

AA

STATE OF FLORIDA  
BOARD OF MEDICINE

By: Sheresa McKam  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2002-09315

LICENSE NO.: ME0067443

JOHN DAVID YOUNG, M.D.,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on October 7, 2005, in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause pursuant to Respondent's Election of Rights. At the hearing, Petitioner was represented by Mary K. Surles, Assistant General Counsel. Respondent was present and was represented by Max R. Price, Esquire. The facts are not in dispute.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.

3. The violations set forth warrant disciplinary action by the Board. THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

a. Respondent shall pay an administrative fine in the amount of \$10,000 to the Board within 30 days from the date this Final Order is filed.

b. Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 50 hours of community service. Community service shall be provided without fee or cost to the person or entity benefitting from the service, for the good of the people of the State of Florida. A community service plan must be pre-approved by the Board's Probationer's Committee. Affidavits detailing the completion of community service requirements shall be filed with the Board's Probationer's Committee.

c. Respondent shall document the completion of 10 hours of continuing medical education (CME) as follows: 5 hours CME in the area of risk management and 5 hours CME in hand injuries. Documentation of completion of said CME shall be submitted to the Board's Probation Committee within one year from the date this Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Unless otherwise approved by the Board or the Chairperson of the Probationer's Committee, said continuing education courses shall consist of a formal live lecture format.

d. Respondent shall be and hereby is REPRIMANDED by the Board.

RULING ON MOTION TO ASSESS COSTS

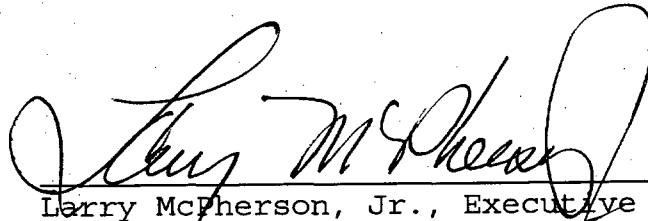
The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$2,515.15. Said costs are to be paid within 30 days from the date this Final Order is filed.

(NOTE: SEE ATTACHMENT "A" FOR STANDARD TERMS APPLICABLE TO ALL FINAL ORDERS. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE STANDARD TERMS SET FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

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

DONE AND ORDERED this 17 day of OCTOBER, 2005.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director  
for Laurie K. Davies, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE

DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

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 JOHN DAVID YOUNG, M.D., 9990 East Gulf Street, Seminole, Florida 33776; to Max R. Price, Esquire, Solms & Price, 6701 SW 72<sup>nd</sup> Street, Suite 104, Miami, Florida 33143; and by interoffice delivery to Denise O'Brien and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 18 day of October, 2005.

  
**Deputy Agency Clerk**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NO.: 2002-09315**

**JOHN DAVID YOUNG, M.D.,**

**RESPONDENT.**

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**ADMINISTRATIVE COMPLAINT**

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Medicine against the Respondent, John David Young, M.D., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the State of Florida and was issued license number 67443.
3. Respondent's address of record is 9990 E. Gulf Street, Seminole, Florida 33776.
4. Respondent is board certified in Family Practice. On or about August 22, 1999, during the times material to this complaint, Respondent was on duty as the

attending emergency room physician at the East Pointe Hospital Emergency Room in Lehigh Acres, Florida.

5. On or about August 22, 1999, at approximately 8:13 p.m., Patient S.P., a 29 year-old female, presented to the East Pointe Hospital Emergency Room for treatment of a laceration to her right fifth finger, which she cut on glass.

6. Respondent examined Patient S.P.'s finger, ordered the wound cleansed with normal saline, closure of the wound with Dermabond and application of a pressure bandage. At or about 8:45 p.m., the attending nurse applied Dermabond and a pressure dressing.

7. Patient S.P. was then released from the hospital and sent home.

8. On or about August 23, 1999, at approximately 1:08 a.m., about four hours after her initial release from the emergency room, Patient S.P. returned to the emergency room complaining of pain in her right fifth finger.

9. Respondent wrote Patient S.P. a prescription for Darvocet and sent her home without checking her back into the emergency room.

10. Respondent did not examine or re-evaluate Patient S.P.'s right fifth finger at any time during this follow up visit on August 23, 1999.

11. On or about August 24, 1999, Patient S.P. returned to the emergency department for a re-check of her right fifth finger.

