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Department of HealthBy: Angel Sardes
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

IN RE: The Emergency Suspension of the License of
Michael Morgan Dietch III, M.D.
License Number: ME 58573
Case Number: 2012-11286

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 Michael Morgan Dietch III, M.D. ("Dr. Dietch"), to practice as a physician in the State of Florida. Dr. Dietch holds license number ME 58573. His address of record is 2090 South Nova Road, Suite B-209, South Daytona, Florida 32119. The following Findings of Fact and Conclusions of Law support the emergency suspension of Dr. Dietch's license to practice as a physician in the State of Florida.

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 (2011-2012).

2. At all times material to this Order, Dr. Dietch was licensed to practice medicine in the State of Florida pursuant to Chapter 458, Florida Statutes (2011-2012), and was authorized to prescribe controlled

substances classified under Schedules II through V of Section 893.03, Florida Statutes (2011-2012), to patients.

3. On or about August 16, 2012, a Department investigator, in coordination with law enforcement and United States Drug Enforcement Administration ("DEA") officers, examined Dr. Dietch's residence pursuant to a search warrant. The investigator determined that Dr. Dietch was running an unlicensed pain management clinic out of his apartment. Dr. Dietch kept patient files on the floor and furniture of his apartment. Also on the floor were several spiral notebooks, in which Dr. Dietch recorded patient visits, and a patient schedule. The investigator noted that Dr. Dietch was scheduled to see eight patients that morning.

Facts Specific to K.R.

4. On or about February 1, 2011, Dr. Dietch saw K.R., a 50-year-old female patient with complaints of lumbar myofasciitis. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Additionally, no medical history exists in K.R.'s patient record. Dr. Dietch's medical record for K.R. consisted of handwritten entries in spiral notebooks.

5. On or about February 14, 2011, K.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote K.R. prescriptions for 90 dosage units of oxycodone 30mg and 120 dosage units of Lortab 10/325mg.

6. Oxycodone is commonly prescribed to treat pain, and is frequently sold under the brand name Percocet. According to Section 893.03(2), Florida Statutes (2011-2012), 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.

7. Lortab is the brand name for a drug that contains hydrocodone and is prescribed to treat pain. According to Section 893.03(3), Florida Statutes (2011-2012), hydrocodone, in the dosages found in Lortab, 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.

8. On or about January 25, 2012, K.R. returned to Dr. Dietch for a follow-up visit. No explanation is given in the patient record regarding the extended gap in patient treatment. Although Dr. Dietch recorded a diagnosis¹, no evidence exists in the patient record that a physical examination was performed. Dr. Dietch noted that K.R. was a victim of domestic violence. Dr. Dietch wrote K.R. prescriptions for 360 dosage units of methadone 40mg and 120 dosage units of Dilaudid 4mg.

9. Methadone is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2011-2012), 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.

10. Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2011-2012), 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.

¹ Dr. Dietch always diagnosed K.R. with lumbar myofasciitis, except where otherwise specified.

11. On or about January 31, 2012, K.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote K.R. prescriptions for 270 dosage units of methadone 40mg and 120 dosage units of Lortab 10/325mg. Other than these prescriptions, no notes of any kind exist in the patient record.

12. On or about February 6, 2012, K.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. K.R. told Dr. Dietch that she "had only been able to receive one-half of her methadone prescription." Dr. Dietch wrote K.R. a prescription for 120 dosage units of methadone 10mg.

13. On or about February 14, 2012, just eight days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that a physical examination was performed. Dr. Dietch noted that K.R. was a victim of domestic violence. Dr. Dietch wrote K.R. prescriptions for 450 dosage units of methadone 50mg and 120 dosage units of Percocet 10/325mg.

14. On or about February 29, 2012, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch noted that K.R. was not taking the Percocet that she had been prescribed. Dr. Dietch also noted that K.R. was a victim of domestic violence. Dr. Dietch wrote K.R. a prescription for 180 dosage units of methadone 40mg.

15. On or about March 6, 2012, just six days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that K.R. had "lost the methadone." No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote K.R. a prescription for 120 dosage units of Percocet 10/325mg.

16. Dr. Dietch recorded that K.R. presented for a visit occurring on or about March 12, 2012, just six days after her previous visit. Dr. Dietch failed to record any information whatsoever regarding what occurred during this visit.

