

STATE OF FLORIDA
BOARD OF MEDICINE

FILED DATE FEB 22 2017
Department of Health
By: *Angel Sanders*
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2014-03373
LICENSE NO.: ME0049592

ARTHUR CHARLES ROSENBLATT, 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 February 3, 2017, in Championsgate, 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 Geoffrey Christian, 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 **REVOKED**.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and voted to waive the costs in this matter.

(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 20th day of February, 2017.

BOARD OF MEDICINE

Claudia Kemp
Claudia Kemp, J.D., Executive Director
For Magdalena Averhoff, 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 **Certified Mail** to ARTHUR CHARLES ROSENBLATT, M.D., 1623 W. Classical Boulevard, Delray Beach, Florida 33445; by email to Allison Dudley, Assistant General Counsel, Department of Health, at Allison.Dudley@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General, at Ed.Tellechea@myfloridalegal.com this 22 day of Feb., 2017.

Angel Sanders

Certified Article Number
9414 7266 9904 2090 7587 05
SENDERS RECORD

Deputy Agency Clerk

|||||
Arthur Charles Rosenblatt, M.D.
1623 W. Classical Blvd.
Delray Beach, FL 33445

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2014-03373

ARTHUR CHARLES ROSENBLATT, M.D.,

Respondent.

_____ /

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

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 (2015). As grounds therefore, 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 (2015), 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 \$15,066.71, based on the following itemized statement of costs:

- a. Total costs for Complaint: \$106.59
- b. Total costs for Investigation: \$2,683.90
- c. Total costs for Legal: \$10,858.72
- d. Total costs for Expenses: \$1,417.50

4. The attached outside attorney affidavit (Exhibit B) indicates a review of the file and a finding that the Department's attorney time in this case is reasonable and justifiable in the amount of \$10,858.72.

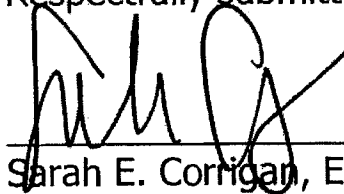
5. Upon review of the file, the Department contends that the costs associated with attorney time spent on this case are reasonable and justifiable.

6. 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.

7. Petitioner requests that the Board grant this motion and assess costs in the amount of \$15,066.71 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 (2015).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against Respondent in the amount of \$15,066.71.

Respectfully submitted,



Sarah E. Corrigan, Esq.
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0085797
Phone 850.245.4444 x8131
FAX 850.245.4684
Email: sarah.corrigan@flhealth.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amended Motion to Assess Costs has been provided to Arthur Charles Rosenblatt, M.D. at 1623 W. Classical Boulevard, Delray Beach, Florida 33445, by U.S. Mail and via electronic mail at acrosenblatt@gmail.com this 6th day of DECEMBER, 2016.



Sarah E. Corrigan, Esq.
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 (the Department).
- 3) I am a Senior Management Analyst II (SMAII) for the Consumer Services and Compliance Management Unit for the Department. 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 SMAII 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 to the amounts in this affidavit. The Time Tracking System is a computer program which records and tracks the Department'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) 2014-03373 (Department of Health v. Arthur C. Rosenblatt, M.D.) are **FIFTEEN THOUSAND TWO HUNDRED NINETY FIVE DOLLARS AND SIXTY- FIVE CENTS (\$15,295.65)**.
- 6) The costs for DOH case number 2014-03373 (Department of Health v. Arthur C. Rosenblatt, M.D.) is summarized in Exhibit 1 (Cost Summary Report), which is attached hereto.
- 7) The itemized costs and expenses for DOH case number 2014-03373 (Department of Health v. Arthur C. Rosenblatt, M.D.) is 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 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.

Shane Walters
Shane Walters, Affiant

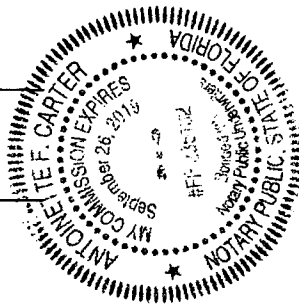
State of Florida
County of Leon

Sworn to and subscribed before me this 19 day of December, 2016,
by Shane Walters, who is personally known to me.

Antoinette F. Carter
Notary Signature

Antoinette F. Carter
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Search

Complaint/Case Number: 201403373

[MAIN](#)

[HELP](#)

Complaint Cost Summary

Complaint Number: 201403373

Subject's Name: ROSENBLATT, ARTHUR
CHARLES

	***** Cost to Date *****	
	Hours	Costs
Complaint:	1.95	\$106.59
Investigation:	41.80	\$2,683.90
Legal:	103.70	\$11,087.66
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	147.45	\$13,878.15
Expenses to Date:		\$1,417.50
Prior Amount:		\$0.00
Total Costs to Date:		\$15,295.65



