Final Order No. DOH-13-0464-DS -MQA FILED DATE - FEB 2 8 2013 Department of Health By: Deputy Agency Clerk

STATE OF FLORIDA BOARD OF MEDICINE

IN RE: PETITION FOR DECLARATORY STATEMENT OF JOHN LUTHER LENTZ M.D. AND J. LUKE LENTZ, MD, PA.

FINAL ORDER

This matter came before the Board of Medicine (hereinafter the ABoard@) on February 2, 2013, in Jacksonville, Florida, for consideration of the above-referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on January 7, 2013, in Vol. 39, No. 4, in the Florida Administrative Register.

The petition, filed on behalf of John Luther Lentz M.D. and J. Luke Lentz, MD, PA (hereinafter the "Petitioner"), inquires of the Board whether the Petitioner's practice constitutes a "pain-management clinic" as defined in Section 458.3265(1)(a)1.,c., Florida Statutes, and whether it must register as such under Section 458.3265(1)(a)2., Florida Statutes.

The regulatory scheme for pain-management clinics set forth in Section 458.3265, Florida Statutes, requires such clinics to register with the Department of Health (hereinafter the "Department"). The Board of Medicine plays no role in the registration process nor does it determine whether a clinic must register pursuant to Section 458.3265(1), Florida Statutes. Such regulatory responsibilities lie solely within the jurisdiction of the Department. Fla. Stat. § 458.3265(1)(a)2. (2012).

Since the Board has no substantive jurisdiction over Section 458.3265, Florida Statutes, it has no authority to interpret the statute, and therefore, must decline to answer Petitioner's inquiry.

Based on the foregoing, the Board hereby **DENIES** John Luther Lentz M.D. and J. Luke Lentz, MD, PA's petition for declaratory statement

DONE AND ORDERED this Att day of there , 2013.

BOARD OF MEDICINE

Allison M. Dudley, Executive Director For Zachariah P. Zachariah, M.D., Chair

NOTICE OF APPEAL RIGHTS

Pursuant to Section 120.569, Florida Statutes, Respondents are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Health and the filing fee and one copy of a notice of appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to: Bruce Haught, Esquire, Bruce A. Haught, P.A., P.O. Box 5017, 543 Harbor Boulevard, Suite 403, Destin, Florida 32540; by email to: Edward A. Tellechea, Chief Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 3239-1050, ed.tellechea@myfloridalegal.com; and Jennifer Tschetter, General Counsel, Department of Health, 4052 Bald Cypress Way, BIN A02, Tallahassee, Florida 32399-1703, jennifer_tschetter@doh.state.fl.us; on this 28th day of February, 2013.

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Deputy Agency Clerk

Bruce A. Haught, P.A.

543 Harbor Boulevard, Suite 403 P.O. Box 5017 Destin, FL 32540 E-mail: bruce@brucshaught.com Also Admitted to Practice in Alabama Destin (850) 837-7021 Peusacola (850) 437-0909 Panama City (850) 784-9199 Birmingham (205) 588-1779 Mobile (251) 732-4088 Montgomery (334) 651-0531 Facsimile (850) 837-8121

November 23, 2012

VIA FACSIMILE TRANSMISSION Fax: 850 - 487-9626 and OVERNIGHT DELIVERY

Florida Department of Health Board of Medicine - Medical Quality Assurance 4052 Bald Cypress Way, Bin # C01 Tallahassee, FL 32399 -3251

REQUEST FOR FILING OF PETITION AND REQUEST FOR CONSIDERATION OF INTERIM REQUEST FOR EXEMPTION FROM THE PROVISIONS OF FL Stat. Soc. 458.3256

Re: Petition of John Luther Lentz MD, License No. ME 82437 and J. Luke Lentz MD PA, PMC registration #676

Dear Sir/Madam:

Along with out of state counsel Jacques G. Simon, Esq., whose address and phone number are 2174 Hewlett Avenue, Suite #201 Merrick, NY 11566 Phono (516)378-8400 and who will be seeking admission pro hac vice in connection with the underlying administrative petition, as local counsel, I represent the petitioners John Luther Lentz MD and J. Luke Lentz MD PA in connection with the attached Petition for a declaratory statement. The petition is brought pursuant o Fl. Stat.§ 120.565. It is seeking a declaratory statement pertaining to petitioners' particular set of circumstances vis a vis the provisions of the "pain management clinic" provisions of Fl. Stat. Sec. 458.3256.

Enclosed herein for filing please find the petition, accompanying exhibits and certification. Please file and process the same accordingly pursuant to Fl. Stat.§ 120.565.

Request for interim exemption from Fl. Stat. Sec. 458,3256.

In addition, pending the determination of the underlying petition, the petitioners request that the Board and the Department consider at the Board's meeting scheduled to take place on

P. 02

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November 29 and November 30, 2012 Petitioners' request for interim ruling that they be exempted from the mandates of Fl. Stat. Sec. 458.3256. This request is based upon the statements made on the face of the petition and the accompanying certification which unequivocally represent that the Petitioners do not operate a "pain management clinic" and do not treat chronic non-malignant pain within the meaning of Fl. Stat. Sec. 458.3256.

Very truly yours

Bruce Haught, Esq.

Encls.

c.c.: John Luther Lentz MD and Jacques G. Simon, Esq.

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BEFORE THE STATE OF FLORIDA DEPARTMENT OF HEALTH

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In Re: Petition of John Luther Lentz MD and J. Luke Lentz MD, PA for a declaratory statement form the Florida Department of Health and the Florida Medical Board regarding Petitiotioner's exemptions form the mandates of Fl. Stat Sec. 458.3265 PMC Certificate No. 676

Petitioners

PETITION PURSUANT TO Fin. Stat. § 120.565 FOR DECLARATORY RULING EXEMPTING THE PETITIONER FROM THE PROVISIONS OF Fia. Stat. Soc. 458.3265.

COMHS NOW the Petitioner, John Luther Lentz MD, by his undersigned attorneys and petitions the Florida Department of Health ("FDH"), Board of Medicine, Division of Medical Quality Assurance for a declaratory ruling pursuant to Fl. Stat. § 120.565 declaring that Dr. Lentz's practice of medicine under PMC Certificate 676 and under circumstances explained below and in the accompanying Certification of the Petitioner do not fall under the requirements of Fla. Stat. Sec. 458.3256 inasmuch as Dr. Lentz does not operate a "pain management clinic" as specifically defined by Fla. Stat. Sec. 458.3265.