12. Medical notes indicate that the dressing was very tight prior to removal.

13. Upon removal of the dressing, Patient S.P.'s right fifth finger appeared ischemic, erythematous and necrotic. Patient S.P. was referred to a specialist for appropriate follow up care.

#### **COUNT ONE**

14. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) as if fully set forth herein.

15. Section 458.331(1)(t), Florida Statutes (1999), sets forth grounds for disciplinary action by the Board of Medicine for gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

16. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances by failing to examine and re-evaluate Patient S.P.'s right fifth finger and assess the way it was bandaged when she re-presented for pain at the emergency room on or about August 23, 1999.

17. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances as set forth above.

## COUNT TWO

18. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) as if fully set forth herein.

19. Section 458.331(1)(m), Florida Statutes (1999), sets forth grounds for disciplinary action by the Board of Medicine for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

20. Respondent failed to justify the course of Patient S.P.'s medical treatment in that Respondent failed to document the reasons why Respondent did not reexamine the Patient's finger when she returned to the emergency room complaining of pain after the patient's initial visit.

21. Based on the foregoing, Respondent has violated Section 458.331(1)(m), Florida Statutes, by failing to accurately record and justify the course of Patient S.P.'s medical treatment.

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 29th day of April, 2003.

John O. Agwunobi, M.D., M.B.A.  
Secretary, Department of Health

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Nick R. Kenon  
DATE 4/29/03

Wayne Mitchell

Wayne Mitchell  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar # 869414  
(850) 414-8126  
(850) 414-1989 FAX

WM:cb

Reviewed and approved by: DKK (Initials) 3/21/03 (date)

PCP: 4-25-03

PCP Members: EL-BAHRI, CHAIR / M. LONG / L. JUCKER

DOH vs. John David Young, M.D., Case No. 2002-09315

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Neetha Coleman*  
DATE 9-2-05

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2-09315

JOHN D. YOUNG, M.D.

Respondent.

**MOTION TO ASSESS COSTS**  
**IN ACCORDANCE WITH SECTION 456.072(4)**

COMES NOW the Department of Health, by and through undersigned counsel, and moves the Board of Chiropractic Medicine for the entry of a Final Order assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2003). As grounds therefore, the Petitioner states the following:

1. At its next regularly scheduled meeting, the Board of Medicine will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.

2. Section 456.072(4), Florida Statutes (2003),<sup>1</sup> states as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not

<sup>1</sup> Ch. 2003-416, § 19, Laws of Fla., effective September 15, 2003, amended Section 456.072(4), Florida Statutes (2003), to include the underlined language.

limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. . . .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$2,515.15, based on the following itemized statement of costs:

Complainant's Name: WILLIAM A DONOVAN, ESQUIRE  
 Subject's Name: JOHN YOUNG

***** Cost to Date *****		
	Hours	Costs
Complaint:	1.60	\$74.21
Investigation:	10.00	\$407.20
Legal:	19.00	\$1,408.74
	*****	*****
Sub Total:	30.60	\$1,890.15
Expenses to Date:		\$625.00
Prior Amount:		\$0.00
Total Costs to Date:		\$2,515.15

4. Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$2,515.15 as evidenced in the attached affidavit. (Exhibit A).

5. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based

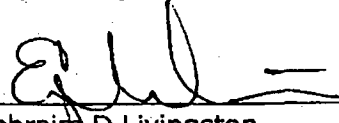
upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$2,515.15 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2003).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against the Respondent in the amount of \$2,515.15.

DATED this 2<sup>nd</sup> day of September, 2005.

Respectfully submitted,



Ephraim D Livingston  
Assistant General Counsel


Florida Bar No. 0121347  
Department of Health-PSU  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265

(850) 414-8126  
(850) 414-1989 FAX

EDL:pdt

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via:  postage- paid U.S. Mail Max R. Price, Solms & Price, 6701 S.W. 72<sup>nd</sup> Street, Suite 104, Miami, FL 33143 this 2<sup>nd</sup> day of September, 2005.