17. On or about March 22, 2012, just ten days after her previous visit, K.R. returned to Dr. Dietch for a follow up visit. Dr. Dietch made only a cursory note about K.R., indicating that she was stiff and had some pain.

Dr. Dietch wrote K.R. a prescription for 210 dosage units of methadone 5mg.

18. On or about April 10, 2012, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote K.R. a prescription for 240 dosage units of methadone 10mg.

19. On or about April 21, 2012, just eleven days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch made only a cursory note about K.R., indicating that she was suffering from a shooting pain. Dr. Dietch wrote K.R. prescriptions for 270 dosage units of methadone 10mg and 30 dosage units of Percocet 10/325mg.

20. On or about May 3, 2012, just twelve days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that K.R. was "doing very well!" Dr. Dietch wrote K.R. prescriptions for 270 dosage units of methadone 10mg and 30 dosage units of Percocet 10/325.

21. On or about May 15, 2012, just twelve days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr.

Dietch wrote K.R. prescriptions for 252 dosage units of methadone 10mg and 30 dosage units of temazepam 15mg.

22. Temazepam is prescribed to treat insomnia. According to Section 893.03(4), Florida Statutes (2011-2012), temazepam 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 temazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

23. On or about May 25, 2012, just ten days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote K.R. a prescription for 252 dosage units of methadone 10mg.

24. On or about June 6, 2012, just twelve days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote K.R. prescriptions for 294 dosage units of methadone 10mg and 50 dosage units of Percocet 10/325mg.

25. On or about June 18, 2012, just twelve days after her previous visit, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote K.R. prescriptions for 294 dosage units of methadone 10mg and 50 dosage units of Percocet 10/325mg.

26. On or about July 2, 2012, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote K.R. prescriptions for 588 dosage units of methadone 10mg and 60 dosage units of Percocet 10/325mg.

27. On or about July 23, 2012, K.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote K.R. a prescription for 284 dosage units of methadone 10mg.

28. Dr. Dietch failed to keep adequate records of K.R.'s medical history at any time.

29. Dr. Dietch failed to keep adequate records of any physical examinations that he performed on K.R. at any time.

30. Dr. Dietch maintained cursory, barely legible patient records in spiral notebooks.

31. Dr. Dietch's medical records for K.R. lack any indication that Dr. Dietch employed modalities, other than prescribing opioid medications, to treat K.R.'s pain.

32. Dr. Dietch failed to provide medical justification for the controlled substances that he prescribed.

33. Dr. Dietch failed to perform pill counts or perform urine screens to adequately guard against diversion or abuse of medications.

34. Dr. Dietch failed to consult or coordinate with other medical specialists in the treatment of K.R.'s pain.

35. Despite Dr. Dietch's recorded suspicion and/or knowledge of domestic violence, he failed to refer K.R. to other medical specialists or law enforcement agents.

36. Dr. Dietch failed to explain an extended period in K.R.'s medical record of unrecorded treatment.

37. An independent medical expert who is Board-Certified in Anesthesiology and Pain Management ("the Department's Expert") reviewed the treatment Dr. Dietch provided to K.R. and opined that Dr.

Dietch fell below the minimum standard of care in several respects. In particular, the Department's Expert found that Dr. Dietch failed to keep adequate records of K.R.'s medical history and physical examinations. The Department's Expert further found that Dr. Dietch's failure to offer or employ other modalities for the treatment of the patient's pain, to perform pill counts and/or urine testing to adequately guard against diversion or abuse of opioid medications, to consult other medical specialists in the treatment of the patient's pain, and to contact law enforcement and other medical providers regarding the domestic violence that K.R. suffered constituted an overall failure to meet the standard of care.

Facts Specific to D.S.

38. On or about June 11, 2011, Dr. Dietch saw D.S., a 33-year-old male patient who presented with lumbar myofasciitis. Dr. Dietch's medical record for D.S. consisted of handwritten entries in spiral notebooks. Dr. Dietch recorded a cursory medical history of D.S. However, no evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of oxycodone 30mg and 90 dosage units of oxycodone 90mg.

39. On or about July 27, 2011, D.S. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that D.S. was suffering some gastrointestinal distress as a result of the medication. No other evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of oxycodone 30mg and 90 dosage units of Percocet 10/325mg.