FACTUAL BACKGROUND.

1. The Petitioner John Luther Lentz MD (hereinafter "Lentz") is a duly licensed to practice medicine in the state of Florida and possesses license No. ME 82437.

2. The Petitioner J. Luke Lentz MD PA (hereinafter "Clinio") is a Florida

corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be issued at any time.

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3. At all of the rolevant times hereinabove and hereinafter mentioned, the Clinic was and is registered with the Florida Department of Health pursuant to Fl. Stat. Sco. 458.3264 as a "pain management ofinic" and possesses certificate of registration PMC #676.

4. At all of the relevant times hereinabove and hereinafter montioned Petitioner Lentz was and still is the sole owner of the 100 issued shares of the Clinic.

5. At all of the relevant times hereinabove and hereinafter mentioned the Clinic was and still is fully owned by the Petitioner Lentz who is and has been a medical doctor licensed under Chapter 458 of the Florida Statutes.

6. The respondent Florida Department of Health ("FDH") is an agency of the state of Florids and it is charged inter alia with the administration and provisions of Fl. Stat Sec. 458.3265.

7. On or about November 15, 2010 the Petitioners and the Respondent Department of Health entered into a settlement agreement pursuant to Fl. Stat Sec. 120.57(c) which settled the contested hearing initiated by the FDH pursuant to which the petitioners retained the unancumbered Pain Management Clinic license (Exhibit "A" annexed hereto). The reason for that agreement and Petitioners' decision to retain the PMC certificate is because they were under the bona fide but erroneous legal belief that the use of the controlled substance suboxone in the manner described in Petitioner Lentz's accompanying certification in support of this petition, ipso facto placed them them under the specific provisions of Fl. Stat Sec. 458.3265.

8. In accordance with the provisions of Fl. Stat Sec. 458.3265 the FDH Department of Investigative services, by inspector Shanon Seroogy, conducted an inspection of the Clinic on or about February 21, 2011 (See Exhibit "B" hereto).

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9. The inspection report (Exhlbit "B" hereto) specifically points as follows: (1) Item No. "9" - the Petitioners do not advertise the use, sale or dispensing of any controlled substance appearing on any schedule in Chapter 893 Section 458.331(1)(qq) and 459.015(1)(as). The handwritten remarks read "clinic provides treatment for Lymo disease and is also a Suboxone clinic".

10. Fl. Stat. Sec. 458.3265(1)(c) defines "pain management olinic" as follows:

c. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That edvertises in any medium for any type of pain-management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

11. Fl. Stat. Sec. 458.3265(1)(b) defines "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

As can be seen from Pethloner's accompanying certification, neither Lentz nor the Clinic engage or have ever engaged in the activities provided by Fl. Stat. Sec. 458.3265(1)(c) (I) or (II).

13. Suboxone is is a narrotic medication indicated for the maintenance treatment of opioid dependence. See Lentz certification.

14. Dr. Lentz uses suboxone to reduce opioid dependence in his patients, including those with Lyme disease who also have opioid dependence.

15. Neither Dr. Lentz nor the Clinic advertise "in any medium for any type of painmanagement services" as defined by Fl. Stat. Sec. 458.3265(1)(c)(I).

-3- -

16. In fact neither Lentz nor the clinic provide any pain management services at all. See Lentz accompanying certification.

17. The Clinic is not a "pain management clinic" as defined by Fl. Stat. Sec.

458.3265(1)(c)(II) because a majority of its patients are not prescribed in any month "opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain".

18. In fact neither Dr. Lentz nor the Clinic treat chronic malignant pain with

suboxone at all. That medication is exclusively used in accordance with its FDA intended and approved use to reduce opioid dependency. See Lentz certification.

19. The Patitioners retained their PMC registration because they were under the belief

that the prescription of suboxone to the patients for the purposes or reducing opioid dependence

subjects them to the provisions of Fl. Stat. Sec. 458.3265(1)(c)(II).

20. Fl. Stat § 120.565 provides in its entirety as follows:

Declaratory statement by agencies

Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
 The petition seeking a doclaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.
 The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Weekly and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Weekly. Agency disposition of petitions shall be final agency action.

21. In the present petition the Potitioner is socking a declaratory statement form the

Florida Department of Health that Petitioner's use of suboxone for the purposes of reducing opioid

dependence in patients of the petitioners does not qualify the Potitioners as a "pain management

Fax No.

clinic" under the provisions of Fl. Stat. Sec. 458.3265(1)(c) and that the Petitioners are not a "pain management clinic" subject any of the provisions of Fl. Stat. Sec. 458.3265.

22. The petitioners request from the Department that pending the consideration of this petition the Department does not subject the Petitioners to the inspections and rigors of Fl. Stat. Sec. 458,3265 and that any inspection be held in abeyance pending the filing and determination of this petition.

23. For all of the foregoing reasons and for all of the reasons set forth in Petitioner's accompanying certification the petitioners request the FDH to issue a declaratory statement pursuant to Fl. Stat § 120.565 stating that neither the Clinic J. Luke Lentz MD PA nor Dr. Lentz practice "pain management" under Fl. Stat. Sec. 458.3265 and further stating that neither one of the petitioners are subject to the provisions of Fl. Stat. Sec. 458.3265 so long as soboxone is used to reduce opioid dependency rather than to treat "Chronic nonmalignant pain" as defined by Fl. Stat. Sec. 458.3265(1)(b) and (c).

Dated: November 23, 2012

Attorney for the Petitioner

Bruce Haught, Bsq., Florida Bar No. 0985325 Bruce A. Haught, P.A. P.O. Box 5017 543 Harbor Blvd., Suite 403 Destin, FL 32540 Voice: 850-837-7021 Fax: 850-837-8121 Toll Prec: 800-804-3637 Email: bruce@brucehaught.com

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EXHIBIT "A"

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STATE OF FLORIDA DEPARTMENT OF HEALTH

In Re: the Certificate of J. LUKE LENTZ, MD PA LICENSE NO. PMC 676

SETTLEMENT AGREEMENT

Fursuant to section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Florida Department of Health as disposition of the Petition for a hearing herein, in lieu of any other administrative proceedings. The Petitioner filed a Petition challenging the Notice of Intent to Revoke Certificate of Registration (TTAR) served on it by certified mail on October 20, 2010. The Petition was timely filed with the Agency Clerk, Florida Department of Health, on November 10, 2010. The terms herein become effective only if and when a Final Order adopting this Settlement Agreement as the disposition of this matter is issued and filed by the Florida Department of Health.

