

STATE OF FLORIDA  
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2010-18780  
LICENSE NO.: ME0008859

RANDALL B. WHITNEY, 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 August 2, 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 Yolanda Green, Assistant General Counsel. Respondent was present and represented by William Furlow, Esquire. 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 \$7,500.00 to the Board within 30 days from the date the Final Order is filed. Said fine shall be paid by money order or cashier's check.

2. Respondent shall document the completion of 3 hours of continuing medical education (CME) in the area of medical ethics within one year from the date the Final Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course(s). 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.

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

4. Within 90 days from the date of entry of the Final Order, Respondent shall submit to an evaluation by the

Professionals Resource Network (PRN) and present the evaluation to the Probation Committee. The Board reserves jurisdiction in this matter to impose conditions and/or restrictions on Respondent's practice, including but not limited to a period of probation, based upon the evaluation and recommendations of PRN.

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

RULING ON MOTION TO ASSESS COSTS

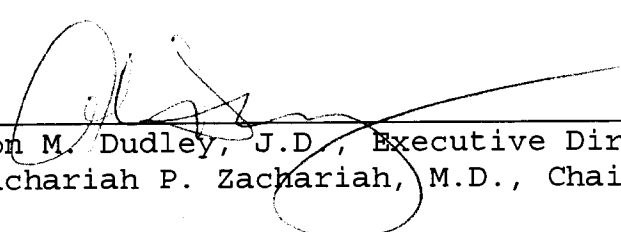
The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$8,041.31. Said costs are to be paid within 30 days from the date this Final Order is filed.

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

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

DONE AND ORDERED this 12th day of August, 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 RANDALL B. WHITNEY, M.D., P.O. Box 290489, Port Orange, Florida 32129; and 820 Indigo Court, Port Orange, Florida 32129; by email to William Furlow, Esquire, Grossman, Furlow & Bayo, LLC, at [w.furlow@gfblawfirm.com](mailto:w.furlow@gfblawfirm.com) and [l.barber@gfblawfirm.com](mailto:l.barber@gfblawfirm.com); and by email to the Professionals Resource Network (PRN) at [admin@flprn.org](mailto:admin@flprn.org); and by interoffice delivery to Doug Sunshine, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, Florida 32399-3253 this 13<sup>th</sup> day of August, 2013.



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**Deputy Agency Clerk**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2010-18780**

**RANDALL B. WHITNEY, M.D.,**

**Respondent.**

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

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

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

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

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

3. As evidenced in the attached affidavit (Exhibit A), the investigation and prosecution of this case has resulted in costs in the total amount of \$8,562.43, based on the following itemized statement of costs:

- a. Total costs for Complaints \$262.48
- b. Total costs for Investigations \$4,322.57
- c. Total costs for Legal \$3,343.84
- d. Total costs for expenses \$633.54

4. The attached outside attorney affidavit (Exhibit B) indicates a review of the file and a finding that the Department's attorney time in this case is reasonable and justifiable in the amount of \$2,822.72.

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

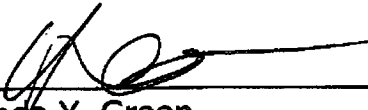
6. Should Respondent file written objections to the assessment of costs, within ten (10) days of the date of this motion, specifying the grounds for the objections and the specific elements of the costs to which objections are made, Petitioner requests that the Board determine the amount of costs to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

7. Petitioner requests that the Board grant this motion and assess costs in the amount of \$8,041.31 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 \$8,041.31.


*[signatures appear on the following page]*

Respectfully submitted,

  
\_\_\_\_\_  
Yolonda Y. Green  
Assistant General Counsel  
DOH Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, FL 32399-3265  
Florida Bar # 738115  
(850) 245-4444 x.8128 Telephone  
(850) 245-4684 FAX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via certified U.S. Mail to William Furlow, Esquire, at Grossman, Furlow & Bayo', LLC, 2022-2 Raymond Diehl Road, Tallahassee, Florida 32308, on this 17<sup>th</sup> day of June, 2013.

