

FILED DATE JUN 13 2013

Department of Health

Angela Sanders
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2012-00126

LICENSE NO.: ME0019342

ENGIN G. AKSU, 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 June 7, 2013, in Tampa, 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 certified mail. 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 Yolanda Green, 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:

1. Respondent shall pay an administrative fine in the amount of \$5,000.00 to the Board within 30 days from the date the Final Order is filed. Said fine shall be paid by money order or cashier's check.

2. Respondent shall document completion of the Laws and Rules course sponsored by the Florida Medical Association (FMA) within one year from the date the Final Order is filed.

3. Respondent's license to practice medicine is hereby **SUSPENDED** until such time as he remediates the violation that gave rise to his termination from the Florida Medicaid Program.

4. Respondent shall be and is hereby issued a letter of concern 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 \$287.39. Said costs are to be paid within 30 days from the date this Final Order is filed.

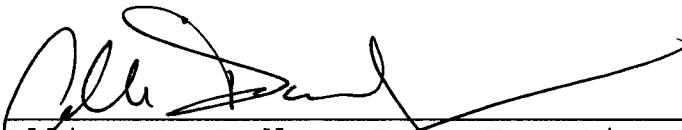
(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

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

DONE AND ORDERED this 13th day of June,

2013.

BOARD OF MEDICINE



Allison M. Dudley, J.D., Executive Director
For James Orr, M.D., Vice-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 **Certified Mail** to ENGIN G. AKSU, M.D., 637 Hibiscus Drive, Hallandale, Florida 33009; and by interoffice delivery to Doug Sunshine, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 13th day of June, 2013.

Angel Sanders

Deputy Agency Clerk

7012 3460 0000 4256 1296

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

**FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
Angel Sanders
CLERK
DATE
OCT 03 2012**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2012-00126

ENGIN G. AKSU, M.D.

RESPONDENT.

CORRECTED ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against the Respondent, Engin G. Aksu, M.D. and alleges:

1. Petitioner is the state agency 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 licensed to practice as a physician within the State of Florida, having been issued license number ME 19342.
3. Respondent's address of record is 637 Hibiscus Drive, Hallandale, Florida 33009.

-18375



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

5. The Agency for Health Care Administration (AHCA) is the Medicaid agency for the state. AHCA is designated as the single state agency authorized to make payments for medical assistance and related services under Title XIX of the Social Security Act.

6. In a certified Termination from Participation letter dated January 5, 2012, AHCA notified Respondent of Respondent's termination from participation in the Florida Medicaid program.

7. On or about March 1, 2012, AHCA issued a Termination Final Order, Case Number CI 12-1314-000, terminating Respondent with cause from participation in the Florida Medicaid program, pursuant to Section 409.913, Florida Statutes, and Rule 59G-9.070, Florida Administrative Code.

8. Section 456.072(1)(kk), Florida Statutes (2011), provides that being terminated from the state Medicaid program pursuant to Section 409.913, Florida Statutes, any other state Medicaid program, or the federal Medicare program constitutes grounds for disciplinary action by the Board.

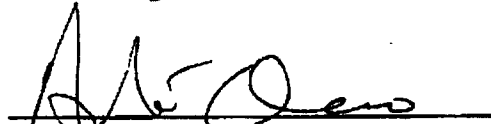
9. On or about March 1, 2012, AHCA terminated Respondent with cause from participation in the Florida Medicaid program.

10. Based on the foregoing, Respondent violated Section 456.072(1)(kk), Florida Statutes (2011), by being terminated from the Florida Medicaid program.

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 2nd day of October, 2012.

John H. Armstrong, MD
State Surgeon General and Secretary of Health



André Ourso
Assistant General Counsel
Florida Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Florida Bar # 0091570
Telephone: (850) 245-4640
Facsimile: (850) 245-4681
Email: Andre_Ourso@doh.state.fl.us

ACO/

PCP: September 21, 2012

PCP Members: Dr. Miguel, Dr. Nuss, Ms. Goersch

NOTICE OF RIGHTS

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

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.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2012-00126

ENGIN AKSU, M.D.,

Respondent.