STIPULATED PACTS

- Petitioner is a Pain-management clinic with the Certificate of Registration of PMC 676.
- Petitioner is a Floride Corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be outstanding at any one time.
- At all portinent times to this Settlement Agreement, J. Luke Lentz is and has been the sole owner of all 100 issued shares of the Petitioner.

- J. Luke Lentz is a Medical Doctor (M.D.) with a full, active, and unencumbered Florida medical license.
- Potitioner is fully owned by a medical doctor licensed under chapter 458, Florida Statutes.
- The records of the Florida Department of State reflect J. Luke Lentz as the owner of 100% of the 100 issued shares of the Petitioner.

STIPULATED LAW

- Petitioner admits that this matter is subject to the provisions of Section 458.3265, Florida Statutes, and the jurisdiction of the Florida Department of Health and the Florida Board of Medicine.
- Petitioner admits that the Settlement Agreement is a fair, appropriate, and reasonable resolution to this pending matter.

PROPOSED DISPOSITION

- 9. The parties request the Florida Department of Health to enter a final order adopting this Settlement Agreement as the disposition of this matter and directing the Bureau of Operations, Department of Health, to issue, file with the Agency Clerk, and serve on Petitioner a Withdrawal of Notice of Intent to Revoke Certificate of Registration as a Pain-management clinic issued against Petitioner.
- 10. Petitioner agrees that the Petition will not be submitted for a hearing by the filing of the Settlement Agreement, unless the Florida Department of Health rejects the Settlement Agreement. Should the Department adopt the Settlement Agreement

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as the disposition of this matter by final order, the Petitioner hereby agrees that its Petition for hearing pending before the Department is voluntarily dismissed.

- 11. The parties agree to pay their own attorneys' fees and costs and agree to waive all rights to an appeal.
- 12. The parties stipulate and agree that this Settlemont Agreement is a legal and binding document and is fully enforceable against all parties in any court of competent jurisdiction. The signatories hereto are vested with the authority to execute this Settlement Agreement on behalf of their respective principals, and as duly designated representatives, to fully bind such principals.

WHEREFORE, the parties hereto request the Fiorida Department of Health to enter a Final Order adopting the terms contained herein as the disposition of this matter.

Respectfully Submitted,

.md

STATE OF FLORIDA COUNTY OF OKA 10050

Swarn to (or affirmed) and subscribed before me this 15 day of NOVEMBER, 2010, by J. Luke Lentz, M.D.

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(Signature of Notery Public-State of Florida

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known _____ OR Produced Identification _____. Type of Identification Produced ______.

Morris Shalkofsky

FLA. BAR NO: 165786 Assistant General Counsel and Senior Anomey Florida Department of Health Office of General Counsel 4052 Bald Cypress Way, BIN A02 Tallahassee, Florida 32399-1703 Telephone: (850) 245-4005 Facsimile ; (850) 410-1448

Respectfully submitted, JOHN N.C. ZEDBETTER

Fla. Bar No. 0354333 Attorney for Petitioner J. Luko Lentz, M.D. 4641 Gulfstarr Drive, Suite 102 Destin, FL 32541 Telephone: 850-650-1040 Fax: 850-650-3020 E-mail: led@destinlawgroup.com

Email: Morris_Shelkofsky @doh.state.fl.us

EXHIBIT "B"

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From LENTZ LYME CLINIC 1.850.807.5000 Mon Jul 15 14:57:50 2012 EST Page 4 of 13

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November 29 and November 30, 2012 Petitioners' request for interim ruling that they be exempted from the mandates of Fl. Stat. Sec. 458.3256. This request is based upon the statements made on the face of the petition and the accompanying certification which unequivocally represent that the Petitioners do not operate a "pain management clinic" and do not treat chronic non-malignant pain within the meaning of Fl. Stat. Sec. 458.3256.

Very truly yours,

Bruco Haught, Esq.

Encls.

c.c.: John Luther Lentz MD and Jacques G. Simon, Esq.

Fax No.

BEFORE THE STATE OF FLORIDA DEPARTMENT OF HEALTH

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PMC Certificate No. 676

In Re: Petition of John Luther Lentz MD and J. Luke Lentz MD, PA for a declaratory statement form the Florida Department of Health and the Florida Medical Board regarding Petitiotioner's exemptions form the mandates of Fl. Stat Sec. 458.3265

Petitioners

PETITION PURSUANT TO Fig. Stat. § 120.565 FOR DECLARATORY RULING EXEMPTING THE PETITIONER FROM THE PROVISIONS OF Fig. Stat. Soc. 458.3265.

COMES NOW the Petitioner, John Luther Lentz MD, by his undersigned attorneys and petitions the Florida Department of Health ("FDH"), Board of Medicine, Division of Medical Quality Assurance for a declaratory ruling pursuant to Fl. Stat. § 120.565 declaring that Dr. Lentz's practice of medicine under PMC Certificate 676 and under circumstances explained below and in the accompanying Certification of the Petitioner do not fall under the requirements of Fla. Stat. Sec. 458.3256 inasmuch as Dr. Lentz does not operate a "pain management ellnic" as specifically defined by Fla. Stat. Sec. 458.3265.

FACTUAL BACKGROUND.

1. The Petitioner John Luther Lentz MD (hereinafter "Lentz") is a duly licensed to practice medicine in the state of Florida and possesses license No. ME 82437.

2. The Petitioner J. Luke Lentz MD PA (hereinafter "Clinic") is a Florida

corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be issued at any time.

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3. At all of the relevant times hereinabove and hereinafter mentioned, the Clinic was and is registered with the Floridz Department of Health pursuant to Fl. Stat. Sec. 458.3264 as a "pain management clinic" and possesses certificate of registration PMC #676.

At all of the relevant times hereinabove and bereinafter mentioned Petitioner
 Lentz was and still is the sole owner of the 100 issued shares of the Clinic.

