

STATE OF FLORIDA
BOARD OF MEDICINE

Final Order No. DOH-13-0788- FOI - MQA
FILED DATE APR 24 2013
Department of Health
By: Angel Saucedo
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2011-06306
LICENSE NO.: ME0043827

MOHAMMED O. SALEH, 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 April 5, 2013, in Deerfield Beach, 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 Thomas J. Morton, Assistant General Counsel. Respondent was present 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 \$5,000.00 to the Board within 90 days from the date the Final Order is filed. Said fine shall be paid by money order or cashier's check.

2. Respondent shall be placed on probation for a period of one year subject to the following terms and conditions:

a. Respondent shall appear before the Board's Probation Committee at the first meeting after said probation commences, at the last meeting of the Probation Committee preceding termination of probation, triannually, and at such other times requested by the Committee. Respondent shall be noticed by Board staff of the date, time and place of the Board's Probation Committee whereat Respondent's appearance is required. Failure of the Respondent to appear as requested or directed shall be considered a violation of the terms of probation, and shall subject the Respondent to disciplinary action. Unless otherwise provided in the Final Order, appearances at the Probation Committee shall be made triannually.

b. Respondent shall not practice except under the indirect supervision of a **BOARD CERTIFIED** physician fully licensed under Chapter 458 to be approved by the Board's Probation Committee. Absent provision for and compliance with the terms regarding temporary approval of a monitoring physician set forth below, Respondent shall cease practice and not practice until the Probationer's Committee approves a monitoring physician. Respondent shall have the monitoring physician present at the first probation appearance before the Probation Committee. Prior to approval of the monitoring physician by the committee, the Respondent shall provide to the monitoring physician a copy of the Administrative Complaint and Final Order filed in this case. A failure of the Respondent or the monitoring physician to appear at the scheduled probation meeting shall constitute a violation of the Board's Final Order. Prior to the approval of the monitoring physician by the Committee, Respondent shall submit to the committee a current curriculum vitae and description of the current practice of the proposed monitoring physician. Said materials shall be received in the Board office no later than fourteen days before the Respondent's first scheduled probation appearance. The attached definition of a monitoring physician is incorporated herein. The responsibilities of a monitoring physician shall include:

(1) Submit triannual reports, in affidavit form, which shall include:

- A. Brief statement of why physician is on probation.
- B. Description of probationer's practice.
- C. Brief statement of probationer's compliance with terms of probation.
- D. Brief description of probationer's relationship with monitoring physician.
- E. Detail any problems which may have arisen with probationer.

(2) Be available for consultation with Respondent whenever necessary, at a frequency of at least once per month.

(3) Review 25 percent of Respondent's patient records selected on a random basis at least once every month. In order to comply with this responsibility of random review, the monitoring physician shall go to Respondent's office once every month. At that time, the monitoring physician shall be responsible for making the random selection of the records to be reviewed by the monitoring physician.

(4) Report to the Board any violations by the probationer of Chapter 456 and 458, Florida Statutes, and the rules promulgated pursuant thereto.

c. In view of the need for ongoing and continuous monitoring or supervision, Respondent shall also submit the curriculum vitae and name of an alternate supervising/monitoring physician who shall be approved by Probation Committee. Such physician shall be licensed pursuant to Chapter 458, Florida Statutes, and shall have the same duties and responsibilities as specified for Respondent's monitoring/supervising physician during those periods of time which Respondent's monitoring/supervising physician is temporarily unable to provide supervision. Prior to practicing under the indirect supervision of the alternate monitoring physician or the direct supervision of the alternate supervising physician, Respondent shall so advise the Board in writing. Respondent shall further advise the Board in writing of the period of time during which Respondent shall practice under the supervision of the alternate monitoring/supervising physician. Respondent shall not practice unless Respondent is under the supervision of either the approved supervising/monitoring physician or the approved alternate.

d. 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.
- (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.

3. Respondent may prescribe Schedule II controlled substances with the restrictions set forth below:

- a. Respondent shall utilize sequentially numbered prescriptions in the prescribing of Schedule II controlled substances.

b. Respondent shall, within one month after issuance, provide one copy of each prescription for Schedule controlled substances to the Department's investigator.

c. Respondent shall, within two weeks after issuance, provide one copy of each prescription for Schedule controlled substances to his/her monitoring/supervising physician.

d. Respondent shall maintain one copy of each prescription for Schedule controlled substances in the patient's medical records.

4. 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 \$600.31. Said costs are to be paid within 90 days from the date this Final Order is filed.

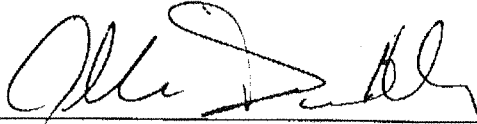
(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

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

DONE AND ORDERED this 24th day of April,

2013.

