescriptions were written by two different physicians.

66. Diazepam, commonly known by the brand name Valium, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2010), diazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of

diazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

67. Meloxicam is an NSAID that is used to treat pain or inflammation caused by osteoarthritis or rheumatoid arthritis. Meloxicam is a legend drug, but not a controlled substance.

68. Methadone is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010), methadone 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 methadone may lead to severe psychological or physical dependence.

69. Naproxen is an NSAID that is used to treat pain or inflammation caused by conditions such as arthritis, anklosing spondylitis, tendinitis, bursitis, gout, or menstrual cramps. Naproxen is a legend drug, but not a controlled substance.

70. Aspirin is in a group of drugs called salicylates that are used to reduce substances in the body that cause pain, fever, and inflammation. Depending on the dosage, aspirin can be obtained with or without a prescription. Aspirin is not a controlled substance.

71. During her initial visit, B.R. submitted to a urine drug screen which returned positive for opiates and oxycodone but negative for all other medications and drugs. There is no indication in the medical record that Dr. Yankopolus counseled B.R. on the discordant urine drug screen results in light of the medications she was prescribed the previous month. Dr. Yankopolus diagnosed B.R. with lumbago and thoracic pain and recommended she obtain another MRI. Dr. Yankopolus prescribed 30 tablets of Valium 10 mg, 30 tablets of Mobic 15 mg, and 210 tablets of oxycodone 30 mg to B.R.

72. Mobic is the brand name for meloxicam.

73. On January 24, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed to B.R. 210 tablets of oxycodone 30 mg and 30 tablets of Valium 10 mg.

74. On February 21, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. B.R. submitted to a urine drug screen which was consistent with the medications Dr. Yankopolus prescribed her during her previous visit. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg, 30 tablets of Mobic 15 mg, and 30 tablets of Valium 10 mg to B.R.

75. On March 21, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg, 30 tablets of Mobic 15 mg, and 30 tablets of Valium 10 mg to B.R.

76. On April 18, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg to B.R.

77. On May 16, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. There is a notation in the medical record that B.R. indicated that she would fax her MRI or x-ray to Dr. Yankopolus. However, B.R.'s medical record does not contain any MRI or x-ray reports that were provided to Dr. Yankopolus after the date of this visit. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg to B.R.

78. B.R. presented for follow-up visits with Dr. Yankopolus on June 13, 2011; July 11, 2011; and August 8, 2011. During each of these visits, Dr. Yankopolus prescribed 30 tablets of Valium 10 mg, 20 tablets of Mobic 15 mg, and 210 tablets of oxycodone 30 mg to B.R. Also, during the visit on August 8, 2011, Dr. Yankopolus gave B.R. an additional prescription dated August 8, 2011, for 210 tablets of oxycodone 30 mg with a note that the prescription could be filled on September 5, 2011.

79. On October 3, 2011, and October 31, 2011, B.R. presented for follow-up visits with Dr. Yankopolus. On each date, Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg, 30 tablets of Valium 10 mg, and 30 tablets of Mobic 15 mg to B.R.

80. On November 28, 2011, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg, 30 tablets of Valium 10 mg, and 30 tablets of Mobic 15 mg to B.R. Dr. Yankopolus also gave B.R. additional prescriptions, dated November 28, 2011, for 210 tablets of oxycodone 30 mg, 30 tablets of Valium 10 mg, and 30 tablets of Mobic 15 mg, with a note on each prescription indicating that the prescription could be filled on December 26, 2011.

81. On January 23, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg, 30 tablets of Valium 10 mg, and 100 tablets of oxycodone 30 mg to B.R. Dr. Yankopolus also gave B.R. an additional prescription, dated January 23, 2012, for 110 tablets of oxycodone 30 mg with a note indicating that the prescription could not be filled until February 8, 2012.

82. On February 20, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg, 30

tablets of Valium 10 mg, and 100 tablets of oxycodone 30 mg to B.R. Dr. Yankopolus also gave B.R. an additional prescription, dated February 20, 2012, for 110 tablets of oxycodone 30 mg with a note indicating that the prescription could not be filled until March 7, 2012.

83. On March 19, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. B.R. submitted to a urine drug screen which was positive for oxycodone, but negative for Valium even though Dr. Yankopolus prescribed Valium to B.R. during the previous visit. There is no indication in the medical record that Dr. Yankopolus counseled B.R. on the discordant urine drug screen results or the possibility that she was misusing or diverting her medications. Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg, 30 tablets of Valium 10 mg, and 100 tablets of oxycodone 30 mg to B.R. Dr. Yankopolus also gave B.R. an additional prescription, dated March 19, 2012, for 110 tablets of oxycodone 30 mg with a note that the prescription could be filled on April 4, 2012.