Ephraim D. Livingston  
Assistant General Counsel

## AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA  
COUNTY OF LEON:

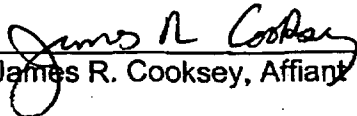
**BEFORE ME**, the undersigned authority, personally appeared **JAMES R. COOKSEY**, who was sworn and states as follows:

- 1) My name is James R. Cooksey.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 1580 Waldo Palmer Lane, Tallahassee, Florida 32308.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number 2002-09315 (Department of Health v. John D. Young, M.D. is two thousand four hundred ninety dollars and forty-four cents (\$2,490.44).
- 6) The costs for DOH case number 2002-09315 (Department of Health v. John David Young, M.D. are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number 2002-09315 (Department of Health v. John David Young, M.D.) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services

Unit, Legal Department, and in each area office, inputs the time worked and expenses spent into the Time Tracking System. Time and expenses are charged against a state health care Board (e.g., Florida Board of Medicine, Florida Board of Dentistry, Florida Board of Osteopathic Medicine), and/or a case. If no Board or case can be charged, then the time and expenses are charged as administrative time. The hourly rate of each employee is calculated by formulas established by the Department. (See the Itemized Cost Report)

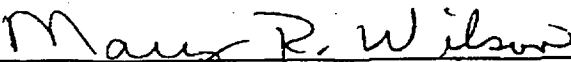
- 9) James R. Cooksey, first being duly sworn, states that he has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of his knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

  
James R. Cooksey, Affiant

State of Florida  
County of Leon

Sworn to and subscribed before me this 23 day of August, 2005,  
by James R. Cooksey, who is personally known to me.

  
Notary Signature



MARY R. WILSON  
NY COMMISSION # DD 313854  
EXPIRES: June 7, 2008  
Bonded thru Budget Notary Services

Name of Notary Printed

Stamp Commissioned Name of Notary Public:

## Complaint Cost Summary

Complaint Number:200209315

Complainant's Name: WILLIAM A DONOVAN,  
ESQUIRE  
Subject's Name: JOHN YOUNG

	***** Cost to Date *****	
	Hours	Costs
Complaint:	1.60	\$74.21
Investigation:	10.00	\$407.20
Legal:	18.70	\$1,384.03
	*****	*****
Sub Total:	30.30	\$1,865.44
Expenses to Date:		\$625.00
Prior Amount:		\$0.00
Total Costs to Date:		\$2,490.44



**Time Tracking Report**  
**Itemized Cost by Complaint**  
 Complaint 200209315

Report Date: 08/22/2005

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
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**BUREAU OF CONSUMER COMPLAINTS**

HA73	0.70	\$46.38	\$32.47	04/08/2002	82	MQA REPORT ENTRY
HA73	0.90	\$46.38	\$41.74	05/22/2002	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
<b>Sub Total</b>	<b>1.60</b>		<b>\$74.21</b>			

**BUREAU OF INVESTIGATIVE SERVICES**

FI60	1.00	\$40.72	\$40.72	06/03/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	1.00	\$40.72	\$40.72	06/19/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	0.50	\$40.72	\$20.36	07/01/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	0.50	\$40.72	\$20.36	07/16/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	1.00	\$40.72	\$40.72	07/24/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	0.50	\$40.72	\$20.36	07/29/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	0.50	\$40.72	\$20.36	07/30/2002	58	TRAVEL TIME
FI60	1.00	\$40.72	\$40.72	08/06/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	1.00	\$40.72	\$40.72	08/07/2002	4	ROUTINE INVESTIGATIVE WORK
FI60	2.00	\$40.72	\$81.44	08/07/2002	76	REPORT PREPARATION
FI60	1.00	\$40.72	\$40.72	08/13/2002	76	REPORT PREPARATION
<b>Sub Total</b>	<b>10.00</b>		<b>\$407.20</b>			

**BUREAU OF LEGAL SERVICES**

HLL4B	1.50	\$70.61	\$105.92	01/20/2003	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HLL4B	1.50	\$70.61	\$105.92	02/24/2003	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL4B	1.00	\$70.61	\$70.61	02/28/2003	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL4B	0.50	\$70.61	\$35.31	03/03/2003	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT





**Time Tracking Report**  
**Itemized Cost by Complaint**  
 Complaint 200209315

Report Date: 08/22/2005

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL4B	1.00	\$70.61	\$70.61	03/13/2003	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL4B	1.00	\$70.61	\$70.61	03/17/2003	35	TELEPHONE CALLS
HLL4B	0.50	\$70.61	\$35.31	03/18/2003	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL4B	0.50	\$70.61	\$35.31	03/21/2003	29	REVIEW ADMINISTRATIVE COMPLAINT
HLL4B	1.00	\$70.61	\$70.61	04/30/2003	39	PREPARE/RESPOND TO DISCOVERY
HLL4B	0.50	\$70.61	\$35.31	05/01/2003	90	POST PROBABLE CAUSE PROCESSING
HLL4B	0.50	\$70.61	\$35.31	05/02/2003	90	POST PROBABLE CAUSE PROCESSING
HLL4B	0.50	\$70.61	\$35.31	06/01/2003	39	PREPARE/RESPOND TO DISCOVERY
HLL4B	0.30	\$70.61	\$21.18	06/02/2003	25	REVIEW CASE FILE
HLL4B	0.50	\$70.61	\$35.31	06/03/2003	39	PREPARE/RESPOND TO DISCOVERY
HLL4B	0.30	\$70.61	\$21.18	06/04/2003	25	REVIEW CASE FILE
HLL4B	0.50	\$70.61	\$35.31	06/05/2003	39	PREPARE/RESPOND TO DISCOVERY
HLL4B	0.70	\$70.61	\$49.43	06/13/2003	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN O
HLL4B	0.50	\$70.61	\$35.31	07/21/2003	40	PREPARATION OF OR REVISION OF A PLEADING
HLL4B	0.50	\$70.61	\$35.31	10/01/2003	59	LOCATING CASE FILE
HL70A	0.10	\$82.38	\$8.24	12/23/2003	25	REVIEW CASE FILE
HL70A	0.30	\$82.38	\$24.71	04/20/2004	25	REVIEW CASE FILE
HL70A	2.80	\$82.38	\$230.66	09/22/2004	39	PREPARE/RESPOND TO DISCOVERY
HL70A	1.50	\$82.38	\$123.57	09/23/2004	25	REVIEW CASE FILE
HL70A	0.10	\$82.38	\$8.24	03/07/2005	37	REVIEW LETTER
HL70A	0.20	\$82.38	\$16.48	03/16/2005	26	PREPARE OR REVISE MEMORANDUM
HL70A	0.10	\$82.38	\$8.24	04/07/2005	88	PROOFING AND SIGNING LETTERS
HL70A	0.20	\$82.38	\$16.48	06/30/2005	25	REVIEW CASE FILE
HL70A	0.10	\$82.38	\$8.24	07/06/2005	35	TELEPHONE CALLS
<b>Sub Total</b>	<b>18.70</b>		<b>\$1,384.03</b>			



**Time Tracking Report**  
Itemized Cost by Complaint  
Complaint 200209315

Report Date: 08/22/2005

Activity Description

Staff Code Activity Hours Cost Activity Date Activity Code

Total Cost	30.30	\$1,865.44		
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**Time Tracking Report**  
Itemized Expense by Complaint  
Complaint 200209315

Report Date: 08/22/2005

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
<b>BUREAU OF LEGAL SERVICES</b>				
HL34B	10/07/2002	\$375.00	131630	EXPERT WITNESS
HL34B	05/15/2004	\$250.00	131630	EXPERT WITNESS
	SubTotal	\$625.00		
	Total Expenses	\$625.00		

**ATTACHMENT A**  
**STANDARD TERMS APPLICABLE TO ALL FINAL ORDERS**

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The following are the standard terms applicable to all Final Orders, including supervision and monitoring provisions applicable to licensees on probation.

**A. COMPLIANCE WITH STATE AND FEDERAL LAWS AND RULES.**

Respondent shall comply with all state and federal statutes, rules and regulations pertaining to the practice of medicine, including Chapters 456, 458, 893, Florida Statutes, and Rule Chapter 64B8, Florida Administrative Code. If Respondent is subject to criminal probation, Respondent shall comply with all terms and conditions of said criminal probation.

**B. PAYMENT OF FINES AND COSTS.** Unless otherwise directed by Final Order, all fines and costs shall be paid by check or money order made payable to the Board and sent to DOH/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, **WITHIN 30 DAYS OF THE FILING OF THE FINAL ORDER.** The Board/Compliance office does NOT have the authority to change the terms of payment of any fine imposed by the Board.

**C. ADDRESSES.** Respondent must keep current residence and practice addresses on file with the Board. Respondent

shall notify the Compliance Office, in writing, within 10 days of any changes of those addresses. Furthermore, if the Respondent's license is on probation, the Respondent shall notify the Compliance Office within 10 days in the event that Respondent leaves the active practice of medicine in Florida.

D. COMPLIANCE ADDRESS. Unless otherwise directed, all reports, correspondence and inquiries shall be sent to: DOH, Client Services Unit, 4052 Bald Cypress Way, Bin #C01, Tallahassee, Florida 32399-3251, Attn: Medical Compliance Officer.

