

STATE OF FLORIDA  
BOARD OF MEDICINE

By: Vicki Rekenon  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH Case No.: 2000-08413

DOAH Case No.: 01-2440PL

License No.: ME0058695

RONALD MALAVE, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on October 5, 2002, in Miami, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Exceptions to the Recommended Order, and Response to Exceptions (copies of which are attached hereto as Exhibits A, B, and C, respectively) in the above-styled cause. Petitioner was represented by Kim Kluck, Senior Attorney. Respondent was present and was represented by Chandler Muller, Esquire, at the hearing.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULING ON EXCEPTIONS

The Board reviewed and considered Respondent's exceptions to the Recommended Order. The exceptions to paragraphs 3, 12, 13,

14, 15, 16, 17, 36 and 43 were **denied** because the exceptions argued that Respondent's testimony was more credible than the complainant. There was competent substantial evidence to support the facts and the conclusion of law.

The exception to paragraphs 20 and 27 were **denied** because the exceptions raise an evidentiary issue by attacking the chain of custody of pertinent evidence. This objection was not raised below; in addition, the Florida Evidence Code is not a statute over which the Board has substantive jurisdiction.

The exception to paragraph 34 was **denied**. The exception argues that the ALJ *did not find* certain facts. The ALJ has no duty pursuant to §120.57(1) to include facts not material to the Recommended Order.

The remaining exceptions are to pre-hearing rulings by the ALJ and do not address the ALJ's Findings of Fact or Conclusions of Law. The Board does not have authority to overturn the ALJ's decisions on those matters. In addition, the ALJ does not have authority to grant a motion to dismiss in a case in which the ALJ does not have final order authority.

#### FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 458, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

3. There is competent substantial evidence to support the conclusions of law.

PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that Respondent's license to practice medicine in the State of Florida is REVOKED.

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

RULING ON MOTION TO ASSESS COSTS

Pursuant to its statutory mandate set forth in §456.072(4), Florida Statutes, and as set forth in the Recommended Order costs in the amount of \$61,343.72 shall be submitted to the Board within one year from the date this Final Order is filed.

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

DONE AND ORDERED this 27 day of OCTOBER, 2002.

BOARD OF MEDICINE



Larry McPherson, Jr., Executive Director  
for Zachariah P. Zachariah, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to RONALD MALAVE, M.D., 612 Baywood Court, Lake Mary, Florida 32746; to David P. Hill, Esquire, Katz, Kutter, et al., 128 Livingston Street, Orlando, Florida 32801; to Susan B. Kirkland, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida

32399-3060; and by interoffice delivery to Ephraim Livingston and  
Pamela Page, Department of Health, 4052 Bald Cypress Way, Bin #C-  
65, Tallahassee, Florida 32399-3265 this 6<sup>th</sup> day of  
November, 2002.

Mami Boyett

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

PRACTITIONER REGULATION  
LEGAL  
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DEPARTMENT OF HEALTH, BOARD OF )  
MEDICINE, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 01-2440PL  
 )  
RONALD MALAVE, M.D., )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on January 28 through 30, and June 24 and 25, 2002, in Orlando, Florida, before Susan B. Kirkland, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Kim M. Kluck, Esquire  
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STATEMENT OF THE ISSUES

Whether Respondent violated Subsections 458.331(1)(j), 458.331(1)(t), and 458.331(1)(x), Florida Statutes, and, if so, what discipline should be imposed.

PRELIMINARY STATEMENT

On August 11, 2000, the Petitioner, Department of Health, Board of Medicine (Department), filed an Administrative Complaint against Respondent, Ronald Malave, M.D. (Dr. Malave), alleging that he violated Subsections 458.331(1)(j), 458.331(1)(t), and 458.331(1)(x), Florida Statutes.

On September 7, 2000, Dr. Malave filed a request for formal hearing. The request was forwarded to the Division of Administrative Hearings on June 19, 2001, for assignment to an administrative law judge.

The final hearing was scheduled for September 10 through 14, 2001. On September 4, 2001, Respondent requested a continuance, which was granted. The final hearing was rescheduled to commence on January 28, 2002.

The parties filed a Joint Pre-hearing Stipulation and stipulated that Dr. Malave at all material times was a licensed physician in the state of Florida, having been issued license number ME 0058695.

At the final hearing held on January 28 through 30, 2002, the Department called the following witnesses: Dr. Mary Lidkea, patient J.P., Meghan Clement, John Eckerson, Michael Wickham,

Linda Schwichtenberg, and Dr. Charles Mutter. Joint Exhibit 1 was entered into evidence. Petitioner's Exhibits 1 through 7, 8(a), 8(b), 8(d), 8(e), 8(f), 8(g)(1), 8(g)(2), 8(g)(3), and 9 through 16 were admitted in evidence. The Volusia County Sheriff's Department maintained custody of Petitioner's Exhibit 8(c), a sealed envelope containing panties; Petitioner's Exhibit 8(e), a sealed package containing vials of blood; Petitioner's Exhibits 8(g)(1), 8(g)(2), and 8(g)(3), sealed packages containing panties; Petitioner's Exhibit 10, a sealed package received by Deputy Wickham from Ms. McConkie on February 2, 2000; and Petitioner's Exhibit 11, a sealed package labeled clothing received by Deputy Wickham from Ms. McConkie on February 2, 2000.

Respondent presented no witnesses and no exhibits at the final hearing on January 28 through 30, 2002.

At the final hearing, the parties agreed to file their proposed recommended orders within 20 days of the filing of the transcript. The four-volume Transcript was filed on March 8, 2002. A corrected copy of Volume IV and a corrected portion of Volume II were filed on March 26, 2002. On March 27, 2002, Respondent filed an Unopposed Motion for One Day Extension for Filing of Proposed Recommended Order. The motion was granted. The parties timely filed their Proposed Recommended Orders.

On May 1, 2002, Respondent filed Respondent's Motion to Reopen Formal Hearing, representing that the criminal case



against Respondent had been concluded. An Order Granting Motion to Reopen Formal Hearing was issued on May 10, 2002, allowing Respondent to testify in his own behalf.

On June 24, 2002, the final hearing was reconvened and Respondent testified in his own behalf. Respondent's Exhibits 3, 5, 8, and 14 were admitted. Respondent's Exhibits 1, 2, 4, 5A, 6, 7, 9 through 13, and 16 through 23 were not admitted, but were proffered. Respondent's Exhibit 15 was withdrawn.

The three-volume Transcript of the portion of the final hearing held on June 24 and 25, 2002, was filed on July 23, 2002. The parties timely filed their Proposed Recommended Orders, which have been considered in rendering this Recommended Order.

#### FINDINGS OF FACT

1. The Department is the state agency charged with regulating the practice of medicine pursuant to Section 20.43 and Chapters 456 and 458, Florida Statutes.
2. At all times material to these proceedings Dr. Malave was a licensed physician in the state of Florida, having been issued license number ME 0058695.
3. Patient J.P. first started treating with Dr. Malave in September 1994. She has suffered from various mental illnesses since her childhood. As a child, she was physically and sexually abused by her father and her uncles and began to experience episodes of "lost time" in which she would black out and be

unable to recall events which had occurred. These occurrences of "lost time" continued into her adulthood.

4. Patient J.P. has also suffered from severe depression for the majority of her life. In November 1982, she attempted suicide two times and was hospitalized for those attempts, but did not receive any outpatient counseling for the depression following her release from the hospital.

5. In addition to experiencing "lost time" and being depressed, patient J.P. also was bulimic. In 1988, she met R.P. who was a postmaster at the post office where she worked in Imperial Beach, California. She was experiencing "lost time" during her delivery of mail. R.P. referred her to a mental health counselor for her depression and work-related stress. The counselor referred patient J.P. to a psychiatrist, who prescribed anti-depressants and anti-anxiety medications for her.

6. During the same period of time, patient J.P. received treatment for bulimia, including two weeks of inpatient treatment at the Alvarado Parkway Institute.

7. Patient J.P. married R.P. in 1989 and moved to Florida in 1990. During the first four years that patient J.P. lived in Florida, she was treated by several different physicians for depression and bulimia. In 1992, patient J.P. became the patient of Dr. Phillip Sinaicin, who also treated her for bulimia and depression. He tried different combinations of medications and electroconvulsive therapy, but the treatments were not working.

Dr. Sinaicin referred patient J.P. to Dr. Malave, a psychiatrist, for a second opinion.

8. Patient J.P. saw Dr. Malave on September 4, 1994, for a second opinion evaluation. Dr. Malave diagnosed patient J.P. as suffering from Dissociative Identity Disorder (DID), formerly known as multiple personality disorder and as having schizoaffective features. Patient J.P. has multiple distinct personalities or voices, as patient J.P. refers to them. She has a core or birth personality, which appears as J.P. She has other personalities including the following: Bridget, who is sexually preoccupied; Vanessa, who appears with a street-smart vocabulary and manifests when she believes that she needs to take charge of a situation which patient J.P. is not handling very well; Monica, who is a mothering personality to Bridget; Elaine, who is the leader of the group of personalities; Delilah Servano, who is also known as the researcher; and the Brother, who is a street-smart male.

9. J.P., the core personality, is unable to recall and relate when an alter personality is manifesting itself. When another personality takes over, patient J.P. describes the experience as "losing time." The other personalities are sometimes aware of each other and of what happens to each other. The personality Elaine is aware of what all of the other personalities are doing.

10. While being treated by Dr. Malave, patient J.P. disclosed to him that she had been sexually abused by her father and her uncles when she was a child. Dr. Malave explored the sexual abuse by using mental regression exercises which were intended to help patient J.P. remember the abuse. Patient J.P. noticed that she was losing time during her sessions with Dr. Malave, and that it mostly occurred while they were doing the regression exercises.

11. During their treatment sessions, Dr. Malave emphasized to patient J.P. that it was important for her to trust him in order for her to get better. Patient J.P. did come to trust him and believed that as long as she continued to see him that she would be all right.

12. In 1995, patient J.P. began to notice that after some sessions with Dr. Malave when she had lost time that her underwear would be wet and sometimes her jaw would be sore and cramped. On these occasions, Dr. Malave would not escort her out of his office as he normally did after a session.

13. On several occasions when patient J.P. had lost time during a session, she recalled coming back to herself as J.P., the core personality, while she and Dr. Malave were engaged in a sexual act. The first occasion occurred around Christmas in 1995. Patient J.P. lost time and came back to herself during a session and found herself kneeling in front of Dr. Malave

performing oral sex on him in his office. She lost time shortly thereafter.

14. Patient J.P. recalled another occasion when she came back to herself during a session and found Dr. Malave sucking on her left breast and kissing her neck and face. Another time during a session, Dr. Malave asked patient J.P., while she was in her core personality state, if she were Bridget. Patient J.P. replied that she was. Dr. Malave went to his office door and locked it and then engaged patient J.P. in sex on his desk.

15. On a fourth occasion, patient J.P. came to herself and found herself lying on the floor in Dr. Malave's office and having sexual intercourse with him. Following that session, patient J.P. experienced vaginal soreness and noticed that her underwear was wet when she left his office. She decided to save the wet underwear and stored it under her bed.

16. Until June 1999, patient J.P. continued to save her wet underwear and place them under her bed after sessions with Dr. Malave when she suspected that sex may have occurred during the session. In June 1999, she placed the underwear in a safe deposit box along with a note explaining her relationship with Dr. Malave.

17. The last time that patient J.P. came back to herself while having sex with Dr. Malave was in August 1999. At that time she found herself having sex with Dr. Malave in his chair in his office.

18. Patient J.P.'s husband noticed that at times something was not right about patient J.P. following her sessions with Dr. Malave. Sometimes when patient J.P. exited Dr. Malave's office, her husband noticed that her hair was disheveled, her blouse was undone, her lipstick was smeared, and her skirt was wrinkled. When he asked patient J.P. what had happened, she told him that she had lost time during the session. Patient J.P.'s husband asked for an explanation from Dr. Malave, who told him that patient J.P. had changed personalities during the session and caused her appearance to become disheveled. Dr. Malave further advised that it was good that she was in session when it happened because patient J.P. would be safe with him.

19. Dr. Malave spoke with patient J.P.'s husband on numerous occasions concerning the diagnosis of DID. During one of their conversations, Dr. Malave told the husband that he had treated another woman with DID and that she had a sexually aggressive personality similar to patient J.P.'s personality Bridget. Dr. Malave advised the husband to keep patient J.P. away from men and to try to keep her at home because she just wanted to have sex.

20. In August 1999, patient J.P. contacted attorney Linda Schwichtenberg concerning her suspicions about Dr. Malave having sex with her during their treatment sessions. From August to October 1999, patient J.P. turned over a total of ten pairs of underwear to Ms. Schwichtenberg. Patient J.P. kept one pair of

underwear in her safety deposit box for security reasons.

Ms. Schwichtenberg sent the underwear in three separate submissions to Lab Corp, a forensic laboratory in North Carolina for DNA analysis. Ms. Schwichtenberg, on instructions from Lab Corp, took an oral swab from patient J.P. and sent that specimen to Lab Corp. From the time Ms. Schwichtenberg received the panties until she forwarded them to Lab Corp, the panties remained in a drawer in her office to which only she had access.

21. Lab Corp received the submissions and performed a presumptive test to determine whether seminal fluid was present on the first three pair of panties that were submitted. A cutting was taken from one pair of ivory colored panties, the presumptive test revealed the presence of semen. Two black pairs were tested by rubbing filter paper on the panties. The presumptive tests for the two black pairs failed to reveal semen.

22. Lab Corp did a DNA analysis on the remaining seven pairs of panties.

23. DNA is the genetic blueprint of our lives and contains the codes for every physical characteristic and every chemical reaction which takes place in our bodies. With the exception of identical siblings, each person's DNA is unique. Nuclear DNA is inherited in equal portions from our mothers and fathers.

24. DNA is used in forensic cases to determine the identity of a DNA sample. Certain areas of the DNA molecule are different in the general population. These differences are used to develop

a profile for a particular sample which is then compared to a profile of a known reference sample in order to determine whether the profiles are similar or different.

25. In cases where sexual misconduct is involved and where there may be two different sources of DNA (the victim and the suspect), a differential extraction is performed. The purpose is to separate the DNA of the sperm source from the DNA of the non-sperm source so that a pure DNA profile for each will be obtained.

26. Lab Corp determined that the DNA profile from the oral swab submitted by patient J.P. could not be excluded as being the source of the non-sperm DNA in all of the panties except one in which a non-sperm fraction was not obtained. The profile developed for the sperm fraction is the same profile developed on the seven pairs of panties on which sperm was detected. In other words, only one sperm donor was detected. Lab Corp did not have a reference specimen from Dr. Malave to make a comparison of the sperm DNA found in the panties.

27. It is possible to transfer the DNA of the sperm fraction from one article of clothing to another. The transference could be done by rubbing the two articles of clothing together or by wetting the article containing the sperm and rubbing it against the other article of clothing. Based on the credible testimony of Meghan Clement, an expert in DNA identification and analysis and in forensic science, the



concentrations of DNA in the sperm fraction were too high to have resulted from the sperm having been transferred from another article of clothing to patient J.P.'s panties.

28. On January 6, 2000, Ms. Schwichtenberg received the panties from Lab Corp. She gave some of the panties to Investigator John Eckerson of the Volusia County Sheriff's Office. On January 20, 2000, Dr. Malave gave a blood sample to the sheriff's office. Investigator Eckerson sent three pairs of patient J.P.'s panties and Dr. Malave's blood sample to the Florida Department of Law Enforcement (FDLE) laboratory for DNA analysis in January 2000.

29. FDLE personnel made a staincard from Dr. Malave's blood sample. The FDLE testing revealed that there was the possible presence of semen on one of the pairs of panties and no indications of semen present on the other two pairs sent in January 2000. A crime laboratory analyst for FDLE packaged a cutting of the panties containing semen for a later DNA analysis.

30. On February 3, 2000, patient J.P. went to the Rape Crisis Center in Daytona Beach, Florida, where a blood sample was taken from her by a registered nurse. The nurse turned the blood sample over to Deputy Wichman, who also took custody of a pair of panties from patient J.P. Deputy Wichman transported the blood sample and the pair of panties to the sheriff's office, where he placed them in an evidence locker. Patient J.P.'s blood sample was sent to the FDLE laboratory, where a staincard was prepared.

31. On June 20, 2000, Investigator Eckerson took custody of the remaining pairs of panties from Ms. Schwichtenberg. Those panties were sent to FDLE for testing. The presence of semen containing spermatozoa was found on four of the pairs of panties submitted in June. A crime laboratory analyst for FDLE prepared cuttings of the four pairs of panties and sent them to another crime laboratory analyst at FDLE for DNA analysis.

32. Timothy Petree, a crime laboratory analyst in the DNA section of the FDLE laboratory, performed a DNA analysis on the blood samples from Dr. Malave and patient J.P. and the five pairs of panties in which semen was found. He first performed a differential extraction of the cuttings which enabled him to separate the sperm cell DNA from any epithelial or skin cell DNA. The next steps include determining how much human DNA was present, setting up the PCR reaction which makes copies of the target DNA segments, and then performing a DNA analysis to determine which DNA fragments were present in the samples.

33. Mr. Petree developed a DNA profile for each of the blood samples and the sperm cells on each of the underwear cuttings. The DNA profile developed from the sperm cells on all five of the underwear cuttings were the same, meaning that there was one sperm donor. The sperm cell DNA profile was compared to the DNA profile developed from Dr. Malave's blood sample. The sperm cell DNA profile matched Dr. Malave's DNA profile at all 14 DNA locations that were compared. The frequency of occurrence of

that profile in different populations is as follows: one in 19 quadrillion Caucasians, one in 290 quadrillion African Americans, and one in 13 quadrillion Hispanics. Based on the evidence presented, the sperm found in patient J.P.'s panties came from Dr. Malave.

34. Dr. Malave testified that between January and June 1999, he lost approximately 63 pounds. He further testified that as his underwear would become too large that he would use them to clean up after sexual activity with his wife and discard the underwear in the garbage. It would appear that Respondent's testimony on this subject would be for the inference that somehow the semen that may have been present in his underwear in the garbage was transferred to patient J.P.'s panties, thereby explaining how his semen was found on her underwear. Such an inference is not credible, particularly given the testimony of Meghan Clement that the concentration of sperm present on some of patient J.P.'s panties was too concentrated to have been transferred from another article of clothing.

35. The relationship between a physician and a patient is a sacred trust. The doctor's duties to the patient are to do no harm to the patient and to practice with the greatest diligence to serve the patient's best interest. In this private and confidential relationship, the psychiatrist explores the patient's problems by discussing very intimate thoughts and feelings.

36. Given the level of emotional intimacy in the patient-psychiatrist relationship, the patient sometimes develops sexual feelings toward the psychiatrist, and the psychiatrist sometimes develops sexual feelings toward the patient. These reactions are known as transference and counter-transference, respectively. The psychiatrist has the obligation to recognize the physical and verbal signs of transference in the therapeutic relationship and make sure that the strict sexual boundaries in the relationship are not violated. The personality known as Bridget and Dr. Malave developed sexual feelings toward one another, and it was the responsibility of Dr. Malave to ensure that those feelings did not result in sexual relations between them.

37. Sexual relations between the psychiatrist and the patient are forbidden. Sex within the patient-psychiatrist relationship is very destructive in the therapeutic process and can result in the patient experiencing feelings of guilt, mistrust, and low-self esteem--all of which are counter-therapeutic.

#### CONCLUSIONS OF LAW

38. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Sections 120.569 and 120.57, Florida Statutes.

39. The Department has alleged that Dr. Malave violated Subsections 458.331(1)(j), (t), and (x), Florida Statutes, which provide:

(1) The following acts shall constitute grounds for which disciplinary actions specified in subsection (2) may be taken:

\* \* \*

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activities with his or her physician.

\* \* \*

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

\* \* \*

(x) Violating any provision of this chapter, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

40. The Department alleged that Dr. Malave violated Subsection 458.331(1)(x), Florida Statutes, by violating Section 458.329, Florida Statutes, and Rule 64B8-9.008, Florida Administrative Code. Section 458.329, Florida Statutes, provides:

The physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce, or attempt to induce the patient to engage, or to engage or attempt to engage the patient in sexual activity outside the scope of the practice or the scope of the generally accepted examination or treatment of the patient. Sexual misconduct in the practice of medicine is prohibited.

41. Rule 64B8-9.008, Florida Administrative Code, provides:

(1) Sexual contact with a patient is sexual misconduct and is a violation of Sections 458.329 and 458.331(1)(j), Florida Statutes.