40. On or about September 21, 2011, D.S. returned to Dr. Dietch for a follow-up visit. No explanation is given in the patient record as to the extended gap in treatment. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of oxycodone 30mg and 120 dosage units of Percocet 10/325.

41. On or about October 19, 2011, D.S. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis², no evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch noted that D.S. was suffering from post-traumatic osteoarthritis in his ankle. Dr. Dietch wrote "foot exercises! Add lumbar circles" in the margin of the patient record. Dr. Dietch wrote D.S.

² Dr. Dietch always diagnosed D.S. with lumbar myofasciitis, except where otherwise noted.

prescriptions for 120 dosage units of oxycodone 30mg and 120 dosage units of Percocet 10/325mg.

42. On or about November 16, 2011, D.S. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that D.S. was "doing a lot of exercises." Dr. Dietch wrote D.S. prescriptions for 120 dosage units of oxycodone 30mg and 120 dosage units of Percocet 10/325mg.

43. On or about June 7, 2012, D.S. returned to Dr. Dietch for a follow-up visit. No explanation is given in the patient record as to the extended gap in treatment. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote D.S. prescriptions for 225 dosage units of oxycodone 20mg and 60 dosage units of Percocet 10/325mg.

44. On or about July 9, 2012, D.S. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of Dilaudid 8mg and 60 dosage units of Percocet 10/325mg.

45. On or about August 8, 2012, D.S. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence

exists in the patient record that Dr. Dietch performed a physical examination. Aside from the diagnosis and the prescriptions, the only other notes in D.S.'s medical record consist of a notation that D.S. owed Dr. Dietch \$150.00. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of Dilaudid 8mg and 60 dosage units of Percocet 10/325mg.

46. On or about August 24, 2012, D.S. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed a cursory physical examination, noting improvement in D.S.'s ankle injury. Dr. Dietch wrote D.S. prescriptions for 120 dosage units of oxycodone 30mg and 120 dosage units of Percocet 10/325mg.

47. Dr. Dietch failed to keep adequate records of any physical examinations that he performed on D.S at any time.

48. Dr. Dietch maintained cursory, barely legible patient records in spiral notebooks.

49. Dr. Dietch failed to provide medical justification for the controlled substances that he provided to D.S.

50. Dr. Dietch failed to perform pill counts or perform urine screens on D.S. to adequately guard against diversion or abuse of medications.

51. Dr. Dietch failed to provide any explanation in D.S.'s medical record for extended periods of unrecorded treatment.

52. The Department's Expert reviewed the treatment provided by Dr. Dietch to D.S. and opined that Dr. Dietch fell below the minimum standard of care in several respects. In particular, the Department's Expert found that Dr. Dietch failed to keep adequate records of D.S.'s physical examinations. The Department's Expert further found that Dr. Dietch's failure to perform pill counts and/or urine testing to adequately guard against diversion or abuse of opioid medications and failure to explain extended gaps in D.S.'s record constituted an overall failure to meet the standard of care.

Facts Specific to P.C.

53. On or about August 24, 2011, Dr. Dietch saw P.C., a 27-year-old female patient with complaints of lumbar myofascitiis, polymyalgias, migraine headaches and traumatic degenerative joint disease. During Dr. Dietch's treatment of P.C., the two cohabitated and engaged in a sexual relationship. Dr. Dietch's medical record for P.C. consisted of handwritten entries in spiral notebooks. Dr. Dietch recorded an adequate, but barely legible, medical history and physical examination. At the conclusion of the

initial visit, Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 90 dosage units of oxycodone 15mg, and 60 dosage units of Xanax 2mg.

54. Xanax is the brand name for alprazolam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2011-2012), 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.

55. On or about September 21, 2011, P.C. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis³, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 2mg.

56. On or about October 19, 2011, P.C. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination of

³ Dr. Dietch always diagnosed P.C. with lumbar myofasciitis, polymyalgias, migraine headaches and traumatic degenerative joint disease, except where otherwise noted.

P.C. Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 2mg.

57. On or about November 16, 2011, P.C. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch noted that P.C. "had a bad month because her pills were stolen." Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 120 dosage units of oxycodone 15mg and 60 dosage units of Xanax 2mg.