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
CONSUMER SERVICES UNIT						
HA168	0.50	\$54.65	\$27.33	03/05/2014	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA168	0.50	\$54.65	\$27.33	03/18/2014	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA168	0.30	\$54.65	\$16.40	03/19/2014	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA168	0.10	\$54.65	\$5.47	04/17/2014	25	REVIEW CASE FILE
HA168	0.40	\$54.65	\$21.86	04/28/2014	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA173	0.15	\$54.65	\$8.20	10/19/2016	35	TELEPHONE CALLS
Sub Total	1.95		\$106.59			

INVESTIGATIVE SERVICES UNIT						
WI32	1.00	\$63.82	\$63.82	05/01/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	2.00	\$63.82	\$127.64	05/02/2014	100	SERVICE OF ADMINISTRATIVE COMPLAINTS.
WI32	0.60	\$63.82	\$38.29	05/02/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.50	\$63.82	\$31.91	05/02/2014	76	REPORT WRITING
WI32	0.60	\$63.82	\$38.29	05/05/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.30	\$63.82	\$82.97	05/05/2014	76	REPORT WRITING
WI32	0.30	\$63.82	\$19.15	05/06/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.60	\$63.82	\$38.29	05/13/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.70	\$63.82	\$44.67	05/27/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.00	\$63.82	\$63.82	06/10/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.40	\$63.82	\$25.53	06/11/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.50	\$63.82	\$31.91	06/23/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.30	\$63.82	\$19.15	07/02/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.00	\$63.82	\$63.82	07/03/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.40	\$63.82	\$89.35	07/03/2014	76	REPORT WRITING
WI32	0.60	\$63.82	\$38.29	07/14/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.80	\$63.82	\$114.88	07/15/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	2.20	\$63.82	\$140.40	07/15/2014	76	REPORT WRITING
WI32	1.20	\$63.82	\$76.58	07/16/2014	4	ROUTINE INVESTIGATIVE WORK



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
WI32	0.80	\$63.82	\$51.06	07/16/2014	76	REPORT WRITING
WI32	0.60	\$63.82	\$38.29	07/17/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.20	\$63.82	\$12.76	07/17/2014	76	REPORT WRITING
WI32	0.80	\$63.82	\$51.06	07/18/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.20	\$63.82	\$12.76	07/18/2014	76	REPORT WRITING
WI32	1.70	\$63.82	\$108.49	07/22/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	0.20	\$63.82	\$12.76	07/22/2014	76	REPORT WRITING
WI32	1.50	\$63.82	\$95.73	07/23/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.50	\$63.82	\$95.73	07/23/2014	76	REPORT WRITING
WI32	1.50	\$63.82	\$95.73	07/24/2014	4	ROUTINE INVESTIGATIVE WORK
WI32	1.20	\$63.82	\$76.58	07/24/2014	76	REPORT WRITING
WI32	1.00	\$63.82	\$63.82	07/25/2014	76	REPORT WRITING
WI32	0.60	\$63.82	\$38.29	08/07/2014	6	SUPPLEMENTAL INVESTIGATION
WI32	0.30	\$63.82	\$19.15	08/08/2014	6	SUPPLEMENTAL INVESTIGATION
WI119	0.90	\$65.83	\$59.25	06/28/2016	58	TRAVEL TIME
WI119	0.70	\$65.83	\$46.08	06/29/2016	58	TRAVEL TIME
WI119	0.30	\$65.83	\$19.75	06/29/2016	100	SERVICE OF ADMINISTRATIVE COMPLAINTS.
WI110	0.20	\$65.83	\$13.17	06/29/2016	6	SUPPLEMENTAL INVESTIGATION
WI110	1.20	\$65.83	\$79.00	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.50	\$65.83	\$32.92	06/30/2016	58	TRAVEL TIME
WI121	0.30	\$65.83	\$19.75	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.50	\$65.83	\$32.92	06/30/2016	58	TRAVEL TIME
WI121	0.10	\$65.83	\$6.58	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.50	\$65.83	\$32.92	06/30/2016	58	TRAVEL TIME
WI121	0.50	\$65.83	\$32.92	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.40	\$65.83	\$26.33	06/30/2016	58	TRAVEL TIME
WI121	0.30	\$65.83	\$19.75	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.50	\$65.83	\$32.92	06/30/2016	58	TRAVEL TIME
WI121	0.10	\$65.83	\$6.58	06/30/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.90	\$65.83	\$59.25	06/30/2016	58	TRAVEL TIME
WI108	0.90	\$57.69	\$51.92	07/01/2016	9004	UL-ROUTINE INVESTIGATIVE WORK
WI121	0.50	\$65.83	\$32.92	07/07/2016	6	SUPPLEMENTAL INVESTIGATION
WI121	0.30	\$65.83	\$19.75	07/11/2016	6	SUPPLEMENTAL INVESTIGATION



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
WI121	0.50	\$65.83	\$32.92	07/11/2016	6	SUPPLEMENTAL INVESTIGATION
WI132	1.20	\$65.83	\$79.00	07/26/2016	100	SERVICE OF ADMINISTRATIVE COMPLAINTS.
WI132	0.40	\$65.83	\$26.33	07/26/2016	4	ROUTINE INVESTIGATIVE WORK
Sub Total	41.80		\$2,683.90			