(2) For purposes of this rule, sexual misconduct between a physician and a patient includes, but it is not limited to:

(a) Sexual behavior or involvement with a patient including verbal or physical behavior which

1. may reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it;

2. may reasonably be interpreted as intended for the sexual arousal or gratification of the physician, patient, or any third party; or

3. may reasonably be interpreted by the patient as being sexual.

42. The Department has the burden to establish by clear and convincing evidence the violations set forth in the Administrative Complaint. Department of Banking and Finance v Osborne Stern and Co., 670 So. 2d 932 (Fla. 1996).

43. The Department has established by clear and convincing evidence that Dr. Malave had sexual intercourse with patient J.P. during the course of his treatment of her and that Dr. Malave used his influence within the physician-patient relationship to engage patient J.P. in having sexual relations with him for his own gratification. The Department has established by clear and convincing evidence that Dr. Malave failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable

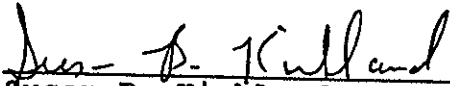
under similar conditions and circumstances by having a sexual relationship with patient J.P.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a Final Order be entered finding that Ronald Malave, M.D., violated Subsections 458.331(1)(j), (t), and (x), Florida Statutes, revoking his license to practice medicine, and assessing the costs of the investigation and prosecution of the case against him.

DONE AND ENTERED this 21<sup>st</sup> day of August, 2002, in Tallahassee, Leon County, Florida.

  
\_\_\_\_\_  
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Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 21<sup>st</sup> day of August, 2002.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.



STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF HEALTH, BOARD )  
 OF MEDICINE, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 RONALD MALAVE, M.D., )  
 )  
 Respondent. )

CASE NO. 01-2440PL

**FILED**  
 DEPARTMENT OF HEALTH  
 DEPUTY CLERK  
 CLERK *Vicki R. Kenon*  
 DATE 9/5/02

**RESPONDENT'S EXCEPTIONS TO THE RECOMMENDED ORDER**

Respondent, by and through the undersigned attorney, files these exceptions to the Recommended Order of the Administrative Law Judge, Susan B. Kirkland, filed August 21, 2002, as follows:

**EXCEPTIONS TO FINDINGS OF FACT**

1. Respondent takes exception to paragraph 3 in that the statement, "These occurrences of 'lost time' continued into her (J.P.'s) adulthood" suggests that J.P. no longer has episodes of "lost time." In fact J.P. continued to "lose time" while this action was pending and "lost time" twice in the formal hearing becoming personality "Vanessa" during questioning. (Record, January 28-30, 2002, p. 254, 579).

2. Respondent takes exception to paragraph 12 in that the allegation that Respondent would not walk J.P. out of his office on days she claims she lost time, her underwear was wet, or her jaw was sore and cramped is not supported by competent substantial evidence. Respondent testified that he walked J.P. out to the waiting room

after each and every session. Respondent's testimony in general and specifically on this point is wholly believable. Respondent is a double board certified psychiatrist who has never had a complaint lodged against him by any patient or professional board except this instant case. Respondent was honorably discharged after serving sixteen (16) years as an officer, in the United States Armed Forces. (Record, June 24, 2002, pp. 17-18) J.P., on the other hand is a severely mentally ill woman who is presently suing Respondent for monetary damages. (Record, January 28-30, 2002, p. 516) J.P. has displayed psychotic symptoms including auditory and visual hallucinations. (Record January 28-30, 2002, pp. 96-97) In fact, J.P. had auditory hallucinations during her testimony in this case. (Record January 28-30, 2002, pp. 207-208, 497) J.P. has taken anti-psychotic medication since 1992 (Record January 28-30, 2002, p.211), and her psychologist Mary Lidkea stated J.P. could believe things happened to her that in reality did not. (Record January 28-30, 2002, p. 132) J.P. was obsessed with Respondent and was charged by Information in Seminole County, Florida, for making harassing phone calls to Respondent. (Record, June 24, 2002, pp. 242-243) She entered into a diversion program to resolve that charge. (Record, June 24, 2002, p. 243) J.P.'s testimony is completely unreliable and should not be considered in this matter.

3. Respondent takes exception to paragraph 13 in that the allegation that he engaged in any sexual acts with J.P. at any time is not supported by competent and substantial evidence. Respondent testified at the continuation of the formal hearing that he has been happily married since December 1998 (Record, June 24, 2002, pp. 16-17) and has never cheated on his wife. Respondent further testified that at no time did he engage in any sexual act with J.P. (Record, June 24, 2002, pp. 106, 257, 261-262) For

the reasons set out in paragraph 2 above, J.P.'s testimony completely lacks credibility while Respondent is wholly believable. Additionally, Respondent testified that his office walls were quite thin and sound easily traveled through them. (Record June 24, 2002, pp. 76-77; June 25, 2002, p.82) His staff was free to enter his private office where therapy, and the alleged sexual acts, took place at any time. (Record June 24, 2002, pp. 62; June 25, 2002 p. 76-78) Respondent's office door was never locked. (Record June 24, 2002, pp. 62) No evidence was presented that any member of Respondent's staff ever heard anything unusual during J.P.'s sessions or suspected Respondent was engaging in sexual acts with J.P.

4. Respondent takes exception to paragraph 14 in that the allegation that he engaged in sexual acts at any time with patient J. P. is not supported by competent and substantial evidence. For the reasons listed above, J.P.'s testimony is unbelievable while Respondent's testimony is reliable.

5. Respondent takes exception to paragraph 15 in that the allegation that he engaged in sexual acts with J. P. at any time is not supported by competent and substantial evidence. For the reasons listed above, Respondent's testimony is reliable and J.P.'s simply is not.

6. Respondent takes exception to paragraph 16 in that the statements are not supported by competent and substantial evidence. The statements in paragraph 16 are based on J.P.'s testimony which is not reliable for the reasons listed above.

7. Respondent takes exception to paragraph 17 in that it is not supported by competent and substantial evidence. Respondent testified that he did not engage in sexual acts with J.P. and J.P.'s testimony to the contrary is not reliable for the reasons

stated above. Additionally, Respondent testified that it would be physically impossible for two people the size of J. P. and Respondent to have engaged in intercourse in the chair in his office. (Record, June 24, 2002, pp. 255, 257)

8. Respondent takes exception with paragraph 20 in that it fails to state that prior to the underwear being turned over to Attorney Schwichtenberg there is no reliable evidence as to where the underwear were or what was done to them.

9. Respondent takes exception to paragraph 27 in that it is not supported by competent and substantial evidence. In her testimony, Meghan Clement of LabCorp stated she did not know how the DNA samples were collected (Record January 28-30, 2002, p. 332), and that authoritative treatises in DNA science stress the importance of the chain of custody of samples. (Record January 28-30, 2002, p. 335) There is no way to determine whether these panties were tampered with prior to being examined by LabCorp and the Florida Department of Law Enforcement.

10. Respondent takes exception to paragraph 34 in that it fails to state important facts testified to by Respondent. Respondent testified that during the course of his treatment of J.P. she became obsessed with him and he had to discuss boundary issues with her. (Record, June 24, 2002, p. 112; June 25, pp. 85-86) Respondent testified that J.P. (or one of her personalities) contacted Respondent's college age son and portrayed herself as a college student needing assistance on a project and subsequently met with him to discuss personal family issues. (Record, June 24, 2002, pp. 232-233, 239-240, 248-249; June 25, 2002, pp. 102-103) Patient, J.P., testified that she had gone uninvited to Dr. Malave's house, in the winter of 1996, and that she had gotten his home address off a magazine in his office. (Record, January 28-30, 2002, pp. 480-484). Respondent

testified that J.P. sent obscene e-mails and left obscene phone messages at his office. (Record, June 24, 2002, pp. 141-146, 150, 242) Respondent testified that J.P. appeared at his office on Sunday October 24, 1999, after the doctor/ patient relationship had terminated and demanded money. (Record, June 24, 2002, pp. 82, 229, 236, 240-241)

11. Respondent takes exception to paragraph 36 in that it is not supported by competent and substantial evidence. Respondent never developed any sexual feelings for J.P. and testified repeatedly that he did not engage in sexual activity with J.P. at any time. (Record, June 24, 2002, pp. 106, 257, 261-262) Respondent's testimony is wholly believable and reliable as stated above.

#### EXCEPTIONS TO CONCLUSIONS OF LAW

12. Respondent takes exception to paragraph 43 in that the Department did not establish by clear and convincing evidence that Respondent had sexual intercourse with J.P. during the course of his treatment of her or that he used his influence within the physician-patient relationship to engage J.P. in sexual relations with him for his own gratification or that he failed to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances by having a sexual relationship with J.P. The Department's case relies essentially on the testimony of a severely mentally ill woman who became obsessed with Respondent. Her testimony, along with the evidence supplied by her is wholly unreliable and should not have been considered. Respondent is a well-respected double board certified psychiatrist with no prior complaints against him. There is no evidence of any prior boundary violations or signs that he is capable of these alleged acts.

13. Respondent takes exception with the Administrative Law Judge's ruling denying his December 18, 2001 Motion to Reschedule Formal Hearing and his January 28, 2002 ore tenus motion for continuance of the final hearing until after his criminal trial involving the same facts was complete. At the time of the formal hearing in January, 2002 the criminal trial was set for April 2002. Respondent's license to practice medicine was suspended pursuant to an emergency suspension order entered July 26, 2000 and there was no danger to the public in continuing the hearing until after the criminal trial. The denial of his motion to continue the final hearing put Respondent in an impossible position. Knowing full well that the Assistant State Attorney handling the criminal trial would have access to the transcript of the hearing, he could not put forward a full and complete defense. To do so would have compromised his defense in the criminal case where he faced up to fifteen (15) years in prison if convicted. The denial of Respondent's January 28, 2002 motion for continuance was an abuse of discretion.

14. Respondent takes exception with the Administrative Law Judge's partial granting of Respondent's Motion to Reopen Final Hearing. After Respondent was found not guilty of the charge of sexual misconduct by a psychotherapist by a jury of his peers in Volusia County, Florida after a two week trial in April 2002, Respondent filed a Motion to Reopen Final Hearing requesting the Administrative Law Judge allow Respondent to put forth a full defense in the instant matter. The Administrative Law Judge allowed Respondent to testify but refused to allow other fact and expert witnesses to testify. Not allowing Respondent to present witnesses at the continuation of the final hearing was an abuse of discretion. Prior to the criminal trial Respondent invoked his constitutional right to remain silent. He did not present any evidence at the final hearing in January 2002 on

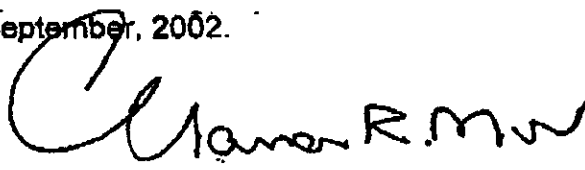
advice of counsel because he did not want to jeopardize his defense in the then pending criminal case. Respondent had additional witnesses ready and able to testify at the continuation of the formal hearing in June 2002. The Administrative Law Judge refused to allow these witnesses to testify and therefore essentially heard only the Petitioner's case. The Administrative Law Judge's decision to disallow Respondent's witnesses at the continuation of the formal hearing denied him due process. Respondent was not afforded a fair opportunity to present a full and complete defense.

15. Respondent takes exception to the Administrative Law Judge's ruling granting Petitioner's Motion in Limine to Exclude any Exhibits Offered by Respondent During Respondent's Testimony. During the course of Respondent's testimony in June 2002 the Administrative Law Judge refused to admit 19 of Respondent's exhibits on the grounds that he could have introduced them at the original formal hearing in January, 2002. Disallowing these exhibits was an abuse of discretion and denied Respondent due process of law. Respondent was not afforded an opportunity to present a full and complete defense to the allegations made by J.P. and therefore the Administrative Law Judge's ruling was an abuse of discretion.

16. Respondent takes exception to the Administrative Law Judge's denial of his Motion to Dismiss. Respondent filed a written Motion to Dismiss on July 2, 2002 supplementing his ore tenus Motion to Dismiss at the conclusion of the continuation of the formal hearing. Respondent's Motion to Dismiss was based on violations of double jeopardy, due process and collateral estoppel. The Administrative Law Judge denied the motion on July 16, 2002. The Administrative Law Judge abused her discretion in denying Respondent's Motion to Dismiss.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been

furnished by facsimile/mail to Kim Kluck, Esquire, Senior Attorney, and Robert Byerts, Senior Attorney, Agency for Health Care Administration, Office of General Counsel, Post Office Box 14229, Tallahassee, Florida 32317-4229, and to David P. Hill, Esquire, Law Offices of David P. Hill, P.A., 128 East Livingston Street, Orlando, Florida 32801, William Furlow, Esquire, Post Office Box 1877, Tallahassee, Florida 32302-1877, Co-Counsel for Respondent MALAVE, this 5th day of September, 2002.



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**Counsel for Respondent**



STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH, )  
 )  
 PETITIONER, )  
 )  
 vs. )  
 )  
 RONALD MALAVE, M.D., )  
 )  
 RESPONDENT. )  
 \_\_\_\_\_ )

CASE NO. 2000-08413

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Health, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Medicine against Ronald Malave, M.D., hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, 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. Pursuant to the authority of Section 20.43(3), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

2. Respondent is and has been at all times material hereto a licensed physician in the state of Florida, having been issued license number ME 0058695. Respondent's last known address is 612 Baywood Court, Lake Mary, Florida 32746.

3. Respondent's area of specialty is psychiatry and he is board certified in psychiatry and geriatric psychiatry.

4. On or about September 2, 1994, Patient JP, then a thirty-four (34) year-old female, presented to Respondent for a second opinion psychiatric evaluation. Patient J.P.'s primary complaint was of severe recurrent depression, dating back to her childhood. Respondent evaluated her on that date.

5. On or about September 6, 1994, Respondent prepared a written report of Patient J.P.'s evaluation in which he diagnosed Patient J.P. as having "major depression, recurrent, severe dysthymia". His plan of treatment included prescribing Cytomel (a thyroid hormone), Vivactil, and either Ritalin or Dexedrine (stimulants). In addition, Respondent indicated that a cognitive/behavioral approach, in conjunction with pharmacotherapy, may be effective in Patient J.P.'s treatment.

6. Beginning on or about October 5, 1994, and continuing until on or about August 26, 1999, Patient J.P. attended treatment sessions with Respondent approximately every two weeks. The treatment sessions lasted between forty-five (45) minutes and an hour.

7. Patient J.P. attempted suicide twice while under the care of Respondent. The first attempt occurred at the end of 1995 and Patient J.P. was involuntarily committed (under the Baker Act, Section 394.451, Florida Statutes) to the Winter Park Hospital. Patient J.P. had a tremendous fear of hospitalization and Respondent was aware of this. Respondent overrode the involuntary commitment and had her released from the hospital into his care. Patient J.P. attempted suicide again near the end of 1998 or the beginning of 1999. Again, Respondent had her released from the hospital back into his care.

8. During the time in which Patient J.P. was under the care of Respondent, he treated her for multiple personality disorder, attempting to integrate her different personalities, about four (4) or five (5), which she often exhibited during sessions. Patient J.P. referred to the

personality shifts as "lost times" or blackout periods, as she could not recall what occurred during the personality shifts from her core personality.

9. One of Patient J.P.'s alter personalities was "Bridgette", a sixteen (16) year old female. During the course of Respondent's treatment of Patient J.P., which continued for almost five (5) years, Respondent began engaging in sexual acts with Patient J.P. during treatment sessions in which Patient J.P. had shifted to "Bridgette". Although Patient J.P. was unable to recall much of what happened during the sessions in which she shifted to "Bridgette", Patient J.P. noticed on numerous visits that when she came out of a session with Respondent, her hair and clothing would be in disarray, her make-up would be smeared, and she would have wet underpants.

10. After one of her sessions with Respondent, Patient J.P. noticed that she felt hot and that her underpants were wet. She went home and put the pair of underpants under her bed. Patient J.P. continued to save her underpants following a number of sessions with Respondent.

11. During another one of Patient J.P.'s sessions with Respondent, she "awoke" (shifted back to her core personality) and found herself on the office floor with Respondent on top of her engaged in sexual intercourse. Patient J.P. tried to say something and Respondent "shushed" her and then helped her up from the floor. Patient J.P. then "lost time" and does not recall anything else from the session. She noticed that her underpants were wet after that session and she saved them.

12. On another occasion, Patient J.P. "awoke" during a session to find herself performing oral sex on Respondent. Patient J.P. stood up and Respondent stated, to her "Continue, you're the best." Patient J.P. then "lost time" and does not recall anything until she "awoke" while driving home.

13. On yet another occasion, Patient J.P. "awoke" during a session and found herself straddling Respondent in his chair and they were engaged in sexual intercourse. Patient J.P. also recalled an occasion standing near Respondent by his desk where he called her "Bridgette" and reached out and touched her breast and buttocks. Patient J.P. then "lost time" again. When she awoke, Patient J.P. realized that they had had sex because her underpants were wet.

14. Patient J.P. was initially reluctant to report the sexual incidents with Respondent as she was confused and was very dependant on him because she trusted him and he kept her out of the hospital.

15. On or about August 1999, Patient J.P. contacted an attorney and advised the attorney as to what had occurred during her treatment sessions with Respondent. Patient J.P. turned over approximately ten (10) pairs of underpants, which she had kept from sessions with Respondent, to her attorney. Patient J.P.'s attorney then forwarded the underpants to the LabCorp laboratory in Chapel Hill, North Carolina for DNA analysis.

16. On or about September 24, 1999, Patient J.P. "awoke" to find herself at Respondent's office and, following that visit, discovered that her underpants were again wet.

17. On or about October 4, 1999, Patient J.P.'s attorney sent a letter to Respondent telling him to discontinue his treatment of Patient J.P. and to have no further contact with her.

18. On or about October 24, 1999 (Sunday), Patient J.P. "lost time" and "awoke" to find herself in Respondent's office. During that time, she remembered Respondent telling her that when he is threatened, he gets vicious. He also told her that this matter could be settled without attorneys. Respondent also told Patient J.P. to have her attorney write a letter stating that there would be no charges filed against him.

19. On or about October 26, 1999, Patient J.P.'s attorney reported the sexual incidents

between Patient J.P. and Respondent to the Volusia County Sheriff's Office. Patient J.P. subsequently turned over three (3) more pairs of underpants from her sessions with Respondent to the Sheriff's Office. The underpants were then sent to the Florida Department of Law Enforcement for analysis to determine the presence of acid phosphatase, spermatozoa and DNA.

20. On or about December 30, 1999, LabCorp, the North Carolina laboratory, issued a report on the findings of the analysis conducted on the underpants submitted by Patient J.P.'s attorney. The laboratory confirmed the presence of semen on eight (8) pairs of the underpants, the profiles of which were consistent on five (5) pairs of the underpants (i.e., belonged to the same donor). LabCorp could not identify the donor of the semen as they did not have a DNA profile of any suspects for comparison. Patient J.P.'s husband has had a vasectomy.

21. On or about January 13, 2000, the Volusia County Sheriff's Office forwarded three pairs of Patient J.P.'s underpants to the Florida Department of Law Enforcement (FDLE) laboratory for DNA analysis.

22. On or about January 20, 2000, detectives from the Volusia County Sheriff's Office obtained a blood sample from Respondent at the Sheriff's Office.

23. On or about January 27, 2000, Respondent's blood sample was forwarded to the Florida Department of Law Enforcement (FDLE) laboratory for DNA analysis.

24. On or about March 2, 2000, a blood sample from Patient J.P. was also submitted to FDLE for comparative analysis.

25. On or about June 6, 2000, FDLE Crime Laboratory Analyst Timothy B. Potree issued a report regarding the DNA comparative analysis of the blood samples submitted by Respondent and Patient J.P. and the sperm collected from one of the pairs of Patient J.P.'s

underpants. The analyst concluded that the

"DNA profile obtained from the sperm fraction matched the DNA profile of Ronald Malave at all loci tested. The frequency of occurrence of this profile for unrelated individuals in the following populations is approximately:

" 1 in 19 quadrillion Caucasians  
1 in 290 quadrillion African Americans  
1 in 13 quadrillion Hispanics."

26. On or about June 8, 2000, a warrant was issued for Respondent's arrest in Volusia County, Florida, charging him with sexual misconduct by a psychotherapist (felony), contrary to Section 491.0112, Florida Statutes. Respondent was arrested on the warrant that same date.