58. On or about December 14, 2011, P.C. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination of P.C., noting that she was doing exercises occasionally and that her tooth was doing better. Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 120 dosage units of oxycodone 15mg and 60 dosage units of Xanax 2mg.

59. On or about January 11, 2012, P.C. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination of P.C. Dr. Dietch wrote P.C. prescriptions for 240 dosage units of

oxycodone 15mg and 60 dosage units of Xanax 2mg. Dr. Dietch indicated in his notes that the prescriptions represented a two week supply of medication.

60. On or about January 25, 2012, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. a prescription for 270 dosage units of oxycodone 15mg.

61. The next entry in P.C.'s medical record is a list of fifteen specific changes that Dr. Dietch asked P.C. to make in order to improve their romantic relationship. Among Dr. Dietch's requests are that P.C. "stop shooting or snorting anything"; "stop using meth (or any other upper)"; "take your meds as directed and only as directed"; "stop talking to anyone...asking you to buy/sell/share [controlled substances]"; and "stop putting yourself in situations where you overuse, share, loose [sic]...any of your meds."

62. On or about February 11, 2012, P.C. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed only a cursory physical examination. Dr. Dietch wrote P.C. prescriptions for 270 dosage units of

oxycodone 20mg, 120 dosage units of oxycodone 15mg and 60 dosage units of Xanax 2mg.

63. On or about February 21, 2012, just eleven days after her previous visit, P.C. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed only a cursory physical examination involving a growth on P.C.'s tongue and referred P.C. for oral surgery. Dr. Dietch wrote P.C. prescriptions for 180 dosage units of oxycodone 30mg, 90 dosage units of Dilaudid 4mg and 60 dosage units of Xanax 2mg.

64. On or about February 22, 2012, just one day later, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 30 dosage units of a fentanyl 100 mcg patch, 180 dosage units of oxycodone 30mg and 60 dosage units of Valium 5mg, despite having prescribed P.C. significant quantities of opioid and benzodiazepine medications just one day prior.

65. Fentanyl is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2011-2012), fentanyl 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 fentanyl may lead to severe psychological or physical dependence.

66. Valium is the brand name for diazepam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2011-2012), 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. On or about March 21, 2012, P.C. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 240 dosage units of oxycodone 30mg, 240 dosage units of oxycodone 15mg and 90 dosage units of Xanax 2mg.

68. On or about April 18, 2012, P.C. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 180 dosage units of

oxycodone 30mg, 120 dosage units of oxycodone 15mg and 90 dosage units of Xanax 2mg.

69. On or about May 16, 2012, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 150 dosage units of oxycodone 30mg, 360 dosage units of methadone 10mg and 90 dosage units of Xanax 2mg. Other than these prescriptions, no notes of any kind exist in the patient record.

70. On or about June 13, 2012, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 150 dosage units of oxycodone 30mg, 360 dosage units of methadone 10mg and 90 dosage units of Xanax 2mg. Other than these prescriptions, no notes of any kind exist in the patient record.

71. On or about June 19, 2012, P.C. suffered respiratory failure secondary to overdose on oxycodone, methadone and Xanax. Emergency medical services were called, and P.C. was hospitalized.

72. On or about July 13, 2012, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch

performed a physical examination. There is no indication in P.C.'s medical record that Dr. Dietch addressed P.C.'s recent overdose. Dr. Dietch wrote P.C. prescriptions for 150 dosage units of oxycodone 30mg, 360 dosage units of methadone 10mg and 90 dosage units of Xanax 2mg, despite her recent overdose on those same medications. Other than these prescriptions, no notes of any kind exist in the patient record.

73. On or about August 10, 2012, P.C. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.C. prescriptions for 150 dosage units of oxycodone 30mg, 360 dosage units of methadone 10mg and 90 dosage units of Xanax 2mg. Other than these prescriptions, no notes of any kind exist in the patient record.

74. Dr. Dietch failed to keep adequate records of any physical examinations that he performed on P.C. at any time.

75. Dr. Dietch maintained cursory, barely legible patient records in spiral notebooks.

76. Dr. Dietch failed to provide medical justification for the dosages and/or quantities of controlled substances that he prescribed to P.C.