PROSECUTION SERVICES UNIT

HLL97A	0.70	\$105.33	\$73.73	10/02/2014	25	REVIEW CASE FILE
HLL97A	2.50	\$105.33	\$263.33	10/08/2014	25	REVIEW CASE FILE
HLL97A	1.30	\$105.33	\$136.93	10/08/2014	46	LEGAL RESEARCH
HLL97A	1.20	\$105.33	\$126.40	10/08/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	2.80	\$105.33	\$294.92	10/09/2014	25	REVIEW CASE FILE
HLL97A	0.30	\$105.33	\$31.60	10/09/2014	74	MEETINGS WITH DEPARTMENT STAFF
HLL97A	2.30	\$105.33	\$242.26	10/09/2014	25	REVIEW CASE FILE
HLL97A	0.30	\$105.33	\$31.60	10/09/2014	70	CONFERENCES WITH LAWYERS
HLL97A	0.40	\$105.33	\$42.13	10/09/2014	46	LEGAL RESEARCH
HLL97A	0.60	\$105.33	\$63.20	10/17/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.80	\$105.33	\$84.26	10/20/2014	25	REVIEW CASE FILE
HLL97A	1.80	\$105.33	\$189.59	10/20/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	1.20	\$105.33	\$126.40	10/20/2014	46	LEGAL RESEARCH
HLL97A	0.40	\$105.33	\$42.13	10/22/2014	25	REVIEW CASE FILE
HLL97A	0.40	\$105.33	\$42.13	10/22/2014	70	CONFERENCES WITH LAWYERS
HLL97A	1.30	\$105.33	\$136.93	10/22/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.50	\$105.33	\$52.67	10/24/2014	25	REVIEW CASE FILE
HLL97A	1.20	\$105.33	\$126.40	10/24/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	1.80	\$105.33	\$189.59	12/05/2014	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.40	\$105.33	\$42.13	01/07/2015	35	TELEPHONE CALLS
HLL97A	0.10	\$105.33	\$10.53	01/07/2015	70	CONFERENCES WITH LAWYERS
HLL97A	0.40	\$105.33	\$42.13	01/07/2015	35	TELEPHONE CALLS
HLL97A	0.10	\$105.33	\$10.53	01/07/2015	70	CONFERENCES WITH LAWYERS
HLL97A	0.80	\$105.33	\$84.26	03/10/2015	25	REVIEW CASE FILE
HLL97A	1.50	\$105.33	\$158.00	03/10/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL97A	0.80	\$105.33	\$84.26	03/10/2015	25	REVIEW CASE FILE
HLL97A	1.50	\$105.33	\$158.00	03/10/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	1.30	\$105.33	\$136.93	03/19/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.70	\$105.33	\$73.73	03/24/2015	40	PREPARATION OF OR REVISION OF A PLEADI
HLL97A	2.10	\$105.33	\$221.19	03/24/2015	25	REVIEW CASE FILE
HLL97A	1.90	\$105.33	\$200.13	04/08/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.20	\$105.33	\$21.07	04/08/2015	25	REVIEW CASE FILE
HLL97A	0.60	\$105.33	\$63.20	04/09/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL97A	0.80	\$105.33	\$84.26	04/09/2015	46	LEGAL RESEARCH
HLL97A	0.40	\$105.33	\$42.13	04/09/2015	70	CONFERENCES WITH LAWYERS
HLL87A	0.40	\$105.33	\$42.13	04/14/2015	29	REVIEW ADMINISTRATIVE COMPLAINT
HLL87A	0.20	\$105.33	\$21.07	04/14/2015	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE
HLL97A	0.40	\$105.33	\$42.13	04/14/2015	70	CONFERENCES WITH LAWYERS
HLL97A	0.30	\$105.33	\$31.60	04/14/2015	35	TELEPHONE CALLS
HLL97A	0.20	\$105.33	\$21.07	04/15/2015	114	CONTACT WITH EXPERTS
HLL97A	0.20	\$105.33	\$21.07	04/15/2015	35	TELEPHONE CALLS
HLL97A	0.20	\$105.33	\$21.07	04/15/2015	60	MISCELLANEOUS
HLL97A	0.40	\$105.33	\$42.13	05/06/2015	70	CONFERENCES WITH LAWYERS
HLL97A	0.20	\$105.33	\$21.07	05/06/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL87A	0.30	\$105.33	\$31.60	06/01/2015	25	REVIEW CASE FILE
HLL127B	0.20	\$105.33	\$21.07	06/04/2015	35	TELEPHONE CALLS
HLL127B	2.00	\$105.33	\$210.66	06/05/2015	25	REVIEW CASE FILE
HLL127B	1.60	\$105.33	\$168.53	06/23/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	0.10	\$105.33	\$10.53	06/23/2015	35	TELEPHONE CALLS
HLL127B	0.20	\$105.33	\$21.07	06/23/2015	35	TELEPHONE CALLS
HLL87A	0.50	\$105.33	\$52.67	07/07/2015	29	REVIEW ADMINISTRATIVE COMPLAINT
HLL87A	0.10	\$105.33	\$10.53	07/07/2015	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE
HLL127B	2.40	\$105.33	\$252.79	07/08/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	1.00	\$105.33	\$105.33	07/15/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	0.70	\$105.33	\$73.73	08/12/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL87A	0.30	\$105.33	\$31.60	08/13/2015	29	REVIEW ADMINISTRATIVE COMPLAINT
HLL87A	0.10	\$105.33	\$10.53	08/13/2015	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE
HLL127B	0.10	\$105.33	\$10.53	08/13/2015	29	REVIEW ADMINISTRATIVE COMPLAINT