27. On or about June 12, 2000, an information was filed by the Seventh Judicial Circuit State Attorney's Office charging Respondent with sexual misconduct by a psychotherapist, in violation of Section 491.0112, Florida Statutes.

28. Respondent's conduct in engaging in sexual acts with Patient J.P. during her treatment sessions for multiple personality disorder constitutes sexual misconduct in the practice of medicine. Respondent inappropriately exercised influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity in that Respondent took advantage of Patient J.P.'s psychiatric condition and performed inappropriate acts which were sexual in nature and which were not performed for any legitimate medical or therapeutic purpose.

29. Section 458.329, Florida Statutes, states that the physician-patient relationship is founded on mutual trust. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of the practice or the scope of generally accepted examination or treatment of the patient.

Sexual misconduct in the practice of medicine is prohibited.

30. Rule 64B8-9.008, Florida Administrative Code, states in part that sexual contact with a patient is sexual misconduct, which includes verbal or physical behavior which may reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it, may reasonably be interpreted as intended for the sexual arousal or gratification of the physician, the patient or any third party or may be reasonably interpreted as being sexual.

#### COUNT ONE

31. Petitioner realleges and incorporates paragraphs one (1) through thirty (30), as if fully set forth herein this Count One.

32. Respondent exercised influence within a patient-physician relationship for purposes of engaging a patient in sexual activity, in that Respondent engaged in sexual acts with Patient J.P. during psychiatric treatment sessions in which she had "shifted" to one of her alter personalities.

33. Based on the foregoing, Respondent violated Section 458.331(1)(j), Florida Statutes, by exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician

#### COUNT TWO

34. Petitioner realleges and incorporates paragraphs one (1) through thirty (30) and thirty-two (32), as if fully set forth herein this Count Two.

35. Respondent violated any provision of Chapter 458, Florida Statutes, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failed to comply with a lawfully issued subpoena of the department, in that Respondent violated the express prohibition against sexual misconduct stated in Section 458.329, Florida Statutes, and Rule 64B8-9.008, Florida Administrative Code in his actions with Patient J.P.

36. Based on the foregoing, Respondent violated Section 458.331(1)(x), Florida Statutes, by violating any provision of Chapter 458, Florida Statutes, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

### COUNT THREE

37. Petitioner realleges and incorporates paragraphs one (1) through thirty (30), thirty-two (32), and thirty-five (35), as if fully set forth herein this Count Three.

38. Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances, in that Respondent engaged in sexual conduct with Patient J.P. during the course of a psychiatric treatment session in which he was supposed to be treating her for multiple personality disorder.

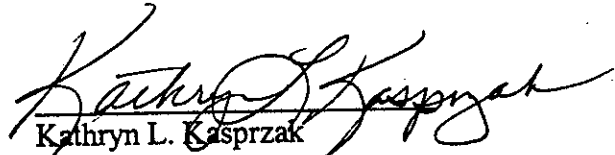
39. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.



WHEREFORE, the Petitioner respectfully requests the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, the assessment of costs related to the investigation and prosecution of this case as provided for in Section 456.072(4), Florida Statutes, and/or any other relief that the Board deems appropriate.

SIGNED this 10<sup>th</sup> day of August, 2000.

Robert G. Brooks, M.D., Secretary

  
Kathryn L. Kasprzak  
Chief Medical Attorney

COUNSEL FOR DEPARTMENT:

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Chief Medical Attorney  
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Florida Bar #0937819  
KLK/kmk  
PCP: August 9, 2000  
PCP Members: Ashkar, Glotfelty, Rodriguez

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Rene Combes  
DATE 8/11/00

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Vicki R. Kenon*  
DATE 9/16/02

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2000-08413  
DOAH Case No. 01-2440PL

RONALD MALAVE, M.D.,

Respondent.

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**RESPONSES TO EXCEPTIONS**

COMES NOW the Department of Health, Petitioner, pursuant to Rule 28-106.217, Florida Administrative Code (FAC), and files this its Responses to Exceptions, and states:

**INTRODUCTION**

On August 11, 2000, the Department of Health filed an Administrative Complaint against the Respondent alleging violations of Section 458.331(1)(j), (t), and (x), Florida Statutes, for exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity, for violating any provision of Chapter 458, Florida Statutes, a rule of the board or department, or a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department, and for failing to practice within the standard of care.

On June 19, 2001, Respondent filed a request for formal hearing which disputed the allegations of the administrative complaint. The case was forwarded

to the Division of Administrative Hearings ("DOAH"), and Administrative Law Judge Susan B. Kirkland was assigned by Initial Order dated June 20, 2001.

At the initial hearing on January 28-31, 2002, Administrative Law Judge ("ALJ") Kirkland, presided as the trier of fact. At that time, the Respondent chose not to call any witnesses or introduce any exhibits. The Respondent waived his appearance at the formal hearing. Petitioner filed its initial proposed recommended order on March 28, 2002, and Respondent filed his on March 29, 2002.

On May 1, 2002, Respondent filed a Motion to Re-open the Administrative Hearing through new counsel, Chandler R. Muller, Esq. After hearing argument of counsel and by order of the court dated May 10, 2002, ALJ Kirkland Re-opened the Administrative Hearing for the limited purpose of allowing the Respondent to testify and allowing the Petitioner to present any necessary rebuttal testimony.

At the re-opened administrative hearing on June 24-25, 2002, ALJ Kirkland again presided as the trier of fact. ALJ Kirkland issued her Recommended Order August 21, 2002.

In her Recommended Order, ALJ Kirkland determined: (1) Respondent had sexual intercourse with Patient J.P. during the course of his treatment of her; (2) Respondent used his influence within the physician-patient relationship to engage Patient J.P. in having sexual relationship with him for his own gratification; (3) Respondent failed to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable

under similar conditions and circumstances by having a sexual relationship with Patient J.P.; and (4) the Petitioner has established by clear and convincing evidence that Respondent used his influence within the physician-patient relationship in order to engage in sexual relations with Patient J.P. and, in so doing, failed to practice medicine with the level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

On September 5, 2002, Respondent filed exceptions to ALJ Kirkland's Recommended Order. Respondent takes exception to: (1) ALJ Kirkland's determination that Patient J.P. was a credible witness (2) ALJ Kirkland's determination that Respondent engaged in sexual intercourse with Patient J.P. during the course his treatment of her; (3) ALJ Kirkland's determination that Respondent used his influence within the physician-patient relationship to engage in sexual relations with Patient J.P.; (4) ALJ Kirkland's determination that Respondent deviated from the applicable standard of care by having a sexual relationship with Patient J.P.; and (5) ALJ Kirkland's ruling on several procedural and evidentiary matters not addressed in the Recommended Order.

For the reasons which follow, Respondent's exceptions should be denied.

#### **STANDARD OF REVIEW**

1. Florida's Administrative Procedure Act relies upon an Administrative Law Judge to consider all the evidence presented, resolve conflicts, judge credibility of witnesses, draw permissible inferences from the evidence and reach

ultimate findings of fact based upon competent substantial evidence. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide the issue one way or the other. Heifetz v. Department of Business Regulation, 475 So.2d 1277 (Fla. 1<sup>st</sup> DCA 1985).

2. Section 120.57(1)(k), Florida Statutes, authorizes the submission of exceptions to a recommended order. The purpose of filing exceptions is to permit a party to alert the agency to any perceived defects in the Administrative Law Judge's factual findings or conclusions of law. Florida Department of Corrections v. Bradley, 510 So.2d 1122 (Fla. 1<sup>st</sup> DCA 1987).

3. A reviewing agency may not reweigh the evidence, resolve the conflicts therein, or judge the credibility of witnesses, as those are evidentiary matters within the province of the ALJ as the finder of the facts. Martuccio v. Department of Professional Regulation, Bd. of Optometry, 622 So.2d 607, 609 (Fla. 1<sup>st</sup> DCA 1993); Heifetz v. Dept. of Business Regulation, 475 So.2d 1277, 1281 (Fla. 1<sup>st</sup> DCA 1985). An agency reviewing a recommended order is not authorized to re-evaluate the quantity and quality of the evidence presented at DOAH final hearing beyond a determination of whether the evidence is competent and substantial. Brogan v. Carter, 671 So.2d 822, 823 (Fla. 1<sup>st</sup> DCA 1996). "Substantial" evidence has been defined as "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion...." Perdue v. TL Palm Associates, Ltd., 755 So.2d 660 (Fla. 4<sup>th</sup> DCA 1999) quoting DeGroot v.

Sheffield, 95 So.2d 912 (Fla. 1957). "Competent" evidence means evidence that is both relevant and material. Id.

4. An Administrative Law Judge's determination of negligence, deviation from a standard of conduct, or whether certain facts constitute a statutory violation, are factual determinations within the realm of the Administrative Law Judge's fact finding responsibilities. Bush v. Brogan, 725 So.2d 1237 (Fla. 2<sup>nd</sup> DCA 1999); J.J. Taylor Companies, Inc. v. Department of Business and Professional Regulation, 724 So.2d 192 (Fla 1<sup>st</sup> DCA 1999); Langston v. Jamerson, 653 So.2d 489 (Fla. 1<sup>st</sup> DCA 1995).

5. Finally, the agency may not reject or modify conclusions of law unless it states with particularity its reasons for doing so and makes a finding that its substituted conclusion of law is as or more reasonable than that which was rejected or modified. Section 120.57(1)(l), Florida Statutes (F.S.).

### **EXCEPTIONS REGARDING THE CREDIBILITY OF WITNESSES**

#### **RESPONDENT'S EXCEPTION #1**

6. Respondent takes exception to ALJ's finding of fact in Paragraph 3 of the Recommended Order which states that "These occurrences of 'lost time' continued into her adulthood." While this exception is technical and grammatical in nature, the Petitioner agrees that it is susceptible to different interpretations. Dr. Mary Rabb Lidkea's un rebutted testimony at trial was that she was currently treating Patient J.P. for dissociative identity disorder and that Patient J.P. was continuing to experience episodes of "lost time". (T-1, pp. 39-52). In addition,

Patient J.P. did experience three personality shifts during the trial. (T-2, p. 254; T-3, p. 393; T-4, p. 577). For clarification purposes, the sentence should reflect that the occurrences of "lost time" have continued into Patient J.P.'s adulthood. For this reason, the Petitioner agrees that Respondent's exception should be granted so as to clarify that the episodes of "lost time" have continued into Patient J.P.'s adulthood.

7. Respondent takes exception to the ALJ's finding of fact in Paragraph 12 of the Recommended Order and asks this Board to reweigh the evidence that Respondent would not escort Patient J.P. out of his office after sessions in which she had lost time, her underwear would be wet and her jaw would be sore and cramped. Respondent contends that Respondent's testimony that he walked Patient J.P. out to the waiting room after every session was more credible than that of Patient J.P.

8. Patient J.P. testified that on those occasions when she lost time during sessions and a sexual act had occurred, as evidenced by either wet underwear or a sore jaw, Respondent would not escort her out to the front waiting room as was his custom. (T-3, pp. 381-382). This direct, credible evidence from Patient J.P. supports the ALJ's finding.

9. It is the Hearing Officer's (now ALJ's) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985); Goss v. District School Board of St. Johns County, 601 So. 2d 1232 (Fla. 5th

DCA 1992) and Cenac v. Florida State Board of Accountancy, 399 So. 2d 1013 (Fla. 1981). The weighing of evidence and judging of the credibility of witnesses are solely the prerogative of the Administrative Law Judge as finder of fact. Strickland v. Florida A & M University, 26 Fla. L. Weekly D2238 (Fla. 1st DCA 2001). It was up to the ALJ to resolve any conflicts in the testimony. See Educ. Dev. Ctr., Inc. v. City of West Palm Beach Zoning Bd. of Appeals, 541 So.2d 106 (Fla.1989); Pasco County Sch. Bd. v. Florida Pub. Employees Relations Comm'n, 353 So.2d 108, 116 (Fla. 1st DCA 1977).

10. In considering all of the evidence, the ALJ determined that the testimony of Patient J.P. was more credible than that of Respondent. Patient J.P.'s testimony at trial was wholly unimpeached. The basis of Respondent's attack upon Patient J.P.'s credibility is the fact that she was mentally ill -- hardly unusual given the fact that psychiatric patients generally are mentally ill to one degree or another. The Respondent contends that since Patient J.P. is mentally ill, she is not a reliable witness, and/or not a competent witness. However, it is well-settled in Florida that a witness may only be disqualified from testifying, or deemed an incompetent witness, if the witness lacks one of the three capacities: 1) the capacity to communicate in such a manner as to be understood, 2) the capacity to understand the duty of a witness to tell the truth, or 3) the capacity to perceive and recollect the facts when testifying. State v. Green, 733 So.2d 583, 584 (Fla. 1<sup>st</sup> DCA 1999).

11. Whether any of these conditions are present is a determination to be made by the court. Thomas v. State, 74 So. 1, 4 (1917) (It is well settled that it is



the province and duty of the trial court to determine the competency of a witness); Florida Power Corp. v. Wenzel, 113 So.2d 747, 751 (Fla. 2<sup>nd</sup> DCA 1959) (The determination of the competency of witnesses is a matter within the sound discretion of the trial court). It is patently obvious from the Recommended Order that the ALJ found Patient J.P.'s testimony to be competent, credible, and reliable.

12. Respondent was impeached numerous times during his testimony for being exaggerative, evasive, embellished, misleading, inconsistent, and just plain incredulous. (TSupp-1, pp. 43, 61, 83, 106, 122-123; TSupp-2, pp. 231-232; TSupp-3, pp. 11, 12-14, 16, 20, 23, 25, 31-32, 36-37, 40-41, 42, 45-46, 58, 63-66, 72-74; Joint Exhibit 1, pp. 82, 84, 107, 108, 116, 143-144, 150, 151, 152, 180, 183, 184, 186)

13. More importantly on the issue of credibility, Patient J.P.'s testimony was corroborated by the physical evidence, the DNA, and the expert testimony of Meghan Clement, the DNA analyst from LabCorp. Ms. Clement's unrebutted and unimpeached testimony was that, although it is possible to transfer DNA from one article of clothing to another, it did not appear to have happened in this case as the concentration of the DNA in the sperm fraction was too high to have been diluted. (T-2, pp. 318-325, 341-343, 345)

14. The Administrative Law Judge's finding of fact is based upon competent substantial evidence and this Board should not disturb it. Respondent's exception should be denied.

### RESPONDENT'S EXCEPTION #2

15. Respondent takes exception to ALJ's finding of fact in Paragraph 12 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. Patient J.P. testified that she was able to recall four occasions when she shifted back to her core personality while Respondent was engaged in a sexual act with her. In addition, Patient J.P. saved her wet underwear following sessions with Respondent and stored them under her bed. (T-3, pp. 382-398, 400-407, 491, 534-535). This direct, credible evidence from Patient J.P. supports the ALJ's finding. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

### RESPONDENT'S EXCEPTION #3

16. Respondent takes exception to ALJ's finding of fact in Paragraph 13 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible

than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #4

17. Respondent takes exception to ALJ's finding of fact in Paragraph 14 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #5

18. Respondent takes exception to ALJ's finding of fact in Paragraph 15 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible

than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

RESPONDENT'S EXCEPTION #6

19. Respondent takes exception to ALJ's finding of fact in Paragraph 16 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

RESPONDENT'S EXCEPTION #7

20. Respondent takes exception to ALJ's finding of fact in Paragraph 17 of the Recommended Order and asks this Board to reweigh the evidence that Respondent engaged in sexual acts with Patient J.P. during sessions. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible

than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #8

21. Respondent takes exception to ALJ's finding of fact in Paragraph 20 of the Recommended Order. Although it is unclear as to what exactly the Respondent is taking exception to, it appears that he is making an untimely attack on the chain of custody of the evidence admitted at trial. This is an improper exception as he is asking the Board to reconsider an evidentiary ruling, which is within the expertise of the ALJ. It is not a conclusion of law that falls within the expertise of the Board. Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). In addition, this belated attack on the chain of custody is improper. It is well settled in the state of Florida that a bare allegation of tampering is not sufficient to break the chain of custody. The party seeking to exclude the evidence cannot just allege that such a break in the chain or tampering has occurred; the party must actually introduce evidence to establish a reasonable probability of tampering. Florida Evidence, Charles W. Ehrhardt, p. 894 (2002); Taplis v. State, 703 So.2d 453, 454 (Fla. 1997). Absolutely no such evidence was adduced at trial and Respondent is merely making allegations

without assuming the additional burden of substantiating his claims. Respondent's exception should be denied.

RESPONDENT'S EXCEPTION #9

22. Respondent takes exception to ALJ's finding of fact in Paragraph 27 of the Recommended Order and asks this Board to review the ALJ's evidentiary ruling, a conclusion of law, with regard to the chain of custody of evidence admitted at trial. As stated in the preceding paragraph, this is an improper exception as he is asking the Board to reconsider an evidentiary ruling, which is within the expertise of the ALJ. It is not a conclusion of law that falls within the expertise of the Board. Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). Respondent's exception should be denied.

RESPONDENT'S EXCEPTION #10

23. Respondent takes exception to ALJ's finding of fact in Paragraph 34 of the Recommended Order and asks this Board to include "important facts testified to by Respondent". The ALJ's findings of fact must be supported by competent substantial evidence. Said another way, the evidence must be relevant, material, and adequate to support a conclusion. Perdue v. TL Palm Associates, Ltd., 755 So.2d 660 (Fla. 4<sup>th</sup> DCA 1999) quoting DeGroot v. Sheffield, 95 So.2d 912 (Fla. 1957). The ALJ's rejection of any findings of fact indicates one of two things: either the ALJ did not feel that the matters were relevant and material or the ALJ did not find the evidence to be credible. Either way, it is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach

ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

**RESPONDENT'S EXCEPTION #11**

24. Respondent takes exception to ALJ's finding of fact in Paragraph 36 of the Recommended Order and asks this Board to reweigh the evidence that Respondent developed sexual feelings for Patient J.P.'s Bridget personality. The fact that Respondent's sperm, as evidenced by the DNA test results, was found on a number of Patient J.P.'s underwear is proof positive that he not only had sexual feelings for her, but that he engaged in sexual relations with her as well. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. It is the Hearing Officer's (now ALJ) function to consider all the evidence, resolve conflicts and reach ultimate findings of fact, and a review is precluded. Heifetz v. Dept. of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985). Respondent's exception should be denied.

**EXCEPTIONS TO CONCLUSIONS OF LAW**

**RESPONDENT'S EXCEPTION #12**

25. Respondent takes exception to the ALJ's conclusions of law in Paragraph 43 of the Recommended Order and asks this Board to reweigh the evidence that the Respondent used his influence within the patient-physician

relationship to engage Patient J.P. in sexual relations and, in so doing, failed to meet the standard of care. As stated above in paragraphs 8 through 13, there was competent substantial evidence at trial to support the ALJ's finding that Patient J.P.'s testimony was more credible than that of Respondent and that Respondent engaged in sexual relations with Patient J.P. The unrebutted testimony of the Petitioner's medical expert, Charles Mutter, M.D., was that sexual relations between the psychiatrist and patient are forbidden and that such a relationship is very destructive and counter-therapeutic. Not only is it a breach of the standard of care by the psychiatrist, it is a breach of the sacred trust between the psychiatrist and patient. (T-4, pp. 715-719). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #13

26. Respondent takes exception to the conclusions of law by the ALJ regarding matters which were not a part of the recommended order, namely, the ALJ's decision to deny Respondent's December 18, 2001, and January 28, 2002, motions for continuance of the final hearing. Section 120.57(1)(k), Florida Statutes, provides that parties may submit written exceptions to the recommended order. The plain language of the statute indicates that this provision is limited to findings of fact and conclusions of law contained in the recommended order. The Respondent's request for relief from a non-final order such as the ALJ's denial of its motion to continue, is more appropriately made through Rules 9.190 and 9.100, Florida Rules of Appellate Procedure. Such appeals of non-final orders by



the ALJ must be filed within 30 days of the rendition of the order to be reviewed. The Respondent has missed the date for filing this type of interlocutory appeal. Even assuming that this were the appropriate forum in which to raise an objection to the ALJ's procedural ruling, the agency does not have jurisdiction to modify or reject a conclusion of law in which it lacks substantive jurisdiction. Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #14

27. Respondent takes exception to conclusions of law by the ALJ regarding matters which were not a part of the recommended order, namely, the ALJ's decision to re-open the final hearing in order to permit the Respondent to testify. Section 120.57(1)(k), Florida Statutes, provides that parties may submit written exceptions to the recommended order. The plain language of the statute indicates that this provision is limited to findings of fact and conclusions of law contained in the recommended order. No such finding of fact or conclusion of law is contained in the Recommended Order. Even assuming that this were the appropriate forum in which to raise an objection to the ALJ's refusal to allow other fact and expert witnesses to testify at the re-opened final hearing, the Respondent's claim of an abuse of discretion, and by implication, a denial of due process is without merit. It was within the discretion of the ALJ to re-open the final hearing and it was within the discretion of the ALJ to limit the scope of the re-opened hearing.