84. On April 16, 2012, and May 21, 2012, B.R. presented for follow-up visits with Dr. Yankopolus. On each date, Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg, 30 tablets of Valium 10 mg, and 210 tablets of oxycodone 30 mg to B.R.

85. On July 11, 2012, and August 8, 2012, B.R. presented for follow-up visits with Dr. Yankopolus. On each date, Dr. Yankopolus prescribed 30 tablets of Valium 10 mg and 210 tablets of oxycodone 30 mg to B.R.

86. On September 5, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg, 30 tablets of Valium 10 mg, and 210 tablets of oxycodone 30 mg to B.R.

87. On October 9, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Mobic 15 mg and 60 tablets of ibuprofen 800 mg to B.R. Dr. Yankopolus also gave B.R. prescriptions for 210 tablets of oxycodone 30 mg and 30 tablets of Valium 10 mg that were dated October 8, 2012.

88. Ibuprofen is an NSAID that is used to reduce fever and treat pain or inflammation. Depending upon the dosage, ibuprofen can be obtained with or without a prescription. Ibuprofen is not a controlled substance.

89. On November 6, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. B.R. submitted to a urine drug screen which was positive for oxycodone, but negative for Valium even though Dr. Yankopolus prescribed Valium to B.R. during the previous visit. There is no indication in the medical record that Dr. Yankopolus counseled B.R. regarding the

discordant urine drug screen results or the possibility that B.R. was misusing or diverting her medications. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg and 30 tablets of Valium 10 mg to B.R.

90. On December 4, 2012, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg and 30 tablets of Valium 10 mg to B.R. Dr. Yankopolus also gave B.R. two additional prescriptions totaling 210 tablets of oxycodone 30 mg which were dated December 4, 2012, but had a note that the prescriptions could not be filled until January 2, 2013. Dr. Yankopolus also gave B.R. a prescription, dated December 19, 2012, for 220 tablets of oxycodone 15 mg. There is no indication in the medical record that B.R. presented to Dr. Yankopolus for an evaluation on December 19, 2012.

91. On February 4, 2013, B.R. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 210 tablets of oxycodone 30 mg, 30 tablets of Valium 10 mg, 60 tablets of ibuprofen 800 mg, and 30 tablets of Mobic 15 mg to B.R.

92. The Department retained Dr. E.D., M.D., a physician who specializes in the treatment of chronic musculoskeletal painful conditions and is a Diplomate of the American Academy of Pain Management, to

review Dr. Yankopolus' treatment of B.R. Dr. E.D. opined that Dr. Yankopolus fell below the minimum standard of care in his treatment of B.R. by performing rudimentary and incomplete physical examinations of B.R.; obtaining a rudimentary and incomplete history for B.R.; failing to try other modalities of therapy, such as a lumbar facet block or epidural steroid injections, before prescribing controlled substances to B.R.; failing to state the objectives he would use to determine the success of his treatment of B.R.; failing to prevent drug abuse and diversion with routine urine drug screens or pill counts; and failing to consult with specialists such as neurosurgeons, spine surgeons, or interventional pain specialists regarding the treatment of B.R. Dr. Yankopolus' medical records for B.R. do not contain medical justification for the controlled substances he prescribed to B.R. Dr. Yankopolus did not refer B.R. to an addictionologist despite the discordant urine drug screen results. Dr. E.D. also opined that Dr. Yankopolus failed to maintain complete and legible medical records for B.R.

Facts Specific to Patient J.J.

93. Patient J.J., then a 20 year old female, first presented to Dr. Yankopolus on October 28, 2010, complaining of joint pain, low back pain, and a bulging disc with sharp pain through her legs. J.J. indicated that she

was involved in a motor vehicle accident the previous year and that she works on a farm which requires lifting. J.J. provided Dr. Yankopolus with a lumbar spine MRI report dated October 25, 2010. The findings of the report were benign. J.J. indicated that she was taking Percocet 10 mg as needed for pain and 1 Xanax 0.25 mg per day for anxiety.

94. J.J. submitted her prescription profile which revealed that she filled prescriptions for lorazepam 0.5mg, alprazolam 0.25 mg, and oxycodone/APAP 10/325 mg in July 2010. There is no indication in Dr. Yankopolus' medical record for J.J. that he prescribed Percocet or Xanax to her since July 2010.

