

STATE OF FLORIDA  
BOARD OF MEDICINE

FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK **Angel Sanders**  
DATE **FEB 17 2012**

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 2011-04733  
2008-27244  
LICENSE NO.: ME0055819

EVAN J. ZIMMER, M.D.,

Respondent.

**NOTICE OF SCRIVENER'S ERROR**

COMES NOW, the Petitioner, Department of Health, and corrects the scrivener's error contained in Final Order number as having Rendition number DOH-12-0342-FOI-MQA, case nos. 2011-04733 and 2008-27244, as grounds therefore states:

1. The Final Order as received had an incorrect zip code listed in the certificate of service for the respondent.
2. The Final Order is now correct and remains nunc pro tunc to the filing date.

WHEREFORE, the Petitioner hereby corrects the scrivener's error contained in the Final Order.

Respectfully submitted, on the 17<sup>th</sup> day of February, 2012.

  
 Amy Carraway  
 Deputy Agency Clerk  
 Department of Health  
 Central Records Unit  
 4052 Bald Cypress Way, Bin #C01  
 Tallahassee, Florida 32399

Final Order No. DOH-12-0342-<sup>FOI</sup> -MQA  
FILED DATE - 2-17-12  
Department of Health  
By: Amy R. Long  
Deputy Agency Clerk

STATE OF FLORIDA  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2011-04733  
2008-27244  
LICENSE NO.: ME0055819

EVAN J. ZIMMER, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57, Florida Statutes, on February 3, 2012, 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. Respondent was served with the Administrative Complaint by publication. Because Respondent failed to submit an Election of Rights or otherwise dispute the facts or respond in any other way, Respondent waived the right to a hearing pursuant to Section 120.57, Florida Statutes. At the hearing, Petitioner was represented by Sharmin Hibbert, Assistant General Counsel. Respondent was not present and was not represented by counsel. 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:

Respondent's license to practice medicine in the State of Florida is hereby SUSPENDED until such time as he appears before the Board and demonstrates the ability to practice medicine with reasonable skill and safety. Said demonstration of skill and safety shall require Respondent to undergo an evaluation by the Professionals Resource Network (PRN). The Board reserves jurisdiction in this matter to impose a period of probation and other terms and conditions on Respondent's practice at the time of reinstatement based upon the evaluation by PRN.

RULING ON MOTION TO ASSESS COSTS

The Board tabled ruling on the Petitioner's Motion to Assess Costs and reserves jurisdiction in this matter to address the costs at a future meeting.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS 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 15<sup>th</sup> day of February, 2012.

BOARD OF MEDICINE

Joy A. Tootle  
Joy A. Tootle, Executive Director  
For Jason J. Rosenberg, 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. Certified Mail to EVAN J. ZIMMER, M.D., 225 North East 34<sup>th</sup> Street, Suite 207, Miami, Florida ~~33304~~ <sup>3313788</sup>; and 1233 North East 16<sup>th</sup> Avenue, #4, Fort Lauderdale, Florida 33304; and by email to the Professionals

Resource Network (PRN) at admin@flprn.org; and by interoffice delivery to Veronica Donnelly, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 17<sup>th</sup> day of February, 2012.



**Deputy Agency Clerk**

7011 1570 0001 2422 4050

*Pt Lauderdale*

7011 1570 0001 2422 3558

225 N.E 34<sup>th</sup> St - Miami

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NOS. 2011-04733  
2008-27244

Evan Zimmer, 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 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:

<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.

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 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. . . . (emphasis added)

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$8,218.29, based on the following itemized statement of costs:

- a. Total costs for Complaints \$57.62
  - b. Total costs for Investigations \$502.79
  - c. Total costs for Legal \$870.18
  - d. Total costs for expenses \$1,774.53
- 
- a. Total costs for Complaints \$43.09
  - b. Total costs for Investigations \$2,503.30
  - c. Total costs for Legal \$1,986.43
  - d. Total costs for expenses \$6,443.76

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$8,218.29, as evidenced in the attached affidavit. (Exhibit A).

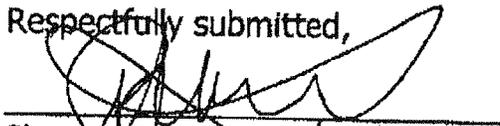
4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$8,218.29 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 \$8,218.29.