5. At all of the relevant times hereinabove and hareinafter montioned the Clinic was and still is fully owned by the Petitioner Lentz who is and has been a medical doctor licensed under Chapter 458 of the Florida Statutes.

6. The respondent Florida Department of Health ("FDH") is an agency of the state of Florida and it is charged inter alla with the administration and provisions of Fl. Stat Sec. 458.3265.

7. On or about November 15, 2010 the Petitioners and the Respondent Department of Health entered into a settlement agreement pursuant to Fl. Stat Sec. 120.57(c) which settled the contested hearing initiated by the FDH pursuant to which the petitioners retained the unencumbered Pain Management Clinic license (Exhibit "A" annexed hereto). The reason for that agreement and Petitioners' decision to retain the PMC certificate is because they were under the bona fide but erronsous legal belief that the use of the controlled substance suboxone in the manner described in Petitioner Lentz's accompanying certification in support of this petition, ipso facto placed them them under the specific provisions of Fl. Stat Sec. 458.3265.

8. In accordance with the provisions of Fl. Stat Soc. 458.3265 the FDH Department of Investigative services, by inspector Shanon Seroogy, conducted an inspection of the Clinic on or about February 21, 2011 (See Exhibit "B" hereto).

-2-

9. The inspection report (Exhibit "B" hereto) specifically points as follows: (1) Itam No. "9" - the Petitioners do not advertise the use, sale or dispensing of any controlled substance appearing on any schedule in Chapter 893 Section 458.331(1)(qq) and 459.015(1)(as). The handwritten remarks read "clinic provides treatment for Lymp dispase and is also a Suboxone clinic".

10. Fl. Stat. Soc. 458.3265(1)(e) defines "pain management clinic" as follows:

a. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That advortises in any medium for any type of pain-management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisopredol for the treatment of chronic nonmalignant pain.

11. Fl. Stat. Sec. 458.3265(1)(b) defines "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

12. As can be seen from Petitioner's accompanying certification, neither Lentz nor the Clinic engage or have ever engaged in the activities provided by Fl. Stat. Sec. 458.3265(1)(c) (I) or

(Д).

13. Suboxone is is a narcotic medication indicated for the maintenance treatment of opioid dependence. See Lentz certification.

14. Dr. Lontz uses suboxone to reduce opioid dependence in his patients, including those with Lyme disease who also have opioid dependence.

15. Neither Dr. Lentz nor the Clinic advertise "in any medium for any type of painmanagement services" as defined by Fl. Stat. Sec. 458.3265(1)(c)(I).

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In fact neither Lentz nor the clinic provide any pain management services at all. See 16. Lentz accompanying certification.

The Clinic is not a "pain management clinic" as defined by Fl. Stat. Sec. 17.

458.3265(1)(c)(II) because a majority of its patients are not prescribed in any month "opioids,

benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain".

In fact neither Dr. Lentz nor the Clinic treat chronic malignant pain with 18.

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The Petitioners retained their PMC registration because they were under the belief 19.

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FL Stat § 120.565 provides in its antirety as follows: 20.

Declaratory statement by agencies

(i) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances. (2) The petition seeking a doclaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the patitioner believes may apply to the set of circumstances. (3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Weekly and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Weekly. Agency disposition of petitions shall be final agency action.

In the present petition the Petitioner is seeking a declaratory statement form the 21.

Florids Department of Health that Petitioner's use of suboxone for the purposes of reducing opiold dependence in patients of the petitioners does not qualify the Petitioners as a "pain management

P. 07/18

clinic" under the provisions of Fl. Stat. Sec. 458.3265(1)(c) and that the Petitioners are not a "pain management clinic" subject any of the provisions of Fl. Stat. Sec. 458.3265.

22. The potitioners request from the Department that pending the consideration of this petition the Department does not subject the Petitioners to the inspections and rigors of Fl. Stat. Sec. 458.3265 and that any inspection be held in abeyance pending the filing and determination of this petition.

23. For all of the foregoing reasons and for all of the reasons set forth in Petitioner's accompanying certification the petitioners request the FDH to issue a declaratory statement pursuant to Fl. Stat § 120.565 stating that neither the Clinic J. Luke Lentz MD PA nor Dr. Lentz practice "pain management" under Fl. Stat. Sec. 458.3265 and further stating that neither one of the petitioners are subject to the provisions of Fl. Stat. Sec. 458.3265 so long as soboxone is used to reduce opioid dependency rather than to treat "Chronic nonmalignant pain" as defined by Fl. Stat. Sec. 458.3265(1)(b) and (v).

Dated: November 23, 2012

Attorney for the Petitioner かん

Bruce Haught, Esq., Florida Bar No. 0985325 Bruce A. Haught, P.A. P.O. Box 5017 543 Harbor Blvd., Suite 403 Destin, FL 32540 Voice: 850-837-7021 Fax: 850-837-8121 Toll Free: 800-804-3637 Bmail: bruce@brucehaught.com

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EXHIBIT "A"

STATE OF FLORIDA DEPARTMENT OF HEALTH

In Re: the Certificate of

J. LUKE LENTZ, MD PA

LICENSE NO. PMC 676

SETTLEMENT AGREEMENT

Pursuant to section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Florida Department of Health as disposition of the Petition for a hearing herein, in lieu of any other administrative proceedings. The Petitioner filed a Petition challenging the Notice of Intent to Revoke Certificate of Registration (TTAR) served on it by certified mail on October 20, 2010. The Petition was timely filed with the Agency Clerk, Florida Department of Health, on November 10, 2010. The terms herein become effective only if and when a Final Order adopting this Settlement Agreement as the disposition of this matter is issued and filed by the Florida Department of Health.

STIPULATED FACTS

- Petitioner is a Pain-management clinic with the Certificate of Registration of PMC 676.
- Petitioner is a Florida Corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be outstanding at any one time.
- At all partment times to this Settlement Agreement, J. Luke Lentz is and has been the sole owner of all 100 issued shares of the Petitioner.

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- J. Luke Lentz is a Medical Doctor (M.D.) with a full, active, and unancumbered Fluxida medical license.
- Petitioner is fully owned by a medical doctor licensed under chapter 458, Florida Statutes.
- 6. The records of the Florida Department of State reflect J. Luke Lentz as the owner of 100% of the 100 issued shares of the Petitioner.