E. CONTINUITY OF PRACTICE

1. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of medicine in the State of Florida, then certain provisions of the requirements in the Final Order shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida. Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of Florida. Unless otherwise set forth in the Final Order, the following requirements and only the following requirements shall be tolled until the Respondent returns

to active practice:

- a. The time period of probation shall be tolled.
- b. The provisions regarding supervision whether direct or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.
- c. The requirement for quality assurance review of Respondent's practice shall be tolled.
- d. Any provisions regarding community service shall be tolled.
- e. Any requirements regarding lectures on the subject of wrong-site surgery.

**2. ACTIVE PRACTICE.** In the event that Respondent leaves the active practice of medicine for a period of one year or more, the Respondent may be required to appear before the Board and demonstrate the ability to practice medicine with reasonable skill and safety to patients prior to resuming the practice of medicine in the State of Florida.F.

**COMMUNITY SERVICE AND CONTINUING EDUCATION UNITS.**

Unless otherwise directed by Final Order, all community service requirements, continuing education units/courses must be completed, and documentation of such completion submitted to DOH/Client Services, at the address set forth in paragraph D., **WITHIN ONE YEAR OF THE DATE OF THE FINAL ORDER.**

1. DEFINITION OF COMMUNITY SERVICE. "Community service" shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services to an entity which is exempt from federal taxation under 26 U.S.C. s. 501(c)(3), without fee or cost to the patient or the entity, for the good of the people of the State of Florida. Community service shall be performed outside the physician's regular practice setting.

2. CONTINUING EDUCATION. Continuing education imposed by Final Order shall be in addition to those hours required for biennial renewal of licensure. Unless otherwise approved by the Board or the Chairperson of the Probation Committee, said continuing education courses shall consist of a formal live lecture format.

G. PROBATION TERMS. If probation was imposed by the Final Order, the following provisions are applicable.

1. DEFINITIONS:

a. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor), as set forth in the Final Order, whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent. However, the monitor shall practice within a reasonable geographic

proximity to Respondent, which shall be within 20 miles unless otherwise approved by the Board and shall be readily available for consultation. The monitor shall be board-certified in the Respondent's specialty area unless otherwise approved by the Board or its designee.

b. DIRECT SUPERVISION is supervision by a supervising physician (supervisor), as set forth in the Final Order, whose responsibilities are set by the Board. Direct supervision requires that the supervisor and Respondent work in the same office. The supervisor shall be board-certified in the Respondent's specialty area unless otherwise approved by the Board or its designee.

c. PROBATION COMMITTEE or "Committee" are members of the Board of Medicine designated by the Chair of the Board to serve as the Probation Committee.

## 2. REQUIRED SUPERVISION.

a. If the terms of the Final Order include indirect monitoring of the licensee's practice (monitoring) or direct monitoring of the licensee's practice (supervision), the Respondent shall not practice medicine without an approved monitor/supervisor, as specified by the Final Order, unless otherwise ordered



by the Board.

b. The monitor/supervisor must be licensed under Chapter 458, Florida Statutes, in good standing, and without restriction or limitation on his/her license. In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he/she has previously been subject to any disciplinary action against his/her medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise approved by the Board or Committee and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than 20 miles unless otherwise specifically provided for in the Final Order. The monitor/supervisor must not be a relative or employee of the Respondent. The Board, Committee or designee may also reject any proposed monitor/supervisor for good cause shown.

3. TEMPORARY APPROVAL. The Board confers authority on the Chair of the Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to

the Compliance Officer the name and curriculum vitae of the proposed monitor/supervisor. This information shall be furnished to the Chair of the Probation Committee by way of the Compliance Officer, within 48 hours after Respondent receives the Final Order in this matter. This information may be faxed to the Compliance Officer at (850) 414-0864, or may be sent by overnight mail to the Compliance address as set forth in paragraph D. above. In order to provide time for Respondent's proposed supervisory/monitoring physician to be approved or disapproved by the Chair of the Probation Committee, Respondent shall be allowed to practice medicine while approval is being sought, but only for a period of five working days after Respondent receives the Final Order. If Respondent's supervising/monitoring physician has not been approved during that time frame, then Respondent shall cease practicing until such time as the supervising/monitoring physician is temporarily approved. In the event that the proposed monitoring/supervising physician is not approved, then Respondent shall cease practicing immediately. Should Respondent's monitoring/supervising physician be approved, said approval shall only remain in effect

until the next meeting of the Probationer's Committee. Absent said approval, Respondent shall not practice medicine until a monitoring/supervising physician is approved. Temporary approval shall only remain in effect until the next meeting of the Probation Committee.