28. In order to understand the complete lack of merit to the Respondent's claim of a denial of due process, it is helpful to understand the relevant procedural history of this case, which is as follows:

- On August 11, 2000, Petitioner filed an Administrative Complaint seeking to discipline Respondent's license to practice medicine, to which Respondent timely submitted his election of rights, requesting a formal administrative proceeding pursuant to Chapter 120, Florida Statutes (FS). Petitioner referred the matter to the Division of Administrative Hearings (DOAH) September 15, 2000.
- DOAH assigned the Honorable Mary Clark as Administrative Law Judge (ALJ). On October 9, 2000, Judge Clark issued a Notice of Hearing reflecting a January 22-26, 2001, hearing date. The Notice of Hearing, and each such successive Notice of Hearing in this matter, stated: "The parties shall arrange to have all witnesses and evidence present at the time and place of the hearing...."
- On December 26, 2000, Respondent filed a Motion to Continue the case, asserting that Respondent had not yet completed discovery in this matter and in a pending criminal case involving similar allegations. Judge Clark granted the Motion and rescheduled the hearing for March 26-30, 2001.
- On June 19, 2001, Petitioner referred the matter back to DOAH, where the Honorable Susan B. Kirkland was assigned as the presiding ALJ. ALJ Kirkland scheduled a hearing for September 10-14, 2001. Again the Notice

of Hearing admonished: "The parties shall arrange to have all witnesses and evidence present at the time and place of hearing."

- On September 4, 2001, Respondent filed another Motion to Continue the hearing, asserting the appearance of new counsel and Respondent's invocation of his Fifth Amendment privilege with regard to this and the pending criminal matter as grounds for the continuance. At the September 4, 2001, telephone conference hearing on the Motion, Respondent represented that the criminal trial was scheduled in early January. ALJ Kirkland stated that she would grant this continuance but that it would be the last one and that even if the criminal matter did not proceed to trial in early January this matter would be heard in late January. By Order dated September 6, 2001, the hearing was rescheduled to January 28-February 1, 2002.
- On January 10, 2002, Respondent filed another Motion to Reschedule the hearing, asserting as grounds the desire to present the testimony of a psychiatrist and a psychologist, who had recently conducted examinations and evaluations of Patient J.P. After a January 15, 2002, telephone conference hearing, ALJ Kirkland denied the Motion.
- On January 28-30, 2002, ALJ Kirkland presided over the Formal Hearing in this matter. Although Respondent listed in excess of twelve exhibits and identified approximately thirty-four witnesses in the pre-hearing statement, including the psychiatrist and two psychologists who had

examined and tested Patient J.P., Respondent presented no witnesses and no exhibits. None of the witnesses which Respondent claims were improperly precluded from testifying at the re-opened final hearing in June of 2002 had a Fifth Amendment right which they were seeking to protect.

29. The irony of the Respondent's tactical decision to not put on any witnesses at the initial final hearing in January of 2002 is that the criminal prosecutor had had the opportunity to depose all of the Respondent's witnesses, with the exception of the Respondent. The criminal prosecutor could have discovered what all of the Respondent's witnesses were going to testify to in the criminal proceeding, therefore, to elect not to put them on the stand in the administrative final hearing in January of 2002, was pointless. With regard to a procedural ruling, the agency does not have jurisdiction to modify or reject a conclusion of law in which it lacks substantive jurisdiction. Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). Respondent's exception should be denied.

#### RESPONDENT'S EXCEPTION #15

30. Respondent takes exception to conclusions of law by the ALJ regarding matters which were not a part of the recommended order, namely, the ALJ's decision to grant the Petitioner's Motion in Limine to Exclude any Exhibits Offered by Respondent During Respondent's Testimony. Section 120.57(1)(k), Florida Statutes, provides that parties may submit written exceptions to the

recommended order. The plain language of the statute indicates that this provision is limited to findings of fact and conclusions of law contained in the recommended order. No such finding of fact or conclusion of law is contained in the Recommended Order. Even assuming that this were the appropriate forum in which to raise an objection to the ALJ's granting of the Petitioner's motion, the Respondent's claim of a denial of due process and of an abuse of discretion by the ALJ is without merit. Again, as evidenced by the procedural summary of this case in Paragraph 27, the Respondent was given the opportunity to present those exhibits in his defense at the initial final hearing in January of 2002. However, he chose not to do so at that time. This was a tactical choice on the Respondent's part. This is an improper exception as he is asking the Board to reconsider an evidentiary ruling, a conclusion of law, by the ALJ. The agency does not have jurisdiction to modify or reject rulings not within the substantive jurisdiction of the Board. Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). Respondent's exception should be denied.

RESPONDENT'S EXCEPTION #16

32. Respondent takes exception to conclusions of law by the ALJ regarding matters which were not a part of the recommended order, namely, the ALJ's decision to deny the Respondent's Motion to Dismiss filed on July 2, 2002. Section 120.57(1)(k), Florida Statutes, provides that parties may submit written exceptions to the recommended order. The plain language of the statute indicates that this provision is limited to findings of fact and conclusions of law contained in

the recommended order. No such finding of fact or conclusion of law is contained in the Recommended Order. Even assuming that this were the appropriate forum in which to raise an objection to the ALJ's denial of the motion to dismiss, the agency does not have substantive jurisdiction over legal matters involving double jeopardy, due process and collateral estoppel. These are conclusions of law and are not appropriate matters for review by the agency. Deep Lagoon Boat Club, Ltd. V. Sheridan, 784 So.2d 1140 (Fla. 2<sup>nd</sup> DCA 2001) (The Department of Environmental Protection did not have the authority to review a conclusion of law in a recommended order which related to the application of collateral estoppel); Barfield v. Department of Health, 805 So.2d 1008, 1011 (Fla. 1<sup>st</sup> DCA 2001). Respondent's exception should be denied.

### **CONCLUSION**

Based upon the foregoing, the Board of Medicine should enter a Final Order denying Respondent's exceptions, with the exception of the necessary clarification in Paragraph 3 of the Recommended Order, and adopting the Recommended Order.

Respectfully Submitted,



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Kim M. Kluck, Fla. Bar. No.0040967  
Attorney for Petitioner  
DOH-Practitioner Regulation  
4052 Bald Cypress Way, Bin #C-65  
Tallahassee, FL 32399-3265  
Tel: (850) 414-8126

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original and one copy hereof together with the attached were served by Petitioner, via United States Mail, to Chandler R. Muller, Esquire, at 1150 Louisiana Avenue, Suite 2, Winter Park, Florida 32790-2128, David P. Hill, Esq., 128 East Livingston Street, Orlando, Florida 32801, and William Furlow, Esq., P.O. Box 1877, Tallahassee, Florida 32302-1877, this 16th day of September, 2002.

  
Kim M. Kluck, Senior Attorney

STATE OF FLORIDA  
DEPARTMENT OF HEALTH  
BOARD OF MEDICINE

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Vicki R. Kenon*  
DATE 10/3/02

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOAH Case Number 01-2440PL  
DOH Case Number 2000-08413

RONALD MALAVE, M.D.,

Respondent.

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

Petitioner, Department of Health, moves for the entry of a Final Order of the Board of Medicine assessing costs against the Respondent for the investigation and prosecution of this case in accordance with Section 456.072(4), Florida Statutes (2001).

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 (2001), states as follows:

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

3. The investigation and prosecution of this case has resulted in costs in the total amount of sixty-one thousand three hundred forty-three dollars and seventy-two cents



(\$61,343.72), as set forth on the attached summary of costs (Exhibit A), that is based on the attached affidavit, printouts of time records and receipts. (Exhibit B).

WHEREFORE, the Department of Health, requests that the Board of Medicine enter a Final Order assessing costs against the Respondent as mandated by Section 456.072(4), Florida Statutes (2001).



Kim M. Kluck, Senior Attorney  
Florida Bar Number 0040967  
Department of Health  
Division of Medical Quality Assurance  
Prosecutorial Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
(850) 414-8126 PHONE  
(850) 414-1989 FAX

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy hereof has been furnished to David P. Hill, Esquire, at 128 East Livingston Street, Orlando, Florida 32801 and Chandler R. Muller, Esquire, at 1150 Louisiana Avenue, Suite 2, Winter Park, Florida 32790-2128 , by  postage-paid U.S. Mail,  Hand-Delivery,  E-mail,  Facsimile Transmission,  E-mail address, and/or  Over-Night Mail, this 3<sup>rd</sup> day of October, 2002.



Kim M. Kluck, Senior Attorney



Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A.  
Secretary

**MEMORANDUM**

TO: Board of Medicine

FROM: Kim M. Kluck, Senior Attorney

RE: Breakdown of hard costs and soft costs

SUBJECT: DOH v. Ronald Malave, M.D.  
DOAH Case Number 01-2440PL  
DOH Case Number 2000-08413

DATE: October 3, 2002

**Hard Costs Breakdown for DOH case**

<u>Description</u>		<u>Costs</u>	
08-28-01	Kim Kluck	travel for deposition	\$642.42
08-30-01	Robert Byerts	travel for deposition	\$440.66
09-09-01	Robert Byerts	travel for FH	\$12.00
01-11-02	Kim Kluck	travel for deposition	\$258.20
01-27-02	Kim Kluck	travel for FH	\$746.60
01-27-02	Robert Byerts	travel for FH	\$1,011.77
01-28-02	Megan E. Clement	travel for FH	\$436.04
01-30-02	Charles Mutter, M.D.	travel for FH	\$153.46
<b>TOTAL</b>			<b>\$3,701.15</b>
01-26-00	court reporting	\$75.00	
01-29-00	transcript	\$42.25	
03-08-00	Court Reporting	\$18.00	
03-08-00	transcript	\$88.00	
09-17-00	court reporting	\$326.05	deposition of Johnson
09-17-00	transcript	\$326.05	deposition of Petree
01-18-02	court reporting	\$98.90	
01-18-02	transcript	\$534.35	
03-08-02	court reporting	\$2,071.00	formal hearing
06-27-02	court reporting	\$655.00	deposition of Malave
<b>TOTAL</b>			<b>\$4,234.60</b>
3-12-01	Consulting	450.00	
11-27-01	other services	<u>12.00</u>	
			<b>\$ 462.00</b>

Department of Health  
Bureau of Health Care Practitioner Regulation - Legal  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265

7-20-00	Expert Witness	150.00
7-21-00	Expert Witness	150.00
8-06-00	Expert Witness	1000.00
2-22-00	Expert Witness	100.00
3-26-02	Expert Witness	200.00
3-26-02	Expert Witness	1500.00
4-05-02	Expert Witness	2200.00
4-05-02	Expert Witness	<u>2000.00</u>
		\$7,300.00

\$15, 697.75 subtotal

**Soft Costs Breakdown for DOH case**

<u>Description</u>	<u>Costs</u>
Total soft costs for Complaints	95.50
Total soft costs for Investigations	7,265.04
Total soft cost for other investigative charges	123.22
Total soft costs for Legal	<u>38,162.22</u>
	45,522.75 Subtotal

**TOTAL COSTS      \$61,343.72**

## **AFFIDAVIT OF FEES AND COSTS EXPENDED**

STATE OF FLORIDA  
COUNTY OF LEON:

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

- 1) My name is Charlene Willoughby.
- 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 Investigation Manager for the Consumer Services Unit for the Florida Department of Health. The Consumer Services Unit is where all complaints against Florida health care licensees (i.e. medical doctors, dentists, nurses, respiratory therapists) are officially filed with the Florida Department of Health. I have been in my current job position for more than five years. My business address is 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399-3275.
- 4) As Investigation Manager, my job duties include data base administration for the Time Tracking System. 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. In addition, I am the records custodian for the printouts from this database.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number 2000-08413 (Department of Health v. Ronald Malave, M.D.) are sixty-one thousand three hundred forty-three dollars and seventy-two cents (**\$ 61,343.72**).
- 6) The costs for DOH case number 2000-08413 (Department of Health v. Ronald Malave, M.D.) are itemized in Exhibit 1, which is attached to this document.

7) DOH Employees that work on cases daily are to keep track of their time in six-minute increments. (i.e. paralegals, lawyers, investigators) In the Time Tracking System time is billed in six-minute increments. 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 (i.e. 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 attached Exhibit 2)

8) Charlene Willoughby, 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.

Charlene Willoughby  
Charlene Willoughby, Affiant

State of Florida  
County of Leon

Sworn and subscribed before me: this 2 day of October, 2002  
by Charlene Willoughby who is personally known to me.

Mary R. Wilson  
Notary Signature

MARY R. WILSON  
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Mary R. Wilson  
MY COMMISSION # CC914113 EXPIRES  
June 7, 2004  
BONDED THRU TROY FARM INSURANCE, INC.



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
<b>BUREAU OF CONSUMER COMPLAINTS</b>						
HA13	2.00	\$47.75	\$95.50	06/14/2000	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
<b>Sub Total</b>	<b>2.00</b>		<b>\$95.50</b>			
<b>BUREAU OF INVESTIGATIVE SERVICES</b>						
J115	2.50	\$50.12	\$125.30	06/15/2000	4	ROUTINE INVESTIGATIVE WORK
J115	2.00	\$50.12	\$100.24	06/19/2000	4	ROUTINE INVESTIGATIVE WORK
J115	4.00	\$50.12	\$200.48	06/19/2000	58	TRAVEL TIME
J115	1.00	\$50.12	\$50.12	06/20/2000	4	ROUTINE INVESTIGATIVE WORK
J115	2.50	\$50.12	\$125.30	06/20/2000	4	ROUTINE INVESTIGATIVE WORK
J115	2.50	\$50.12	\$125.30	06/20/2000	76	REPORT PREPARATION
J115	4.00	\$50.12	\$200.48	06/21/2000	76	REPORT PREPARATION
J115	1.00	\$50.12	\$50.12	07/06/2000	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.30	\$19.15	08/02/2000	58	TRAVEL TIME
O198	0.50	\$38.30	\$19.15	08/02/2000	4	ROUTINE INVESTIGATIVE WORK
O198	1.00	\$38.30	\$38.30	08/03/2000	76	REPORT PREPARATION
J115	0.50	\$50.12	\$25.06	08/09/2000	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.30	\$19.15	08/15/2000	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.30	\$19.15	08/16/2000	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.30	\$19.15	08/28/2000	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.30	\$19.15	08/30/2000	4	ROUTINE INVESTIGATIVE WORK
J115	1.00	\$50.12	\$50.12	08/31/2000	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.30	\$38.30	09/01/2000	58	TRAVEL TIME
O198	1.00	\$38.30	\$38.30	09/01/2000	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.30	\$19.15	09/05/2000	76	REPORT PREPARATION



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
J176	1.00	\$47.05	\$47.05	12/21/2000	58	TRAVEL TIME
J176	0.50	\$47.05	\$23.53	12/21/2000	4	ROUTINE INVESTIGATIVE WORK
W188	1.00	\$41.38	\$41.38	12/22/2000	4	ROUTINE INVESTIGATIVE WORK
W188	1.00	\$41.38	\$41.38	12/22/2000	58	TRAVEL TIME
J181	6.00	\$44.99	\$269.94	12/26/2000	58	TRAVEL TIME
J181	0.50	\$44.99	\$22.50	12/26/2000	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J181	0.50	\$44.99	\$22.50	12/26/2000	1	ROUTINE ADMINISTRATIVE DUTIES
J176	0.50	\$47.05	\$23.53	12/28/2000	6	SUPPLEMENTAL INVESTIGATION
J175	0.70	\$47.05	\$32.94	12/28/2000	58	TRAVEL TIME
J175	2.80	\$47.05	\$131.74	12/28/2000	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J176	1.00	\$47.05	\$47.05	12/29/2000	6	SUPPLEMENTAL INVESTIGATION
L176	0.75	\$41.32	\$30.99	01/03/2001	58	TRAVEL TIME
L176	0.75	\$41.32	\$30.99	01/03/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1145	1.00	\$43.46	\$43.46	01/03/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1145	2.00	\$43.46	\$86.92	01/03/2001	58	TRAVEL TIME
L176	0.75	\$41.32	\$30.99	01/04/2001	4	ROUTINE INVESTIGATIVE WORK
O154	1.50	\$43.49	\$65.24	01/05/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	01/08/2001	4	ROUTINE INVESTIGATIVE WORK
O154	1.00	\$43.49	\$43.49	01/08/2001	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.95	\$19.48	01/11/2001	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.95	\$19.48	01/11/2001	4	ROUTINE INVESTIGATIVE WORK
J181	0.70	\$44.99	\$31.49	01/12/2001	58	TRAVEL TIME
J181	0.20	\$44.99	\$9.00	01/12/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J175	0.80	\$47.05	\$37.64	01/22/2001	4	ROUTINE INVESTIGATIVE WORK
O198	0.50	\$38.95	\$19.48	01/22/2001	4	ROUTINE INVESTIGATIVE WORK
O196	1.50	\$41.01	\$61.52	01/30/2001	4	ROUTINE INVESTIGATIVE WORK
O196	2.00	\$41.01	\$82.02	01/31/2001	58	TRAVEL TIME



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
OI96	1.50	\$41.01	\$61.52	01/31/2001	4	ROUTINE INVESTIGATIVE WORK
OI98	1.00	\$38.95	\$38.95	02/01/2001	4	ROUTINE INVESTIGATIVE WORK
OI98	0.50	\$38.95	\$19.48	02/07/2001	4	ROUTINE INVESTIGATIVE WORK
OI98	1.00	\$38.95	\$38.95	02/12/2001	4	ROUTINE INVESTIGATIVE WORK
OI98	1.00	\$38.95	\$38.95	02/13/2001	4	ROUTINE INVESTIGATIVE WORK
OI54	3.00	\$43.49	\$130.47	02/21/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	0.50	\$38.95	\$19.48	02/21/2001	58	TRAVEL TIME
OI98	0.50	\$38.95	\$19.48	02/21/2001	6	SUPPLEMENTAL INVESTIGATION
OI54	0.50	\$43.49	\$21.75	02/22/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	1.00	\$38.95	\$38.95	02/22/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	0.50	\$38.95	\$19.48	02/22/2001	76	REPORT PREPARATION
OI98	0.50	\$38.95	\$19.48	02/22/2001	76	REPORT PREPARATION
OI98	1.00	\$38.95	\$38.95	07/19/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	1.00	\$38.95	\$38.95	07/20/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	2.00	\$38.95	\$77.90	07/20/2001	58	TRAVEL TIME
OI98	3.00	\$38.95	\$116.85	07/20/2001	6	SUPPLEMENTAL INVESTIGATION
OI98	2.00	\$38.95	\$77.90	07/25/2001	6	SUPPLEMENTAL INVESTIGATION
MI145	1.00	\$43.46	\$43.46	07/25/2001	6	SUPPLEMENTAL INVESTIGATION
WI88	1.00	\$41.38	\$41.38	07/25/2001	58	TRAVEL TIME
WI88	1.00	\$41.38	\$41.38	07/25/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
OI98	2.50	\$38.95	\$97.38	07/26/2001	58	TRAVEL TIME
OI98	5.50	\$38.95	\$214.23	07/26/2001	6	SUPPLEMENTAL INVESTIGATION
MI145	0.50	\$43.46	\$21.73	07/26/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
MI145	1.00	\$43.46	\$43.46	07/26/2001	58	TRAVEL TIME
OI98	1.00	\$38.95	\$38.95	07/27/2001	6	SUPPLEMENTAL INVESTIGATION
MI145	1.00	\$43.46	\$43.46	07/27/2001	76	REPORT PREPARATION
OI98	2.00	\$38.95	\$77.90	07/28/2001	58	TRAVEL TIME





# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O198	3.00	\$38.95	\$116.85	07/28/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	07/31/2001	6	SUPPLEMENTAL INVESTIGATION
J170	4.00	\$47.05	\$188.20	07/31/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J170	3.00	\$47.05	\$141.15	07/31/2001	58	TRAVEL TIME
O198	2.00	\$38.95	\$77.90	08/01/2001	58	TRAVEL TIME
O198	2.50	\$38.95	\$97.38	08/01/2001	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.95	\$19.48	08/01/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	08/03/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	08/03/2001	58	TRAVEL TIME
O198	1.00	\$38.95	\$38.95	08/03/2001	6	SUPPLEMENTAL INVESTIGATION
O198	2.00	\$38.95	\$77.90	08/05/2001	58	TRAVEL TIME
O198	2.00	\$38.95	\$77.90	08/05/2001	6	SUPPLEMENTAL INVESTIGATION
O198	2.00	\$38.95	\$77.90	08/06/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	08/06/2001	58	TRAVEL TIME
O198	1.00	\$38.95	\$38.95	08/06/2001	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.95	\$19.48	08/07/2001	76	REPORT PREPARATION
O198	0.50	\$38.95	\$19.48	08/09/2001	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.95	\$19.48	08/10/2001	6	SUPPLEMENTAL INVESTIGATION
W188	0.50	\$41.38	\$20.69	08/10/2001	58	TRAVEL TIME
W188	0.50	\$41.38	\$20.69	08/10/2001	4	ROUTINE INVESTIGATIVE WORK
O198	3.50	\$38.95	\$136.33	08/14/2001	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.95	\$19.48	08/14/2001	6	SUPPLEMENTAL INVESTIGATION
O198	2.00	\$38.95	\$77.90	08/14/2001	6	SUPPLEMENTAL INVESTIGATION
O189	0.50	\$42.65	\$21.33	08/14/2001	1	ROUTINE ADMINISTRATIVE DUTIES
O198	1.00	\$38.95	\$38.95	08/15/2001	6	SUPPLEMENTAL INVESTIGATION
O198	3.00	\$38.95	\$116.85	08/20/2001	58	TRAVEL TIME
O198	2.50	\$38.95	\$97.38	08/20/2001	6	SUPPLEMENTAL INVESTIGATION



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O198	0.50	\$38.95	\$19.48	08/21/2001	76	REPORT PREPARATION
J170	0.50	\$47.05	\$23.53	08/22/2001	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.95	\$38.95	08/24/2001	58	TRAVEL TIME
O198	0.50	\$38.95	\$19.48	08/24/2001	6	SUPPLEMENTAL INVESTIGATION
J181	0.30	\$44.99	\$13.50	08/24/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J181	2.00	\$44.99	\$89.98	08/24/2001	58	TRAVEL TIME
J181	0.30	\$44.99	\$13.50	08/27/2001	6	SUPPLEMENTAL INVESTIGATION
J181	0.40	\$44.99	\$18.00	08/28/2001	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J181	0.50	\$44.99	\$22.50	08/28/2001	58	TRAVEL TIME
J181	0.50	\$44.99	\$22.50	09/06/2001	6	SUPPLEMENTAL INVESTIGATION
J170	1.50	\$47.05	\$70.58	09/07/2001	6	SUPPLEMENTAL INVESTIGATION
J170	1.00	\$47.05	\$47.05	09/11/2001	6	SUPPLEMENTAL INVESTIGATION
M1145	0.50	\$39.14	\$19.57	01/07/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1145	1.50	\$39.14	\$58.71	01/07/2002	58	TRAVEL TIME
J181	0.30	\$42.52	\$12.76	01/07/2002	6	SUPPLEMENTAL INVESTIGATION
J181	1.00	\$42.52	\$42.52	01/07/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
J181	5.00	\$42.52	\$212.60	01/07/2002	58	TRAVEL TIME
J181	1.00	\$42.52	\$42.52	01/08/2002	6	SUPPLEMENTAL INVESTIGATION
M1145	0.50	\$39.14	\$19.57	01/08/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
M1145	2.50	\$39.14	\$97.85	01/08/2002	58	TRAVEL TIME
M1145	1.00	\$39.14	\$39.14	01/09/2002	76	REPORT PREPARATION
O198	0.50	\$38.75	\$19.38	01/10/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O198	1.00	\$38.75	\$38.75	01/15/2002	6	SUPPLEMENTAL INVESTIGATION
O189	1.00	\$40.03	\$40.03	01/15/2002	58	TRAVEL TIME
O189	0.50	\$40.03	\$20.02	01/15/2002	6	SUPPLEMENTAL INVESTIGATION
O198	1.00	\$38.75	\$38.75	01/16/2002	6	SUPPLEMENTAL INVESTIGATION
O198	3.00	\$38.75	\$116.25	01/16/2002	58	TRAVEL TIME



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O198	1.50	\$38.75	\$58.13	01/16/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O189	0.50	\$40.03	\$20.02	01/16/2002	6	SUPPLEMENTAL INVESTIGATION
O198	0.50	\$38.75	\$19.38	01/17/2002	58	TRAVEL TIME
O198	0.50	\$38.75	\$19.38	01/17/2002	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O198	2.00	\$38.75	\$77.50	01/17/2002	76	REPORT PREPARATION
<b>Sub Total</b>	<b>172.25</b>		<b>\$7,265.04</b>			

### BUREAU OF LEGAL SERVICES

HL94A	0.20	\$67.71	\$13.54	06/28/2000	25	REVIEW CASE FILE
HL49A	5.00	\$62.23	\$311.15	07/06/2000	81	ESO/ERO
HL49A	4.50	\$62.23	\$280.04	07/07/2000	81	ESO/ERO
HL49A	0.50	\$62.23	\$31.12	07/10/2000	35	TELEPHONE CALLS
HL49A	4.50	\$62.23	\$280.04	07/10/2000	81	ESO/ERO
HL49A	0.50	\$62.23	\$31.12	07/10/2000	35	TELEPHONE CALLS
HL49A	1.00	\$62.23	\$62.23	07/11/2000	81	ESO/ERO
HL49A	1.00	\$62.23	\$62.23	07/12/2000	81	ESO/ERO
HL49A	0.50	\$62.23	\$31.12	07/12/2000	70	CONFERENCES WITH LAWYERS
HL49A	0.50	\$62.23	\$31.12	07/12/2000	35	TELEPHONE CALLS
HL49A	1.00	\$62.23	\$62.23	07/13/2000	81	ESO/ERO
HL49A	0.30	\$62.23	\$18.67	07/13/2000	59	LOCATING CASE FILE
HL49A	1.00	\$62.23	\$62.23	07/13/2000	35	TELEPHONE CALLS
HL30A	1.30	\$69.19	\$89.95	07/13/2000	35	TELEPHONE CALLS
HL49A	0.50	\$62.23	\$31.12	07/19/2000	71	CONTINUING EDUCATION
HL49A	1.50	\$62.23	\$93.35	07/20/2000	81	ESO/ERO
HL49A	0.50	\$62.23	\$31.12	07/26/2000	81	ESO/ERO
HL49A	1.50	\$62.23	\$93.35	07/27/2000	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL49A	1.00	\$62.23	\$62.23	07/28/2000	18	COPYING FILES
HL30A	0.40	\$69.19	\$27.68	07/31/2000	25	REVIEW CASE FILE
HL49A	4.00	\$62.23	\$248.92	08/01/2000	99	PREPARATION AND FOLLOW THROUGH OF CASES FOR EXPERT REVIEW
HL49A	2.00	\$62.23	\$124.46	08/02/2000	99	PREPARATION AND FOLLOW THROUGH OF CASES FOR EXPERT REVIEW
HL49A	1.00	\$62.23	\$62.23	08/09/2000	46	LEGAL RESEARCH
HL49A	0.50	\$62.23	\$31.12	08/15/2000	37	REVIEW LETTER
HL49A	3.00	\$62.23	\$186.69	08/16/2000	39	PREPARE/RESPOND TO DISCOVERY
HL49A	0.50	\$62.23	\$31.12	08/17/2000	39	PREPARE/RESPOND TO DISCOVERY
HL49A	0.20	\$62.23	\$12.45	09/06/2000	47	TRIAL PREPARATION
HL49A	1.00	\$62.23	\$62.23	09/06/2000	35	TELEPHONE CALLS
HL49A	1.00	\$62.23	\$62.23	09/13/2000	35	TELEPHONE CALLS
HL49A	0.30	\$62.23	\$18.67	09/25/2000	35	TELEPHONE CALLS
HL49A	0.50	\$62.23	\$31.12	09/25/2000	40	PREPARATION OF OR REVISION OF A PLEADING
HL49A	0.20	\$62.23	\$12.45	09/27/2000	35	TELEPHONE CALLS
HL49A	1.00	\$62.23	\$62.23	11/30/2000	39	PREPARE/RESPOND TO DISCOVERY
HL49A	2.00	\$62.23	\$124.46	12/04/2000	39	PREPARE/RESPOND TO DISCOVERY
HL49A	1.00	\$62.23	\$62.23	12/07/2000	47	TRIAL PREPARATION
HL49A	1.50	\$62.23	\$93.35	12/08/2000	47	TRIAL PREPARATION
HL49A	1.00	\$62.23	\$62.23	12/11/2000	35	TELEPHONE CALLS
HL49A	2.00	\$62.23	\$124.46	12/14/2000	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	12/15/2000	47	TRIAL PREPARATION
HL49A	5.00	\$62.23	\$311.15	12/15/2000	47	TRIAL PREPARATION
HL30A	0.10	\$69.19	\$6.92	12/21/2000	29	REVIEW ADMINISTRATIVE COMPLAINT
HL49A	2.00	\$62.23	\$124.46	12/28/2000	40	PREPARATION OF OR REVISION OF A PLEADING
HL49A	1.00	\$62.23	\$62.23	12/28/2000	39	PREPARE/RESPOND TO DISCOVERY
HL49A	1.50	\$62.23	\$93.35	12/29/2000	47	TRIAL PREPARATION
HL49A	3.00	\$62.23	\$186.69	01/02/2001	47	TRIAL PREPARATION



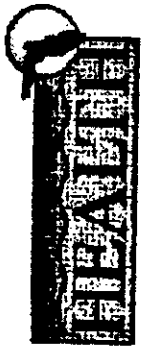
# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL49A	2.50	\$62.23	\$155.58	01/03/2001	47	TRIAL PREPARATION
HL49A	0.50	\$62.23	\$31.12	01/03/2001	45	PREHEARING MOTION/CONFERENCE CALL
HL49A	0.50	\$62.23	\$31.12	01/05/2001	39	PREPARE/RESPOND TO DISCOVERY
HL49A	0.50	\$62.23	\$31.12	01/08/2001	47	TRIAL PREPARATION
HL49A	0.50	\$62.23	\$31.12	01/09/2001	47	TRIAL PREPARATION
HL49A	1.00	\$62.23	\$62.23	01/11/2001	47	TRIAL PREPARATION
HL49A	1.00	\$62.23	\$62.23	01/12/2001	47	TRIAL PREPARATION
HL49A	2.00	\$62.23	\$124.46	01/22/2001	47	TRIAL PREPARATION
HL30A	1.00	\$69.19	\$69.19	02/12/2001	25	REVIEW CASE FILE
HL30A	2.00	\$69.19	\$138.38	02/12/2001	25	REVIEW CASE FILE
HL30A	0.50	\$69.19	\$34.60	02/15/2001	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE,DEPT STAFF OR ATTY GEN OFFI
HL30A	0.80	\$69.19	\$55.35	02/19/2001	43	PREPARE FOR DEPOSITION
HL30A	0.70	\$69.19	\$48.43	02/21/2001	43	PREPARE FOR DEPOSITION
HL49A	3.00	\$62.23	\$186.69	02/22/2001	43	PREPARE FOR DEPOSITION
HL30A	0.30	\$69.19	\$20.76	02/23/2001	37	REVIEW LETTER
HL30A	2.00	\$69.19	\$138.38	02/23/2001	43	PREPARE FOR DEPOSITION
HL30A	2.00	\$69.19	\$138.38	02/23/2001	43	PREPARE FOR DEPOSITION
HL49A	4.00	\$62.23	\$248.92	02/23/2001	43	PREPARE FOR DEPOSITION
HL30A	6.00	\$69.19	\$415.14	02/26/2001	44	DEPOSITIONS
HL49A	8.00	\$62.23	\$497.84	02/26/2001	44	DEPOSITIONS
HL49A	1.00	\$62.23	\$62.23	02/27/2001	44	DEPOSITIONS
HL49A	1.00	\$62.23	\$62.23	02/27/2001	47	TRIAL PREPARATION
HL30A	2.00	\$69.19	\$138.38	02/27/2001	44	DEPOSITIONS
HL30A	1.50	\$69.19	\$103.79	02/27/2001	47	TRIAL PREPARATION
HL30A	0.30	\$69.19	\$20.76	03/01/2001	35	TELEPHONE CALLS
HL49A	1.00	\$62.23	\$62.23	03/01/2001	47	TRIAL PREPARATION
HL49A	1.50	\$62.23	\$93.35	03/02/2001	43	PREPARE FOR DEPOSITION



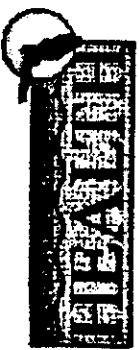
# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL30A	0.10	\$69.19	\$6.92	03/07/2001	35	TELEPHONE CALLS
HL30A	0.30	\$69.19	\$20.76	03/07/2001	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	05/22/2001	35	TELEPHONE CALLS
HL50A	0.50	\$62.23	\$31.12	05/22/2001	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	05/24/2001	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	05/25/2001	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	05/25/2001	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	05/25/2001	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	06/25/2001	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	06/25/2001	35	TELEPHONE CALLS
HL50A	1.50	\$62.23	\$93.35	06/26/2001	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	0.50	\$62.23	\$31.12	06/28/2001	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	1.00	\$62.23	\$62.23	06/28/2001	47	TRIAL PREPARATION
HL50A	0.20	\$62.23	\$12.45	07/02/2001	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	07/02/2001	47	TRIAL PREPARATION
HL50A	4.00	\$62.23	\$248.92	07/03/2001	47	TRIAL PREPARATION
HL50A	3.70	\$62.23	\$230.25	07/18/2001	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	07/18/2001	70	CONFERENCES WITH LAWYERS
HL50A	4.50	\$62.23	\$280.04	07/19/2001	47	TRIAL PREPARATION
HL50A	2.50	\$62.23	\$155.58	07/20/2001	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	07/20/2001	70	CONFERENCES WITH LAWYERS
HL50A	1.50	\$62.23	\$93.35	07/23/2001	46	LEGAL RESEARCH
HL50A	3.00	\$62.23	\$186.69	07/25/2001	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	08/01/2001	47	TRIAL PREPARATION
HL50A	0.50	\$62.23	\$31.12	08/02/2001	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	08/06/2001	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	08/07/2001	47	TRIAL PREPARATION



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	0.40	\$62.23	\$24.89	08/08/2001	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	08/09/2001	47	TRIAL PREPARATION
HL30A	1.00	\$69.19	\$69.19	08/09/2001	47	TRIAL PREPARATION
HL50A	4.00	\$62.23	\$248.92	08/10/2001	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	2.00	\$62.23	\$124.46	08/12/2001	47	TRIAL PREPARATION
HL50A	0.50	\$62.23	\$31.12	08/13/2001	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	08/14/2001	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	08/17/2001	47	TRIAL PREPARATION
HL50A	0.50	\$62.23	\$31.12	08/20/2001	35	TELEPHONE CALLS
HL30A	0.30	\$69.19	\$20.76	08/21/2001	70	CONFERENCES WITH LAWYERS
HL50A	3.00	\$62.23	\$186.69	08/21/2001	47	TRIAL PREPARATION
HL50A	0.50	\$62.23	\$31.12	08/22/2001	35	TELEPHONE CALLS
HL30A	0.40	\$69.19	\$27.68	08/22/2001	43	PREPARE FOR DEPOSITION
HL30A	0.10	\$69.19	\$6.92	08/23/2001	35	TELEPHONE CALLS
HL50A	0.50	\$62.23	\$31.12	08/23/2001	47	TRIAL PREPARATION
HL30A	1.10	\$69.19	\$76.11	08/23/2001	43	PREPARE FOR DEPOSITION
HL30A	0.30	\$69.19	\$20.76	08/24/2001	35	TELEPHONE CALLS
HL30A	1.00	\$69.19	\$69.19	08/24/2001	36	PREPARATION OR REVISION OF LETTER
HL50A	3.00	\$62.23	\$186.69	08/24/2001	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	2.50	\$69.19	\$172.98	08/27/2001	43	PREPARE FOR DEPOSITION
HL50A	2.00	\$62.23	\$124.46	08/27/2001	47	TRIAL PREPARATION
HL30A	0.40	\$69.19	\$27.68	08/28/2001	43	PREPARE FOR DEPOSITION
HL30A	0.20	\$69.19	\$13.84	08/28/2001	35	TELEPHONE CALLS
HL30A	0.70	\$69.19	\$48.43	08/28/2001	43	PREPARE FOR DEPOSITION
HL30A	1.40	\$69.19	\$96.87	08/28/2001	38	REVIEW DISCOVERY REQUESTS/RESPONSES
HL50A	2.00	\$62.23	\$124.46	08/28/2001	44	DEPOSITIONS
HL30A	2.00	\$69.19	\$138.38	08/29/2001	43	PREPARE FOR DEPOSITION



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	3.00	\$62.23	\$186.69	08/29/2001	44	DEPOSITIONS
HL30A	2.50	\$69.19	\$172.98	08/30/2001	44	DEPOSITIONS
HL30A	1.00	\$69.19	\$69.19	08/30/2001	43	PREPARE FOR DEPOSITION
HL50A	2.00	\$62.23	\$124.46	08/30/2001	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	0.70	\$62.23	\$43.56	08/30/2001	35	TELEPHONE CALLS
HL30A	1.80	\$69.19	\$124.54	09/04/2001	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	09/04/2001	47	TRIAL PREPARATION
HL30A	0.40	\$69.19	\$27.68	09/04/2001	45	PREHEARING MOTION/CONFERENCE CALL
HL50A	0.50	\$62.23	\$31.12	09/04/2001	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	09/04/2001	47	TRIAL PREPARATION
HL50A	1.50	\$62.23	\$93.35	09/04/2001	43	PREPARE FOR DEPOSITION
HL30A	0.50	\$69.19	\$34.60	09/13/2001	38	REVIEW DISCOVERY REQUESTS/RESPONSES
HL30A	0.40	\$69.19	\$27.68	12/20/2001	70	CONFERENCES WITH LAWYERS
HL50A	1.00	\$62.23	\$62.23	12/21/2001	47	TRIAL PREPARATION
HL30A	1.00	\$69.19	\$69.19	01/08/2002	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	01/08/2002	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	01/08/2002	47	TRIAL PREPARATION
HL30A	0.30	\$69.19	\$20.76	01/09/2002	35	TELEPHONE CALLS
HL30A	2.50	\$69.19	\$172.98	01/09/2002	47	TRIAL PREPARATION
HL30A	2.00	\$69.19	\$138.38	01/09/2002	47	TRIAL PREPARATION
HL30A	0.60	\$69.19	\$41.51	01/09/2002	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	01/10/2002	47	TRIAL PREPARATION
HL50A	1.50	\$62.23	\$93.35	01/10/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	1.00	\$69.19	\$69.19	01/10/2002	47	TRIAL PREPARATION
HL30A	0.20	\$69.19	\$13.84	01/10/2002	35	TELEPHONE CALLS
HL30A	2.50	\$69.19	\$172.98	01/10/2002	35	TELEPHONE CALLS
HL30A	1.50	\$69.19	\$103.79	01/11/2002	35	TELEPHONE CALLS





# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL30A	2.00	\$69.19	\$138.38	01/11/2002	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	01/11/2002	46	LEGAL RESEARCH
HL50A	1.50	\$62.23	\$93.35	01/11/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	1.70	\$62.23	\$105.79	01/14/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	1.20	\$69.19	\$83.03	01/14/2002	47	TRIAL PREPARATION
HL30A	0.40	\$69.19	\$27.68	01/14/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	1.80	\$69.19	\$124.54	01/14/2002	35	TELEPHONE CALLS
HL30A	1.00	\$69.19	\$69.19	01/15/2002	47	TRIAL PREPARATION
HL30A	0.40	\$69.19	\$27.68	01/15/2002	45	PREHEARING MOTION/CONFERENCE CALL
HL30A	0.30	\$69.19	\$20.76	01/15/2002	35	TELEPHONE CALLS
HL50A	0.50	\$62.23	\$31.12	01/15/2002	35	TELEPHONE CALLS
HL50A	0.50	\$62.23	\$31.12	01/15/2002	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	01/16/2002	47	TRIAL PREPARATION
HL30A	5.90	\$69.19	\$408.22	01/16/2002	47	TRIAL PREPARATION
HL30A	1.00	\$69.19	\$69.19	01/17/2002	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	01/17/2002	44	DEPOSITIONS
HL50A	1.50	\$62.23	\$93.35	01/17/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	2.70	\$62.23	\$168.02	01/17/2002	47	TRIAL PREPARATION
HL50A	2.00	\$62.23	\$124.46	01/18/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	0.50	\$69.19	\$34.60	01/18/2002	47	TRIAL PREPARATION
HL30A	4.10	\$69.19	\$283.68	01/18/2002	47	TRIAL PREPARATION
HL30A	4.00	\$69.19	\$276.76	01/21/2002	47	TRIAL PREPARATION
HL50A	4.00	\$62.23	\$248.92	01/22/2002	47	TRIAL PREPARATION
HL30A	4.00	\$69.19	\$276.76	01/22/2002	47	TRIAL PREPARATION
HL30A	1.20	\$69.19	\$83.03	01/23/2002	47	TRIAL PREPARATION
HL30A	4.00	\$69.19	\$276.76	01/23/2002	47	TRIAL PREPARATION
HL30A	0.40	\$69.19	\$27.68	01/23/2002	35	TELEPHONE CALLS



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	8.00	\$62.23	\$497.84	01/23/2002	47	TRIAL PREPARATION
HL50A	8.00	\$62.23	\$497.84	01/24/2002	47	TRIAL PREPARATION
HL30A	3.50	\$69.19	\$242.17	01/24/2002	47	TRIAL PREPARATION
HL30A	0.50	\$69.19	\$34.60	01/24/2002	70	CONFERENCES WITH LAWYERS
HL30A	1.20	\$69.19	\$83.03	01/24/2002	35	TELEPHONE CALLS
HL30A	0.10	\$69.19	\$6.92	01/25/2002	35	TELEPHONE CALLS
HL30A	0.20	\$69.19	\$13.84	01/25/2002	70	CONFERENCES WITH LAWYERS
HL30A	0.50	\$69.19	\$34.60	01/25/2002	45	PREHEARING MOTION/CONFERENCE CALL
HL30A	1.00	\$69.19	\$69.19	01/25/2002	70	CONFERENCES WITH LAWYERS
HL30A	4.60	\$69.19	\$318.27	01/25/2002	47	TRIAL PREPARATION
HL50A	7.00	\$62.23	\$435.61	01/25/2002	47	TRIAL PREPARATION
HL30A	9.50	\$69.19	\$657.31	01/27/2002	47	TRIAL PREPARATION
HL30A	13.00	\$69.19	\$899.47	01/28/2002	48	FORMAL HEARING
HL50A	8.00	\$62.23	\$497.84	01/28/2002	48	FORMAL HEARING
HL30A	13.00	\$69.19	\$899.47	01/29/2002	48	FORMAL HEARING
HL50A	8.00	\$62.23	\$497.84	01/29/2002	48	FORMAL HEARING
HL30A	8.00	\$69.19	\$553.52	01/30/2002	48	FORMAL HEARING
HL50A	7.00	\$62.23	\$435.61	01/30/2002	48	FORMAL HEARING
HL50A	5.00	\$62.23	\$311.15	01/30/2002	58	TRAVEL TIME
HL30A	0.20	\$69.19	\$13.84	02/01/2002	35	TELEPHONE CALLS
HL50A	2.00	\$62.23	\$124.46	03/08/2002	39	PREPARE/RESPOND TO DISCOVERY
HL50A	7.00	\$62.23	\$435.61	03/11/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	1.00	\$62.23	\$62.23	03/12/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	1.00	\$62.23	\$62.23	03/13/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	5.00	\$62.23	\$311.15	03/14/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	5.50	\$62.23	\$342.27	03/15/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	5.50	\$62.23	\$342.27	03/18/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER



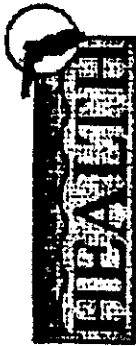
# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	3.00	\$62.23	\$186.69	03/19/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	5.00	\$62.23	\$311.15	03/20/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL30A	2.50	\$69.19	\$172.98	03/21/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	7.00	\$62.23	\$435.61	03/21/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	2.50	\$62.23	\$155.58	03/22/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	2.50	\$62.23	\$155.58	03/25/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	1.00	\$62.23	\$62.23	03/26/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	2.00	\$62.23	\$124.46	03/27/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL21B	0.10	\$55.01	\$5.50	04/29/2002	35	TELEPHONE CALLS
HL21B	5.20	\$55.01	\$286.05	04/29/2002	46	LEGAL RESEARCH
HL21B	0.20	\$55.01	\$11.00	04/29/2002	35	TELEPHONE CALLS
HL21B	0.40	\$55.01	\$22.00	04/29/2002	26	PREPARE OR REVISE MEMORANDUM
HL21B	0.80	\$55.01	\$44.01	04/29/2002	25	REVIEW CASE FILE
HL30A	0.40	\$69.19	\$27.68	04/30/2002	35	TELEPHONE CALLS
HL21B	0.40	\$55.01	\$22.00	05/02/2002	41	REVIEW PLEADING
HL30A	0.80	\$69.19	\$55.35	05/02/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	1.00	\$69.19	\$69.19	05/02/2002	35	TELEPHONE CALLS
HL30A	2.00	\$69.19	\$138.38	05/02/2002	46	LEGAL RESEARCH
HL50A	0.50	\$62.23	\$31.12	05/03/2002	45	PREHEARING MOTION/CONFERENCE CALL
HL30A	0.20	\$69.19	\$13.84	05/03/2002	35	TELEPHONE CALLS
HL30A	0.50	\$69.19	\$34.60	05/03/2002	45	PREHEARING MOTION/CONFERENCE CALL
HL30A	0.50	\$69.19	\$34.60	05/03/2002	47	TRIAL PREPARATION
HL21B	0.30	\$55.01	\$16.50	05/10/2002	46	LEGAL RESEARCH
HL21B	0.50	\$55.01	\$27.51	05/13/2002	46	LEGAL RESEARCH
HL50A	1.00	\$62.23	\$62.23	05/15/2002	47	TRIAL PREPARATION
HL50A	1.00	\$62.23	\$62.23	05/16/2002	99	PREPARATION AND FOLLOW THROUGH OF CASES FOR EXPERT REVIEW
HL50A	1.00	\$62.23	\$62.23	05/23/2002	47	TRIAL PREPARATION



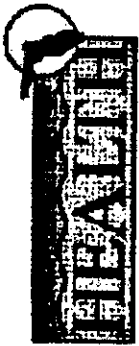
# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	0.50	\$62.23	\$31.12	05/24/2002	35	TELEPHONE CALLS
HL50A	1.00	\$62.23	\$62.23	05/31/2002	25	REVIEW CASE FILE
HL50A	1.50	\$62.23	\$93.35	06/03/2002	47	TRIAL PREPARATION
HL50A	0.50	\$62.23	\$31.12	06/05/2002	47	TRIAL PREPARATION
HL50A	4.00	\$62.23	\$248.92	06/11/2002	44	DEPOSITIONS
HL50A	4.00	\$62.23	\$248.92	06/12/2002	44	DEPOSITIONS
HL50A	1.70	\$62.23	\$105.79	06/12/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	3.00	\$69.19	\$207.57	06/12/2002	43	PREPARE FOR DEPOSITION
HL30A	4.00	\$69.19	\$276.76	06/13/2002	43	PREPARE FOR DEPOSITION
HL50A	5.30	\$62.23	\$329.82	06/13/2002	44	DEPOSITIONS
HL30A	2.00	\$69.19	\$138.38	06/14/2002	43	PREPARE FOR DEPOSITION
HL50A	2.80	\$62.23	\$174.24	06/14/2002	44	DEPOSITIONS
HL50A	4.00	\$62.23	\$248.92	06/17/2002	44	DEPOSITIONS
HL50A	1.00	\$62.23	\$62.23	06/18/2002	47	TRIAL PREPARATION
HL50A	2.80	\$62.23	\$174.24	06/19/2002	47	TRIAL PREPARATION
HL30A	1.00	\$69.19	\$69.19	06/19/2002	47	TRIAL PREPARATION
HL30A	0.10	\$69.19	\$6.92	06/20/2002	35	TELEPHONE CALLS
HL30A	5.00	\$69.19	\$345.95	06/20/2002	47	TRIAL PREPARATION
HL30A	0.30	\$69.19	\$20.76	06/20/2002	35	TELEPHONE CALLS
HL30A	0.20	\$69.19	\$13.84	06/20/2002	35	TELEPHONE CALLS
HL30A	4.00	\$69.19	\$276.76	06/21/2002	47	TRIAL PREPARATION
HL30A	0.30	\$69.19	\$20.76	06/21/2002	35	TELEPHONE CALLS
HL30A	1.50	\$69.19	\$103.79	06/21/2002	35	TELEPHONE CALLS
HL50A	8.00	\$62.23	\$497.84	06/22/2002	47	TRIAL PREPARATION
HL50A	4.00	\$62.23	\$248.92	06/23/2002	47	TRIAL PREPARATION
HL30A	3.00	\$69.19	\$207.57	06/23/2002	58	TRAVEL TIME
HL30A	1.00	\$69.19	\$69.19	06/23/2002	47	TRIAL PREPARATION



# Time Tracking Report

## Itemized Cost by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HL50A	8.00	\$62.23	\$497.84	06/24/2002	48	FORMAL HEARING
HL30A	8.00	\$69.19	\$553.52	06/24/2002	48	FORMAL HEARING
HL50A	4.00	\$62.23	\$248.92	06/25/2002	48	FORMAL HEARING
HL30A	4.50	\$69.19	\$311.36	06/25/2002	48	FORMAL HEARING
HL30A	6.00	\$69.19	\$415.14	06/25/2002	58	TRAVEL TIME
HL30A	0.60	\$69.19	\$41.51	06/26/2002	25	REVIEW CASE FILE
HL30A	1.00	\$69.19	\$69.19	07/02/2002	46	LEGAL RESEARCH
HL30A	1.00	\$69.19	\$69.19	07/02/2002	41	REVIEW PLEADING
HL30A	0.60	\$69.19	\$41.51	07/02/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	1.00	\$69.19	\$69.19	07/03/2002	70	CONFERENCES WITH LAWYERS
HL30A	2.50	\$69.19	\$172.98	07/03/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	4.00	\$69.19	\$276.76	07/03/2002	46	LEGAL RESEARCH
HL30A	1.00	\$69.19	\$69.19	07/08/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL30A	4.00	\$69.19	\$276.76	07/09/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	1.00	\$62.23	\$62.23	07/24/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	7.00	\$62.23	\$435.61	07/25/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	5.00	\$62.23	\$311.15	07/26/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	1.50	\$62.23	\$93.35	07/29/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	2.50	\$62.23	\$155.58	07/31/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL30A	1.50	\$69.19	\$103.79	08/01/2002	40	PREPARATION OF OR REVISION OF A PLEADING
HL50A	2.00	\$62.23	\$124.46	08/01/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	2.00	\$62.23	\$124.46	08/02/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	4.50	\$62.23	\$280.04	09/06/2002	25	REVIEW CASE FILE
HL50A	2.00	\$62.23	\$124.46	09/09/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL50A	6.00	\$62.23	\$373.38	09/10/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HL30A	1.00	\$69.19	\$69.19	09/11/2002	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER



# Time Tracking Report

## Itemized Cost by Complaint

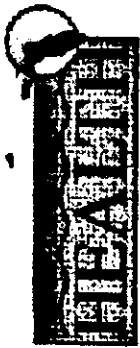
Complaint 200008413

Report Date: 10/02/2002

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
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Sub Total	590.50		\$38,162.22			
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Total Cost	764.75		\$45,522.75			
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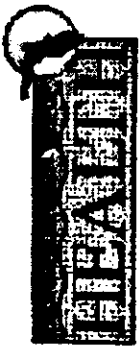
# Time Tracking Report

## Itemized Expense by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Expense Amount	Expense Date	Expense Code	Expense Code Description
<b>BUREAU OF INVESTIGATIVE SERVICES</b>				
O198	\$123.22	02/22/200	497020	OTHER CURRENT CHARGES - INVESTIGATIV
<b>SubTotal</b>	<b>\$123.22</b>			
<b>BUREAU OF LEGAL SERVICES</b>				
HL12A	\$150.00	07/20/200	131630	EXPERT WITNESS
HL12A	\$150.00	07/21/200	131630	EXPERT WITNESS
HL82A	\$1,000.00	08/06/200	131630	EXPERT WITNESS
HL10A	-\$258.20	01/12/200	261010	TRAVEL - EMLOYEE - IN FLA
HL50A	\$75.00	01/26/200	131400	COURT REPORTING
HL50A	\$42.25	01/29/200	131404	COURT REPORTING - TRANSCRIPTS
HL12A	\$100.00	02/22/200	131630	EXPERT WITNESS
HL50A	\$18.00	03/08/200	131400	COURT REPORTING
HL50A	\$88.00	03/08/200	131404	COURT REPORTING - TRANSCRIPTS
HL50A	\$450.00	03/12/200	131300	CONSULTING
HL50A	-\$642.42	08/29/200	261010	TRAVEL - EMLOYEE - IN FLA
HL30A	-\$440.66	08/30/200	261010	TRAVEL - EMLOYEE - IN FLA
HL30A	/\$12.00	09/14/200	261010	TRAVEL - EMLOYEE - IN FLA
HL50A	\$326.05	09/17/200	131400	COURT REPORTING
HL50A	\$326.05	09/17/200	131400	COURT REPORTING
HL30A	\$12.00	11/27/200	139994	OTHER SERVICES
HL50A	\$98.90	01/18/200	131400	COURT REPORTING
HL50A	\$534.35	01/18/200	131404	COURT REPORTING - TRANSCRIPTS



# Time Tracking Report

## Itemized Expense by Complaint

Complaint 200008413

Report Date: 10/02/2002

Staff Code	Expense Amount	Expense Date	Expense Code	Expense Code Description
HL34B	\$436.04	01/29/2002	261010	TRAVEL - EMOLOYEE - IN FLA
HL30A	\$1,011.77	01/30/2002	261010	TRAVEL - EMOLOYEE - IN FLA
HL34B	\$153.46	01/30/2002	261010	TRAVEL - EMOLOYEE - IN FLA
HL50A	\$746.60	01/31/2002	261010	TRAVEL - EMOLOYEE - IN FLA
HL50A	\$2,071.00	03/08/2002	131400	COURT REPORTING
HL34B	\$200.00	03/26/2002	131630	EXPERT WITNESS
HL34B	\$1,500.00	03/26/2002	131630	EXPERT WITNESS
HL34B	\$2,200.00	04/05/2002	131630	EXPERT WITNESS
HL34B	\$2,000.00	04/05/2002	131630	EXPERT WITNESS
HL50A	\$655.00	06/27/2002	131400	COURT REPORTING
<b>SubTotal</b>	<b>\$15,697.75</b>			
<b>Total Expenses</b>	<b>\$15,820.97</b>			





STATE OF FLORIDA  
VOUCHER FOR REIMBURSEMENT  
OF TRAVELING EXPENSES

- AHCA -

Payee: Megan E. Clement  
 Address: LabCorp, Forensic Identity Dept., 1912 Alexander Drive  
 City: Research Triangle Park State: NC Zip: 27709  
 Mark One: Regular Employee  O.P.S. Employee  Nonemployee/Independent Contractor  X

SSN: 2  
 Headquarters: Greensboro  
 City of Residence: Greensboro  
 Special Shift Hours: \_\_\_\_\_

Date	Travel Performed From Point of Origin to Destination	Purpose or Reason (Name of conference)	Pur- pose Code	Hour of Departure and Hour of Return	Class A and B Meals	Per diem: Actual leg. (reg. expenses)	Class C Meals	Map Mileage Claimed	Vicinity Mileage Claimed	Incidental Amount	Expenses Type	REGULAR/O.P.S. EMPLOYEE ONLY - LESS CLASS C MEALS					
												Column: Total	Column: Total	Column: Total			
01/28/2002	Greensboro, NC to Orlando, FL	To attend formal hearing in DOJ v. R. Malava Case #: 2000-08413		4:00 am 6:00 pm	\$12.00	\$108.78				\$218.60	airborne ticket	\$12.00	\$158.78	\$0.00	\$0.00	\$265.26	\$436.04
01/29/2002	Orlando to Greensboro, NC	return home				\$50.00											\$0.00
Benefit to State:												Column:	Column:	Column:	SUMMARY		
To carry out the mission of the agency by attending a												Total	Total	Total	TOTAL		
formal hearing and testifying in the above mentioned case.												\$12.00	\$158.78	\$0.00	\$0.00		
I hereby certify or affirm that the above expenses were actually incurred by me as necessary traveling expenses in the performance of my official duties; attendance at a conference or convention was directly related to official duties of the agency; any meals or lodging included in a conference or convention registration fee have been deducted from this travel claim; and that this claim is true and correct in every material matter and same conforms in every respect with the requirements of Section 112.061, Florida Statutes.												0	0.29	0.00			
PAYEE'S SIGNATURE: _____ TITLE: <u>AGGREG. EXPERT</u>												NET AMOUNT DUE/NET AMOUNT DUE			\$436.04		
Reviewed to Section 112.061(4)(a), Florida Statutes, I hereby certify or affirm that to the best of my knowledge the above travel was an official business of the State of Florida and was performed for the purpose(s) state above.												DATE PREPARED: <u>#####</u>					
SUPERVISOR'S SIGNATURE: _____ TITLE: <u>Chief Attorney</u>												DATE APPROVED: _____					
FOR FISCAL OFFICE USE:												Invoice No. _____					
TR _____ SEL _____												Voucher/SWD No. _____					
ORG CODE _____ EO MQ VR _____ CF _____												RF CK/Warrant No. _____					
Payee's SSN <u>254-04-9833</u>												RF CK/Warrant Date _____					







STATE OF FLORIDA  
VOUCHER FOR REIMBURSEMENT  
OF TRAVELING EXPENSES

- AHCA -

Payee Kim M. Kluck  
Address 2729 Mahan Drive  
City Tallahassee State FL Zip 32308  
Mark One: Regular Employee X OPS Employee        Nonemployee/Independent Contractor       

Headquarters Tallahassee  
City of Residence Tallahassee  
Special Shift Hours       

Date	Travel Performed From Point of Origin to Destination	Purpose of Reason (Name of conference)	Pur. pass Code	Hour of Departure and Hour of Return	Class A and B Meals	Per Diem Actual/Estimated Expense	Class C Meals	Map Mileage Claimed	Vicinity Mileage Claimed	Incidental Amount	Expenses Type	
01/27/2002	Tallahassee to Orlando	To attend formal hearing Case # 2000-08413		12:00 pm	\$18.00	\$106.61			22	\$176.72	car rental	
01/28/2002		DOH vs. R. Malava, M.D.			\$21.00	\$106.51				\$12.50	lod fees	
01/29/2002					\$21.00	\$106.51				\$27.56	hotel parking	
01/30/2002						\$47.50				\$6.41	airport parking	
01/31/2002	Orlando to Tallahassee					\$50.00					(total exclude)	
					Column Total	Column Total	Column Total	22	0.29	Column Total	SUMMARY TOTAL	
					\$60.00	\$417.03	\$0.00		\$6.38	\$283.19	\$748.60	
					REGULAR/OPS EMPLOYEE ONLY - LESS CLASS C MEALS						\$0.00	
					NET AMOUNT DUENET AMOUNT DUE						\$748.60	

Benefit to State:  
To carry out the mission of the agency by attending a formal hearing in the above mentioned case.

This voucher must be dated stamped at each location received to comply with F.S. 215.422.

I hereby certify or affirm that the above expenses were actually incurred by me as necessary traveling expenses in the performance of my official duties; attendance at a conference or convention was directly related to official duties of the agency; any meals or lodging included in a conference or convention registration fee have been deducted from the travel claim; and that this claim is true and correct in every material matter and same conforms in every respect with the requirements of Section 112.061, Florida Statutes.