  
\_\_\_\_\_  
Yolonda Y. Green  
Assistant General Counsel

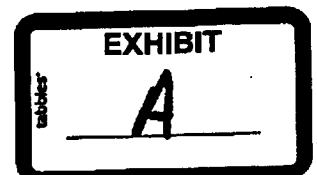


**AFFIDAVIT OF FEES AND COSTS EXPENDED**

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 **2010-18780** (Department of Health v. **Randall B. Whitney, M.D.**) are **EIGHT THOUSAND FIVE HUNDRED SIXTY-TWO DOLLARS AND FORTY-THREE CENTS (\$8,562.43)**
- 6) The costs for DOH case number **2010-18780** (Department of Health v. **Randall B. Whitney, 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 number **2010-18780** (Department of Health v. **Randall B. Whitney, 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 10 day of June, 2013,  
by Shane Walters, who is personally known to me.

[Signature]  
Notary Signature

Antoinette Carter  
Name of Notary Printed

Stamp Commissioned Name of Notary Public:



## Complaint Cost Summary

Complaint Number: 201018780

Subject's Name: WHITNEY, RANDALL B

	***** Cost to Date *****	
	Hours	Costs
<b>Complaint:</b>	4.30	\$262.48
<b>Investigation:</b>	66.30	\$4,322.57
<b>Legal:</b>	31.70	\$3,343.84
<b>Compliance:</b>	0.00	\$0.00
	*****	*****
<b>Sub Total:</b>	102.30	\$7,928.89
<b>Expenses to Date:</b>		\$633.54
<b>Prior Amount:</b>		\$0.00
<b>Total Costs to Date:</b>		\$8,562.43

**Time Tracking System  
Itemized Cost by Complaint**

Complaint 201018780

Report Date 06/07/2013

Staff Code Activity Hours Staff Rate Cost Activity Date Activity Code Activity Description

**CONSUMER SERVICES UNIT**

HA110	0.90	\$61.04	\$54.94	10/05/2010	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HA110	0.40	\$61.04	\$24.42	10/28/2010	25	REVIEW CASE FILE
HA110	0.40	\$61.04	\$24.42	10/28/2010	25	REVIEW CASE FILE
HA110	0.30	\$61.04	\$18.31	12/28/2010	25	REVIEW CASE FILE
HA110	1.50	\$61.04	\$91.56	01/21/2011	25	REVIEW CASE FILE
HA110	0.80	\$61.04	\$48.83	03/07/2011	25	REVIEW CASE FILE
HA110	0.80	\$61.04	\$48.83	04/26/2011	4	ROUTINE INVESTIGATIVE WORK

Sub Total 5.10 \$311.31

**INVESTIGATIVE SERVICES UNIT**

O1100	0.50	\$67.81	\$33.91	04/28/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	04/28/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	4.00	\$67.81	\$271.24	05/11/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	05/13/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.70	\$67.81	\$47.47	05/17/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	05/17/2011	76	REPORT PREPARATION
O1100	0.60	\$67.81	\$40.69	05/19/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	06/06/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	06/16/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	06/21/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.70	\$67.81	\$47.47	07/14/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	07/14/2011	76	REPORT PREPARATION
O1100	0.30	\$67.81	\$20.34	07/15/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	07/18/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	07/19/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.70	\$67.81	\$47.47	08/01/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$67.81	\$13.56	08/02/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$67.81	\$67.81	08/15/2011	4	ROUTINE INVESTIGATIVE WORK