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL127B	0.50	\$105.33	\$52.67	08/14/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	0.10	\$105.33	\$10.53	08/17/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	3.00	\$105.33	\$315.99	08/20/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	2.90	\$105.33	\$305.46	08/21/2015	28	PREPARE OR REVISE ADMINISTRATIVE COMI
HLL127B	0.20	\$105.33	\$21.07	08/27/2015	113	CONTACT WITH WITNESSES
HLL127B	0.20	\$105.33	\$21.07	08/28/2015	89	PROBABLE CAUSE PREPARATION
HLL127B	1.60	\$105.33	\$168.53	09/18/2015	89	PROBABLE CAUSE PREPARATION
HLL127B	0.30	\$105.33	\$31.60	09/25/2015	25	REVIEW CASE FILE
HLL127B	1.40	\$105.33	\$147.46	10/23/2015	89	PROBABLE CAUSE PREPARATION
HLL127B	0.30	\$105.33	\$31.60	10/29/2015	89	PROBABLE CAUSE PREPARATION
HLL127B	0.30	\$105.33	\$31.60	10/30/2015	89	PROBABLE CAUSE PREPARATION
HLL127B	0.20	\$105.33	\$21.07	10/30/2015	63	PRESENTATION OF CASES TO PROBABLE CAI
HLL127B	0.20	\$105.33	\$21.07	12/07/2015	25	REVIEW CASE FILE
HLL127B	0.30	\$105.33	\$31.60	12/21/2015	35	TELEPHONE CALLS
HLL127B	0.20	\$109.02	\$21.80	12/28/2015	35	TELEPHONE CALLS
HLL127B	0.10	\$109.02	\$10.90	01/21/2016	35	TELEPHONE CALLS
HLL87A	0.20	\$109.02	\$21.80	02/04/2016	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE
HLL127B	1.20	\$109.02	\$130.82	02/04/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.10	\$109.02	\$10.90	02/05/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.60	\$109.02	\$65.41	02/11/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.60	\$109.02	\$65.41	03/02/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.20	\$109.02	\$21.80	03/04/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.20	\$109.02	\$21.80	04/19/2016	35	TELEPHONE CALLS
HLL127B	0.40	\$109.02	\$43.61	06/06/2016	25	REVIEW CASE FILE
HLL127B	0.20	\$109.02	\$21.80	06/27/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL127B	0.20	\$109.02	\$21.80	06/30/2016	115	CONTACT WITH INVESTIGATORS
HLL127B	0.60	\$109.02	\$65.41	07/20/2016	25	REVIEW CASE FILE
HLL127B	0.30	\$109.02	\$32.71	07/21/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.10	\$109.02	\$10.90	08/08/2016	35	TELEPHONE CALLS
HLL127B	0.20	\$109.02	\$21.80	08/23/2016	35	TELEPHONE CALLS
HLL127B	0.30	\$109.02	\$32.71	08/30/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.10	\$109.02	\$10.90	08/30/2016	35	TELEPHONE CALLS
HLL119A	0.40	\$109.02	\$43.61	09/06/2016	70	CONFERENCES WITH LAWYERS