95. Oxycodone/APAP contains oxycodone and acetaminophen, or Tylenol, and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

96. Lorazepam is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2010), lorazepam 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 lorazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

97. J.J. submitted to a urine drug screen which was positive for amphetamine, cocaine, marijuana, opiates, and oxycodone. Her medical record does not indicate that Dr. Yankopolus counseled J.J. on the discordant drug screen results or her use of illegal substances.

98. According to Section 893.03(2), Florida Statutes (2010), amphetamine 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 amphetamine may lead to severe psychological or physical dependence.

99. According to Section 893.03(2), Florida Statutes (2010), cocaine 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 cocaine may lead to severe psychological or physical dependence.

100. The medical record from J.J.'s October 28, 2010, visit indicates that Dr. Yankopolus deferred examining J.J. However, Dr. Yankopolus

prescribed 15 tablets of Xanax 2 mg and 90 tablets of oxycodone 30 mg to J.J.

101. On November 23, 2010, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. indicated that on a scale from one to ten with ten being the highest, her pain level with medication was a four. Dr. Yankopolus diagnosed J.J. with lumbago and lumbar disc syndrome. Dr. Yankopolus prescribed to J.J. 45 tablets of oxycodone 15 mg, 90 tablets of oxycodone 30 mg, and 15 tablets of Xanax 2 mg.

102. On December 17, 2010, J.J. presented for a follow-up visit with Dr. Yankopolus and told him that she was able to work. She also stated that her pain level with medication was a three. Dr. Yankopolus prescribed 45 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, and 45 tablets of Xanax 2 mg to J.J.

103. On January 14, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. indicated that her pain level with medication was a three. Dr. Yankopolus prescribed 60 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, and 60 tablets of Xanax 2 mg to J.J.

104. On February 1, 2011, J.J. submitted to a urine drug screen which was positive for opiates, oxycodone, and benzodiazepines. There is no

indication in the medical record that Dr. Yankopolus counseled J.J. on the discordant drug screen results.

105. On February 11, 2011, and March 11, 2011, J.J. presented for follow-up visits with Dr. Yankopolus. During each of these visits, Dr. Yankopolus prescribed 60 tablets of oxycodone 15 mg and 120 tablets of oxycodone 30 mg to J.J.

106. On May 25, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg, 30 tablets of Cymbalta 30 mg, 120 tablets of oxycodone 30 mg, and 60 tablets of oxycodone 15 mg to J.J.

107. Cymbalta is a selective serotonin and norepinephrine reuptake inhibitor antidepressant. Cymbalta is used to treat major depressive disorder and general anxiety disorder, and to treat pain caused by nerve damage in people with diabetes. Cymbalta is a legend drug, not a controlled substance.

108. On June 23, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg, 60 tablets of oxycodone 15 mg, 30 tablets of Xanax 2 mg, and 60 tablets of ibuprofen 800 mg to J.J.

109. On July 21, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg, 90 tablets of oxycodone 15 mg, 30 tablets of Xanax 2 mg, and 60 tablets of phentermine 37.5 mg to J.J.

110. Phentermine is a stimulant commonly prescribed to assist with weight loss. According to Section 893.03(4), Florida Statutes (2010), phentermine 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 phentermine may lead to limited physical or psychological dependence relative to the substance in Schedule III.

111. On August 17, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. A note at the bottom of the evaluation form indicates that Dr. Yankopolus referred J.J. to receive back injections. Dr. Yankopolus prescribed 60 tablets of phentermine 37.5 mg, 30 tablets of Xanax 2 mg, 120 tablets of oxycodone 30 mg, and 90 tablets of oxycodone 15 mg to J.J. Dr. Yankopolus also gave J.J. an additional prescription, dated August 19, 2011, for 12 tablets of Dilaudid 4 mg.

112. On September 14, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. stated that the injections she received in her back were not helping her pain. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg, 90 tablets of oxycodone 15 mg, and 120 tablets of oxycodone 30 mg to J.J.

113. On October 13, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. The medical record includes a note that J.J. needed "one extra week due to vacation." Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg and 30 tablets of Xanax 2 mg to J.J. Two additional prescriptions, one for 111 tablets of oxycodone 15 mg and one for 28 tablets of oxycodone 30 mg, include notations that J.J. did not fill these prescriptions.

114. On November 1, 2011, Dr. Yankopolus' office received a telephone call from a physician assistant at an urgent care clinic in Naples, Florida, stating that J.J. came to the clinic with multiple track marks on J.J.'s arm. The physician assistant stated that J.J. was acting "dopy" and "out of it", admitted to being addicted to medications, and wanted to get off of her medications.