77. Dr. Dietch failed to perform pill counts or perform urine screens to adequately guard against diversion or abuse of medications.

78. Dr. Dietch continued to prescribe P.C. oxycodone, methadone and Xanax even after she had overdosed on those medications.

79. The Department's Expert reviewed the treatment provided by Dr. Dietch to P.C. and opined that Dr. Dietch fell below the minimum standard of care in several respects. In particular, the Department's Expert found that Dr. Dietch failed to keep adequate records of P.C.'s physical examinations. The Department's Expert further found that Dr. Dietch's failure to perform pill counts and/or urine testing to adequately guard against diversion or abuse of opioid and benzodiazepine medications, and continued prescription of opioid and benzodiazepine medications after P.C. had overdosed on those same medications constituted an overall failure to meet the standard of care.

Facts Specific to P.H.

80. On or about September 24, 2011, Dr. Dietch saw P.H., a 32-year-old female patient presenting with lumbar myofasciitis, DeQuervain's

Syndrome⁴, median nerve dysesthesia and lumbar degenerative disc disease. Dr. Dietch's medical record for P.H. consists of handwritten entries in spiral notebooks. Dr. Dietch recorded only a cursory medical history and physical examination at this visit. Dr. Dietch wrote P.H. prescriptions for 168 dosage units of methadone 10mg and 90 dosage units of oxycodone 15mg.

81. On or about October 5, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch wrote P.H. prescriptions for 219 dosage units of methadone 50mg and 90 dosage units of oxycodone 15mg.

82. On or about October 12, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted in the patient record that P.H. was a victim of domestic violence. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

83. On or about October 19, 2011, just seven days after her previous visit, P.H. returned to Dr. Dietch for a follow-up visit. Although

⁴ DeQuervain's syndrome is a tenosynovitis of the sheath that surrounds two tendons controlling the movement of the thumb. DeQuervain's syndrome causes pain, tenderness and swelling of the thumb and wrist.

Dr. Dietch recorded a diagnosis⁵, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 60mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

84. On or about November 2, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch notes in the patient record that P.H.'s medications had been stolen. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 60mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

85. On or about November 16, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 15mg and 60 dosage

⁵ Dr. Dietch always diagnosed P.H. with lumbar myofasciitis, DeQuervain's Syndrome, median nerve dysesthesia and lumbar degenerative disc disease, except where otherwise noted.

units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

86. On or about November 30, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

87. On or about December 14, 2011, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed a cursory physical examination. Dr. Dietch noted that P.H. was a victim of domestic violence. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of Dilaudid 4mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

88. On or about December 28, 2011, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Other than these prescriptions, no notes of any kind exist in the patient record. Dr. Dietch wrote P.H.

prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 15mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

89. On or about January 11, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed only a cursory physical examination, noting that P.H. had fallen down the stairs and landed on her ribs. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

90. On or about January 25, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch again noted that P.H. was suffering from domestic violence. No other evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch also apparently ordered a chest x-ray of P.H. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg, 135 dosage units of oxycodone 20mg and 60 dosage units of Xanax 1mg.

91. On or about February 22, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination. No notes exist following up on the chest x-ray which ostensibly had been

ordered on or about January 25, 2012. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that the prescriptions constituted a 14 day supply of medication.

92. On or about March 7, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that the prescriptions constituted a 14 day supply of medication.

93. On or about March 25, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch recorded only a cursory physical examination. Dr. Dietch diagnosed P.H. with Battered Woman Syndrome. Dr. Dietch did not write P.H. prescriptions for any controlled substances during this visit, though he did note that he provided P.H. counseling regarding her relationship.

94. On or about April 4, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for

252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

95. On or about April 18, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

96. On or about May 2, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

97. On or about May 16, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for

252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

98. On or about May 30, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

99. On or about June 13, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Other than these prescriptions, no notes of any kind exist in the patient record.

100. On or about June 27, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch

performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

101. On or about July 11, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

102. On or about July 25, 2012, P.H. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

103. On or about August 8, 2012, P.H. returned to Dr. Dietch for a follow-up visit. Dr. Dietch performed only a cursory physical examination. Dr. Dietch wrote P.H. prescriptions for 252 dosage units of methadone 10mg, 90 dosage units of oxycodone 30mg and 60 dosage units of Xanax 1mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

104. Dr. Dietch failed to keep adequate records of P.H.'s medical history.

105. Dr. Dietch failed to keep adequate records of any physical examinations he performed on P.H.

106. Dr. Dietch maintained cursory, barely legible patient records in spiral notebooks.

107. Dr. Dietch failed to provide medical justification for the dosages and/or quantities of controlled substances that he prescribed to P.H.