DATED this 20<sup>th</sup> day of December, 2011.

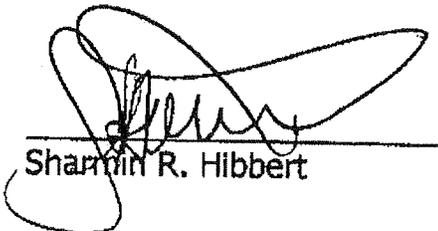
Respectfully submitted,



Sharrin R. Hibbert  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar # 032569  
(850) 245-4640  
(850) 245-4681 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Cost has been furnished Evan Zimmer, M.D., 225 North East, 34<sup>th</sup> Street, Suite 207, Miami, Florida 33137 and 1233 North East, 16 Avenue #4, Fort Lauderdale, Florida 33304, by  Hand-Delivery,  postage-paid U.S. Mail,  Certified U.S. Mail, Return Receipt Requested,  Hand-Delivery,  E-mail to: \_\_\_\_\_,  Facsimile Transmission, and/or  2<sup>nd</sup> day Federal Express, on this 20<sup>th</sup> day of December, 2011.

  
Sharrin R. Hibbert

### AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA  
COUNTY OF LEON:

**BEFORE ME**, the undersigned authority, personally appeared **SHANE WALTERS** who was sworn and states as follows:

- 1) My name is Shane Walters.
- 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 the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management 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 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, 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(s) **2011-04733 & 2008-27244** (Department of Health v. Evan Zimmer, M.D.) are **EIGHT THOUSAND TWO HUNDRED EIGHTEEN DOLLARS AND TWENTY-NINE CENTS (\$8,218.29)**.
- 6) The costs for DOH case number **2011-04733 & 2008-27244** (Department of Health v. Evan Zimmer, 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 **2011-04733 & 2008-27244** (Department of Health v. Evan Zimmer, 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) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters  
Shane Walters, Affiant

State of Florida  
County of Leon

Sworn to and subscribed before me this 12 day of December, 2011,  
by Shane Walters, who is personally known to me.

Kristie L. Butler  
Notary Signature

\_\_\_\_\_  
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



### Complaint Cost Summary

Complaint Number: 201104733

Subject's Name: ZIMMER, EVAN

***** Cost to Date *****		
	Hours	Costs
Complaint:	1.00	\$57.62
Investigation:	7.70	\$502.79
Legal:	7.80	\$870.18
Compliance:	0.00	\$3.00
	*****	*****
Sub Total:	16.50	\$1,433.59
Expenses to Date:		\$340.94
Prior Amount:		\$0.00
Total Costs to Date:		\$1,774.53

Division of  
Medical Quality Assurance



\*\*\* CONFIDENTIAL \*\*\*

Time Tracking System  
Itemized Cost by Complaint

Complaint 201104733

Report Date 12/12/2011

Page 1 of 2

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
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**COMPLIANCE MANAGEMENT UNIT**

HC07	0.10	\$32.13	\$3.21	08/16/2011	119	REVIEWING FO/CITATIONS & TERM INPUT
Sub Total	0.10		\$3.21			

**CONSUMER SERVICES UNIT**

HA101	0.10	\$57.62	\$5.76	03/18/2011	35	TELEPHONE CALLS
HA101	0.30	\$57.62	\$17.29	03/18/2011	4	ROUTINE INVESTIGATIVE WORK
HA101	0.30	\$57.62	\$17.29	03/18/2011	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA101	0.60	\$57.62	\$34.57	03/29/2011	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA134	0.50	\$57.62	\$28.81	05/25/2011	4	ROUTINE INVESTIGATIVE WORK
HA134	1.10	\$57.62	\$63.38	05/26/2011	76	REPORT PREPARATION
Sub Total	2.90		\$167.10			

**INVESTIGATIVE SERVICES UNIT**

MI198	1.50	\$67.81	\$101.72	06/06/2011	6	SUPPLEMENTAL INVESTIGATION
MI28	0.50	\$67.81	\$33.91	08/22/2011	4	ROUTINE INVESTIGATIVE WORK
MI199	2.20	\$67.81	\$149.18	08/24/2011	6	SUPPLEMENTAL INVESTIGATION
MI199	0.10	\$67.81	\$6.78	10/10/2011	6	SUPPLEMENTAL INVESTIGATION
MI28	0.50	\$67.81	\$33.91	10/11/2011	4	ROUTINE INVESTIGATIVE WORK
MI199	0.60	\$67.81	\$40.69	10/11/2011	6	SUPPLEMENTAL INVESTIGATION
MI199	0.40	\$67.81	\$27.12	10/13/2011	6	SUPPLEMENTAL INVESTIGATION
Sub Total	5.80		\$393.31			