115. On November 10, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. The medical record includes a notation that there is

suspicion regarding track marks. J.J.'s medical record does not contain any indication that Dr. Yankopolus requested a consultation with an addiction specialist, performed a urine drug screen on J.J., or counseled J.J. on the possibility that she was misusing her medications. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg, 90 tablets of oxycodone 15 mg, and 120 tablets of oxycodone 30 mg to J.J.

116. On December 8, 2011, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg, 90 tablets of oxycodone 15 mg, and 120 tablets of oxycodone 30 mg to J.J.

117. On January 5, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 90 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, 60 tablets of Xanax 2 mg, and 60 tablets of MS ER 15 mg to J.J.

118. MS ER refers to morphine sulfate extended release and is prescribed to treat pain.

119. On February 2, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. The medical record indicates that J.J. should consider "PT" (likely referring to physical therapy) and should get a MRI of her thoracic and lumbar spine. Dr. Yankopolus prescribed 30 tablets of Xanax 2 mg,

120 tablets of oxycodone 30 mg, and 90 tablets of oxycodone 15 mg to J.J..

120. On March 1, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. There is no indication in the medical record that J.J. obtained an MRI of her thoracic and lumbar spine as recommended at the previous visit. Dr. Yankopolus prescribed 90 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, and 30 tablets of Xanax 2mg to J.J.

121. On March 29, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 90 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, and 30 tablets of Xanax 2mg to J.J.

122. On April 26, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. submitted to a urine drug screen which was positive for the medication she was prescribed by Dr. Yankopolus the previous month and positive for amphetamines and morphine. There is no indication in the medical record that Dr. Yankopolus counseled J.J. on the discordant results. Dr. Yankopolus prescribed 90 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, 60 tablets of phentermine 37.5 mg, and 30 tablets of Xanax 2mg to J.J.

123. On May 24, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of ibuprofen 800 mg, 90 tablets of oxycodone 15 mg, 30 tablets of Xanax 2 mg, 30 tablets of Soma 350 mg, and 108 tablets of oxycodone 30 mg to J.J.

124. On June 7, 2012, Dr. Yankopolus prescribed 78 tablets of Dilaudid 4 mg to J.J. There is no indication in the medical record that J.J. presented for an evaluation on this date.

125. On June 21, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 30 tablets of Soma 350 mg, 120 tablets of oxycodone 30 mg, 60 tablets of ibuprofen 800 mg, 90 tablets of oxycodone 15 mg, and 30 tablets of Xanax 2 mg to J.J.

126. On July 19, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. The medical record indicates that J.J. reported that she previously used Suboxone and Ritalin, yet there is no indication in the medical record that Dr. Yankopolus consulted with J.J.'s previous physicians about the use of these medications or that Dr. Yankopolus confirmed with J.J.'s pharmacy that she was prescribed these medications. Dr. Yankopolus prescribed 60 tablets of ibuprofen 800 mg, 30 tablets of Adderall 20 mg, 120 tablets of oxycodone 30 mg, 30 tablets of Xanax 2

mg, 30 tablets of Soma 350 mg, and 90 tablets of oxycodone 15 mg to J.J. Dr. Yankopolus also gave J.J. four additional prescriptions, dated July 19, 2012, for 30 tablets of Soma 350 mg, 120 tablets of oxycodone 30 mg, 90 tablets of oxycodone 15 mg, and 30 tablets of Xanax 2 mg, with notations indicating that the prescriptions could not be filled until August 16, 2012.

127. Ritalin is the brand name for the drug methylphenidate, commonly prescribed to treat attention deficit disorder. According to Section 893.03(2), Florida Statutes (2010), methylphenidate 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 methylphenidate may lead to severe psychological or physical dependence.

128. Suboxone contains buprenorphine and is prescribed to treat pain. According to Section 893.03(5), Florida Statutes (2010), buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States. Abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

129. Adderall is the brand name of a drug that contains amphetamine, commonly prescribed to treat attention deficit disorder.

130. A note in Dr. Yankopolus' medical record for J.J. indicates that J.J. altered the Xanax prescription issued on July 19, 2012, and that the alteration needed to be discussed. There is no indication in the record that Dr. Yankopolus ever discussed the alteration with J.J.

131. On August 2, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. Despite the additional prescriptions given to J.J. at her previous visit, Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg, 30 tablets of Soma 350 mg, 30 tablets of Xanax 2 mg, and 90 tablets of oxycodone 15 mg to J.J.

132. A notation in Dr. Yankopolus' medical record for J.J. indicates that J.J. did not present for her appointments on August 30, 2012, or on September 13, 2012.