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL119A	0.20	\$109.02	\$21.80	09/06/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL119A	0.10	\$109.02	\$10.90	09/06/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL119A	2.40	\$109.02	\$261.65	09/06/2016	25	REVIEW CASE FILE
HLL127B	0.50	\$109.02	\$54.51	09/06/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.70	\$109.02	\$76.31	09/06/2016	39	PREPARE/RESPOND TO DISCOVERY
HLL119A	1.90	\$109.02	\$207.14	09/07/2016	25	REVIEW CASE FILE
HLL119A	0.40	\$109.02	\$43.61	09/07/2016	39	PREPARE/RESPOND TO DISCOVERY
HLL119A	0.10	\$109.02	\$10.90	09/07/2016	70	CONFERENCES WITH LAWYERS
HLL127B	1.00	\$109.02	\$109.02	09/07/2016	39	PREPARE/RESPOND TO DISCOVERY
HLL120A	0.40	\$109.02	\$43.61	09/08/2016	38	REVIEW DISCOVERY REQUESTS/RESPONSES
HLL119A	0.40	\$109.02	\$43.61	09/08/2016	70	CONFERENCES WITH LAWYERS
HLL119A	1.10	\$109.02	\$119.92	09/08/2016	37	REVIEW LETTER
HLL119A	1.80	\$109.02	\$196.24	09/08/2016	25	REVIEW CASE FILE
HLL119A	0.20	\$109.02	\$21.80	09/08/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL119A	0.30	\$109.02	\$32.71	09/08/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL127B	0.50	\$109.02	\$54.51	09/08/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL127B	0.40	\$109.02	\$43.61	09/08/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.10	\$109.02	\$10.90	09/09/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.10	\$109.02	\$10.90	09/13/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.50	\$109.02	\$54.51	09/16/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.30	\$109.02	\$32.71	09/20/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.60	\$109.02	\$65.41	09/20/2016	38	REVIEW DISCOVERY REQUESTS/RESPONSES
HLL119A	0.20	\$109.02	\$21.80	09/20/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.20	\$109.02	\$21.80	09/28/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL127B	1.00	\$109.02	\$109.02	10/11/2016	25	REVIEW CASE FILE
HLL119A	0.70	\$109.02	\$76.31	10/11/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.80	\$109.02	\$87.22	10/11/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL119A	1.60	\$109.02	\$174.43	10/11/2016	25	REVIEW CASE FILE
HLL119A	0.40	\$109.02	\$43.61	10/11/2016	41	REVIEW PLEADING
HLL127B	2.50	\$109.02	\$272.55	10/14/2016	70	CONFERENCES WITH LAWYERS
HLL127B	1.00	\$109.02	\$109.02	10/14/2016	39	PREPARE/RESPOND TO DISCOVERY
HLL119A	0.40	\$109.02	\$43.61	10/14/2016	70	CONFERENCES WITH LAWYERS
HLL119A	2.70	\$109.02	\$294.35	10/14/2016	47	TRIAL PREPARATION



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL120A	0.50	\$109.02	\$54.51	10/14/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.60	\$109.02	\$65.41	10/17/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.50	\$109.02	\$54.51	10/17/2016	114	CONTACT WITH EXPERTS
HLL127B	0.20	\$109.02	\$21.80	10/18/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL119A	0.10	\$109.02	\$10.90	10/19/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.30	\$109.02	\$32.71	10/19/2016	25	REVIEW CASE FILE
HLL127B	0.50	\$109.02	\$54.51	10/19/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.30	\$109.02	\$32.71	10/20/2016	35	TELEPHONE CALLS
HLL127B	0.50	\$109.02	\$54.51	10/20/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.30	\$109.02	\$32.71	10/20/2016	35	TELEPHONE CALLS
HLL127B	0.50	\$109.02	\$54.51	10/20/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.20	\$109.02	\$21.80	10/20/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.20	\$109.02	\$21.80	10/24/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.10	\$109.02	\$10.90	10/24/2016	25	REVIEW CASE FILE
HLL127B	0.40	\$109.02	\$43.61	10/24/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.10	\$109.02	\$10.90	10/25/2016	25	REVIEW CASE FILE
HLL119A	0.30	\$109.02	\$32.71	10/25/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.50	\$109.02	\$54.51	10/25/2016	114	CONTACT WITH EXPERTS
HLL127B	0.10	\$109.02	\$10.90	10/25/2016	41	REVIEW PLEADING
HLL127B	0.40	\$109.02	\$43.61	11/01/2016	70	CONFERENCES WITH LAWYERS
HLL127B	0.30	\$109.02	\$32.71	11/15/2016	70	CONFERENCES WITH LAWYERS
HLL127B	1.00	\$109.02	\$109.02	11/18/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL119A	0.40	\$109.02	\$43.61	11/18/2016	41	REVIEW PLEADING
HLL119A	0.20	\$109.02	\$21.80	11/18/2016	74	MEETINGS WITH DEPARTMENT STAFF
HLL119A	0.40	\$109.02	\$43.61	11/18/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.30	\$109.02	\$32.71	11/22/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.20	\$109.02	\$21.80	11/22/2016	41	REVIEW PLEADING
HLL127B	0.40	\$109.02	\$43.61	11/22/2016	70	CONFERENCES WITH LAWYERS
HLL127B	1.30	\$109.02	\$141.73	11/28/2016	40	PREPARATION OF OR REVISION OF A PLEADI
HLL119A	0.20	\$109.02	\$21.80	11/28/2016	70	CONFERENCES WITH LAWYERS
HLL119A	0.20	\$109.02	\$21.80	11/28/2016	41	REVIEW PLEADING
HLL119A	0.10	\$109.02	\$10.90	12/01/2016	41	REVIEW PLEADING
HLL119A	0.10	\$109.02	\$10.90	12/01/2016	70	CONFERENCES WITH LAWYERS



Time Tracking System
Itemized Cost by Complaint

Complaint 201403373

Report Date 12/19/2016

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL127B	1.30	\$109.02	\$141.73	12/02/2016	91	BOARD MEETING PREPARATION
Sub Total	103.70		\$11,087.66			

Total Cost			\$13,878.15			
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Time Tracking System
Itemized Expense by Complaint

Complaint 201403373

Report Date: 12/19/2016

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
PROSECUTION SERVICES UNIT				
HL34B	09/22/2014	\$1,417.50	131800	EXPERT WITNESS FEES
	SubTotal	\$1,417.50		
	Total Expenses	\$1,417.50		

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2014-03373

DOAH Case No. 16-5070PL

Arthur C. Rosenblatt, M.D.