STIPULATED LAW

- Petitioner admits that this matter is subject to the provisions of Section 458.3265,
 Florida Statutes, and the jurisdiction of the Florida Department of Health and the Florida Board of Medicine.
- Petitioner admits that the Settlement Agreement is a fair, appropriate, and reasonable resolution to this pending matter.

PROPOSED DISPOSITION

9. The parties request the Florida Department of Health to enter a final order adopting this Settlement Agreement as the disposition of this matter and directing the Bureau of Operations, Department of Health, to issue, file with the Agency Clerk, and serve on Petitioner a Withdrawal of Notice of Intent to Revoke Certificate of Registration as a Pain-management clinic issued against Petitionsr.

10. Petitioner agrees that the Patition will not be submitted for a hearing by the filing of the Settlement Agreement, unless the Florida Department of Health rejects the Settlement Agreement. Should the Department adopt the Settlement Agreement

as the disposition of this matter by final order, the Petitioner hereby agrees that its Petition for hearing pending before the Department is voluntarily dismissed.

- The parties agree to pay their own attorneys' fees and costs and agree to waive all 11. rights to an appeal.
- The parties stipulate and agree that this Settlement Agreement is a legal and 12. binding document and is fully enforceable against all parties in any court of competent jurisdiction. The signatories hereto are vested with the authority to execute this Settlement Agreement on behalf of their respective principals, and as duly designated representatives, to fully bind such principals.

WHEREFORE, the parties hereto request the Florida Department of Health to enter a Final Order adopting the terms contained herein as the disposition of this matter.

Respectfully Submitted,

Kint mo

STATE OF FLORIDA COUNTY OF OKA1005A

Sworn to (or aftirmed) and subscribed before me this 15 day of November 2010, by J. Linke Lontz. M.D.

(Signature of Notary Public-State of Florida

(Print, Type, or Stamp Commissioned Name of Notary Public)

OR Produced Identification ____ Personally known / Type of Identification Produced

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Morris Shalkofsky

FLA. BAR NO: 161286 Assistant General Counsel and Senior Attomby Florida Department of Health Office of General Counsel 4052 Baid Cypress Way, BIN A02 Tallahasace, Florida 32399-1703 Telephone: (850) 245-4005 Facsimile : (850) 410-1448

Raspectfully submitted, IOHN N.C. &EDBETTER

Fis. Bar No. 0354333 Attorney for Petitioner J. Luke Lentz, M.D. 4641 Gulfstarr Drive, Suite 102 Destin, FL 32541 Telephone: 850-650-1040 Fax: 850-650-3020 E-mail: led@destinlawgroup.com

Email: Morris_Shelkofsky @doh.stste.fl.us

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EXHIBIT "B"

From LENTZ LYME CLINIC 1.850.807.5000 Non Jul 16 14:57:50 2012 EST Page 3 of 13



HEPECTICN AUTHORITY - SECTION 452,2142, 492 /117, CHUPTER BELGE AND CHAPTER 488, FLORIDA STATUTES, SHER-R/121 and BAPIS-14.2021 F.A.C.

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) have read and had the inspection report and the violations, it any, explained, and the information given is the benefit of the best of my knowledge. Pursual to Rule 648–6.005, F.A.C. and Section 455.5205(5),F.S., and 458.0137(5)(b),F.S., an involve will be method to your for the cost of

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BEFORE THE STATE OF FLORIDA DEPARTMENT OF HEALTH

PMC Cortificate No. 676

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In Re: Petition of John Luther Lentz MD and J. Luke Lentz MD, PA for a declaratory statement form the Florida Department of Health and the Florida Medical Board regarding Petitiotioner's exemptions form the mandates of Fl. Stat Sec. 458,3265

x

Petitionets

CERTIFICATION OF JOHN LUTHER LENTZ MD IN SUPPORT OF PETITION FOR DECLARATORY STATEMENT PURSUANT TO FL Stat. 8 120,565.

My name is John Luther Lentz, I am over 18 years of age, I am of sound mind and 1. qualify to testify in connection with the facts presented herein and in the accompanying polition. I reside in Okalooosa County Florida and maintain a practice of medicine in the said county under the business name of J.Luke Lentz MD, PA. I am fully familiar with all of the facts underlying the request for a declaratory statement. I submit this certification in support of the present petition.

I have read the accompanying potition and know all of the facts therein to be true . 2.

to the best of my knowledge.

I am a physician duly licensed to practice medicine in the state of Florida under 3.

license No. ME 82437.

J.Luke Leniz MD, PA.(hereinafter "Clinic") is a Florida corporation for which 4. only 100 shares have been issued out of a total of 1,000 shares authorized to be issued at any time.

At all of the relevant times hereinabove and hereinafter mentioned, the Clinic 5. was and is registered with the Florida Department of Health pursuant to Fl. Stat. Sec. 453.3264 as a "pain management Clinic" and possesses certificate of registration PMC #676.
6. At all of the relevant times hereinabove and hereinafter mentioned I was and still am the sols owner of the 100 issued shares of the Clinic.

7. At all of the relevant times hereinabove and hereinafter montioned the Clinic was and still is fully owned by me. I am and have been a medical doctor licensed under Chapter 458 of the Florida Statutes.

8. In the course of my medical practice at the Clinic I use suboxone to reduce oploid dependency. This is a medical condition for which Lyme disease patients and non Lyme disease patients seek my treatment. For a large segment of the patients suboxone is prescribed as only one of the many treatments related to their general medical condition which may include an array of maladies in addition to and independent of oploid dependency.

9. I registered the Clinic as a "pain management Clinic" because it was my understanding that I had to undergo such registration because of the use of the acheduled drug subexone for the foregoing specific purpose of reducing opioid dependency.

10. Neither me nor the Clinic provide any pain management services as we do not treat patients for chronic non malignant pain per se. Nor is there nor has there ever been a situation where in any month a majority of patients at the Clinic are prescribed opioids, benzodiscepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

11. While patients are prescribe suboxone, such prescriptions are not related to or given in connection with pain management.

12. Neither myself nor the Clinic advertise in any type of media for pain management services as such services are not offered at the Clinic.

