

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2004-28787

JEAN-MARIE EUGENE, M.D.,

RESPONDENT,

ADMINISTRATIVE COMPLAINT

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

1. Petitioner is the state department charged with regulating the practice of medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.
2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number 43064.

3. Respondent's address of record is 1881 West Oakland Park Blvd., Fort Lauderdale, Florida 33311.

4. On or about February 4, 2004, in response to a request from an acquaintance for a work verification letter allegedly for a job opportunity in another country, the Respondent prepared a letter in which he subscribed to having had a working relationship, for three years, with this acquaintance (a nurse), which, in fact, he did not have.

5. The acquaintance was a licensed Registered Nurse in the state of Pennsylvania since November 2003.

6. On or about April 30, 2004, the Board of Nursing received the employment verification letter written by the Respondent as part of an application for a Florida License based upon "endorsement."

7. On or about June 28, 2004, the Department's Consumer Services Unit received a complaint from the Florida Board of Nursing involving a nursing applicant. The complaint alleged that the nursing applicant had been practicing nursing in the State of Florida for over three (3) years without a Florida license.

8. On or about July 13, 2004, the Respondent admitted, under oath, that he signed the letter knowing the information contained therein was false.

9. Respondent admitted that he prepared the letter, on his office letterhead, stating that he was verifying the applicant's employment with Respondent for the past three years as a Registered Nurse, when the Respondent knew that the information was false. The letter was addressed, "To Whom It May Concern."

COUNT I

10. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein.

11. Section 458.331(1)(h), Florida Statutes (2003), provides that physicians are subject to discipline for making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so.

12. Respondent made a report that he knew to be false by signing a letter that falsely stated that he has a three-year working relationship in Florida with a nurse.

13. Based on the foregoing, Respondent has violated Section 458.331(1)(h), Florida Statutes (2003), by making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a

report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so.

COUNT II

14. Petitioner realleges and incorporates paragraphs one (1) through nine (9) as if fully set forth herein.

15. Section 458.331(1)(k), Florida Statutes (2003), provides that making deceptive, untrue or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine constitutes ground for discipline by the Board of Medicine.

16. Respondent fraudulently signed a letter, purporting to have had a physician working relationship with a nurse, for three years, which he did not have.

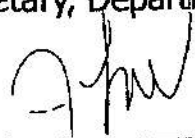
17. Based on the foregoing, Respondent has violated Section 458.331(1)(k), Florida Statutes (2003), by making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand,

placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 27 day of January, 2005.

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



Judith A. Law
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0881686
(850) 414-8126
(850) 414-1989 FAX

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Neather Coleman
DATE 1-27-05

Reviewed and approved by: DLK (initials) 1/26/05 (date)

PCP: January 21, 2005

PCP Members: El-Bahri, Ondra, Dyches

Jean-Marie Eugene 2004-28787

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified

representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

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

Jean-Marie Eugene 2004-28787

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK *Neetha Coleman*
DATE 4/28/05

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2004-28787

JEAN MARIE EUGENE, M.D.,

Respondent.

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

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

1. At its next regularly scheduled meeting, the Board of Medicine will take up for consideration the above-styled disciplinary action and will enter a Final Order therein.
2. Section 456.072(4), Florida Statutes (2003),¹ states as follows:

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

In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, pursuant to this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is not board, shall assess costs related to the investigation and prosecution of the case. Such costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. . . .

3. The investigation and prosecution of this case has resulted in costs in the total amount of \$1,897.77, based on the following itemized statement of costs:

- a. Total soft costs for Complaints \$33.41
- b. Total soft costs for Investigations \$836.04
- c. Total soft costs for Legal \$1,028.32

Therefore, the Petitioner seeks an assessment of costs against the Respondent in the amount of \$1,897.77, as evidenced in the attached affidavit. (Exhibit A).