**Time Tracking System  
Itemized Cost by Complaint**

Complaint 201018780

Report Date 06/07/2013

**23487**

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O1100	0.40	\$67.81	\$27.12	08/16/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.60	\$67.81	\$40.69	08/19/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$67.81	\$67.81	08/24/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$67.81	\$67.81	08/25/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	08/25/2011	58	TRAVEL TIME
O1100	0.30	\$67.81	\$20.34	08/25/2011	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O1100	0.30	\$67.81	\$20.34	08/25/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	08/30/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.30	\$67.81	\$20.34	08/31/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	09/07/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.30	\$67.81	\$20.34	09/07/2011	58	TRAVEL TIME
O1100	0.30	\$67.81	\$20.34	09/14/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.60	\$67.81	\$40.69	09/19/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$67.81	\$13.56	09/20/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.60	\$67.81	\$40.69	09/23/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$67.81	\$67.81	09/26/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$67.81	\$33.91	09/26/2011	58	TRAVEL TIME
O1100	0.30	\$67.81	\$20.34	09/26/2011	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O1100	0.20	\$67.81	\$13.56	09/27/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.50	\$67.81	\$101.72	09/27/2011	76	REPORT PREPARATION
O1111	0.40	\$67.81	\$27.12	10/04/2011	4	ROUTINE INVESTIGATIVE WORK
O1111	0.30	\$67.81	\$20.34	10/04/2011	58	TRAVEL TIME
O1100	2.20	\$67.81	\$149.18	10/04/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$67.81	\$54.25	10/04/2011	76	REPORT PREPARATION
O1100	2.00	\$67.81	\$135.62	10/20/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$67.81	\$67.81	10/20/2011	76	REPORT PREPARATION
O1100	0.80	\$67.81	\$54.25	10/21/2011	58	TRAVEL TIME
O1100	1.00	\$67.81	\$67.81	10/21/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.50	\$67.81	\$101.72	10/24/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$67.81	\$13.56	10/24/2011	15	PROFESSIONAL CONTACTS
O1100	0.50	\$67.81	\$33.91	10/24/2011	76	REPORT PREPARATION
O1100	2.00	\$61.19	\$122.38	11/02/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$61.19	\$12.24	11/02/2011	76	REPORT PREPARATION

**Time Tracking System  
Itemized Cost by Complaint**

Complaint 201018780

Report Date 06/07/2013

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O1100	0.30	\$61.19	\$18.36	11/10/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$61.19	\$61.19	11/14/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.30	\$61.19	\$18.36	11/17/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$61.19	\$12.24	11/21/2011	76	REPORT PREPARATION
O1100	0.80	\$61.19	\$48.95	12/06/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	2.50	\$61.19	\$152.98	12/06/2011	58	TRAVEL TIME
O1100	1.50	\$61.19	\$91.79	12/06/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.30	\$61.19	\$18.36	12/19/2011	4	ROUTINE INVESTIGATIVE WORK
O1100	0.40	\$61.19	\$24.48	01/05/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	0.30	\$61.19	\$18.36	02/14/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	1.00	\$61.19	\$61.19	03/07/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	1.50	\$61.19	\$91.79	04/13/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	2.50	\$61.19	\$152.98	04/13/2012	76	REPORT PREPARATION
O1100	1.00	\$61.19	\$61.19	04/13/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	0.50	\$61.19	\$30.60	04/16/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$61.19	\$12.24	04/16/2012	76	REPORT PREPARATION
O1100	0.80	\$61.19	\$48.95	09/20/2012	6	SUPPLEMENTAL INVESTIGATION
O1100	0.80	\$61.19	\$48.95	09/21/2012	6	SUPPLEMENTAL INVESTIGATION
O1100	0.60	\$61.19	\$36.71	09/24/2012	6	SUPPLEMENTAL INVESTIGATION
O1105	0.10	\$61.19	\$6.12	09/24/2012	4	ROUTINE INVESTIGATIVE WORK
O1100	0.40	\$61.19	\$24.48	10/02/2012	6	SUPPLEMENTAL INVESTIGATION
O1100	0.30	\$61.19	\$18.36	10/03/2012	6	SUPPLEMENTAL INVESTIGATION
O1100	0.20	\$61.19	\$12.24	11/15/2012	6	SUPPLEMENTAL INVESTIGATION
O1100	0.40	\$61.19	\$24.48	11/15/2012	76	REPORT PREPARATION
O1100	0.30	\$63.98	\$19.19	01/09/2013	4	ROUTINE INVESTIGATIVE WORK
O1100	0.20	\$63.98	\$12.80	01/10/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.60	\$63.98	\$38.39	01/11/2013	58	TRAVEL TIME
O1100	0.40	\$63.98	\$25.59	01/11/2013	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O1100	0.30	\$63.98	\$19.19	01/11/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.70	\$63.98	\$44.79	01/11/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.80	\$63.98	\$51.18	01/14/2013	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O1100	0.30	\$63.98	\$19.19	01/14/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.60	\$63.98	\$38.39	01/14/2013	58	TRAVEL TIME