PAYER'S SIGNATURE: \_\_\_\_\_  
SUPERVISOR'S SIGNATURE: \_\_\_\_\_

TITLE: Senior Attorney  
Chief Attorney

DATE PREPARED: 8/8/2002  
DATE APPROVED: \_\_\_\_\_

FOR FISCAL OFFICE USE:

TR \_\_\_\_\_ SEL \_\_\_\_\_  
ORG CODE \_\_\_\_\_ EOLMO, VR \_\_\_\_\_ CF \_\_\_\_\_  
Payee's SSN - 254-04-9833

OBJECT	AMOUNT	OBJECT	AMOUNT
26		26	
26		26	
26		26	
26		26	

Invoice No. \_\_\_\_\_  
Voucher/SWD No. \_\_\_\_\_  
RF Ck./Warrant No. \_\_\_\_\_  
RF Ck./Warrant Date \_\_\_\_\_



STATE OF FLORIDA  
VOUCHER FOR REIMBURSEMENT  
OF TRAVELING EXPENSES

- AHCA -

Payee Kim Kluck  
Address 2727 Mahan Drive, Bldg. 2 Suite 1100  
City Tallahassee State FL Zip 32308  
Mark One: Regular Employee  OPS Employee  Nonemployee/Independent Contractor

SSN \_\_\_\_\_  
Headquarters Tallahassee  
City of Residence Tallahassee  
Special Shift Hours \_\_\_\_\_

Date	Travel Performed From Point of Origin to Destination	Purpose of Reason (Name of conference)	Pur- pose Code	Hour of Departure and Hour of Return	Class A and B Meals	Per Diem Actual Cost/ or Expense	Class C Meals	Map Mileage Claimed	Vicinity Mileage Claimed	Incidental Amount	Expense Type
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08/28/2001	Tallahassee to West Palm Beach	To attend a Deposition		7:30am	\$18.00				11	\$98.69	Airfare
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		In DOH vs. Ronald Malave, MID Case No. 2000-08413									
		DOAH Case No. 01-2440									

08/28/2001	West Palm Beach to Orlando	Depositions in Malave Case				\$78.10					
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08/29/2001	Orlando to Tallahassee	return home		6:30pm		\$50.00			11		
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Benefit to State: To carry out the mission of the agency by attending a deposition in a case against a medical doctor					This voucher must be dated stamped at each location received to comply with F.S.215.422.			REGULAR/OPS EMPLOYEE ONLY - LESS CLASS C MEALS			\$0.00
					Column Total	Column Total	Column Total	Miles @ 0.29 miles	Column Total	SUMMARY TOTAL	\$642.42
					\$18.00	\$128.10	\$0.00	\$6.38	\$489.94	\$642.42	\$0.00

I hereby certify or affirm that the above expenses were actually incurred by me as necessary traveling expenses in the performance of my official duties; attendance at a conference or convention was directly related to official duties of the agency; any meals or lodging included in a conference or convention registration fee have been deducted from this travel claim; and that this claim is true and correct in every material matter and same conforms in every respect with the requirements of Section 112.081, Florida Statute.

PAYEE'S SIGNATURE: [Signature]  
SUPERVISOR'S SIGNATURE: \_\_\_\_\_

TITLE: Senior Attorney  
TITLE: Chief Attorney

Preparer's Name: Nalanda Bogard  
Preparer's Phone No.: 488-2207  
DATE PREPARED: \_\_\_\_\_  
DATE APPROVED: \_\_\_\_\_

TR	SEL	OBJECT	AMOUNT	OBJECT	AMOUNT	FOR FISCAL OFFICE USE:
26			26			Invoice No. _____
26			26			Voucher/SWD No. _____
26			26			RF C/L/Warrant No. _____
26			26			RF C/L/Warrant Date _____







STATE OF FLORIDA  
VOUCHER FOR REIMBURSEMENT  
OF TRAVELING EXPENSES

- AHCA -

Payee: **Robert C. Byerts**  
Address: 2277 Mahan Drive, Bldg 2, Suite 1100  
City: Tallahassee  
Mark One:  Regular Employee  OPS Employee  Nonemployee/Independent Contractor  
State FL Zip 32308

SSN \_\_\_\_\_  
Headquarters \_\_\_\_\_  
City of Residence \_\_\_\_\_  
Special Shift Hours \_\_\_\_\_

Tallahassee  
Tallahassee

Date	Travel Performed From Point of Origin to Destination	Purpose or Reason (Name of conference)	Class A and B Meals	Per Diem or Actual Lodg- ing Expenses	Class C Meals	Mileage Claimed	Vehicle Mileage Claimed	Incidental Amount	Expenses Type
1/27/02	Tallahassee to Orlando	FINAL HEARINGS DOH v. Ronald Malave, M.D. DOH Case No. 2000-08413 DOAH Case No. 01-2440PL	D 8:30 AM	\$18.00	\$120.89* (wk-end rate) + taxes, etc		11.0	\$398.00 \$113.02 \$0.75 \$2.30 \$8.00	airfare Avis/Car lod business call hotel parking
1/28/02	Orlando			\$21.00	\$109.89* (wk-day rate) + taxes, etc			\$3.45 \$8.00 \$2.00 \$1.00	business call hotel parking tips** d-down pkg**
1/29/02	Orlando			\$21.00	\$109.89* (wk-day rate) + taxes, etc			\$2.30 \$8.00 \$3.00 \$1.00	business call hotel parking tips** d-down pkg**
1/30/02	Orlando to Tallahassee		R 7:45 PM	\$30.00			11.0	\$3.00	tips**
		Benefit to State: To carry out the mission of the Agency. Final Hearing, DOH v. Ronald Malave, M.D.		This voucher must be dated stamped at each location received to comply with F.S. 215.422.		REGULAR OPS EMPLOYEE ONLY - LESS CLASS C MEALS (Neg Num)		SUMMARY	
				Column	Column	Column	Mileage	Column	TOTAL
				Total	Total	Total	@ 0.29 Rate	Total	TOTAL
				\$60.00	\$390.77	\$0.00	\$6.36	\$54.02	\$1,011.77

I hereby certify or affirm that the above expenses were actually incurred by me as necessary traveling expenses in the performance of my official duties, attendance at a conference or convention was directly related to official duties of the agency, my meals or lodging included in a conference or convention registration fee have been deducted from the travel claim, and that this claim is true and correct in every particular matter and conforming in every respect with the requirements of Section 112.081, Florida Statutes.

PAYEE'S SIGNATURE: [Signature]  
SUPERVISOR'S SIGNATURE: [Signature]

TITLE: Senior Attorney  
DATE PREPARED: 02/04/2002  
DATE APPROVED: \_\_\_\_\_  
Preparer's Name: L. Arter  
Preparer's Phone No.: 498-3265  
NET AMOUNT DUE: \$1,011.77

FOR FISCAL OFFICE USE:

TR: 26 SEL: 26  
ORG CODE: 26 EO: VR: CF: 26  
Payee's SSN: 265-29-9390 OCA: 26  
Invoice No. \_\_\_\_\_  
Voucher/SWD No. \_\_\_\_\_  
RF Ck./Warrant No. \_\_\_\_\_  
RF Ck./Warrant Date \_\_\_\_\_







22  
8/30/00

AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES

P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229  
WORK AUTHORIZATION AND REGULATION  
EXPERT WITNESS LEGAL

No. R 5149

22

SECTION ONE - WORK AUTHORIZATION

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement

2000 AUG 21 PM 12:16

1. Expert: Mitter, Charles 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_  
 Last First  
 4. Case No.(s): 2000-08413 5. Purpose: Expert review  
 6. Subject's Last Name: Malave 7. Board: Medicine  
 8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: (850) 414-8126  
 10. MAXIMUM AUTHORIZED FUNDS: \$ 1,000.00 (Expert not to exceed - see contract and reverse side hereof)  
 11. Issuing Authority: Kathryn L. Kasprzak Kathryn L. Kasprzak 8-9-00  
 Type/Print Name Signature Date Signed

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

Enter hourly fees below (see reverse for more instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
x 8/6/00	x	x	\$1,000.00	x Expert Witness Services

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g., mileage, tolls, hotel, parking, rental care, airline, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 1000.00

20. Expert's Signature: [Signature]

21. Date Signed 8-18-00

[Comments: Return this invoice with your report, to the "Requestor" named above.]

SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES

The above referenced services have been satisfactorily received.

22. Requestor's Signature: [Signature]

23. Date Signed 8/22/00

SECTION FOUR - ORIGINATING OFFICE

OFFICE SECTION Practitioner Regulation

DATE INVOICE RECEIVED 8-22-00

DATE GOODS OR SVCS. REC'D. 8-6-00

DATE GOODS OR SVCS. APPROVED 8-22-00

APPROVED BY Dona S. Brown

OBJECT CODE 131630

ORGANIZATION CODE 68-10-20-01-015

PROCESS IN 5 WORKING DAYS AND RETURN TO FINANCE AND ACCOUNTING

DISTRIBUTION: YELLOW CARBON TO EXPERT, WHITE CARBON TO CONTRACT ADMINISTRATOR'S OFFICE, PINK CARBON RETAINED BY ORIGINATING OFFICE



HOCT 042100.3

AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES

P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229  
WORK AUTHORIZATION AND INVOICE  
EXPERT WITNESS

No. R 7693

SECTION ONE - WORK AUTHORIZATION

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement

Laboratory Corporation of American Inc.

1. Expert: c/o Megan Clement 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_

4. Case No.(s): 2000-08443 413 5. Purpose: Domestic hearing testimony

6. Subject's Last Name: Malave 7. Board: Medicine

8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: (850) 414-8126

10. MAXIMUM AUTHORIZED FUNDS: \$ 200.00 (Expert not to exceed - see contract and reverse side hereof)

11. Issuing Authority: Donald Osterhouse [Signature] 3/18/02  
Type/Print Name Signature Date Signed

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

Enter hourly fees below (see reverse for more instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
1/29/02	\$400.00	0.5	\$200.00	Expert witness services DOT V. Malave (preparation time)

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g., mileage, tolls, hotel, parking, rental car, airline, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 200.00

20. Expert's Signature: Meghan E. Clement 21. Date Signed: 3-20-02  
[Experts: Return this invoice with your report, to the "Requestor" named above.]

SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES

The above referenced services have been satisfactorily received.

22. Requestor's Signature: \_\_\_\_\_ 23. Date Signed: \_\_\_\_\_

SECTION FOUR - ORIGINATING OFFICE

OFFICE SECTION Practitioner Regulation DATE INVOICE RECEIVED \_\_\_\_\_

DATE GOODS OR SVCS. REC'D. \_\_\_\_\_ DATE GOODS OR SVCS. APPROVED \_\_\_\_\_

APPROVED BY \_\_\_\_\_

OBJECT CODE 131630 ORGANIZATION CODE 68-10-20-01-015

PROCESS IN 5 WORKING DAYS AND RETURN TO FINANCE AND ACCOUNTING

DISTRIBUTION: YELLOW CARBON TO EXPERT, WHITE CARBON TO CONTRACT ADMINISTRATOR'S OFFICE, PINK CARBON RETAINED BY ORIGINATING OFFICE



AST 09210015

AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES

P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229

WORK AUTHORIZATION AND INVOICE  
EXPERT WITNESS

No. R 7621

SECTION ONE - WORK AUTHORIZATION

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement  
Laboratory Corporation of America, Inc.

1. Expert: c/o Megan Cleland 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_

4. Case No.(s): 2000-08-00000 5. Purpose: Formal hearing testimony

6. Subject's Last Name: Malave 7. Board: Medicine

8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: (850) 414-8126

10. MAXIMUM AUTHORIZED FUNDS: \$ 1,500.00 (Expert not to exceed - see contract and reverse side hereof)

11. Issuing Authority: Nancy Smurkowiak Signature: \_\_\_\_\_ Date Signed: 11.5.02

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

Enter hourly fees below (see reverse for more instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
1/30/02	\$400.00	3.75	\$1,500.00	Expert witness services Dott v. Malave (Testimony at hearing)

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (airfare, hotel, parking, rental car, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 1,500.00 3-20-02

REGULATION  
MAY 10 2002



**AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES**  
P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229  
**WORK AUTHORIZATION AND INVOICE  
EXPERT WITNESS**

**No. R 7635**

**SECTION ONE - WORK AUTHORIZATION**

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement

1. Expert: Knucke, Mary R. 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_  
 Last First  
 4. Case No.(s): 100-03413 5. Purpose: Medical Malpractice  
 6. Subject's Last Name: Knight 7. Board: Medicine  
 8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: ( ) 414-417  
 10. MAXIMUM AUTHORIZED FUNDS: \$ 2,200.00 (Expert not to exceed - see contract and reverse side hereof)  
 11. Issuing Authority: Nancy Shurkowska  
 Type/Print Name Signature Date Signed

**SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES**

Enter hourly fees below (see reverse for more instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
1/29/02	\$200.00	8	\$1600.00	expert consultant
1/30/02	\$200.00	3	\$600.00	expert consultant

**INCIDENTAL EXPENSES:** Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g. mileage, tolls, hotel, parking, rental cars, airfare, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

**GRAND TOTAL FEES & EXPENSES \$ 2,200.00**

20. Expert's Signature: Mary R. Knucke, Ph.D. 21. Date Signed: 4/2/02  
 [Experts: Return this invoice with your report, to the "Requestor" named above.]

**SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES**

The above referenced services have been satisfactorily received.

22. Requestor's Signature: \_\_\_\_\_ 23. Date Signed: \_\_\_\_\_

**SECTION FOUR - ORIGINATING OFFICE**

OFFICE SECTION: Practitioner Regulation DATE INVOICE RECEIVED: \_\_\_\_\_  
 DATE GOODS OR SVCS. REC'D: \_\_\_\_\_ DATE GOODS OR SVCS. APPROVED: \_\_\_\_\_  
 APPROVED BY: \_\_\_\_\_  
 OBJECT CODE: 131630 ORGANIZATION CODE: 68-10-20-01-015



Yellow Copy  
Orig. missing

AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES  
P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229  
WORK AUTHORIZATION AND INVOICE  
EXPERT WITNESS

No. R 7628

SECTION ONE - WORK AUTHORIZATION

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement.

1. Expert: Lidka, Mary R. 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_

4. Case No.(s): 2000-08413 5. Purpose: Formal hearing

6. Subject's Last Name: Knight 7. Board: Medicine

8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: (850) 414-8126

10. MAXIMUM AUTHORIZED FUNDS: \$ 2,000.00 (Expert not to exceed - see contract and reverse side hereof)

11. Issuing Authority: Nancy Smurkowski [Signature] 1/25/02  
Type/Print Name Signature Date Signed

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

Enter hourly fees below (see reverse for more instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
1/25/02	\$200.00	2	\$400.00	Trial preparation with attorney Rob Roberts
1/28/02	\$200.00	8	\$1600.00	Testimony

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g., hotel, parking, rental car, airline, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 2000.00

20. Expert's Signature: Mary Lidka, Ph.D. 21. Date Signed: 3/30/02  
(Experts: Return this invoice with your report, to the "Requestor" named above.)

SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES

The above referenced services have been satisfactorily received.

22. Requestor's Signature: \_\_\_\_\_ 23. Date Signed: \_\_\_\_\_

SECTION FOUR - ORIGINATING OFFICE

OFFICE SECTION Practitioner Regulation DATE INVOICE RECEIVED \_\_\_\_\_

DATE GOODS OR SVCS. REC'D. \_\_\_\_\_ DATE GOODS OR SVCS. APPROVED \_\_\_\_\_

APPROVED BY \_\_\_\_\_ ORGANIZATION CODE 68-10-20-01-015

OBJECT CODE 131630



AGENCY FOR HEALTH CARE ADMINISTRATION  
BUREAU OF LEGAL SERVICES

P.O. Box 14229 • TALLAHASSEE, FLORIDA 32317-4229

WORK AUTHORIZATION AND INVOICE REGULATION  
EXPERT WITNESS LEGAL

No. R 7780

SECTION ONE - WORK AUTHORIZATION

2002 JUL - 1 PM 12:33

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement

1. Expert: Maheer, Michael 2. SSN: \_\_\_\_\_ 3. Expires: 6-30-02  
 Last First  
 4. Case No.(s): 2000-08413 5. Purpose: Case Review  
 6. Subject's Last Name: Malave 7. Board: MB  
 8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: (850) 414-8126  
 10. MAXIMUM AUTHORIZED FUNDS: \$2,000.00 (Expert not to exceed - see contract and reverse side hereof)  
 11. Issuing Authority: Nancy Snurkowski  
 Type/Print Name Signature Date Signed

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

Enter hourly fees below (see reverse for more instructions)

(12) Date of Service	(13) Hours	(14) Fee	(15) Total Fee	(16) Description of Services
06/04/02	1.6	125.00	200.00	Review of Records
06/05/02	2.0	250.00	250.00	Review of Records - Video
06/05/02	4	50.00	50.00	Case Review & Consultation w/Attorney
06/06/02	1.0	375.00	375.00	Review of Records - Video
06/12/02	4.0	500.00	500.00	Evaluation of Evidence
06/18/02	5	62.50	62.50	Case Review & Consultation w/Attorney via message
06/21/02	1.0	125.00	125.00	Case Review & Consultation w/Attorney
06/22/02	4.0	500.00	500.00	Review of Records, Preparation for Testimony

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g., mileage, tolls, hotel, parking, rental cars, airfare, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 2,062.50

20. Expert's Signature: [Signature] 21. Date Signed: 6/27/02  
 (Experts: Return this invoice with your report, to the "Requestor" named above.)

SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES

The above referenced services have been satisfactorily received.

22. Requestor's Signature: \_\_\_\_\_ 23. Date Signed: \_\_\_\_\_

SECTION FOUR - ORIGINATING OFFICE

OFFICE SECTION Practitioner Regulation DATE INVOICE RECEIVED \_\_\_\_\_  
 DATE GOODS OR SVCS. REC'D. \_\_\_\_\_ DATE GOODS OR SVCS. APPROVED \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_ ORGANIZATION CODE \_\_\_\_\_  
 OBJECT CODE 131000



Department of Health  
 Bureau of Health Care Practitioner Regulation - Legal  
 4052 Bald Cypress Way, Bldg C-65  
 Tallahassee, FL 32399-3265  
**EXPERT WITNESS WORK AUTHORIZATION  
 AND INVOICE**

**No. R 7800**

**SECTION ONE - WORK AUTHORIZATION**

The expert named below is authorized and requested to perform expert services in this case, per terms of the AHCA Expert Witness Agreement.

1. Expert: Maier, Michael 2. SSN: \_\_\_\_\_ 3. Expires: \_\_\_\_\_  
 Last First  
 4. Case No.(s): 2000-08413 5. Purpose: Case Review  
 6. Subject's Last Name: Malave 7. Board: ME  
 8. Requestor's Full Name: Kim Kluck 9. Requestor's Phone: 850)414-8126  
 10. MAXIMUM AUTHORIZED FUNDS: \$ 2,062.50 (Expert not to exceed fee contract and reverse side hereof)  
 11. Issuing Authority: Nancy Smolowski \_\_\_\_\_  
 Type/Print Name Signature Date Signed 7/16/02

**SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES**

Enter hourly fees below (see reverse for copy instruction)

(12) Date of Service	(13) Hourly Fee	(14) Hours	(15) Total Fee	(16) Description of Services
6/4/02	125.00	1.6	200.00	Review of Records
6/5/02	"	2.0	250.00	Review of Records - Video
6/5/02	"	.4	50.00	Case Review & Consultation w/Attorney
6/6/02	"	3.0	375.00	Review of Records - Video
6/12/02	"	4.0	500.00	Evaluation of Lidka
6/18/02	"	.5	62.50	Case Review & Consult w/Attorney
6/21/02	"	1.0	125.00	Case Review & Consultation w/Attorney
6/22/02	"	4.0	500.00	Review of Records, Preparation for Testimony

INCIDENTAL EXPENSES: Enter below expenses such as copying, phone calls, film developing costs, etc. Attach receipts. Travel expenses (e.g., mileage, toll, hotel, parking, rental cars, airfare, etc.) go on a separate travel voucher.

(17) Date Incurred	(18) Amount \$	(19) Description of Expenses

I have performed the services and incurred the expenses referenced above, and have not previously billed for same.

GRAND TOTAL FEES & EXPENSES \$ 2,062.50

20. Expert's Signature: [Signature] 21. Date Signed 7/22/02  
 [Experts: Return this invoice with your report to the "Requestor" named above.]

**SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES**

The above referenced services have been satisfactorily received.

