STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOMINIC CHARLES MAGGIO, M.D.,

Respondent.

DOH CASE NO.: 2015-08331
LICENSE NO.: ME0032856

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on June 3, 2016, in Fort Lauderdale, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

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

The costs set forth in Paragraph 3 of the Stipulated Disposition shall be set at $4,539.28.
Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

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

DONE AND ORDERED this 13th day of June, 2016.

BOARD OF MEDICINE

Claudia Kemp, J.D., Executive Director
For Steven Rosenberg, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to DOMINIC CHARLES MAGGIO, M.D., 1321 NW 14th Street, Suite 200, Miami, Florida 33125; to Rosemarie Antonacci-Pollock, Esquire, Falk, Waas, et al., 1900 NW Corporate Boulevard, Suite 210-E, Boca Raton, Florida 33431; by email to Yolonda Green, Assistant General Counsel, Department of Health, at Yolonda.Green@flhealth.gov; and by email to Edward A. Tellechea,
Chief Assistant Attorney General, at
Ed.Tellechea@myfloridalegal.com this 17th day of
June, 2016.

Angel Sanders
Deputy Agency Clerk
STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. DOH Case No. 2015-08331

DOMINIC CHARLES MAGGIO, M.D.,

Respondent.

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SETTLEMENT AGREEMENT

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

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

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 32856.

2. The Department chargedRespondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 458, Florida
Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

**STIPULATED CONCLUSIONS OF LAW**

1. Respondent admits that, in his/her capacity as a licensed physician, he/she is subject to the provisions of Chapters 456 and 458, Florida Statutes, and the jurisdiction of the Department and the Board.

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

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

**STIPULATED DISPOSITION**

1. **Letter of Concern** - The Board shall issue a Letter of Concern against Respondent's license.

2. **Fine** - The Board shall impose an administrative fine of *Seven Thousand Five Hundred Dollars ($7,500.00)* against Respondent's license which Respondent shall pay to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order accepting this Agreement ("Final Order"). **All fines shall be paid by cashier's check or money order.** Any change in the terms of payment of
any fine imposed by the Board must be approved in advance by the Probation Committee of the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE FINE IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE FINE IS NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE FINE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

3. Reimbursement of Costs - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is Three Thousand Three Hundred Forty-Two Dollars and Forty-Four Cents ($3,342.44), but shall not exceed Five Thousand Three Hundred Forty-Two Dollars and Forty-Four Cents ($5,342.44). Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320,
Tallahassee, FL 32314-6320, within thirty (30) days from the date of filing of the Final Order. **All costs shall be paid by cashier’s check or money order.** Any change in the terms of payment of costs imposed by the Board **must be approved in advance by the Probation Committee of the Board.**

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

4. **Laws And Rules Course** - Within eighteen (18) months of the filing of the Final Order, Respondent shall complete the course “Legal and Ethical Implications in Medicine: Physician’s Survival Guide - Laws and Rules” administered by the Florida Medical Association, or a Board-approved equivalent, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board’s Probation Committee.

5. **Continuing Medical Education – “Risk Management”** – Respondent shall complete this requirement and document such completion within one (1) year of

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the date of filing of the Final Order. **Respondent shall satisfy this requirement in one of the two following ways:**

(a) Respondent shall complete five (5) hours of CME in "Risk Management" after first obtaining written advance approval from the Board's Probation Committee of such proposed course, and shall submit documentation of such completion, in the form of certified copies of the receipts, vouchers, certificates, or other official proof of completion, to the Board's Probation Committee; or

(b) Respondent shall complete (5) five hours of CME in risk management by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board of Medicine. In order to receive such credit, Respondent must sign in with the Executive Director of the Board before the meeting day begins, Respondent must remain in continuous attendance during the full day or eight (8) hours of disciplinary hearings, whichever is more, and Respondent must sign out with the Executive Director of the Board at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. Respondent may not receive CME credit in risk management for attending the disciplinary hearings portion of a Board meeting unless the Respondent is attending the disciplinary hearings portion for the sole purpose of obtaining the CME credit in risk management. In other words, Respondent may not receive such credit if appearing at the Board meeting for any other purpose, such as pending action against Respondent's medical license.