13. Because it is unclear to me under the circumstances set forth above, whether the Clinic fails under the provisions of the "pain management" the Florida statutes cited in the Petition,

I am requesting the the Floridz Department of Health and/or the Floridz Bard of Medicne to issue a declaratory statement clarifying whether the use of suboxone for reduction of opicid dependency qualifies the Clinic as a "pain management Clinic" under the applicable florida statutes and whether the PMC registration #676 still has to be maintained under these circumstances.

14. I am also requesting that in the event that the Department determines that the foregoing use of suboxone for the reduction of opioid dependency does not amount to "pain management" the Department issue a declaratory statement exemting me and the clinino from the mandates of Fl. Stat. Sec. 458,3265.

15. I further request that pending the determination of this Petition the Department of Health stay its inspections of the Clinic and any actions which it is entitled to take in furtherance and enforcement of Fl. Stat. Sec. 458.3265 should there be a preliminary determination that the provisions of the same statute are not applicable to the Clinic and to me.

16. I certify that all of the foregoing is true to the best of my knowledge and that if any of the foregoing statements are knowingly false, I am subject to punishment under Florida law. Dated: November 23, 2012

JOHN LUTHER LENTZ MD

NOV-23-2012 FRI 03:20 PM

Bruce A. Haught, P.A. ATTORNEY AT LAW

543 Harbor Boulevard, Sulie 403 P.O. Box 5017 Destin, FL 32540 E-mail: bruce@brucehaught.com Also Admitted to Practice in Alshama

November 23, 2012

VIA FACSIMILE TRANSMISSION Fax: 850 - 487-9626 and OVERNIGHT DELIVERY

Florida Department of Health Board of Medicine - Medical Quality Assurance 4052 Bald Cypress Way, Bin # C01 Tallahaasee, FL 32399 -3251

REQUEST FOR FILING OF PETITION AND REQUEST FOR CONSIDERATION OF INTERIM REQUEST FOR EXEMPTION FROM THE PROVISIONS OF FL Stat. Sec. 458.3256

Re: Petition of John Luther Lentz MD, License No. ME 82437 and J. Luke Lentz MD PA, PMC registration #676

Along with out of state counsel Jacques G. Simon, Esq., whose address and phone Dear Sir/Madam: number are 2174 Hewlett Avenue, Suite #201 Merrick, NY 11566 Phone (516)378-8400 and who will be seeking admission pro hac vice in connection with the underlying administrative petition, as local counsel, I represent the petitioners John Luther Leniz MD and J. Luke Leniz MD PA in connection with the attached Petition for a declaratory statement. The petition is brought pursuant o Fl. Stat.§ 120.565. It is seeking a declaratory statement pertaining to petitioners' particular set of circumstances vis a vis the provisions of the "pain management clinic" provisions of 171. Stat. Sec. 458.3256.

Enclosed herein for filing please find the petition, accompanying exhibits and certification. Please file and process the same accordingly pursuant to Fil. Stat.§ 120.565.

Request for Interim exemption from Fl. Stat. Sec. 458.3256. In addition, pending the determination of the underlying petition, the petitioners request that the Board and the Department consider at the Board's meeting scheduled to take place on

FAX NO.

Destin (850) 837-7021 Panyacola (850) 437-0909 Panama City (850) 784-9199 Binningham (205) 588-1779 Mobile (251) 732-4088 Montgomory (334) 651-0531 Facsimile (850) 837-8121 P. 01/18

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November 29 and November 30, 2012 Petitioners' request for interim ruling that they be exempted from the mandates of I^o. Stat. Sec. 458.3256. This request is based upon the statements made on the face of the petition and the accompanying certification which unequivocally represent that the Petitioners do not operate a "pain management clinic" and do not treat chronic non-malignant pain within the meaning of Fl. Stat. Sec. 458.3256.

Very truly yours

Bruce Haught, Esq.

Encls.

c.c.: John Luther Lentz MD and Jacques G. Simon, Esq.

BEFORE THE STATE OF FLORIDA DEPARTMENT OF HEALTH

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PMC Certificate No. 676

In Re: Petition of John Luther Leniz MD and J. Luke Leniz MD, PA for a declaratory statement form the Florida Department of Health and the Florida Medical Board regarding Petitiotioner's exemptions form the mandates of Fl. Stat Sec. 458.3265

Petitioners

PETITION PURSUANT TO Fia. Stat. § 120.565 FOR DECLARATORY RULING EXEMPTING THE PETITIONER FROM THE PROVISIONS OF Fia. Stat. Sec. 458.3265.

COMES NOW the Peritioner, John Luther Lontz MD, by his undersigned attorneys and petitions the Florida Department of Health ("FDH"), Board of Medicine, Division of Medical Quality Assurance for a declaratory ruling pursuant to Fl. Stat. § 120.565 declaring that Dr. Lentz's practice of medicine under PMC Certificate 676 and under circumstances explained below and in the accompanying Certification of the Petitioner do not fall under the requirements of Fla. Stat. Sco. 458,3256 inasmuch as Dr. Lentz does not operate a "pain management clinic," as specifically defined

by Fla. Stat. Sec. 458.3265.

FACTUAL BACKGROUND.

The Petitioner John Luther Lentz MD (hereinsfler "Lentz") is a duly licensed to

1. The Petitioner John Lucies Lines of Florida and possesses license No. ME \$2437. practice medicine in the state of Florida and possesses license No. ME \$2437.

2. The Petitioner J. Luke Lentz MD PA (hercinafter "Clinic") is a Florida

corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized

to be issued at any time.

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3. At all of the relovant times hereinabove and hereinafter mentioned, the Clinic was and is registered with the Florida Department of Health pursuant to Fl. Stat. Scc. 458.3264 as a "pain management clinic" and possesses certificate of registration PMC #676.

4. At all of the relevant times hereinabove and hereinafter mentioned Petitioner Lentz was and still is the sole owner of the 100 issued shares of the Clinic.

3. At all of the relevant times hereinabove and hereinafter mentioned the Clinic was and still is fully owned by the Petitioner Lentz who is and has been a medical doctor licensed under Chapter 458 of the Florida Statutes.

6. The respondent Florida Department of Health ("FDH") is an agancy of the state of Florida and it is charged inter alia with the administration and provisions of Fl. Stat Sec. 458.3265.