Respondent.

AFFIDAVIT OF OUTSIDE ATTORNEY REGARDING COSTS

Daniel R. Russell, being duly sworn on oath, deposes and says:

1. I am an attorney at law duly authorized to practice in the State of Florida and have been active in the practice of law in Florida since March 21, 2009. My Curriculum Vitae is attached as Exhibit 1 hereto.
2. I am personally familiar with the fees usually and customarily awarded to attorneys for legal services in administrative proceedings of the kind and nature of the captioned case.
3. I am familiar with Rule 4-1.5(b) of the Rules Regulating the Florida Bar, and have taken such into consideration in forming my opinion in this matter, the factors set forth therein for the determination of reasonable attorney's fees.

4. I am also familiar with, and have considered in forming my opinion in this matter, the Florida Supreme Court in the case of *Florida Patient's Compensation Fund vs. Rowe*, 472 So.2d 1145 (Fla. 1985) relating to the determination of reasonable attorney's fees.

5. I have reviewed the file of the Department of Health (the Department) in relation to this case.

6. I have reviewed the Department's "Time Tracking System Itemized Cost by Complaint" for the case referenced herein, which is among the attachments to the Motion to Assess Costs. I have only reviewed and analyzed the time entries for the Prosecution Services Unit.

7. Based on my review of these documents, it is my understanding that the Department is seeking to recover \$10,858.72 for its attorney time and other costs related to the prosecution of this case.

8. Based on the above, and on my years in legal practice and my experience in this area of legal practice, it is my opinion that the hourly rates for the Department's prosecuting attorneys used in this case are within or below the reasonable and customary range for attorney time spent on cases of this type.

9. Based on the above, and on my years in legal practice and my experience in this area of legal practice, it is my opinion that the total number of attorney hours for which the Department of Health seeks recovery in this case is within the range of time customarily spent on cases of this type and is a reasonable total number of attorney hours for this case.

10. Based on the above, and on my years in legal practice and my experience in this area of legal practice, it is my opinion that the total amount of costs sought to be recovered for attorney time and other costs of prosecution in this case is a reasonable amount in a case of this type.

11. It is my understanding that the Department is moving to recover a total of \$10,858.72 in relation to this case.

12. Based on the above, and on my years in legal practice and my experience in this area of legal practice, it is my opinion that items of expense are reasonable for a case of this type, and that the total amount of expenses sought to be recovered in this case is a reasonable amount for a case of this type.



Daniel R. Russell

STATE OF FLORIDA
COUNTY OF LEON

Before me, personally appeared Daniel R. Russell, who is personally known or provided state-issued identification to me and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed before me this 5th day of December, 2016.

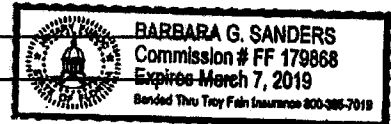


Notary Public, State of Florida

Printed Name: _____

Commission No.: _____

Commission Expires: _____



Daniel Ryan Russell

292 Thornberg Drive, Tallahassee, FL 32312
(850) 425-7804 drussell@joneswalker.com

Experience:

Jones Walker LLP, Special Counsel

- Primary areas of practice focuses on civil and administrative litigation, government relations, healthcare regulation and gaming law.

State of Florida, Department of the Lottery, General Counsel

- Responsible for all legal and regulatory affairs of the Florida Lottery, which employed approximately 500 people and generated nearly \$5.5 billion in annual gross revenue.
- In accordance with the Department's emergency rulemaking authority, managed the drafting and publication of new rules for each lottery game, of which around six are published each month.
- Responsible for personally handling bid protests, administrative, state and federal litigation, and all other legal matters for the Department.
- Spearheaded the Department's "Retailer Integrity Program" and supervised ten sworn law enforcement officers.

Jones Walker LLP, Associate

- Primary areas of practice include gaming and pari-mutuel law in the civil and administrative courts with a primary focus on administrative litigation, real estate and condominium law, labor and employment law, and legislative affairs for various industries.

Pennington, Moore, Wilkinson, Bell & Dunbar, Associate

- Primary areas of practice included gaming and pari-mutuel law, real estate, and employment law.
- Gaming practice included regulatory representation of multiple slot machine manufacturers and a Florida-based pari-mutuel facility with horse racing, slot machine and cardroom operations before the Florida Department of Business and Professional Regulation (DBPR) and Florida Legislature.

Gulfstream Park Racing & Casino, General Counsel

- Responsible for the legal, compliance, regulatory and risk management operations at Gulfstream's horse racing, cardroom and slot machine facility. Part of a management team that oversaw a \$20 million revenue growth over two years.
- Managed more than 100 pieces of active litigation and the distribution of an annual political and government affairs budget of approximately \$200,000.
- Advised Gulfstream through a year-long bankruptcy proceeding and worked with multiple vendors, including independent contractors, on matters of contract re-negotiations and collections.
- Completed collective bargaining agreements with Gulfstream's two active unions.
- Managed workers' compensation claims and day-to-day labor relations issues for more than 800 employees.