108. Dr. Dietch's medical records for P.H. lack any indication that Dr. Dietch employed modalities, other than prescribing opioid medications, to treat P.H.'s pain.

109. Dr. Dietch failed to perform pill counts or perform urine screens to adequately guard against diversion or abuse of medications.

110. Dr. Dietch failed to refer P.H. to other medical specialists in the treatment of her pain.

111. The Department's Expert reviewed the treatment Dr. Dietch provided to P.H. and opined that Dr. Dietch fell below the minimum standard of care in several respects. In particular, the Department's Expert found that Dr. Dietch failed to keep adequate records of P.H.'s medical history and physical examinations. The Department's Expert further found that Dr. Dietch's failure to perform pill counts and/or urine testing to adequately guard against diversion or abuse of opioid and benzodiazepine medications, failure to employ other modalities in the treatment of P.H.'s pain and failure to contact law enforcement or other medical providers regarding P.H.'s documented domestic violence constituted an overall failure to meet the standard of care.

Facts Specific to R.R.

112. On or about October 31, 2011, Dr. Dietch saw R.R., a 45-year-old male patient presenting with lumbar myofasciitis. Dr. Dietch's medical record for R.R. consists of handwritten entries in spiral notebooks. No medical history exists in R.R.'s patient record. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr.

Dietch wrote R.R. prescriptions for 120 dosage units of oxycodone 30mg and 90 dosage units of oxycodone 15mg.

113. On or about February 17, 2012, R.R. returned to Dr. Dietch for a follow-up visit. No explanation is given for the extended gap in patient treatment. Although Dr. Dietch recorded a diagnosis⁶, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. prescriptions for 450 dosage units of methadone 50mg and 120 dosage units of Percocet 10/325.

114. On or about March 27, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that R.R.'s pain relief was inadequate with Lortab. No other evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote R.R. a prescription for 120 dosage units of oxycodone 30mg.

115. On or about April 6, 2012, R.R. returned to Dr. Dietch for a follow-up visit. No evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote R.R. a prescription for 260 dosage units of methadone 60mg. Dr. Dietch noted that this constituted a 15 day supply of medication. Other than these prescriptions, no notes of any kind exist in the patient record.

⁶ Dr. Dietch always diagnosed R.R. with lumbar myofasciitis, except where otherwise noted.

116. On or about April 18, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 270 dosage units of methadone 60mg. Dr. Dietch noted that this constituted a 15 day supply of medication.

117. On or about April 30, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that R.R. was "doing much better," though he recorded no evidence to corroborate that opinion. No other evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote R.R. a prescription for 225 dosage units of methadone 50mg. Dr. Dietch noted that this constituted a 15 day supply of medication.

118. On or about May 12, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 225 dosage units of methadone 50mg. Dr. Dietch noted that this constituted a 15 day supply of medication.

119. On or about June 8, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence

exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 225 dosage units of methadone 50mg. Dr. Dietch noted that this constituted a 15 day supply of medication.

120. On or about June 16, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 180 dosage units of methadone 40mg.

121. On or about June 29, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 180 dosage units of methadone 10mg.

122. On or about July 13, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Although Dr. Dietch recorded a diagnosis, no evidence exists in the patient record that he performed a physical examination. Dr. Dietch wrote R.R. a prescription for 180 dosage units of methadone 10mg.

123. On or about July 27, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that R.R.'s pain management was "not quite adequate." No other evidence exists in the patient record that Dr.

Dietch performed a physical examination. Dr. Dietch wrote R.R. a prescription for 220 dosage units of methadone 10mg.

124. On or about August 10, 2012, R.R. returned to Dr. Dietch for a follow-up visit. Dr. Dietch noted that R.R. had an "excellent response," but failed to note what it was that R.R. responded to or provide any evidence to corroborate that opinion. No other evidence exists in the patient record that Dr. Dietch performed a physical examination. Dr. Dietch wrote R.R. a prescription for 220 dosage units of methadone 10mg. Dr. Dietch noted that this constituted a 14 day supply of medication.