133. On November 19, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. submitted to a urine drug screen which was positive for opiate, oxycodone, and benzodiazepine. There is no indication in the medical record that Dr. Yankopolus counseled J.J. regarding the urine drug screen results in light of the fact that J.J. did not present to Dr. Yankopolus

for treatment since August 2012. Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg, 30 tablets of Soma 350 mg, 60 tablets of ibuprofen 800 mg, 90 tablets of oxycodone 15 mg, and 30 Xanax tablets of 2 mg to J.J.

134. On November 28, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus complaining of depression and anxiety. The medical record indicates that J.J. requested Adderall to help her stay focused at work and that the last time it was prescribed to her was June 2012. Dr. Yankopolus diagnosed J.J. with anxiety and Attention Deficit Hyperactivity Disorder ("ADHD") and prescribed 30 tablets of Adderall 20 mg.

135. On December 17, 2012, J.J. presented for a follow-up visit with Dr. Yankopolus. J.J. submitted to a urine drug screen which was positive for amphetamine, benzodiazepine, opiate, and oxycodone. There is no indication in the medical record that Dr. Yankopolus counseled J.J. regarding the results of the urine drug screen. Dr. Yankopolus recommended that J.J. consider taking Suboxone and have an MRI taken of her lumbar and thoracic spine. Dr. Yankopolus prescribed 120 tablets of oxycodone 30 mg, 90 tablets of oxycodone 15 mg, 30 tablets of Xanax 2 mg, 30 tablets of Soma, and 30 tablets of Adderall 20 mg to J.J.

136. On January 17, 2013, J.J. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus informed J.J. that she needed to obtain another MRI. Dr. Yankopolus prescribed 90 tablets of oxycodone 15 mg, 120 tablets of oxycodone 30 mg, 30 tablets of Xanax 2 mg, 30 tablets of Adderall 20 mg, and 30 tablets of Soma 350 mg to J.J.

137. The Department retained Dr. E.D., M.D., a physician who specializes in the treatment of chronic musculoskeletal painful conditions and is a Diplomate of the American Academy of Pain Management, to review Dr. Yankopolus' medical records for J.J. Dr. E.D. opined that Dr. Yankopolus fell below the minimum standard of care in treating J.J. by performing rudimentary, incomplete, and inadequate physical examinations of J.J.; obtaining a rudimentary, incomplete, and inadequate history for J.J.; failing to try other modalities of therapy before prescribing controlled substances to J.J.; failing to state the objectives he would use to determine the success of his treatment of J.J.; failing to prevent drug abuse and diversion with routine urine drug screens or pill counts; and failing to consult with an addiction specialist despite J.J.'s discordant urine drug screen results, including positive results for illegal substances, and being informed by another clinic that J.J. had track marks on her arms. Dr.

Yankopolus' medical records for J.J. do not contain medical justification for the controlled substances prescribed to J.J. by Dr. Yankopolus. Dr. E.D. also opined that Dr. Yankopolus failed to maintain complete and legible medical records for J.J.

Facts Specific to Patient D.S.

138. Patient D.S., then a 30 year old female, first presented to Dr. Yankopolus on July 26, 2011, for pain management. D.S. indicated that she had surgery on her feet following a motor vehicle accident in February 2011, and that she was taking Tylenol three to four times per day, Aspirin three to four times per day, hydrocodone 7.5 mg every four to six hours, oxycodone 5 mg and 15 mg every four to six hours, and Xanax three times per month. D.S. stated that on a scale from one to ten with ten being the highest, her pain level with medication was seven and without medication was eight or nine.

139. Tylenol is the brand name for acetaminophen and is a pain reliever and fever reducer. Depending on the dosage, acetaminophen can be obtained with or without a prescription. Acetaminophen is not a controlled substance.

140. Hydrocodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2011), hydrocodone 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 hydrocodone may lead to severe psychological or physical dependence.

141. D.S. provided Dr. Yankopolus with her pharmacy profile for March 2011 through July 2011, which showed a history of prescriptions for Oxycontin, oxycodone/APAP, oxycodone, and hydrocodone/APAP. The profile did not include any prescriptions for Xanax, even though D.S. reported that she was taking Xanax two to three times per month. The profile showed that D.S. recently filled a prescription for 42 tablets of hydrocodone/APAP 7.5/325 mg, representing a ten day supply, on July 11, 2011. The profile showed that D.S. had not filled a prescription for oxycodone/APAP since April 28, 2011, despite D.S. reporting that she was taking oxycodone every four to six hours.