Education: Florida State University College of Law, Juris Doctorate

University of Florida, Bachelor of Science, Journalism

Licenses: Florida Bar, member in good standing and admitted to practice law in the State of Florida.

Publications:

"Misprinted Lottery Tickets and the Disappointment of a Non-Winning Ticket," American Gaming Lawyer, Fall 2015.

"Fraud and Ticket Brokering: A Dilemma for Public Lotteries," American Gaming Lawyer, Spring 2015.

"Frequent Jackpot Winners: Lucky Players or Scammers?," Casino Lawyer Magazine, Fall 2014.

"The Legal Status of Gambling in America's Senior Communities," Marquette Elder's Advisor: Vol. 8: Iss. 2, Article 5.

"The History of Internet Cafes and the Current Approach to Their Regulation" UNLV Gaming Law Journal: Vol. 3: Iss. 2, Article 5.

Lectures: **"State Actions to Prevent/Cease Illegal Gambling,"** February 2016, ABA Gaming Law Minefield.

"Florida Lottery: What's Next?," January 2016, Florida Gaming Congress.

"Lotteries Seeking Growth Opportunities," January 2016, National Council of Legislators from Gaming States

State Law Resources, Featured Presenter, Fall 2012, Discussed the nationwide expansion of the Internet café industry at the State Law Resources annual conference before attorneys from more than 40 jurisdictions around the U.S.

Florida Gaming Summit, Panelist, Spring 2012, Discussed Florida's Public Policy as it relates to gaming and pari-mutuels.

Florida State University College of Law, Guest Lecturer, Fall 2010 - 2012, Gambling and Pari-Mutuel Law course. Presented information related to State and Federal gaming law issues.

Kelser University, Guest Lecturer, Fall 2009, White Collar Crimes course. Provided a detailed legal history of fraud and white collar crimes in Florida.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2014-03373

ARTHUR CHARLES ROSENBLATT, M.D.,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through undersigned counsel files this Administrative Complaint before the Board of Medicine against Respondent Arthur Charles Rosenblatt, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of Medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed medical doctor within the state of Florida, having been issued license number ME 49592.

3. Respondent's address of record is 1623 West Classical Boulevard, Delray Beach, Florida 33445.

4. At all times material, Respondent was working at his private medical practice located at 1623 West Classical Boulevard, Delray Beach, Florida 33445.

5. On or about October 13, 2009, Patient D.R., a forty-five (45) year old female, presented to the Respondent for complaints of severe anxiety and depression, palpitations and dsynpea upon exertion, joint pain, muscle aches, and arthritis.

6. Patient D.R. reported that her medical history included a knee replacement in 2007, and a motor vehicle accident in 1981 which resulted in a comminuted fracture, a lacerated spleen, and a lacerated liver. Patient D.R. indicated that she had previously been prescribed oxycodone¹ for her pain.

7. On or about October 13, 2009, Respondent diagnosed Patient D.R. with depression, panic disorder, chronic pain, and severe osteoarthritis. Respondent documented that Patient D.R. had a history of pain at a level of 8 out of 10, with 10 being the most severe pain.

¹ According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

8. Beginning on or about October 13, 2009 through December 9, 2011, Respondent prescribed the following at various times in various combinations, doses, and quantities: methadone², clonazepam³, oxycodone/APAP⁴, Avinza⁵, oxycodone, Kadlan⁶, Ambien⁷, Ambien C.R.⁸, temazepam⁹, Dilaudid¹⁰, Percocet¹¹, Roxicodone¹², Nuvigil¹³, MS-Contin¹⁴,

² Methadone is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, methadone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of methadone may lead to severe psychological or physical dependence.

³ Clonazepam is commonly prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, clonazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of clonazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

⁴ Oxycodone/APAP contains oxycodone and acetaminophen, or Tylenol. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

⁵ Avinza is a brand name for morphine. Morphine is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, morphine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of morphine may lead to severe psychological or physical dependence.

⁶ Kadlan is a brand name for extended release morphine sulfate. Morphine is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, morphine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of morphine may lead to severe psychological or physical dependence.

⁷ Ambien is the brand name for the legend drug zolpidem, prescribed to treat insomnia.

⁸ Ambien C.R. is an extended release formulation of Ambien.

⁹ Temazepam is prescribed to treat insomnia. According to Section 893.03(4), Florida Statutes, temazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of temazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

¹⁰ Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, hydromorphone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of hydromorphone may lead to severe psychological or physical dependence.

¹¹ Percocet is a brand name for oxycodone/APAP which contains oxycodone and acetaminophen, or Tylenol. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

¹² Roxicodone is a brand name for oxycodone. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

¹³ Nuvigil, also known as armodafinil, is a wakefulness promoting agent commonly prescribed to treat individuals with daytime fatigue caused by sleep disorders. Armodafinil is not listed in Section 893.03 but is a legend drug.