7. On or about November 15, 2010 the Petitioners and the Respondent Department of Health entered into a settlement agreement pursuant to Fi. Stat Sec. 120.57(c) which settled the contested hearing initiated by the FDH pursuant to which the petitioners retained the unencumbered Pain Management Clinic license (Exhibit "A" annexed hereto). The reason for that agreement and Petitioners' decision to retain the PMC certificate is because they ware under the bona fide but erroneous legal belief that the use of the controlled substance suboxone in the manner described in Petitioner Lentz's accompanying certification in support of this petition, ipso facto placed them them under the specific provisions of FI. Stat Sec. 458.3265.

8. In accordance with the provisions of Fl. Stat Sec. 458.3265 the FDH Department of Investigative services, by inspector Shanon Scroegy, conducted an inspection of the Clinic on or about February 21, 2011 (See Exhibit "B" hereio).

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The inspection report (Exhlbit "B" hereto) specifically points as follows: (1) Item No. 9. "9" - the Petitioners do not advertise the use, sale or dispensing of any controlled substance appearing on any schedule in Chapter 893 Section 458.331(1)(99) and 459.015(1)(ss). The handwritten remarks read "elinic provides treatment for Lyme disease and is also a Suboxone clinic".

Fl. Stat. Sec. 458.3265(1)(c) defines "pain management clinic" as follows: 10.

c. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That advertises in any medium for any type of pain-management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

Fl. Stat, Sec. 458.3265(1)(b) defines "Chronic nonmalignant pain" means pain 11.

unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

As can be seen from Petitioner's accompanying certification, neither Leniz nor the 12. Clinic engage or have ever engaged in the activities provided by Fi. Stat. Sec. 458.3265(1)(c) (1) or

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15.

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opioid dependence. See Lentz certification.

Dr. Lentz uses suboxone to reduce opioid dependence in his patients, including those 14.

with Lyme disease who also have opioid dependence.

Neither Dr. Lentz nor the Clinic advertise "in any medium for any type of pain-

management services" as defined by Fl. Stat. Sec. 458.3265(i)(c)(I).

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In fact neither Lentz nor the elinic provide any pain management services at all. See 16.

Lentz accompanying certification.

19.

The Clinic is not a "pain management clinic" as defined by Fl. Stat. Sec. 17.

458.3265(1)(c)(II) because a majority of its patients are not prescribed in any month "opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain".

In fact neither Dr. Lentz nor the Clinic treat chronic malignant pain with 18.

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The Petitioners retained their PMC registration because they were under the belief

that the prescription of suboxone to the patients for the purposes or reducing opioid dependence

subjects them to the provisions of Fl. Stat. Sec. 458.3265(1)(c)(II).

Fl. Stat § 120.565 provides in its entirety as follows: 20.

Declaratory statement by agencies

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agoncy, as it applies to the petitioner's particular set of circumstances. (2) The petition socking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances. (3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Weekly and transmit copies of each petition to the committee. The agency shall issue a declaratory statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or dealal of the petition shall be noticed in the next available issue of the Florida Administrative Weekly. Agency disposition of petitions shall be final agency action.

In the present petition the Potitioner is socking a declaratory statement form the

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22. The petitioners request from the Department that pending the consideration of this petition the Department does not subject the Petitioners to the inspections and rigors of Fl. Stat. Sec. 458,3265 and that any inspection be held in abeyance pending the filing and determination of this petition.

23. For all of the foregoing reasons and for all of the reasons set forth in Petitioner's accompanying certification the petitioners request the FDH to issue a declaratory statement pursuant to Fl. Stat § 120.565 stating that neither the Clinis J. Luke Lentz MD PA nor Dr. Lentz practice "pain management" under Fl. Stat. Sec. 458.3265 and further stating that neither one of the petitioners are subject to the provisions of Fl. Stat. Sec. 458.3265 so long as soboxone is used to reduce opioid dependency rather than to treat "Chronic nonmalignant pain" as defined by Fl. Stat. Sec. 458.3265(1)(b) and (c).

Dated: November 23, 2012

Attomey for the Petitioner

Bruce Haught, Esq., Plorida Bar No. 0985325 Bruce A. Haught, P.A. P.O. Box 5017 543 Harbor Blvd., Suite 403 Destin, FL 32540 Voice: 850-837-7021 Fax: 850-837-8121 Toll Free: 800-804-3637 Bmail: bruce@brucehaught.com

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EXHIBIT "A"

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STATE OF FLORIDA DEPARTMENT OF HEALTH

In Re: the Certificate of

J. LUKE LENTZ, MD PA

LICENSE NO. PMC 676

SETTLEMENT AGREEMENT

Pursuant to section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Florida Department of Health as disposition of the Petition for a hearing herein, in lieu of any other administrative proceedings. The Petitioner filed a Petition ohallenging the Notice of Intent to Revoke Certificate of Registration (ITAR) served on it by certified mail on October 20, 2010. The Petition was timely filed with the Agency Clerk, Florida Department of Health, on November 10, 2010. The terms herein become effective only if and when a Final Order adopting this Settlement Agreement as the disposition of this matter is issued and filed by the Florida Department of Health.

STIPULATED FACTS

- Petitioner is a Pain-management clinic with the Cartificate of Registration of PMC 676.
- Petitioner is a Florida Corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be outstanding at any one time.
- At all pertinent times to this Settlement Agreement, J. Luke Lentz is and has been the sole owner of all 100 issued shares of the Petitioner.

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 J. Luke Lentz is a Medical Doctor (M.D.) with a full, active, and unencumbered Florida medical license.

 Petitioner is fully owned by a medical doctor licensed under chapter 458, Florida Statutes.

6. The records of the Florida Department of State reflect J. Luke Lentz as the owner of 100% of the 100 issued shares of the Petitioner.

STIPULATED LAW

 Petitioner admits that this matter is subject to the provisions of Section 458.3265,
Piorida Statutes, and the jurisdiction of the Florida Department of Health and the Florids Board of Medicine.

8. Petitioner admits that the Settlement Agreement is a fair, appropriate, and reasonable resolution to this pending matter.

PROPOSED DISPOSITION

9. The parties request the Florida Department of Health to enter a final order adopting this Sottlement Agreement as the disposition of this matter and directing the Bureau of Operations, Department of Health, to issue, file with the Agency Clark, and serve on Petitioner a Withdrawal of Notice of Intent to Revoka Cortificate of Registration as a Pain-management clinic issued against Petitioner.