**PROSECUTION SERVICES UNIT**

HLL71B	1.20	\$111.56	\$133.87	08/10/2011	81	ESOVERO
HLL71B	1.10	\$111.56	\$122.72	08/10/2011	25	REVIEW CASE FILE

Florida Department of Health

- FOR INTERNAL USE ONLY -

ItemizedCost

13358

Division of  
Medical Quality Assurance



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**Time Tracking System**  
**Itemized Cost by Complaint**

Complaint 201104733

Report Date 12/12/2011

Page 2 of 2

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL71B	1.40	\$111.56	\$156.18	08/11/2011	81	ESO/ERO
HLL71B	0.50	\$111.56	\$55.78	08/12/2011	81	ESO/ERO
HLL4B	0.30	\$111.56	\$33.47	08/17/2011	81	ESO/ERO
HLL71B	1.30	\$111.56	\$145.03	08/18/2011	25	REVIEW CASE FILE
HLL73B	0.10	\$111.56	\$11.16	08/19/2011	46	LEGAL RESEARCH
HLL71B	0.80	\$111.56	\$89.25	08/26/2011	81	ESO/ERO
HLL71B	1.10	\$111.56	\$122.72	08/29/2011	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
<b>Sub Total</b>	<b>7.80</b>		<b>\$870.18</b>			

<b>Total Cost</b>	<b>\$1,433.80</b>
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Florida Department of Health

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Itemizedcost

13359

Division of  
Medical Quality Assurance

**MQA**

**\*\*\* CONFIDENTIAL \*\*\***  
**Time Tracking System**  
**Itemized Expense by Complaint**  
Complaint 201104733

Report Date: 12/12/2011

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Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
<b>PROSECUTION SERVICES UNIT</b>				
HLL71B	09/07/2011	\$13.64	133100	LEGAL & OFFICIAL ADVERTISEMENTS
HLL71B	11/15/2011	\$327.30	133100	LEGAL & OFFICIAL ADVERTISEMENTS
	<b>SubTotal</b>	<b>\$340.94</b>		
	<b>Total Expenses</b>	<b>\$340.94</b>		

Florida Department of Health

- FOR INTERNAL USE ONLY -

itemizedexpense

**13360**

### Complaint Cost Summary

Complaint Number: 200827244

Subject's Name: ZIMMER, EVAN

	***** Cost to Date *****	
	Hours	Costs
Complaint:	0.70	\$43.09
Investigation:	36.40	\$2,503.30
Legal:	17.70	\$1,986.43
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	54.80	\$4,532.82
Expenses to Date:		\$1,910.94
Prior Amount:		\$0.00
Total Costs to Date:		\$6,443.76