125. Dr. Dietch failed to keep adequate records of R.R.'s medical history.

126. Dr. Dietch failed to keep adequate records of any physical examinations he performed on R.R.

127. Dr. Dietch maintained cursory, barely legible patient records in spiral notebooks.

128. Dr. Dietch's medical records for R.R. lack any indication that Dr. Dietch employed modalities, other than prescribing opioid medications, for the treatment of R.R.'s pain.

129. Dr. Dietch failed to provide medical justification for the dosages and/or quantities of controlled substances that he prescribed R.R.

130. Dr. Dietch failed to perform pill counts or perform urine screens on R.R. to adequately guard against diversion or abuse of medications.

131. Dr. Dietch failed to refer R.R. to other medical specialists in the treatment of his pain.

132. The Department's Expert reviewed the treatment Dr. Dietch provided to R.R. and opined that Dr. Dietch fell below the minimum standard of care in several respects. In particular, the Department's Expert found that Dr. Dietch failed to keep adequate records of R.R.'s medical history and physical examinations. The Department's Expert further found that Dr. Dietch's failure to perform pill counts and/or urine testing to adequately guard against diversion or abuse of opioid medications and failure to employ other modalities in the treatment of R.R.'s pain constituted an overall failure to meet the standard of care.

COMPREHENSIVE FINDINGS OF FACT

133. Physicians who liberally prescribe controlled substances without following the minimum standards of care applicable to such prescriptions pose a serious danger to the public health, welfare, and safety. This is so

because the controlled substances prescribed by these physicians are often potentially addictive and the misuse or abuse of these drugs can cause serious and lasting medical injury and death.⁷

134. 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 the level of professional conduct expected of one licensed to practice medicine in this state.

135. Dr. Dietch consistently violated the standards governing the practice of medicine in Florida by: failing to keep adequate records of patients' medical histories and physical examinations; failing to offer or employ modalities, other than the prescription of opioid and benzodiazepine medications, for the treatment of patients' pain; failing to provide medical justification for the dosages and/or quantities of controlled substances that he prescribed; failing to perform pill counts, consistently

⁷ The Proliferation of Pain Clinics in South Florida, November 19, 2009, Broward County Grand Jury report.

order urine testing, or otherwise safeguard against patient's diversion or abuse of opioid and benzodiazepine medications; failing to consult other medical specialists in the treatment of patients' pain; and failing to explain why there are extended gaps in the treatment of patients in the medical record. Dr. Dietch's below-standard practice of medicine evidences his inability and unwillingness to comply with the professional and medical standards that govern physicians in the State of Florida.

136. Dr. Dietch's 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 demonstrate that Dr. Dietch is incapable of, and unwilling to, practice medicine safely. His continued practice of medicine poses an immediate serious danger to the public health, safety, or welfare.

137. Dr. Dietch's inability and unwillingness to practice within the standard of care makes obvious that his unsafe practice of medicine is likely to recur and that a less restrictive sanction would not be sufficient to protect the public from the immediate serious danger posed by Dr. Dietch's continued practice as a medical doctor. The dosages prescribed by Dr. Dietch were inappropriate given the lack of nexus between the excessive

controlled substances prescribed and the cursory physical examinations performed. Further, Dr. Dietch failed to provide sufficient medical justification for the quantities and dosages of the controlled substances that he prescribed.

138. Dr. Dietch's actions were not the result of mere carelessness. Rather, his actions reflect a systemic failure to adequately examine individual patients, consider patients' conditions, and develop consistent and appropriate plans of treatment of their pain. This failure permeates every aspect of Dr. Dietch's ability to practice medicine. For this reason, Dr. Dietch poses a danger to every patient that he treats. Accordingly, nothing short of the immediate suspension of Dr. Dietch's license would be sufficient to protect the public from the danger that he poses.

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 (2011-2013), and Chapter 458, Florida Statutes (2011-2013).