142. Hydrocodone/APAP contains hydrocodone and acetaminophen, or Tylenol, and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2011), hydrocodone, in the dosages found in

hydrocodone/APAP is a schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States.

143. During her first visit with Dr. Yankopolus, D.S. submitted to a urine drug screen which was positive for opiates and oxycodone, and negative for all other substances. These results are inconsistent with the medications most recently prescribed to D.S. because D.S. did not have a current prescription for oxycodone and, therefore, should not have tested positive for oxycodone. There is no indication in the medical record that Dr. Yankopolus counseled D.S. on the discordant urine drug screen results.

144. D.S. also submitted multiple post-operative x-ray reports on her foot and ankle dated between March 14, 2011, and June 27, 2011. The x-ray reports indicate that D.S.'s injuries from the car accident healed following surgery.

145. On July 26, 2011, Dr. Yankopolus performed a rudimentary examination of D.S. In his notes, Dr. Yankopolus indicates that D.S. was taking three to four Vicodin tablets at a time but was still experiencing pain. There is no indication in D.S.'s pharmacy profile that she was prescribed Vicodin. Dr. Yankopolus diagnosed D.S. with reflex sympathetic

dystrophy ("RDS") in her left ankle and prescribed four Butrans 10 mcg, 30 Cymbalta 60 mg, and 90 oxycodone 30 mg to D.S. There is no evidence in Dr. Yankopolus' report of his evaluation of D.S. of any signs or symptoms of RDS.

146. Vicodin contains hydrocodone and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2011), hydrocodone, in the dosages found in Vicodin, is a Schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

147. Butrans is the brand name of a drug that contains buprenorphine and is used to treat pain. According to Section 893.03(5), Florida Statutes (2011), buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States. Abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substance in Schedule IV.

148. D.S. returned for a follow-up visit with Dr. Yankopolus on August 23, 2011. The medical record indicates that D.S.'s pain level with medication was a three out of ten and that she had no new symptoms. Dr. Yankopolus prescribed to D.S. four tablets of Butrans 10 mcg, 30 tablets of Cymbalta 60 mg, and 120 tablets of oxycodone 30 mg. There is no justification in the medical record for the increased supply of oxycodone, particularly since the patient reported that her pain level with medication at the time of the visit was a three out of ten.

149. D.S. returned for follow-up visits with Dr. Yankopolus on September 20, 2011, and October 17, 2011. On both dates, Dr. Yankopolus prescribed to D.S. 120 tablets of oxycodone 30 mg.

150. On November 15, 2011, D.S. presented for a follow-up visit with Dr. Yankopolus. D.S. submitted a CT scan report on her left ankle dated November 10, 2011, which showed the healed fracture and secondary degenerative change. D.S. reported that her pain level with medication was a six out of ten and without medication a ten out of ten. Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg to D.S. The medical record for this visit also includes a notation about stem cells with R.G., a licensed physician in Florida.

151. On December 13, 2011, D.S. presented for a follow-up visit with Dr. Yankopolus. D.S. reported no new symptoms and that her pain level was a six out of ten with medication and a ten out of ten without medication. Dr. Yankopolus prescribed to D.S. 180 tablets of oxycodone 30 mg. The medical record also includes a notation about seeing R.G. regarding stem cells.

152. On January 10, 2012, D.S. presented for a follow-up visit with Dr. Yankopolus. D.S. reported that her left foot hurt worse at the end of the day and that her left ankle was weak. She also reported that her pain level with medication was a two or three out of ten and a six or nine out of ten without medication. Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 30 mg to D.S. Dr. Yankopolus also wrote a prescription to D.S. for "P.T." (likely referring to physical therapy) for her left foot and ankle; however, neither the prescription nor the medical record for the visit contains the name of a medical provider or a list of exercises to be performed.

153. D.S. presented for follow-up visits with Dr. Yankopolus on February 7, 2012; March 6, 2012; and April 3, 2012. During each of these

visits, Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 30 mg to D.S.

154. On April 30, 2012, D.S. presented for a follow-up visit with Dr. Yankopolus. D.S. submitted to a urine drug screen which was positive for morphine and oxycodone. This result was consistent with the medication she was prescribed during the previous visit. There is a notation at the bottom of the medical record for this visit indicating that D.S. should consider stem cells and should see R.G. Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 30 mg to D.S. Dr. Yankopolus also gave D.S. two additional prescriptions, dated April 30, 2012, for 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 30 mg with notations that the prescriptions could be filled on May 29, 2012. It is unclear whether D.S. presented to Dr. Yankopolus on May 29, 2012, for an evaluation.