Division of  
Medical Quality Assurance



\*\*\* CONFIDENTIAL \*\*\*

Time Tracking System  
Itemized Cost by Complaint

Complaint 200827244

Report Date 12/12/2011

Page 1 of 3

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
<b>CONSUMER SERVICES UNIT</b>						
HA85	0.70	\$61.55	\$43.09	12/16/2008	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
<b>Sub Total</b>	<b>0.70</b>		<b>\$43.09</b>			
<b>INVESTIGATIVE SERVICES UNIT</b>						
M124	0.50	\$73.49	\$36.75	12/22/2008	4	ROUTINE INVESTIGATIVE WORK
M124	0.50	\$73.49	\$36.75	01/05/2009	4	ROUTINE INVESTIGATIVE WORK
M124	0.30	\$73.49	\$22.05	01/13/2009	58	TRAVEL TIME
M124	0.20	\$73.49	\$14.70	01/13/2009	4	ROUTINE INVESTIGATIVE WORK
M1185	0.30	\$59.26	\$17.78	01/13/2009	58	TRAVEL TIME
M1185	0.20	\$59.26	\$11.85	01/13/2009	4	ROUTINE INVESTIGATIVE WORK
M124	0.20	\$73.49	\$14.70	01/14/2009	58	TRAVEL TIME
M124	1.00	\$73.49	\$73.49	01/14/2009	4	ROUTINE INVESTIGATIVE WORK
M124	0.60	\$73.49	\$44.09	01/15/2009	4	ROUTINE INVESTIGATIVE WORK
M124	1.00	\$73.49	\$73.49	01/15/2009	76	REPORT PREPARATION
M124	0.50	\$73.49	\$36.75	01/16/2009	4	ROUTINE INVESTIGATIVE WORK
M124	1.70	\$73.49	\$124.93	01/16/2009	76	REPORT PREPARATION
M124	1.00	\$73.49	\$73.49	01/20/2009	76	REPORT PREPARATION
M124	0.50	\$73.49	\$36.75	01/29/2009	6	SUPPLEMENTAL INVESTIGATION
M124	0.30	\$63.04	\$18.91	03/25/2009	6	SUPPLEMENTAL INVESTIGATION
M124	0.50	\$63.04	\$31.52	07/15/2009	6	SUPPLEMENTAL INVESTIGATION
L192	0.50	\$63.04	\$31.52	09/03/2009	6	SUPPLEMENTAL INVESTIGATION
L192	0.50	\$67.81	\$33.91	10/29/2010	6	SUPPLEMENTAL INVESTIGATION
L175	0.50	\$67.81	\$33.91	10/29/2010	6	SUPPLEMENTAL INVESTIGATION
M1201	1.20	\$67.81	\$81.37	10/29/2010	4	ROUTINE INVESTIGATIVE WORK
M1201	1.20	\$67.81	\$81.37	11/08/2010	6	SUPPLEMENTAL INVESTIGATION
M1201	2.80	\$67.81	\$189.87	11/08/2010	4	ROUTINE INVESTIGATIVE WORK
M1201	2.50	\$67.81	\$169.53	12/02/2010	4	ROUTINE INVESTIGATIVE WORK
M1201	2.00	\$67.81	\$135.62	12/06/2010	4	ROUTINE INVESTIGATIVE WORK

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Florida Department of Health

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Division of  
Medical Quality Assurance



\*\*\* CONFIDENTIAL \*\*\*  
Time Tracking System  
Itemized Cost by Complaint

Report Date 12/12/2011

Complaint 200827244

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Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
M1201	2.00	\$67.81	\$135.62	12/14/2010	4	ROUTINE INVESTIGATIVE WORK
M1201	1.10	\$67.81	\$74.59	12/15/2010	4	ROUTINE INVESTIGATIVE WORK
M1201	1.10	\$67.81	\$74.59	12/16/2010	6	SUPPLEMENTAL INVESTIGATION
L175	0.50	\$67.81	\$33.91	06/03/2011	6	SUPPLEMENTAL INVESTIGATION
L198	2.00	\$67.81	\$135.62	06/03/2011	4	ROUTINE INVESTIGATIVE WORK
M1202	2.00	\$67.81	\$135.62	06/06/2011	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
L198	0.20	\$67.81	\$13.56	06/06/2011	4	ROUTINE INVESTIGATIVE WORK
M1202	1.00	\$67.81	\$67.81	06/07/2011	4	ROUTINE INVESTIGATIVE WORK
L198	1.50	\$67.81	\$101.72	06/13/2011	6	SUPPLEMENTAL INVESTIGATION
L198	1.50	\$67.81	\$101.72	06/13/2011	6	SUPPLEMENTAL INVESTIGATION
M1198	0.50	\$67.81	\$33.91	07/05/2011	6	SUPPLEMENTAL INVESTIGATION
M1198	1.50	\$67.81	\$101.72	07/13/2011	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1198	1.00	\$67.81	\$67.81	07/21/2011	6	SUPPLEMENTAL INVESTIGATION
Sub Total	36.40		\$2,503.30			