2. Section 458.331(1)(t), Florida Statutes (2011-2012), subjects a physician to discipline, including suspension, for committing medical malpractice as defined in Section 456.50, Florida Statutes (2011-2012). "Medical malpractice" is defined by Section 456.50(1)(g), Florida Statutes (2011-2012), 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." Section 456.50(1)(e), Florida Statutes (2011-2012), 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 (2011-2012), which states 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 (2011-2012), directs the Board of Medicine to give "great weight" to this provision of Section 766.102, Florida Statutes (2011-2012).

3. Dr. Dietch violated Section 458.331(1)(t)1, Florida Statutes (2011-2012), in one or more of the following manners:

a. By failing to offer or employ modalities for the treatment of pain, other than the prescription of opioid and benzodiazepine medications, for patients K.R. and R.R.;

b. By failing to perform pill counts and/or consistently perform urine testing to adequately guard against diversion or abuse of opioid and benzodiazepine medications prescribed for patients K.R., D.S., P.C., P.H., and R.R.;

c. By failing to consult other medical specialists in the treatment of patients K.R. and R.R.;

d. By failing to explain extended periods where the treatment of patients K.R., D.S., and R.R. is unrecorded in the medical record; and/or

e. By failing to contact law enforcement and other medical providers despite evidence that K.R. and P.H. were victims of domestic violence.

4. Section 458.331(1)(m), Florida Statutes (2011-2012), subjects a physician to discipline, including suspension, 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 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.

5. Dr. Dietch violated Section 458.331(1)(m), Florida Statutes (2011-2012), in one or more of the following ways:

a. By failing to keep an adequate record of medical histories of patients K.R., D.S., P.C., P.H., and R.R.;

b. By failing to keep an adequate record of physical examinations of patients K.R., D.S., P.C., P.H., and R.R.; and/or

c. By failing to explain extended periods where the treatment of patients K.R., D.S., and R.R. is unrecorded in the medical record.

6. Section 458.331(1)(q), Florida Statutes (2011-2012), subjects a physician to discipline, including suspension, for

[p]rescribing, 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.

7. Dr. Dietch violated Section 458.331(1)(q), Florida Statutes (2011-2012), in one or more of the following manners:

- a. By excessively prescribing controlled substances to patients K.R., D.S., P.C., P.H. and R.R.; and/or
- b. By inappropriately prescribing controlled substances to patients K.R., D.S., P.C., P.H., and R.R.

8. Section 458.331(1)(nn), Florida Statutes (2011-2012), subjects a physician to discipline, including suspension, for violating any provision of Chapters 456 or 458, Florida Statutes, or any rules adopted pursuant thereto.

9. 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 the 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 and 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, dosage, and quantity prescribed)
8. Instructions and agreements;
9. Drug testing results....

10. Dr. Dietch violated Section 458.331(1)(nn), Florida Statutes (2011-2012), by violating Rule 64B8-9.013, Florida Administrative Code, in any or all of the following manners:

- a. By failing to keep an adequate record of medical histories of patients K.R., D.S., P.C., P.H., and R.R.;
- b. By failing to keep an adequate record of physical examinations of patients K.R., D.S., P.C., P.H., and R.R.;
- c. By failing to develop and record treatment plans for patients K.R., D.S., P.C., P.H., and R.R.;

d. By failing to explain extended periods where the treatment of patients K.R., D.S., and R.R. is unrecorded in the medical record;

e. By failing to consult other medical specialists in the treatment of patients K.R. and R.R.; and/or

f. By failing to explain extended periods where the treatment of patients K.R., D.S., and R.R. is unrecorded in the medical record.

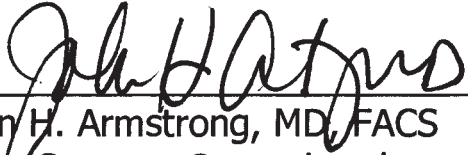
11. Section 120.60(6), Florida Statutes (2011-2013), authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate, serious danger to the public health, safety, or welfare.

12. Dr. Dietch's continued practice as a physician constitutes an immediate serious danger to the health, safety, and 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 (2011-2013),
it is **ORDERED THAT:**

1. The license of Michael Morgan Dietch III, M.D., license number ME 58573, is hereby immediately suspended.
2. A proceeding seeking formal discipline of the license of Michael Morgan Dietch III, 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 (2011-2013).

DONE and ORDERED this 3rd day of September, 2013.



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

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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. 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.