¹⁴ MS-Contin is a brand name for controlled release morphine sulfate. Morphine is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, morphine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of morphine may lead to severe psychological or physical dependence.

hydrocodone/APAP¹⁵, and Dalmane¹⁶. On or about December 22, 2011, Patient D.R. expired from acute combined drug intoxication.

9. With the exception of routine bloodwork, Respondent did not refer Patient D.R. to have any type of diagnostic testing, x-rays, or imaging studies conducted throughout the course of her treatment.

10. Respondent did not refer Patient D.R. to a specialist for further evaluation throughout the course of her treatment.

11. Respondent did not create a written treatment plan with objectives to be used to determine Patient D.R.'s success.

12. Respondent did not obtain a complete medical history of Patient D.R.

13. Respondent did not consistently create or maintain medical records that document all appointments and telephone contacts with Patient D.R., the quantity of medication Respondent prescribed to Patient D.R., that Respondent conducted musculoskeletal or neurologic physical examinations of Patient D.R., whether he determined the location and

¹⁵ Hydrocodone/APAP contains hydrocodone and acetaminophen, or Tylenol. According to Section 893.03(2), Florida Statutes, hydrocodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of hydrocodone may lead to severe psychological or physical dependence.

¹⁶ Dalmane is a brand name for flurazepam, a drug used to treat insomnia. According to Section 893.03(4), Florida Statutes, flurazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of flurazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

intensity of Patient D.R.'s pain, or whether pain medication previously prescribed had any effect on Patient D.R.'s pain or function.

14. Portions of Patient D.R.'s medical records are illegible, undated, do not contain a patient name or identifier, and are unsigned.

15. Respondent prescribed controlled substances to Patient D.R. inappropriately and in excessive quantities.

16. Respondent prescribed controlled substances to Patient D.R. without medical justification.

COUNT I

17. Petitioner re-alleges and incorporates paragraphs one (1) through sixteen (16) as if fully set forth herein.

18. Section 458.331(1)(t), Florida Statutes (2009-2011), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Per Section 456.50(1)(g), Florida Statutes (2009-2011), medical malpractice is the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2009-2011), provides that the prevailing standard of care for a given healthcare provider shall be that level of care, skill, and treatment

which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

19. Respondent fell below the minimum standard of care in his treatment of Patient D.R. in one or more of the following ways:

- a. by prescribing excessive amounts, and dosages of narcotic pain medications, benzodiazepines, and sedative/hypnotic medications to Patient D.R.;
- b. by prescribing inappropriate combinations of narcotic pain medications, benzodiazepines, and sedative/hypnotic medications to Patient D.R.;
- c. by failing to obtain a complete medical history of Patient D.R.;
- d. by failing to conduct routine musculoskeletal or neurologic examinations of Patient D.R.;
- e. by failing to refer Patient D.R. for appropriate diagnostic testing;
- f. by failing to refer Patient D.R. to a specialist for further care and treatment; and/or

g. by failing to prepare a treatment plan stating objectives to be used to determine the success of treatment.

20. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2009-2011).

COUNT II

21. Petitioner re-alleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.

22. Section 458.331(1)(q), Florida Statutes (2009-2011), subjects a licensee to discipline for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of the paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

23. As set forth above, Respondent prescribed a legend drug other than in the course of his professional practice by prescribing excessive

amounts and inappropriate combinations of narcotic pain medications, benzodiazepines, and sedative/hypnotic medications to Patient D.R.

24. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2009-2011).

COUNT III

25. Petitioner re-alleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.

26. Section 458.331(1)(m), Florida Statutes (2009-2011), subjects a licensee to discipline 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.

27. Respondent failed to maintain records that justify the course of treatment of Patient D.R. in one or more of the following ways:

- a. by failing to create or maintain records documenting that Respondent obtained a complete medical history of Patient D.R.;
- b. by failing to create or maintain records documenting that Respondent conducted routine musculoskeletal or neurologic examinations of Patient D.R.;
- c. by failing to create or maintain records documenting whether the pain medications Respondent previously prescribed had any effect on Patient D.R.'s pain or function;
- d. by failing to create or maintain records documenting objective measurements of Patient D.R.'s pain;
- e. by failing to create or maintain records documenting that Respondent referred Patient D.R. for appropriate diagnostic testing;
- f. by failing to create or maintain records documenting, that Respondent referred Patient D.R. to specialist for further evaluation;
- g. by failing to create or maintain medical records which document the quantity of medications prescribed;

- h. by failing to create or maintain records for Patient D.R. that are fully legible; and/or
- i. by failing to prepare a written treatment plan stating objectives to be used to determine the success of treatment.

28. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2009-2011).

WHEREFORE, 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.

(Signature on following page)

SIGNED this 2nd day of NOVEMBER, 2015.

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



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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE NOV 02 2015

SEC/sdm
PCP: 10/30/2015
PCP Members: Dr. El-Bahri, M.D., Dr. Merle Stringer, M.D., Ms. Goersch,
Ms. Mittan .

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Please be advised that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

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.