10. Petitioner agrees that the Petition will not be submitted for a hearing by the filing of the Settlement Agreement, unless the Florida Department of Health rejects the Settlement Agreement. Should the Department adopt the Settlement Agreement

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as the disposition of this matter by final order, the Patitioner hereby agrees that its Petition for hearing pending before the Department is voluntarily dismissed. The parties agree to pay their own attorneys' fees and costs and agree to waive all

- 11. rights to an appeal.
- The parties stipulate and agree that this Settlement Agreement is a logal and 12. binding document and is fully enforceable against all parties in any court of competent jurisdiction. The signstories hereto are vested with the anthority to execute this Settlement Agreement on behalf of their respective principals, and as duly designated representatives, to fully bind such principals.

WHEREFORE, the partice hereto request the Florida Department of Health to enter a Final Order adopting the terms contained herein as the disposition of this matter.

Respectfully Submitted.

to me

STATE OF FLORIDA COUNTY OF OKG 10050

Sworn to (or affirmed) and subscribed before me this 15 day of NOVEMBER 2010, by J. Luke Lentz, M.D.

(Signature of Notary Public-State of Florida

(Print, Type, or Stamp Commissioned Name of Notary Public)

OR Produced Identification _ Personally known Type of Identification Produced

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Morris Shellcofsky

Morris Socialities y FLA. BAR NO: 162766 Assistant General Counsel and Senior Attorney Florida Department of Health Office of General Counsel 4052 Bald Cypress Way, BIN A02 Tallahasace, Florida 32399-1703 Telephone: (850) 245-4005 Facsimile : (850) 410-1448

Email: Morris_Shelkofsky @doh.state.fl.us

Respectfully submitted, JOHN N.C. LEDBETTER

Fia. Bar No. 0354333 Attorney for Petitioner J. Luke Lentz, M.D. 4641 Gulfstarr Drive, Suite 102 Destin, FL 32541 Telephone: 850-650-1040 Fax: 850-650-3020 E-mail: led@destinlawgroup.com

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EXHIBIT "B"

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From LENTZ LYME CLINIC 1.850.807.5000 Mon Jul 16 14:57:50 2012 EST Page 4 of 13

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BEFORE THE STATE OF FLORIDA DEPARTMENT OF HEALTH

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PMC Certificate No. 676

In Rs: Petition of John Luther Leniz MD and J. Luke Lentz MD, PA for a declaratory statement form the Florids Department of Health and the Florida Medical Board regarding Petitiotioner's exemptions form the mandates of Fl. Stat Sec. 458.3265

Patitioners

CERTIFICATION OF JOHN LUTHER LENTZ MD IN SUPPORT OF PETITION FOR DECLARATORY STATEMENT PURSUANT TO FL Stat. 8 120.565.

My name is John Luther Lentz, I am over 18 years of age, I am of sound mind and 1, qualify to testify in connection with the facts presented herein and in the accompanying patition. I reside in Okalooosa County Florida and maintain a practice of modicine in the said county under the business name of J.Luke Lentz MD, PA. I sm fully familiar with all of the facts underlying the request for a declaratory statement. I submit this certification in support of the present petition. I have read the accompanying petition and know all of the facts therein to be true

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to the best of my knowledge.

I am a physician duly licensed to practice medicine in the state of Florida undar 3.

license No. ME 82437.

J.Luke Lontz MD, PA. (hereinafter "Clinic") is a Florida corporation for which only 100 shares have been issued out of a total of 1,000 shares authorized to be issued at any time.

At all of the relevant times hereinabove and hereinafter montioned, the Clinic was and is registered with the Florida Department of Health pursuant to Fl. Stat. Sec. 458.3264 as a "pain management Clinic" and possesses certificate of registration PMC #676.

6. At all of the relevant times hereinabove and hereinafter mentioned I was and still am the sole owner of the 100 issued shares of the Clinic.

7. At all of the rolevant times hereinabove and hereinafter mantioned the Clinic was and still is fully owned by me. I sm and have been a medical doctor licensed under Chapter 458 of the Florida Statutes.

8. In the concse of my medical practice at the Clinic I use suboxons to reduce opioid dependency. This is a a medical condition for which Lyme disease patients and non Lyme disease patients seek my treatment. For a large segment of the patients suboxone is prescribed as only one of the many treatments related to their general medical condition which may include an array of maladies in addition to and independent of opioid dependency.

9. I registered the Clinic as a "pain management Clinic" because it was my understanding that I had to undergo such registration because of the use of the scheduled drug suboxone for the foregoing specific purpose of reducing opiold dependency.

10. Neither me nor the Clinic provide any pain management services as we do not treat patients for chronic non malignant pain per se. Nor is there nor has there ever been a situation where in any month a majority of patients at the Clinic are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

11. While patients are prescribe suboxone, such prescriptions are not related to or given in connection with pain management.

12. Neither myself nor the Clinic advertise in any type of media for pain management services as such services are not offered at the Clinic.

13. Because it is unclear to me under the circumsiances set forth above, whether the

Clinic falls under the provisions of the "pain management" the Florida statutes cited in the Petition,

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I am requesting the the Florida Department of Health and/or the Florida Bard of Medicae to issue a declaratory statement clarifying whether the use of suboxone for reduction of opioid dependency qualifies the Clinic as a "pain management Clinic" under the applicable florida statutes and whether the PMC registration #676 still has to be maintained under these circumstances.

14. I am also requesting that in the event that the Department determines that the foregoing use of suboxone for the reduction of opioid dependency does not amount to "pain management" the Department issue a declaratory statement exemting me and the elinine from the mandates of Fl. Stat. Soc. 458.3265.

15. I further request that pending the determination of this Petition the Department of Health stay its inspections of the Clinic and any actions which it is entitled to take in furtherance and enforcement of Fl. Stat. Sec. 458.3265 should there be a preliminary determination that the provisions of the same statute are not applicable to the Clinic and to me.

16. I certify that all of the foregoing is true to the best of my knowledge and that if any of the foregoing statements are knowingly false. I am subject to punishment under Florida law. Dated: November 23, 2012

JOHN LUTHER LENTZ MD