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

The Department of Health, by and through counsel, moves the Board of Medicine for entry of a Final Order assessing costs against Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2012). 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.

2. Section 456.072(4), Florida Statutes (2012), states, in pertinent part, as follows:

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under 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 no board, shall assess costs related to the investigation and prosecution of the case. The 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....

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$1,558.83, based on the following itemized statement of costs:

- a. Total costs for Complaints \$115.24
- b. Total costs for Investigations \$172.15
- c. Total costs for Legal \$1,271.44
- d. Total costs for expenses \$0.00

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$1,271.44 (Exhibit A). The cost of obtaining an affidavit from an outside attorney will be greater than \$1,271.44. Therefore, the Department is not seeking costs for attorney time in this case.

5. Should 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 objections are made, 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.

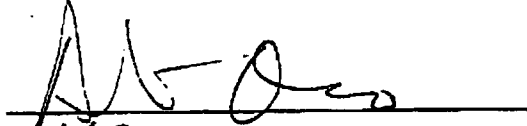
6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$287.39 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2012).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against Respondent in the amount of \$287.39

[signatures appear on the following page]

DATED this 17th day of April, 2013.


Respectfully submitted,



André Ourso
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0091570
(850) 245-4444 x8154 Phone
(850) 245-4684 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided to Engin Aksu, M.D., at 637 Hibiscus Drive, Hallandale, Florida 33309, by U.S. Mail this 17th day of April, 2013.



André Ourso
Assistant General Counsel

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) **2012-00126** (Department of Health v. **Engin Aksu, M.D.**) are **ONE THOUSAND FIVE HUNDRED FIFTY-EIGHT DOLLARS AND EIGHTY-THREE CENTS (\$1,558.83)**.
- 6) The costs for DOH case numbers **2012-00126** (Department of Health v. **Engin Aksu, 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 numbers **2012-00126** (Department of Health v. **Engin Aksu, 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 2 day of April, 2013,
by Shane Walters, who is personally known to me.

[Signature]
Notary Signature

Antoinette Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201200126

Subject's Name: AKSU, ENGIN G

	***** Cost to Date *****	
	Hours	Costs
Complaint:	2.00	\$115.24
Investigation:	2.80	\$172.15
Legal:	12.40	\$1,271.44
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	17.20	\$1,558.83
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$1,558.83

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

Complaint 201200126

Report Date 04/01/2013

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
CONSUMER SERVICES UNIT						
HA123	0.60	\$57.62	\$34.57	01/09/2012	25	REVIEW CASE FILE
HA123	0.70	\$57.62	\$40.33	03/05/2012	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA123	0.30	\$57.62	\$17.29	04/03/2012	25	REVIEW CASE FILE
HA123	0.30	\$57.62	\$17.29	04/18/2012	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA123	0.10	\$57.62	\$5.76	04/19/2012	4	ROUTINE INVESTIGATIVE WORK
HA123	0.10	\$57.62	\$5.76	04/25/2012	25	REVIEW CASE FILE
HA123	0.20	\$57.62	\$11.52	05/08/2012	4	ROUTINE INVESTIGATIVE WORK
HA123	0.80	\$57.62	\$46.10	05/24/2012	77	PREPARATION OF DESK INVESTIGATION SYNOPSIS
Sub Total	3.10		\$178.62			

INVESTIGATIVE SERVICES UNIT						
L198	0.20	\$63.98	\$12.80	02/22/2013	4	ROUTINE INVESTIGATIVE WORK
L198	1.50	\$63.98	\$95.97	02/25/2013	6	SUPPLEMENTAL INVESTIGATION
Sub Total	1.70		\$108.77			