155. On June 25, 2012, and July 23, 2012, D.S. presented for follow-up visits with Dr. Yankopolus. On each date, Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 30 mg to D.S.

156. On August 20, 2012, D.S. presented for a follow-up visit with Dr. Yankopolus. D.S. reported no new symptoms, but stated that her left ankle

was waking her up at night. Dr. Yankopolus prescribed to D.S. 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 60 mg.

157. D.S. presented for follow-up visits with Dr. Yankopolus on September 17, 2012; October 15, 2012; and November 12, 2012. During each of these visits, Dr. Yankopolus prescribed 180 tablets of oxycodone 30 mg and 60 tablets of MS ER 60 mg to D.S. On November 12, 2012, D.S. submitted to a urine drug screen which was positive for oxycodone and morphine as prescribed.

158. On December 10, 2012, D.S. presented for a follow-up visit with Dr. Yankopolus. Dr. Yankopolus prescribed 60 tablets of Oxycontin 40 mg and 180 tablets of oxycodone 30 mg to D.S. A notation in the record for the visit indicates that Oxycontin was being prescribed because D.S. was unable to find MS ER.

159. On January 7, 2013, and February 4, 2013, D.S. presented for follow-up visits with Dr. Yankopolus. During each of these visits, Dr. Yankopolus prescribed 60 tablets of Oxycontin 40 mg and 180 tablets of oxycodone 30 mg to D.S.

160. The Department retained Dr. E.D., M.D., a physician who specializes in the treatment of chronic musculoskeletal painful conditions

and is a Diplomate of the American Academy of Pain Management, to review Dr. Yankopolus' medical records for D.S. Dr. E.D. opined that Dr. Yankopolus fell below the minimum standard of care in his treatment of D.S. by performing rudimentary and incomplete physical examinations of D.S.; failing to establish the diagnosis of RSD as the cause of D.S.'s pain; failing to document a complete history; failing to document any signs and symptoms of RSD; failing to attempt other modalities of treatment before prescribing controlled substances to D.S.; failing to state the objectives to be used to determine the success of his treatment of D.S.; failing to conduct routine drug screens to prevent drug abuse and diversion; and failing to consult with specialists such as orthopedic surgeons or interventional pain specialists. Dr. Yankopolus' medical records for D.S. do not contain medical justification for the controlled substances prescribed to D.S. by Dr. Yankopolus. Dr. Yankopolus did not refer D.S. to an addictionologist despite the discordant urine drug screen results. Dr. E.D. also opined that Dr. Yankopolus failed to maintain complete and legible medical records for D.S.

Comprehensive Findings of Fact

161. 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.

162. Physicians who liberally prescribe controlled substances without following the minimum standard of care applicable to the prescribing of those drugs pose a serious danger to the public health, welfare, and safety. This is so because the controlled substances prescribed by these physicians often are potentially addictive and the misuse or abuse of these drugs can cause serious and lasting medical injury and death.¹

163. Dr. Yankopolus violated the standards governing the practice of medicine in Florida by performing inadequate or no physical exams and

¹ The Proliferation of Pain Clinics in South Florida, November 19, 2009, Broward County Grand Jury report.

ignoring signs of drug dependency and diversion in patients. Dr. Yankopolus' below-standard practice of medicine evidences his inability or unwillingness to comply with the professional and medical standards that govern physicians in the State of Florida.

164. Dr. Yankopolus acted with indifference to the health of patients by prescribing highly addictive drugs to patients with no demonstration of medical need and despite warning signs that the patients were diverting or abusing the drugs.

165. A physician's integrity and trustworthiness are necessary for the proper 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. Dr. Yankopolus' improper prescribing of controlled substances and his substandard practice of medicine manifest a lack of the professional judgment and ethical standards that are necessary to practice medicine in the State of Florida. Dr. Yankopolus' willingness to practice medicine below the minimum standard of care and to endanger the lives of patients also

demonstrates a lack of the good moral character required for licensure as a physician in the State of Florida.

166. Dr. Yankopolus' lack of good moral character, his indifference to the safety of patients, and his unwillingness to carry out even the most basic functions required of physicians in the State of Florida, when taken together, demonstrate that Dr. Yankopolus 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.

167. Dr. Yankopolus' failure to practice within the standard of care demonstrates that a less restrictive sanction, such as an emergency restriction order preventing Dr. Yankopolus from prescribing controlled substances, would not be sufficient to protect the public from the immediate, serious danger posed by Dr. Yankopolus' continued practice as a medical doctor. Dr. Yankopolus' actions in this case are not the result of carelessness or ignorance on his part; instead, Dr. Yankopolus' actions demonstrate his willingness to violate the laws, regulations, and standards that govern the practice of medicine in the State of Florida. Nothing short of the immediate suspension of Dr. Yankopolus' license to practice

medicine in the State of Florida would be sufficient to protect the public from the danger of harm presented by Dr. Yankopolus.