22. Requestor's Signature: \_\_\_\_\_ 23. Date Signed \_\_\_\_\_

**SECTION FOUR - ORIGINATING OFFICE**

OFFICE SECTION Practitioner Regulation DATE INVOICE RECEIVED \_\_\_\_\_  
 DATE GOODS OR SVCS. REC'D. \_\_\_\_\_ DATE GOODS OR SVCS. APPROVED \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_  
 OBJECT CODE 131800 ORGANIZATION CODE 64-22-06-00-500





UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WORK AUTHORIZATION AND INVOICE  
FOR FEDERAL AGENTS AND EMPLOYEES

NOV 17 1960

**SECTION ONE - WORK AUTHORIZATION**

1. Requested by: \_\_\_\_\_

2. Requested for: \_\_\_\_\_

3. Date of Service: \_\_\_\_\_

4. Agent's Last Name: \_\_\_\_\_

5. Requestor's Full Name: \_\_\_\_\_

6. Requestor's Title: \_\_\_\_\_

7. Requestor's Office: \_\_\_\_\_

8. Requestor's Division: \_\_\_\_\_

9. Requestor's Telephone: \_\_\_\_\_

10. MAXIMUM AUTHORIZED FUNDING: \$ 1,000.00

11. Issuing Authority: \_\_\_\_\_

12. Date of Issue: \_\_\_\_\_

13. Date of Expiration: \_\_\_\_\_

**SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES**

Enter hourly fees below (transfer for non-hourly charges)

(1) Date of Service	(2) Hourly Rate	(3) Hours	(4) Total Fee	(5) Other Charges	(6) Total Amount

**INCIDENTAL EXPENSES:** (Include charges for transportation, meals, hotel, parking, rental cars, etc.)

(7) Date Incurred	(8) Amount	(9) Description of Expense

I have performed the services and incurred the expenses indicated above for the purpose of this work authorization.

**GRAND TOTAL FEES & EXPENSES:** \_\_\_\_\_

20. Expert's Signature: \_\_\_\_\_

Expert's Return full copy with you to \_\_\_\_\_

**SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT FOR SERVICE**

21. Requestor's Signature: \_\_\_\_\_

**SECTION FOUR - ORIGINATING OFFICE**

OFFICE SECTION: \_\_\_\_\_

DATE GOODS OR SVCS REC'D: \_\_\_\_\_

DATE INVOICE RECEIVED: \_\_\_\_\_

DATE GOODS OR SVCS APPROVED: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

OBJECT CODE: \_\_\_\_\_

OFFICE AUTON CODE: \_\_\_\_\_



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 OFFICE OF INSURANCE ADMINISTRATION  
 WORKABLE ORGANIZATION AND INNOVATION  
 PROGRAM

SECTION ONE - WORK AUTHORIZATION

1. Name of the Organization: AMERICAN OVERSIGHT

2. Subject Line Name: AMERICAN OVERSIGHT

3. Applicant's Full Name: AMERICAN OVERSIGHT

4. Maximum Authorized Amount: 15,000.00

5. Billing Authority: AMERICAN OVERSIGHT

SECTION TWO - EXPERT'S INVOICE FOR SERVICES AND EXPENSES

(12) Date of Service	(6) Hours	(6) Rate	(6) Total	(6) Description of Service
	15.00			

INCIDENTAL EXPENSES: (Examples: meals, travel, lodging, telephone, photocopying, etc.)

(12) Date Incurred	(6) Amount	(6) Description of Expense

19. I have performed the services and incurred the expenses reported above which were my sole responsibility.

20. Expert's Signature: \_\_\_\_\_

SECTION THREE - REQUESTOR'S ACKNOWLEDGMENT OF SERVICES

Requestor's Signature: \_\_\_\_\_

SECTION FOUR - ORGANIZATION OFFICE SECTION

DATE GOODS OR SERVICES RECEIVED: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

OBJECT CODE: 1000

ORGANIZATION (COMPLIANCE WITH 42 CFR 101.11.5)

American Court Reporting - Orlando  
 321 East Lane  
 Sanford, FL 32771  
 (407) 324-4290 Fax: (407) 328-9712  
 EIN: 156-36-3478

# Invoice

DATE 9/13/01  
 INVOICE # 2001-317

**BILL TO**  
 Ms. Kim Kluck, Esq.  
 AHCA  
 2727 Mahan Drive  
 Tallahassee, FL 32308

**DESCRIPTION**

**AMOUNT**

PROFESSIONAL REGULATION  
 DATE INVOICE RECEIVED: 9/17/01  
 DATE GOODS OR SVCS. REC'D: 9/17/01  
 DATE GOODS OR SVCS. APPROVED: 9/25/01  
 PAYMENT APPROVED BY: [Signature]  
 PROCESS IN 5 WORKING DAYS  
 RETURN FINANCE & ACCOUNTING  
 OBJECT CODE: 68-14-00-1  
 ORGANIZATION CODE: 68-10-20-01-015

Department of Health,  
 Board of Medicine  
 vs.  
 Ronald Malave, M.D.  
 AHCA No. 2000084131  
 DOAH No. 01-2440

8/30/01: Suzette A. Bragg reported this above style matter in Orlando

Appearance Fee: 10:30 a.m. - 1:00 p.m. (no break)

Transcript Fee: Depo of Johnson 52 pages @ \$2.25 p/p  
 Transcript Fee: Depo of Petree 55 pages @ \$2.25 p/p  
 Copies of Exhibits: Johnson 34 copies @ .30 p/p  
 Copies of Exhibits: Petree 148 copies @ .30 p/p  
 Postage and Delivery: sent priority mail 8/13/01

23.50  
 117.00  
 123.75  
 9.00  
 44.40  
 8.40

Contract # 0091 \$18/15  
 Overtime \$20/15

**Total**

9/24/01

NOV

70

American Court Reporting

American Court Reporting  
321 East Lane  
Sanford, FL 32771  
(407) 324-4290

# Invoice

PRACTITIONER REGULATION  
LEGAL

DATE 3/5/02 INVOICE # 2002-56

2002 MAR -8 AM 11:27

**BILL TO**

Agency for Health Care Admin.  
Ms. Kim Kluek, Esq.  
2727 Mahan Drive  
Tallahassee, FL 32308

*came  
w/ transcript  
3/5*

RECEIVED - LEGAL  
02 MAR -8 PM 3:52

DESCRIPTION

OFFICE SECTION ~~PRACTITIONER REGULATION~~ *Regulation* AMOUNT

DATE INVOICE RECEIVED 3/8/02

DATE GOODS OR SVCS. REC'D. 3/8/02

DATE GOODS OR SVCS. APPLIED 3/12/02

PAYMENT APPROVED BY [Signature] M. SUDAROWSKI  
PROCESS IN 5 WORKING DAYS

RETURN FINANCE & ACCOUNTING

OBJECT CODE 131400

ORGANIZATION CODE 68-10-20-01-015

Department of Health,  
Board of Medicine  
vs.  
Ronald Malave, M.D.

*0000 08413*

Case No.: 01-2440PL

1/28-30/02: American Court Reporting Reported the above style hearing in Orlando before ALJ Kirkland.

\$18.00 first hour, \$15.00 each hour after first

Appearance Fee: 1/28/02: 9:00 a.m. - 5:00 p.m. (1 hr. break)

123.00

Appearance Fee: 1/29/02: 9:00 a.m. - 5:00 p.m. (1 hr. break)

123.00

Appearance Fee: 1/30/02: 9:00 a.m. - 4:15 p.m. (1 hr. break)

111.75

Transcript Fee: 0+1, 743 pages @ \$2.25 p/p

1,676.25

Postage: Original TX, Mailed to ALJ Kirkland 3/6/02

18.50

Postage: Certified Copy, Mailed to Ms. Kluek 3/6/02

18.50

Original and Certified Copy sent Priority, Certified Mail

Contract # 0091

**Total**

EIN# 152-40-8227

*Price*

American Court Reporting  
 American Court Reporting  
 321 East Lane  
 Sanford, FL 32771  
 (407) 324-4290

**BILL TO**

AHCA  
 Ms. Phyllis Eidson  
 2727 Mahan Drive  
 MS-39A  
 Tallahassee, FL 32308

R  
 02 11 27 11 11 29

**Invoice**

DATE INVOICE #  
 6/18/02 2002-197

*Handwritten:* H56A

DESCRIPTION DATE TIME AMOUNT  
 DATE CODE FOR CHG 6/27/02  
 LAWE GOALS ON B... 6/27/02  
 PAYMENT APPROVED BY [Signature]  
 PROCESSOR'S... [Signature]  
 RETURN TO FILE ACCOUNTING  
 OBJECT CODE 731000  
 ORGANIZATION CODE 68-10-2001-215

Department of Health,  
 v.  
 Ronald Malave, M.D.  
 DOAH Case No.: 01-244OPL  
 AHCA Case No.: 200008413

6/17/02: American Court Reporting (SB) reported the above style matter in Orlando

Deposition of Ronald Malave, M.D.

Appearance Fee: 12:00 noon - 3:50 p.m.  
 Transcript Fee: Original & One, 148 pages @ \$4.00 p/p (expedited)  
 Postage: Hand delivered to Ms. Kim Kluck in Orlando

68.00  
 592.00  
 0.00

Contract # 0091

EDN# 152-40-8227

**Total**

655.00

*Handwritten:* 2302  
 [Signature]

OFFICIAL REPORTING SERVICE, INC.

524 South Andrews Avenue, Suite 102N  
Ft. Lauderdale, Florida 33301-2845  
954-467-8204 Fax 954-467-8214  
Tax ID 59-2088793

*labor  
new transcript*

In Account With

Date: 9/18/01

~~KIMMICK, ESQUIRE~~

Invoice: 724766

AHCA  
1580 WALDO PALMER LANE  
TALLAHASSEE, FL 32308

IN RE: DOM VS MALAVE  
CASE NO. ~~2000-00419~~

CONT. NO. 00-151J

	Qty/Pages	Rate	Total
ATTENDANCE OF REPORTER: 1:00-2:51PM	1.00	46.25	46.25
Deposition of: CECELIA A. CROUSE, PHD			
80PG 0+1 @2.50PP	80.00	2.50	200.00
EXHIBITS- 336PG @.50PP	336.00	0.50	168.00
SENT FEDERAL EXPRESS- 2DAY FOR DELIVERY			
9/20/01 TRACKING #8282 2632 6395	1.00	12.00	12.00

OFFICE SECTION *Principles of Regulation*  
 DATE INVOICE RECEIVED *9/28/01*  
 DATE GOODS OR SVCS. REC'D. *9/28/01*  
 DATE GOODS OR SVCS. APPROVED *9/25/01*  
 PAYMENT APPROVED BY *[Signature]*  
 PROCESS IN 5 WORKING DAYS  
 RETURN FINANCE & ACCOUNTING ~~\_\_\_\_\_~~  
 OBJECT CODE ~~\_\_\_\_\_~~  
 ORGANIZATION CODE *65-1020-01-015*

2001 SEP 20 PM 3:03

PRACITIONER REGULATION  
LEGAL

INVOICE TOTAL: 426.25  
 PAYMENTS: 0.00  
 BALANCE DUE: ~~426.25~~

PLEASE REMIT COPY OF INVOICE WITH PAYMENT  
THANK YOU!

DATE TAKEN  
8/28/01

REPORTER  
Mary Desiderio

PAST DUE BALANCE IN EXCESS OF 30 DAYS SHALL BEAR INTEREST AT THE MAXIMUM RATE ALLOWABLE BY LAW. CLIENT AGREES TO PAY ALL COSTS OF COLLECTION, INCLUDING ATTORNEY'S FEES.

*9/24/01*

OFFICIAL REPORTING SERVICE, INC.

524 South Andrews Avenue, Suite 102N  
Ft. Lauderdale, Florida 33301-2845  
954-467-8204 Fax 954-467-8214  
Tax ID 59-2088793

In Account With

KIM KLUCK, ESQUIRE  
AHCA  
1580 WALDO-PALMER LANE  
TALLAHASSEE, FL 32308

Date: 9/18/01

Invoice: 724766

IN RE: DOM VS MALAVE  
CASE NO. 2000-08413

CONT. NO. 00-151]

	Qty/Pages	Rate	Total
ATTENDANCE OF REPORTER: 1:00-2:51PM	1.00	46.25	46.25
Deposition of: CECELIA A. CROUSE, PHD			
80PG 0+1 @2.50PP	80.00	2.50	200.00
EXHIBITS- 336PG @.50PP	336.00	0.50	168.00
SENT FEDERAL EXPRESS- 2DAY FOR DELIVERY			
9/20/01 TRACKING #8282 2632 6395	1.00	12.00	12.00

INVOICE TOTAL: 426.25  
PAYMENTS: 0.00  
BALANCE DUE: 426.25

PLEASE REMIT COPY OF INVOICE WITH PAYMENT  
THANK YOU!

DATE TAKEN  
8/28/01

REPORTER  
Mary Desiderio

PAST DUE BALANCE IN EXCESS OF 30 DAYS SHALL BEAR INTEREST AT THE MAXIMUM RATE  
ALLOWABLE BY LAW. CLIENT AGREES TO PAY ALL COSTS OF COLLECTION, INCLUDING  
ATTORNEY'S FEES.

**BAY PARK REPORTING**

Post Office Box 76345  
 St. Petersburg, FL 33734-6345  
 (727) 823-8388

**Invoice**

RECEIVED  
 02 APR 12 AM 11:42

Contract #	Reporter	Date	Invoice #
4200131	PG	4/9/02	22280

**Bill To:**

Phyllis Eidson, Reg. Specialist  
 Agency for Health Care Adminis.  
 2727 Mahan Drive, MS 39  
 Tallahassee, FL 32308

RE: 4/9 Depo of J. ALFONSO RN  
 Taken at Tampa General Hospital  
 Dept. of Health vs David Wooding  
 Cahill - DOAH 02-0468 PL  
 For: KIM M. KLUCK, ESQ

199801637

Quantity	Service	Rate	Description	Amount
1	First Hour	20.00	Appearance Fee: 1:00 - 1:40 p.m.  OFFICE SECTION <del>PREPARED</del> DATE INVOICE RECEIVED <u>4/12/02</u> DATE GOODS OR SVCS. REC'D <u>4/12/02</u> DATE GOODS OR SVCS. APPROVED <u>4/15/02</u> PAYMENT APPROVED BY <u>[Signature]</u> PROCESS IN 5 WORKING DAYS RETURN FINANCE & ACCOUNTING OBJECT CODE <u>IR MOD</u> ORGANIZATION CODE <u>6810-20-01-015</u>	20.00
			<b>Total</b>	<b>20.00</b>

**THANK YOU**

APR 11 2002



American Court Reporters  
 PMB 235  
 1500 Breville Road, Suite 606  
 Daytona Beach, FL 32114

Invoice  
 Number 4294  
 Date 09/23/01

Kim M. Kluck, Esquire  
 AHCA  
 P. O. Box 14229  
 Tallahassee, FL 32317-4229

Reporter  
 Stilwell

Contract#  
 0071

ID#  
 59-2867231

(386) 252-9774

	Description	Unit Price	Amount
3.5	Depositions of P. Barrett and P. Dolican, 8/29/01 2425 S. Volusia Avenue, Daytona Beach, FL In Re: DOH v. Ronald Malave, M.D. Case No. 01-2440 Appearance - 10:00-1:20 Hours	20.00	70.00
137	Transcripts - 0 & 1 - EXPEDITE Pages	4.20	575.40
17	Exhibits Pages	0.35	5.95

Thank You!!

OFFICE SECTION ~~PRODUCTION~~ *Production*  
 DATE INVOICE RECEIVED 10/1/01  
 DATE GOODS OR SVCS. REC'D 10/1/01  
 DATE GOODS OR SVCS. APPROVED 12/4/01  
 PAYMENT APPROVED BY *[Signature]*  
 PROCESS IN 5 WORKING DAYS  
 RETURN FINANCE & ACCOUNTING  
 OBJECT CODE 657400  
 ORGANIZATION CODE 68-10-10-01-015

Amount Paid 0.00

Amount Due 681.35

TOTAL

*check to pay  
 10/3/01  
 [Signature]*

*NOT  
 [Signature]*

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

---

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

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

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

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

**C. ADDRESSES.** Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Compliance Office, in writing, within 10 days of

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

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

E. CONTINUITY OF PRACTICE

1. TOLLING PROVISIONS. In the event the Respondent leaves the State of Florida for a period of 30 days or more or otherwise does not or may not engage in the active practice of medicine in the State of Florida, then certain provisions of the requirements in the Final Order shall be tolled and shall remain in a tolled status until Respondent returns to the active practice of medicine in the State of Florida.

Respondent shall notify the Compliance Officer 10 days prior to his/her return to practice in the State of Florida.

Unless otherwise set forth in the Final Order, the following requirements and only the following requirements shall be tolled until the Respondent returns to active practice:

- a. The time period of probation shall be tolled.
- b. The provisions regarding supervision whether direct

or indirect by the monitor/supervisor, and required reports from the monitor/supervisor shall be tolled.

c. The requirement for quality assurance review of Respondent's practice shall be tolled.

d. Any provisions regarding community service shall be tolled.

e. Any requirements regarding lectures on the subject of wrong-site surgery.

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

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

1. DEFINITION OF COMMUNITY SERVICE. "Community service" shall be defined as the delivery of medical services directly to patients, or the delivery of other volunteer services to an entity which is exempt

from federal taxation under 26 U.S.C. s. 501(c)(3), without fee or cost to the patient or the entity, for the good of the people of the State of Florida.

Community service shall be performed outside the physician's regular practice setting.

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

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

1. DEFINITIONS:

a. INDIRECT SUPERVISION is supervision by a monitoring physician (monitor), as set forth in the Final Order, whose responsibilities are set by the Board. Indirect supervision does not require that the monitor practice on the same premises as the Respondent. However, the monitor shall practice within a reasonable geographic proximity to Respondent, which shall be within 20 miles unless otherwise approved by the Board and shall be readily available for consultation. The monitor shall be board-certified in the Respondent's specialty

area unless otherwise approved by the Board or its designee.

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

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

## 2. REQUIRED SUPERVISION.

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

b. The monitor/supervisor must be licensed under Chapter 458, Florida Statutes, in good standing, and without restriction or limitation on his/her license.

In addition, the Board or Committee may reject any proposed monitor/supervisor on the basis that he/she has previously been subject to any disciplinary action against his/her medical license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action. The monitor/supervisor must be actively engaged in the same or similar specialty area unless otherwise approved by the Board or Committee and be practicing within a reasonable distance of the Respondent's practice, a distance of no more than 20 miles unless otherwise specifically provided for in the Final Order. The monitor/supervisor must not be a relative or employee of the Respondent. The Board, Committee or designee may also reject any proposed monitor/supervisor for good cause shown.

3. TEMPORARY APPROVAL. The Board confers authority on the Chair of the Probation Committee to temporarily approve Respondent's monitor/supervisor. To obtain this temporary approval, Respondent shall submit to the Compliance Officer the name and curriculum vitae of the proposed monitor/supervisor. This information shall be furnished to the Chair of the Probation Committee by way of the Compliance Officer, within 48

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



effect until the next meeting of the Probation Committee.

4. FORMAL APPROVAL. Respondent shall have the monitor/supervisor with him/her at the first probation appearance before the Probation Committee. Prior to consideration of the monitor/supervisor by the Committee, the Respondent shall provide the monitor/supervisor a copy of the Administrative Complaint and the Final Order in this case.

Respondent shall submit a current curriculum vitae, a description of current practice, and a letter agreeing to serve from the proposed monitor/supervisor to the Compliance Officer no later than fourteen days before the Respondent's first scheduled probation appearance. Respondent's monitor/supervisor shall also appear before the Probation Committee at such times as directed by the Committee. It shall be the Respondent's responsibility to ensure the appearance of his/her monitor/supervisor as directed. Failure of the monitor/supervisor to appear as directed shall constitute a violation of the terms of the Final Order and may subject the Respondent to additional disciplinary action.

5. CHANGE IN MONITOR/SUPERVISOR. In the event that

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

6. REPORTS.

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

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

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

- (1) Brief statement of why physician is on probation.
- (2) Description of probationer's practice.
- (3) Brief statement of probationer's compliance with terms of probation.
- (4) Brief description of probationer's relationship with monitoring physician.
- (5) Detail any problems which may have arisen with probationer.

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

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

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

a suspended license during the period of suspension shall not affect the suspension of the license and the suspension shall continue until all requirements for reinstatement have been met.

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