4. Should the Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion,

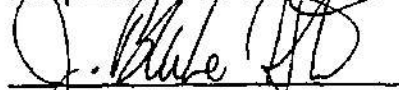
specifying the grounds for the objections and the specific elements of the costs to which the objections are made, the Petitioner requests that the Board determine the amount of costs to be assessed based upon its consideration of the affidavit attached as Exhibit A and any timely-filed written objections.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$1,897.77 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2003).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against the Respondent in the amount of \$1,897.77.

DATED this 27th day of April, 2005.


Respectfully submitted,



J. Blake Hunter
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 0570788
(850) 414-8126 telephone (850)414-1989 fax

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided to Respondent's Attorney, David Nunes, Esq., at his last known address of 3917 North Andrews Avenue, Fort Lauderdale, Florida 33309, by Certified U.S. Mail this 27th day of April, 2005.



J. Blake Hunter
Assistant General Counsel

JBH/als

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:


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

- 1) My name is James R. Cooksey.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am a Operations Management Consultant for the Consumer Services Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 1580 Waldo Palmer Lane, Tallahassee, Florida 32308.
- 4) As a Operations Management Consultant, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number 2004-28787 (Department of Health v. Jean Marie Eugene, M.D.) are one thousand eight hundred ninety seven dollars and seventy seven cents (\$1,897.77).
- 6) The costs for DOH case number 2004-28787 (Department of Health v. Jean Marie Eugene) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case number 2004-28787 (Department of Health v. Jean Marie Eugene) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators and lawyers). A designated DOH employee in the Consumer Services

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

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

FURTHER AFFIANT SAYETH NOT.


James R. Cooksey, Affiant

State of Florida
County of Leon

Sworn to and subscribed before me this 16 day of April, 2005,
by James R. Cooksey, who is personally known to me.


Notary Signature



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

Name of Notary Printed

Stamp Commissioned Name of Notary Public:

Complaint Cost Summary

Complaint Number: 200428787

Complainant's Name: DOH ISU,

Subject's Name: EUGENE. JEAN-MARIE R

	***** Cost to Date *****	
	Hours	Costs
Complaint:	0.70	\$33.41
Investigation:	13.00	\$836.04
Legal:	13.90	\$1,028.32
	*****	*****
Sub Total:	27.60	\$1,897.77
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$1,897.77



Time Tracking Report
 Itemized Cost by Complaint
 Complaint 200428787

Report Date: 04/26/2005

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
BUREAU OF CONSUMER COMPLAINTS						
HA49	0.70	\$47.73	\$33.41	07/26/2004	14	TRAINING
Sub Total	0.70		\$33.41			
BUREAU OF INVESTIGATIVE SERVICES						
L161	0.50	\$64.31	\$32.16	07/29/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.50	\$64.31	\$96.47	08/31/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.00	\$64.31	\$64.31	09/08/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.00	\$64.31	\$64.31	09/08/2004	58	TRAVEL TIME
L161	1.00	\$64.31	\$64.31	09/09/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.00	\$64.31	\$64.31	09/10/2004	58	TRAVEL TIME
L161	1.00	\$64.31	\$64.31	09/10/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.00	\$64.31	\$64.31	09/10/2004	58	TRAVEL TIME
L161	1.00	\$64.31	\$64.31	09/10/2004	4	ROUTINE INVESTIGATIVE WORK
L161	1.00	\$64.31	\$64.31	09/10/2004	4	ROUTINE INVESTIGATIVE WORK
L161	4.00	\$64.31	\$257.24	09/17/2004	76	REPORT PREPARATION
Sub Total	13.00		\$836.04			
BUREAU OF LEGAL SERVICES						
HLL10A	0.20	\$76.76	\$15.35	10/05/2004	25	REVIEW CASE FILE
HLL28B	1.00	\$73.40	\$73.40	10/08/2004	15	PROFESSIONAL CONTACTS
HLL28B	1.00	\$73.40	\$73.40	10/20/2004	15	PROFESSIONAL CONTACTS
HLL10A	0.30	\$76.76	\$23.03	10/21/2004	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR A TTY GEN O
HLL28B	3.00	\$73.40	\$220.20	10/21/2004	15	PROFESSIONAL CONTACTS
HLL10A	0.80	\$76.76	\$61.41	10/22/2004	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT



Time Tracking Report
 Itemized Cost by Complaint
 Complaint 200428787

Report Date: 04/26/2005

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL28B	1.00	\$73.40	\$73.40	10/25/2004	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL10A	0.40	\$76.76	\$30.70	10/29/2004	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN O
HLL10A	0.30	\$76.76	\$23.03	11/01/2004	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL28B	1.00	\$73.40	\$73.40	11/01/2004	25	REVIEW CASE FILE
HLL10A	0.20	\$76.76	\$15.35	01/26/2005	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL28B	1.00	\$73.40	\$73.40	01/26/2005	25	REVIEW CASE FILE
HLL10A	0.20	\$76.76	\$15.35	01/26/2005	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL28B	0.50	\$73.40	\$36.70	03/09/2005	25	REVIEW CASE FILE
HLL28B	0.50	\$73.40	\$36.70	03/25/2005	36	PREPARATION OR REVISION OF LETTER
HLL28B	0.50	\$73.40	\$36.70	03/25/2005	36	PREPARATION OR REVISION OF LETTER
HLL28B	0.50	\$73.40	\$36.70	03/28/2005	35	TELEPHONE CALLS
HLL28B	0.50	\$73.40	\$36.70	03/29/2005	36	PREPARATION OR REVISION OF LETTER
HLL28B	1.00	\$73.40	\$73.40	04/19/2005	25	REVIEW CASE FILE
Sub Total	13.90		\$1,028.32			

Total Cost 27.60 \$1,897.77

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: **DOR, 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:

9. SUPERVISION OF PHYSICIAN ASSISTANTS AND/OR

ANESTHESIOLOGIST ASSISTANTS. Respondent is required to notify, in writing, any physician assistant and/or anesthesiologist assistant which the Probationer supervises, of his or her probationary status. A copy of said written notification(s) shall be submitted to the Board's Compliance Officer ~~within~~ **10 days of entry of the Final Order.**

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

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

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

AA

STATE OF FLORIDA
BOARD OF MEDICINE

By: Neather Coleman
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2004-28787

LICENSE NO.: ME0043064

JEAN-MARIE EUGENE, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on June 3, 2005, in Orlando, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above-styled cause pursuant to Respondent's Election of Rights. At the hearing, Petitioner was represented by Mary K. Surles, Assistant General Counsel. Respondent was present and but was not represented by counsel. The facts are not in dispute.

Upon consideration, it is ORDERED:

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

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

3. The violations set forth warrant disciplinary action by the Board. THEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall pay an administrative fine in the amount of \$15,000 to the Board within 30 days from the date this Final Order is filed.

2. Respondent shall document completion of the laws and rules course sponsored by the Florida Medical Association (FMA) within 12 months from the date this Final Order is filed.

3. Respondent shall document the completion of 4 hours of continuing medical education (CME) in the area of medical ethics within one year from the date this Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Unless otherwise approved by the Board or the Chairperson of the Probationer's Committee, said continuing education courses shall consist of a formal live lecture format.

4. Within one (1) year from the date this Final Order is filed, Respondent shall document the completion of 100 hours of community service. Community service shall be provided without fee or cost to the person or entity benefitting from the service, for the good of the people of the State of Florida. A community service plan must be pre-approved by the Board's Probationer's Committee. Affidavits detailing the completion of community

service requirements shall be filed with the Board's Probationer's Committee.

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

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$1,897.77. Said costs are to be paid within 30 days from the date this Final Order is filed.

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

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

DONE AND ORDERED this 14 day of JUNE, 2005.

BOARD OF MEDICINE



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

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING

ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to JEAN-MARIE EUGENE, M.D., 1881 West Oakland Park Boulevard, Ft. Lauderdale, Florida 33311; to David Nunes, Esquire, 3917 North Andrews Avenue, Ft. Lauderdale, Florida 33309; and by interoffice delivery to Denise O'Brien and Dana Baird, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3265 this 16 day of June, 2005.

Whalunda Sup

Deputy Agency Clerk