PROSECUTION SERVICES UNIT

HLL55D	0.50	\$111.56	\$55.78	01/23/2009	70	CONFERENCES WITH LAWYERS
HLL55D	1.00	\$111.56	\$111.56	01/23/2009	25	REVIEW CASE FILE
HLL55D	1.00	\$111.56	\$111.56	01/27/2009	25	REVIEW CASE FILE
HLL55D	1.00	\$111.56	\$111.56	01/27/2009	26	PREPARE OR REVISE MEMORANDUM
HLL55D	0.20	\$111.56	\$22.31	01/27/2009	35	TELEPHONE CALLS
HLL55D	0.50	\$111.56	\$55.78	02/03/2009	25	REVIEW CASE FILE
HLL55D	0.20	\$114.59	\$22.92	03/18/2009	6	SUPPLEMENTAL INVESTIGATION
HLL55D	0.50	\$114.59	\$57.30	03/18/2009	25	REVIEW CASE FILE
HLL55D	1.50	\$114.59	\$171.89	07/15/2009	25	REVIEW CASE FILE
HLL55D	0.20	\$112.43	\$22.49	08/27/2009	35	TELEPHONE CALLS
HLL55D	0.40	\$112.43	\$44.97	08/27/2009	25	REVIEW CASE FILE
HLL55D	0.20	\$112.43	\$22.49	09/03/2009	35	TELEPHONE CALLS
HLL55D	0.20	\$112.43	\$22.49	09/03/2009	25	REVIEW CASE FILE
HLL71B	1.00	\$112.43	\$112.43	06/03/2010	25	REVIEW CASE FILE
HLL71B	3.60	\$112.43	\$404.75	11/03/2010	25	REVIEW CASE FILE
HLL71B	0.40	\$111.56	\$44.62		35	TELEPHONE CALLS

Florida Department of Health

-- FOR INTERNAL USE ONLY --

Itemized Cost

13363

Division of  
Medical Quality Assurance



\*\*\* CONFIDENTIAL \*\*\*  
Time Tracking System  
Itemized Cost by Complaint

Complaint 200827244

Report Date 12/12/2011

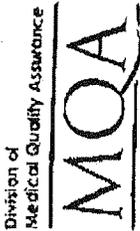
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Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL71B	0.70	\$111.56	\$78.09	11/03/2010	25	REVIEW CASE FILE
HLL71B	0.40	\$111.56	\$44.62	11/03/2010	46	LEGAL RESEARCH
HLL71B	0.30	\$111.56	\$33.47	11/03/2010	26	PREPARE OR REVISE MEMORANDUM
HLL53B	0.50	\$112.43	\$56.22	11/23/2010	60	MISCELLANEOUS
HLL71B	2.00	\$111.56	\$223.12	12/13/2010	46	LEGAL RESEARCH
HLL71B	1.30	\$111.56	\$145.03	02/10/2011	25	REVIEW CASE FILE
HLL71B	0.30	\$111.56	\$33.47	09/09/2011	89	PROBABLE CAUSE PREPARATION
Sub Total	17.70		\$1,986.43			

Total Cost

\$4,532.82

13364



\*\*\* CONFIDENTIAL \*\*\*  
Time Tracking System  
Itemized Expense by Complaint  
Complaint 200827244

Report Date: 12/12/2011

Page 1 of 1

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
<b>PROSECUTION SERVICES UNIT</b>				
HLL71B	07/28/2011	\$1,510.00	131747	PHYSICIAN SERVICES (OPS)
HLL71B	09/07/2011	\$13.64	133100	LEGAL & OFFICIAL ADVERTISEMENTS
HLL71B	11/21/2011	\$60.00	133100	LEGAL & OFFICIAL ADVERTISEMENTS
HLL71A	12/06/2011	\$327.30	133100	LEGAL & OFFICIAL ADVERTISEMENTS
	<b>SubTotal</b>	<b>\$1,910.94</b>		
	<b>Total Expenses</b>	<b>\$1,910.94</b>		

13365

Florida Department of Health

- FOR INTERNAL USE ONLY -

Itemized Expense

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NUMBER: 2011-04733  
2008-27244**

**EVAN J. ZIMMER, 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 Evan J. Zimmer, 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, having been issued license number ME 55819.

DOH v. Evan J. Zimmer, M.D., Case Number 2011-04733



3. Respondent's current address of record is 225 NE 34th Street, Suite 207, Miami, Florida 33137.

4. Respondent is board certified in Psychiatry and Addiction Psychiatry by the American Board of Psychiatry and Neurology.

5. In and between January 2011 and April 2011, the Department received numerous anonymous complaints representing that Respondent was possibly under the influence of drugs and/or alcohol, and may be practicing as an impaired physician.

6. On or about May 27, 2011, Respondent self-reported that on or about November 24, 2010, he entered a plea of nolo contendere to one count of committing or attempting to engage in prostitution, a first degree misdemeanor, in violation of Section 796.07(2)(e), Florida Statutes (2010).