BOARD OF MEDICINE



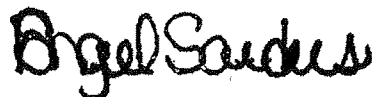
Allison M. Dudley, J.D., Executive Director
For Zachariah P. Zachariah, M.D., Chair

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 MOHAMMED O. SALEH, M.D., P.O. Box 10339, Jacksonville, Florida 32247; and by interoffice delivery to Doug Sunshine, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 24th day of April, 2013.



Deputy Agency Clerk

A-8

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2011-06306

MOHAMMED O. SALEH, M.D.,

RESPONDENT.

_____ /

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through its undersigned counsel, hereby files this Administrative Complaint before the Board of Medicine against Respondent, Mohammed O. Saleh, M.D., and in support thereof alleges:

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

2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 43827.

-26346 _____

3. Respondent's address of record is Post Office Box 10339, Jacksonville, Florida 32247.

4. At all times material to this Complaint, Respondent was certified by the American Board of Psychiatry and Neurology with specialty certifications in Forensic Psychiatry and Addiction Psychiatry.

5. On or about October 17, 2011, the District Attorney of Clark County, State of Nevada, filed an Information charging Respondent with the crime of Conspiracy to Commit Unlawful Dispensing of Controlled Substances, a Gross Misdemeanor. The Information charges that Respondent was unlawfully dispensing controlled substances without a valid controlled substances license issued by the Nevada State Board of Pharmacy.

6. On or about October 25, 2011, Respondent pleaded guilty in the District Court, Clark County, State of Nevada (Case Number C-11-276873-1), to the crime of Conspiracy to Commit Unlawful Dispensing of Controlled Substances, a Gross Misdemeanor.

7. On or about November 21, 2011, Respondent was convicted of the crime of Conspiracy to Commit Unlawful Dispensing of Controlled Substances.

8. Respondent failed to timely update his practitioner profile to disclose his November 21, 2011 criminal conviction.

9. Respondent failed to report to the board or department in writing within 30 days after his November 21, 2011 criminal conviction.

COUNT I

10. Petitioner re-alleges and incorporates by reference Paragraphs One (1) through Seven (7), as if fully set forth herein.

11. Section 456.072(1)(c), Florida Statutes (2011), provides that being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession, constitutes grounds for discipline.

12. On or about November 21, 2011, Respondent was convicted of a crime which relates to the practice of medicine or to the ability to practice medicine.

13. Based on the foregoing, Respondent has violated Section 456.072(1)(c), Florida Statutes (2011).

COUNT II

14. Petitioner re-alleges and incorporates by reference Paragraphs One (1) through Eight (8), as if fully set forth herein.

15. Section 456.072(1)(w), Florida Statutes (2011), provides that failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application, constitutes grounds for discipline by the Florida Board of Medicine.

16. Respondent failed to timely update required information, pertaining to profiling and credentialing, to disclose the November 21, 2011 criminal conviction.

17. Based on the foregoing, Respondent has violated Section 456.072(1)(w), Florida Statutes (2011).

COUNT III

18. Petitioner re-alleges and incorporates by reference Paragraphs One (1) through Nine (9), as if fully set forth herein.

19. Section 456.072(1)(x), Florida Statutes (2011), provides that failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a

crime in any jurisdiction, constitutes grounds for disciplinary action by the Florida Board of Medicine.

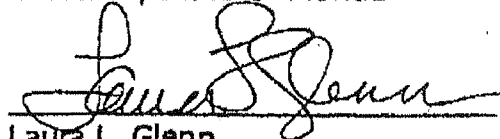
20. Respondent failed to report to the board or department in writing within 30 days after his November 21, 2011, criminal conviction.

21. Based on the foregoing, Respondent has violated Section 456.072(1)(x), Florida Statutes (2011).

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 9th day of November, 2012.

John H. Armstrong, MD, FACS, FCCP
State Surgeon General & Secretary
of Health, State of Florida



Laura L. Glenn
Assistant General Counsel
Fla. Bar No. 0861413
Department of Health
Office of the General Counsel
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
Telephone: (850) 245-4640
Facsimile: (850) 245-4681
Email: Laura_Glenn@doh.state.fl.us

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Angel Sanders
DATE NOV 14 2012

LLG

PCP Date: 11/9/12
PCP Members: Dr. Avila, Dr. Orr, Mr. Levine

DOH VS. SALEH, M.D., CASE NO. 2011-06306

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.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2011-06306

MOHAMED O. SALEH, M.D.,

Respondent.

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

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

1. At its next regularly scheduled meeting, the Board of Medicine will take up for consideration the above-styled disciplinary action and will enter a Final Order.

