STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2015-27897
LICENSE NO.: ME0040308

DOMINGO CERRA-FERNANDEZ, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on February 2, 2018, in Orlando, 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 $9,959.89.
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 28th day of February 2018.

BOARD OF MEDICINE

Claudia Kemp, J.D., Executive Director
For Jorge J. Lopez, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified Mail to DOMINGO CERRA-FERNANDEZ, M.D., 4571 NE 6th Street, Ocala, Florida 34470; and 1515 E. Silver Springs Boulevard, Ocala, Florida 33470; to Brian A. Newman, Esquire, Pennington Firm, 215 South Monroe Street, 2nd Floor, P.O. Box 10095, Tallahassee, Florida 32302-2095; by email to Allison Dudley, Assistant General Counsel, Department of Health, at Allison.Dudley@flhealth.gov;
and by email to Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 28th day of February, 2018.

\[\text{Certified Article Number}\]
9414 7266 9904 2104 1044 10

\[\text{SENDER'S RECORD}\]

\[\text{Certified Article Number}\]
9414 7266 9904 2104 1044 81

\[\text{SENDER'S RECORD}\]

Deputy Agency Clerk
MEMORANDUM

DATE: February 27, 2018

TO: Adrienne C. Rodgers, J.D. Bureau Chief
    Bureau of Health Care Practitioner Regulation

FROM: Claudia J. Kemp
       Executive Director, Board of Medicine

SUBJECT: Delegation of Authority

This is to advise you that while I am out of the office February 28 and March 1, 2018 the following Program Operations Administrator is delegated to serve as Acting Executive Director for the Board of Medicine.

Wendy Alls  Program Operations Administrator  (850) 245-4135

CK/rh

cc:
Sylvia Sanders
Staff, Board of Medicine
Board and Council Chairs
STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v. DOH Case No. 2015-27897

DOMINGO CERRA-FERNANDEZ, M.D.,

Respondent.

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SETTLEMENT AGREEMENT

Domingo Cerra-Fernandez, 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 40308.

2. The Department charged Respondent 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. **Reprimand** - The Board shall issue a Reprimand against Respondent’s license.

2. **Fine** - The Board shall impose an administrative fine of *Twenty Thousand Dollars and No Cents ($20,000.00)* 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 Seven Thousand Nine Hundred Fifty-Nine Dollars and Eighty-Nine Cents ($7,959.89), but shall not exceed Nine Thousand Nine Hundred Fifty-Nine Dollars and Eighty-Nine Cents ($9,959.89). 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. **Boundaries Course** - Respondent shall document completion of a Board-approved boundaries course within one (1) year from the date the Final Order is filed.

5. **Suspension Language** - Respondent's Florida medical license is hereby SUSPENDED for a period of six (6) months from the date of the Final Order.

**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 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.

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 to include, but not limited to, all statutory requirements related to practitioner
profile and licensure renewal updates. 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.]
STATE OF FLORIDA
COUNTY OF Marion

BEFORE ME personally appeared Domingo Cerra-Fernandez MD 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 29 day of September, 2017.

My Commission Expires:

APPROVED this 3 day of October, 2017.

Celeste Philip, MD, MPH
Surgeon General and Secretary

By: Chad Dunn
Assistant General Counsel
Department of Health
DEPARTMENT OF HEALTH,

Petitioner,

v.

DOMINGO CERRA-FERNANDEZ, M.D.,

Respondent.

CASE NO. 2015-27897

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Domingo Cerra-Fernandez, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statues; and Chapter 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 40308.

3. Respondent’s address of record is 1515 E. Silver Springs Blvd., Ocala, Florida 34470.

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4. Respondent is Board Certified in Psychiatry.

5. Respondent treated Patient M.W. from 2002 to April 2012 for depression, anxiety, anorexia, bulimia, and other issues.

6. In or around October 2011, Respondent requested that he and Patient M.W. start a romantic relationship, and she agreed.

7. Respondent and Patient M.W. had inappropriate contact by email, text, and telephone while dating from October 2011 through April 2012.

8. In October 2011, Respondent requested that Patient M.W. inform his office that she did not want to be treated by Respondent anymore.

9. Respondent’s records indicate on October 20, 2011, that Patient M.W. was going to find another physician in her healthcare network, and she was requesting that Respondent write her prescriptions for thirty (30) days.

10. However, they did not follow Respondent’s plan.

11. Instead, Respondent continued to treat Patient M.W. from October 2011 through April 2012, while also maintaining a romantic relationship with her.

12. Respondent stopped providing prescriptions in April 2012, when Patient M.W. located another psychiatrist.
13. Section 456.072(1)(v), Florida Statutes (2011), provides that the Board of Medicine may take disciplinary action for engaging or attempting to engage in sexual misconduct as defined and prohibited in Section 456.063(1), Florida Statutes (2011).

14. Section 456.063(1), Florida Statutes (2011), defines sexual misconduct in the practice of a health care profession as the violation of the professional relationship through which the health care practitioner uses such relationship to engage or attempt to engage the patient or client . . . or to induce or attempt to induce such person to engage in verbal or physical sexual activity outside the scope of the professional practice of such health care profession.

15. From October 2011 through April 2012, Respondent used his professional physician-patient relationship as a treating psychiatrist for Patient M.W. to engage or attempt to engage Patient M.W. in, or to induce or attempt to induce Patient M.W. to engage in, verbal or physical sexual activity outside the scope of the professional practice of medicine.

16. Based on the foregoing, Respondent violated Section 456.072(1)(v), Florida Statutes (2011).
WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, 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 February, 2017.

Celeste Philip, MD, MPH
Surgeon General and Secretary

Michael E. Morris
Assistant General Counsel
Florida Bar No. 0081493
DOH-Prosecution Services Unit
4052 Bald Cypress Way-Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4640, Ext. 8114
Fax: (850) 245-4684
E-Mail: michael.morris@flhealth.gov

MEM/ep
PCP Date: February 17, 2017
PCP Members: Fuad Ashkar, M.D., Bernardo Fernandez, M.D., Brigitte Goersch
NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has Incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.