7. Respondent was sentenced to sixty (60) days in the Miami-Dade County Correctional Facility (MDCCF) with credit for sixty (60) days time served, and ordered to pay five hundred eighty-three dollars (\$583.00) in courts costs and fines.

8. Respondent was initially committed to the MDCCF, when he appeared in court, on or about October 26, 2010, and observed by the presiding judge to be impaired. An unofficial drug screen was ordered and

the results were positive for prescription medications particularly benzodiazepines.

9. Due to Respondent's unusual behavior, and observed impairment, he was held in contempt of court and immediately remanded to jail. Respondent was released from the facility on or about November 24, 2010, after entering his plea.

10. Based on the facts and circumstances surrounding Respondent's incarceration, and various allegations of his potential impairment, the Department served Respondent with an Order to Compel a Mental and Physical Examination (OCE), to assess Respondent's ability to practice medicine.

11. The OCE was initially ordered for Respondent on or about May 31, 2011. At this time, Respondent was scheduled to present for his evaluation on or about June 30, 2011. Respondent failed to appear for this appointment.

12. A second evaluation was scheduled for July 21, 2011, at which time Respondent was hand served with a copy of the order and attested that he would present for the evaluation at the scheduled time.

13. Respondent failed to present for his scheduled evaluation for a second time asserting that he was recently in a motorcycle accident and was unable to present for this evaluation.

14. On or about July 28, 2011, Respondent did present for the third scheduled mental and physical examination. At this examination, Respondent submitted to a hair sample drug analysis that he agreed to have released to the Department.

15. The hair samples taken from Respondent tested positive for cocaine and marijuana, each an illegal drug.

16. During the examination, Respondent asserted that he was taking Percocet 10/325mg one to two tablets per week or on an as needed basis for a shoulder dislocation that occurred on or about June 27, 2011.

17. However, when specifically questioned about his use of illicit drugs, Respondent stated that he was currently sober and was in no way using illicit drugs.

18. Respondent has a significant history of substance abuse, an inability to practice medicine with reasonable skill and safety, and involvement with the Professional Resource Network (PRN) for prior impairment issues.

19. Respondent was given a second license to practice medicine in the State of Florida after significant substance abuse treatment and counseling, and after he was determined to be able to practice medicine with reasonable skill and safety.

20. On or about August 8, 2011, the evaluating psychiatrist (Evaluator) for Respondent opined that based on Respondent's dependence on illicit drugs, particularly dependence to cocaine and marijuana, his failure to admit to the use of these drugs, and his past substance abuse history, Respondent cannot presently practice medicine with the requisite amount of reasonable skill and safety.

21. The Department's Evaluator states explicitly that Respondent needs to refrain from the practice of medicine until he is successfully involved with PRN, tests negative for substances abused and/or illicit drugs, and completes significant inpatient treatment.

22. Section 458.331(1)(s), Florida Statutes (2010-2011), provides that a physician is subject to discipline for being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

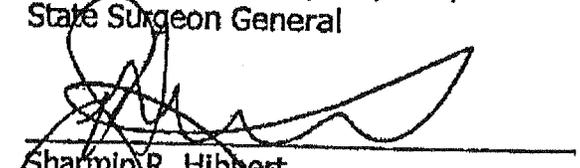
23. On or about July 28, 2011, Respondent was drug tested using a hair sample drug analysis, and tested positive for marijuana and cocaine, each illegal substances. Respondent is currently unable to practice medicine with reasonable skill and safety due to use of use of alcohol, drugs, and/or narcotics.

24. Based on the foregoing, Respondent is in violation of Section 458.331(1)(s), Florida Statutes (2010-2011), for being unable to practice medicine with reasonable skill and safety for use of illegal drugs.

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 9th day of September, 2011.

H. Frank Farmer, Jr., MD, PhD, FACP  
State Surgeon General



Sharmin R. Hibbert  
Assistant General Counsel  
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FILED  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Melissa Nobles*  
DATE *9-14-2011*

PCP Date: September 9, 2011  
PCP Members: Leon, Orr & Levine

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**DOH CASE NO.: 2011-04733**

**NOTICE OF RIGHTS**

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

**NOTICE REGARDING ASSESSMENT OF COSTS**

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