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

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

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$1,911.21, based on the following itemized statement of costs:

- a. Total costs for Complaints \$184.38
- b. Total costs for Investigations \$415.93
- c. Total costs for Legal \$1,310.90
- d. Total costs for expenses \$0.00

4. The attached affidavit reflects the Department's costs for attorney time in this case as \$1,310.90 (Exhibit A). The cost of obtaining an affidavit from an outside attorney will be greater than \$1,310.90. Therefore, the Department is not seeking costs for attorney time in this case.

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

6. Petitioner requests that the Board grant this motion and assess costs in the amount of \$600.31 as supported by competent, substantial evidence. This assessment of costs is in addition to any other discipline imposed by the Board and is in accordance with Section 456.072(4), Florida Statutes (2012).

WHEREFORE, the Department of Health requests that the Board of Medicine enter a Final Order assessing costs against Respondent in the amount of \$600.31.

[Signatures appear on the following page.]

DATED this 28th day of January, 2013.

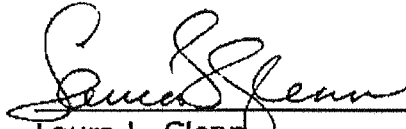
Respectfully submitted,



Laura L. Glenn
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar # 00861413
(850) 245-4640 Phone
(850) 245-4681 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Assess Costs has been provided to Mohamed O. Saleh, M.D., at Post Office Box 10339, Jacksonville, Florida 32247, via Certified Mail this 28th day of January, 2013.



Laura L. Glenn
Assistant General Counsel

AFFIDAVIT OF FEES AND COSTS EXPENDED

STATE OF FLORIDA
COUNTY OF LEON:

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

- 1) My name is Shane Walters.
- 2) I am over the age of 18, competent to testify, and make this affidavit upon my own personal knowledge and after review of the records at the Florida Department of Health (DOH).
- 3) I am the Operations and Management Consultant Manager (OMCM) for the Consumer Services and Compliance Management Unit for DOH. The Consumer Services Unit is where all complaints against Florida health care licensees (e.g., medical doctors, dentists, nurses, respiratory therapists) are officially filed. I have been in my current job position for more than one year. My business address is 4052 Bald Cypress Way, Bin C-75 Tallahassee, Florida 32399-3275.
- 4) As OMCM of the Consumer Services and Compliance Management Unit, my job duties include reviewing data in the Time Tracking System and verifying that the amounts correspond. The Time Tracking System is a computer program which records and tracks DOH's costs regarding the investigation and prosecution of cases against Florida health care licensees.
- 5) As of today, DOH's total costs for investigating and prosecuting DOH case number(s) 2011-06306 (Department of Health v. Mohamed O. Saleh, M.D.) are **ONE THOUSAND NINE HUNDRED ELEVEN DOLLARS AND TWENTY-ONE CENTS (\$1,911.21)**.
- 6) The costs for DOH case numbers 2011-06306 (Department of Health v. Mohamed O. Saleh, M.D.) are summarized in Exhibit 1 (Cost Summary Report), which is attached to this document.
- 7) The itemized costs and expenses for DOH case numbers 2011-06306 (Department of Health v. Mohamed O. Saleh, M.D.) are detailed in Exhibit 2 (Itemized Cost Report and Itemized Expense Report and receipts), which is attached to this document.
- 8) The itemized costs as reflected in Exhibit 2 are determined by the following method: DOH employees who work on cases daily are to keep track of their time in six-minute increments (e.g., investigators



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

- 9) Shane Walters, first being duly sworn, states that she has read the foregoing Affidavit and its attachments and the statements contained therein are true and correct to the best of her knowledge and belief.

FURTHER AFFIANT SAYETH NOT.

Shane Walters
Shane Walters, Affiant

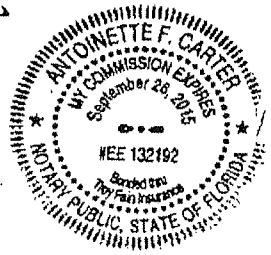
State of Florida
County of Leon

Sworn to and subscribed before me this 16 day of January, 2013,
by Shane Walters, who is personally known to me.

[Signature]
Notary Signature

Name of Notary Printed

Stamp Commissioned Name of Notary Public:



Complaint Cost Summary

Complaint Number: 201106306

Subject's Name: SALEH, MOHAMED O

***** Cost to Date *****		
	Hours	Costs
Complaint:	3.20	\$184.38
Investigation:	6.70	\$415.93
Legal:	12.50	\$1,310.90
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	22.40	\$1,911.21
Expenses to Date:		\$0.00
Prior Amount:		\$0.00
Total Costs to Date:		\$1,911.21