168. Dr. Yankopolus' willingness to violate a lawful order of the Department, namely the ERO that is currently in place, demonstrates his disregard for the authority of the Department and his unwillingness to practice within the confines of the law.

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

CONCLUSIONS OF LAW

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

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2012), and Chapter 458, Florida Statutes (2012).

2. Section 120.60(6), Florida Statutes (2012), provides that the State Surgeon General is authorized to suspend or restrict a physician's license upon a finding that the physician presents an immediate, serious danger to the public health, safety, or welfare.

3. Section 458.331(1)(t)1, Florida Statutes (2009-2012), subjects a physician to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes.

4. "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2009-2012), 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."

5. Section 456.50(1)(e), Florida Statutes (2009-2012), 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.

6. Section 766.102(1), Florida Statutes (2009-2012), provides that the “prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.”

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

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

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

(b) Treatment Plan. The written treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned.

After treatment begins, the physician shall adjust drug therapy, if necessary, to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical or psychosocial impairment.

(e) Consultation. The physician shall be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention must be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

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

1. The complete medical history and a physical examination, including history of drug abuse or dependence, as appropriate;
2. Diagnostic, therapeutic, and laboratory results;
3. Evaluations and consultations;
4. Treatment objectives;
5. Discussion of risks and benefits;
6. Treatments;
7. Medications (including date, type, dosage, and quantity prescribed);

8. Instructions and agreements;
9. Drug testing results; and
10. Periodic reviews. Records must remain current, maintained in an accessible manner, readily available for review, and must be in full compliance with Rule 64B8-9.003, F.A.C., and Section 458.331(1)(m), F.S.

8. Dr. Yankopolus violated Section 458.331(1)(t), Florida Statutes (2009-2012), in one or more of the following ways:

- a. By failing to conduct complete physical examinations of A.Y., B.R., J.J., or D.S.;
- b. By failing to conduct a complete history of A.Y., B.R., J.J., or D.S.;
- c. By failing to consult with, or refer A.Y., B.R., J.J., or D.S. for additional evaluation or treatment with, appropriate specialists;
- d. By failing to employ modalities, other than the use of controlled substances, for the treatment of pain in his care of A.Y., B.R., J.J., or D.S.;
- e. By prescribing controlled substances to A.Y., B.R., J.J., or D.S. without medical justification; or
- f. By failing to perform routine urine drug screens or pill counts in his treatment of A.Y., B.R., J.J., or D.S.

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

10. Section 456.072(1)(q), Florida Statutes (2011), subjects a physician to discipline, including suspension, for violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

11. Dr. Yankopolus violated Section 458.331(1)(nn), Florida Statutes, (2011), by violating Section 456.072(1)(q), Florida Statutes (2011), by referring D.S. for stem cell treatment in violation of the ERO previously issued by the Department.

12. Section 458.331(1)(m), Florida Statutes (2009-2012), subjects a physician to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment procedure and that justify the

course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

13. Dr. Yankopolus violated Section 458.331(1)(m), Florida Statutes, (2009-2012), by failing to keep legible medical records for A.Y., B.R., J.J., or D.S.

14. Since Dr. Yankopolus prescribed controlled substances to patients without medical justification and has already violated one ERO issued by the Department, a restriction on Dr. Yankopolus' medical license is not sufficient to protect the health, safety, and welfare of the public.


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

WHEREFORE, in accordance with Section 120.60(6), Florida Statutes (2012), it is **ORDERED THAT**:

1. The license of Konstantine K. Yankopolus, M.D., license number ME 22595, is hereby immediately suspended.

2. A proceeding seeking the formal suspension or discipline of the license of Konstantine K. Yankopolus, 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 (2012).

DONE and ORDERED this 15th day of May, 2013.



John H. Armstrong, MD, FACS
Surgeon General & Secretary of Health

Counsel for the Department:
Alicia E. Adams, Esq.
Florida Bar No. 0065248
Assistant General Counsel
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(P) 850/245-4444, extension 8191
(F) 850/245-4684
(E) Alicia_Adams@doh.state.fl.us

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, this Order is judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Review proceedings are commenced by filing a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the District Court of Appeal, accompanied by a filing fee prescribed by law, and a copy of the Petition with the Agency Clerk of the Department within 30 days of the date this Order is filed.