PROSECUTION SERVICES UNIT						
HL94A	0.30	\$102.41	\$30.72	06/04/2012	25	REVIEW CASE FILE
HLL93B	0.60	\$102.41	\$61.45	06/11/2012	25	REVIEW CASE FILE
HLL93B	0.40	\$102.41	\$40.96	06/11/2012	6	SUPPLEMENTAL INVESTIGATION
HLL93B	0.20	\$102.41	\$20.48	06/21/2012	25	REVIEW CASE FILE
HLL93B	0.20	\$102.41	\$20.48	06/22/2012	25	REVIEW CASE FILE
HLL93B	0.20	\$102.41	\$20.48	06/27/2012	115	CONTACT WITH INVESTIGATORS
HLL93B	0.10	\$102.41	\$10.24	07/02/2012	25	REVIEW CASE FILE
HLL93B	0.10	\$102.41	\$10.24	07/06/2012	74	MEETINGS WITH DEPARTMENT STAFF
HLL93B	0.20	\$102.41	\$20.48	07/09/2012	46	LEGAL RESEARCH
HLL93B	2.00	\$102.41	\$204.82	07/09/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT

18423

**Time Tracking System
Itemized Cost by Complaint**

Complaint 201200126

Report Date 04/01/2013

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL93B	1.80	\$102.41	\$184.34	07/10/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL93B	0.10	\$102.41	\$10.24	07/10/2012	113	CONTACT WITH WITNESSES
HLL93B	0.10	\$102.41	\$10.24	07/11/2012	60	MISCELLANEOUS
HLL93B	0.40	\$102.41	\$40.96	07/11/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL93B	0.70	\$102.41	\$71.69	07/13/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL93B	0.60	\$102.41	\$61.45	07/17/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL93B	1.10	\$102.41	\$112.65	08/02/2012	89	PROBABLE CAUSE PREPARATION
HLL93B	0.20	\$102.41	\$20.48	08/08/2012	89	PROBABLE CAUSE PREPARATION
HLL93B	0.10	\$102.41	\$10.24	09/21/2012	63	PRESENTATION OF CASES TO PROBABLE CAUSE PANEL
HLL93B	0.10	\$102.41	\$10.24	09/24/2012	69	SIGNING AUTHORIZATIONS, P.O.'S AND REQUESTS FOR APPROVAL OF PAY
HLL93B	1.40	\$102.41	\$143.37	09/25/2012	91	BOARD MEETING PREPARATION
HLL93B	0.30	\$102.41	\$30.72	09/25/2012	79	STIPULATION
HLL93B	0.10	\$102.41	\$10.24	09/26/2012	69	SIGNING AUTHORIZATIONS, P.O.'S AND REQUESTS FOR APPROVAL OF PAY
HLL93B	0.40	\$102.41	\$40.96	09/26/2012	79	STIPULATION
HLL93B	0.10	\$102.41	\$10.24	09/28/2012	69	SIGNING AUTHORIZATIONS, P.O.'S AND REQUESTS FOR APPROVAL OF PAY
HLL93B	0.10	\$102.41	\$10.24	10/02/2012	69	SIGNING AUTHORIZATIONS, P.O.'S AND REQUESTS FOR APPROVAL OF PAY
HLL93B	0.10	\$102.41	\$10.24	10/15/2012	60	MISCELLANEOUS
HLL93B	0.20	\$106.35	\$21.27	02/04/2013	60	MISCELLANEOUS
HLL93B	0.10	\$106.35	\$10.64	03/01/2013	103	REVIEW SUPPLEMENTAL REPORT
HLL93B	0.10	\$106.35	\$10.64	03/01/2013	60	MISCELLANEOUS
Sub Total	12.40		\$1,271.44			

Total Cost	\$1,558.83
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***** CONFIDENTIAL *****
Time Tracking System
Itemized Expense by Complaint
Complaint

18425

Report Date: 04/01/2013

Page 1 of 1

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
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SubTotal

Total Expenses

Complaint Cost Summary

Complaint Number: 201200126

Subject's Name: AKSU, ENGIN G

	***** Cost to Date *****	
	Hours	Costs
Complaint:	2.00	\$115.24
Investigation:	2.80	\$172.15
Legal:	12.40	\$1,271.44
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	17.20	\$1,558.83
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$1,558.83