6. **Quality Assurance Consultation/Risk Management Assessment** - Within sixty (60) days of the date of filing of the Final Order, Respondent
shall engage an independent, certified licensed risk manager will review Respondent’s current practice. Specifically, the independent consultant shall review the office procedures employed at Respondent’s practice and prepare a report addressing Respondent’s practice which shall include recommended quality assurance improvements of Respondent’s practice ("quality assurance report"). Within six (6) months from the filing of the Final Order, Respondent will submit the quality assurance report to the Board’s Probation Committee as well as documentation that demonstrates Respondent’s compliance with the recommended improvements. Such documentation shall consist of a follow-up report completed by the independent consultant or a licensed risk manager that verifies Respondent’s compliance. Respondent shall bear the cost of the initial consultation and any necessary or appropriate follow-up consultation.

STANDARD PROVISIONS

1. **Appearance** - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. **No Force or Effect until Final Order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Continuing Medical Education** - Unless otherwise provided in this Agreement Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). Respondent shall submit

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documentation to the Board’s Probation Committee of having completed a CME course in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as physician’s recognition awards, documenting completion of this medical course within one (1) year of the filing of the Final Order in this matter. All such documentation shall be sent to the Board’s Probation Committee, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. CME hours required by this Agreement shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board’s Probation Committee, such CME course(s) shall consist of a formal, live lecture format.

4. **Addresses** - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses and shall also comply with all statutory requirements related to practitioner profile and licensure renewal updates.

5. **Future Conduct** - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. **Violation of Terms** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for
which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

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

8. **No Preclusion Of Additional Proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

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

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

    [Signatures appear on the following page]
SIGNED this 12 day of January, 2016.

Dominic Charles Maggio, M.D.

STATE OF FLORIDA
COUNTY OF Miami Dade

BEFORE ME personally appeared Dominic Maggio, whose identity is known to me or who produced (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 12 day of January, 2016.

My Commission Expires:

APPROVED this 23 day of March, 2016.

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

By: Maciej Lewandowski
Assistant General Counsel
Department of Health

DOH v. Dominic Charles Maggio, M.D., Case Number 2015-08331
STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v. CASE NO.: 2015-08331

DOMINIC CHARLES MAGGIO, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Dominic Charles Maggio, M.D., and alleges:

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

2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida, having been issued license number ME 32856.

3. Respondent's address of record is 1321 NW 14th Street, Suite 200, Miami, Florida 33125.
4. At all times material to this Complaint, “Y.R.” was employed as medical assistant at Respondent’s medical office in Miami, Florida.

5. At all times relevant to this complaint, Section 468.302(1), Florida Statutes (2014), provided that a person may not use radiation or otherwise practice radiologic technology or any of the duties of a radiologist assistant on a human being unless he or she:

   (a) Is a licensed practitioner;

   (b) Is the holder of a certificate, as provided in this part, and is operating under the direct supervision or general supervision of a licensed practitioner in each particular case; or

   (c) Is the holder of a radiologist assistant certificate, as provided in this part, and is operating under the supervision of a radiologist.

6. On or about February 26, 2015, during a routine inspection of Respondent’s office, a Bureau of Radiation Control investigator discovered that Y.R. had been taking X-rays despite the fact that Y.R. did not meet any of the criteria of Section 468.302(1), Florida Statutes (2014).

7. On or about August 10, 2015, in an interview with a Department of Health investigator, Y.R. confirmed that, at various times, she took X-rays at Respondent’s direction.
8. Section 456.072(1)(j), Florida Statutes (2014), provides that aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board is grounds for discipline.

9. Based on the foregoing, Respondent violated Section 456.072(1)(j), Florida Statutes (2015), by aiding, assisting, procuring, employing, or advising Y.R., an unlicensed person, to practice a profession contrary to the chapter regulating the relevant profession (radiology technicians).

WHEREFORE, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.
SIGNED this 20 day of November, 2015.

John H. Armstrong, M.D., F.A.C.S.
Surgeon General & Secretary

Maciej Lewandowski
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PCP: November 20, 2015
PCP Members: Georges El-Bahri, M.D., Sarvam Terkonda, M.D., Joy Tootle