**4. FORMAL APPROVAL.** Respondent shall have the monitor/supervisor with him/her at the first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide the monitor/supervisor a copy of the Administrative Complaint and the Final Order in this case. Respondent shall submit a current curriculum vitae, a description of current practice, and a letter agreeing to serve from the proposed monitor/supervisor to the Compliance Officer no later than 21 ~~fourteen~~ days before the Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such times as directed by the Committee. It shall be the Respondent's responsibility to ensure the appearance of his/her monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall

constitute a violation of the terms of the Final Order and may subject the Respondent to additional disciplinary action.

5. CHANGE IN MONITOR/SUPERVISOR. In the event that Respondent's monitor/supervisor is unable or unwilling to fulfill his/her responsibilities as a monitor/supervisor as described above, the Respondent shall immediately advise the Compliance Office of this fact. Respondent shall immediately submit to the Compliance Office the name of a temporary monitor/supervisor for consideration. Respondent shall not practice pending approval of this temporary monitor/supervisor by the Chair of the Probation Committee. Furthermore, Respondent shall make arrangements with his/her temporary monitor/supervisor to appear before the Probation Committee at its next regularly scheduled meeting for consideration of the monitor/supervisor by the Committee. Respondent shall only practice under the supervision of the temporary monitor/supervisor (approved by the Chair) until the next regularly scheduled meeting of the Probation Committee whereat the issue of the Committee's approval of the Respondent's new monitor/supervisor shall be addressed.

**6. REPORTS.**

a. If directed by Final Order, probation reports, in affidavit form, shall be submitted by the Respondent and shall contain the following:

- (1) Brief statement of why physician is on probation.
- (2) Practice location.
- (3) Describe current practice (type and composition).
- (4) Brief statement of compliance with probationary terms.
- (5) Describe relationship with monitoring/supervising physician.
- (6) Advise Compliance Officer of any problems including office incident reports filed; loss or restriction of hospital staff privileges; loss or restriction of DEA registration; or any Medicare/Medicaid program exclusions, restrictions or limitations.

b. **MONITOR/SUPERVISOR REPORTS.** If directed by Final Order, monitor/supervisor reports, in affidavit form shall include the following:

- (1) Brief statement of why physician is on probation.
- (2) Description of probationer's practice.
- (3) Brief statement of probationer's compliance with terms of probation.

(4)

Brief description of probationer's relationship with monitoring physician.

(5) Detail any problems which may have arisen with probationer.

7. INVESTIGATIVE REPORTS. Respondent understands that during the period of probation, at a minimum, semi-annual investigative reports will be compiled with the Department of Health concerning compliance with the terms and conditions of probation and the rules and statutes regulating the practice of medicine.

8. COSTS OF COMPLIANCE. Respondent shall pay all costs necessary to comply with the terms of the Final Order. Such costs include, but are not limited to, the costs of preparation of the investigative reports detailing compliance with the terms of the Final Order, the cost of analysis of any blood or urine specimens submitted pursuant to the Final Order, and administrative costs directly associated with Respondent's probation. See Section 458.331(2), Florida Statutes.

9. SUPERVISION OF PHYSICIAN ASSISTANTS AND/OR

ANESTHESIOLOGIST ASSISTANTS. Respondent is required to notify, in writing, any physician

assistant and/or anesthesiologist assistant which the Probationer supervises, of his or her probationary status. A copy of said written notification(s) shall be submitted to the Board's Compliance Officer within 10 days of entry of the Final Order.

H. SUSPENSION. In the event that a Respondent's license expires during the period that the license is suspended, this action shall not relieve the Respondent of the responsibility to renew the license at the end of each licensure period. If the Respondent fails to renew the license at the end of any licensure period, all normal conditions and consequences imposed by statute or rule of the Board for failure to timely and properly renew a license shall apply. Renewal of a suspended license during the period of suspension shall not affect the suspension of the license and the suspension shall continue until all requirements for reinstatement have been met.

I. RETURN OF LICENSE. Any Final Order which suspends a license, revokes a license, or accepts a Respondent's offer to voluntarily relinquish his/her license shall require the Respondent to return the license to the Department within 30 days from the date the Final Order is filed. This shall not apply to instances where the Board or a court has granted the Respondent a stay of the suspension.

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