**Time Tracking System  
Itemized Cost by Complaint**

Complaint 201018780

Report Date 06/07/2013

Page 4 of 6

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
O1100	0.60	\$63.98	\$38.39	01/15/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.60	\$63.98	\$38.39	01/15/2013	58	TRAVEL TIME
O1100	0.80	\$63.98	\$51.18	01/15/2013	6	SUPPLEMENTAL INVESTIGATION
O1100	0.70	\$63.98	\$44.79	01/15/2013	76	REPORT PREPARATION
O1100	0.50	\$63.98	\$31.99	01/16/2013	4	ROUTINE INVESTIGATIVE WORK
O1100	0.80	\$63.98	\$51.18	01/16/2013	100	SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE
O1100	0.30	\$63.98	\$19.19	01/17/2013	4	ROUTINE INVESTIGATIVE WORK
O1100	0.60	\$63.98	\$38.39	01/17/2013	76	REPORT PREPARATION
<b>Sub Total</b>	<b>65.50</b>		<b>\$4,273.74</b>			

**PROSECUTION SERVICES UNIT**

HLL23B	0.10	\$111.56	\$11.16	07/28/2011	37	REVIEW LETTER
HLL23B	0.60	\$111.56	\$66.94	07/28/2011	115	CONTACT WITH INVESTIGATORS
HLL23B	0.20	\$111.56	\$22.31	09/26/2011	35	TELEPHONE CALLS
HLL23B	0.10	\$111.56	\$11.16	10/03/2011	36	PREPARATION OR REVISION OF LETTER
HLL23B	0.10	\$111.56	\$11.16	10/18/2011	115	CONTACT WITH INVESTIGATORS
HLL23B	0.20	\$111.56	\$22.31	10/18/2011	46	LEGAL RESEARCH
HLL23B	0.10	\$102.41	\$10.24	11/01/2011	115	CONTACT WITH INVESTIGATORS
HLL23B	0.30	\$102.41	\$30.72	11/02/2011	35	TELEPHONE CALLS
HLL23B	0.10	\$102.41	\$10.24	11/14/2011	115	CONTACT WITH INVESTIGATORS
HL58B	0.30	\$102.41	\$30.72	12/21/2011	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.
HLL23B	0.30	\$102.41	\$30.72	12/21/2011	70	CONFERENCES WITH LAWYERS
HLL23B	0.30	\$102.41	\$30.72	12/21/2011	46	LEGAL RESEARCH
HLL23B	0.20	\$102.41	\$20.48	01/06/2012	70	CONFERENCES WITH LAWYERS
HLL23B	1.00	\$102.41	\$102.41	01/06/2012	45	PREHEARING MOTION/CONFERENCE CALL
HL94A	0.50	\$102.41	\$51.21	04/17/2012	25	REVIEW CASE FILE
HLL86B	3.50	\$102.41	\$358.44	04/25/2012	78	INITIAL REVIEW AND ANALYSIS OF COMPLAINT
HLL23B	0.40	\$102.41	\$40.96	05/23/2012	25	REVIEW CASE FILE
HLL23B	0.30	\$102.41	\$30.72	06/25/2012	37	REVIEW LETTER
HLL23B	0.50	\$102.41	\$51.21	06/28/2012	46	LEGAL RESEARCH
HLL23B	0.50	\$102.41	\$51.21	07/10/2012	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT

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

Complaint 201018780

Report Date 06/07/2013

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
HLL23B	0.80	\$106.35	\$85.08	08/15/2012	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.
HLL23B	1.10	\$106.35	\$116.99	08/15/2012	43	PREPARE FOR DEPOSITION
HLL23B	0.10	\$102.41	\$10.24	09/11/2012	35	TELEPHONE CALLS
HLL23B	0.30	\$102.41	\$30.72	09/12/2012	25	REVIEW CASE FILE
HLL23B	0.30	\$106.35	\$31.91	11/13/2012	47	TRIAL PREPARATION
HLL23B	0.20	\$106.35	\$21.27	11/14/2012	41	REVIEW PLEADING
HLL23B	0.20	\$106.35	\$21.27	11/14/2012	45	PREHEARING MOTION/CONFERENCE CALL
HLL23B	0.50	\$106.35	\$53.18	11/14/2012	39	PREPARE/RESPOND TO DISCOVERY
HLL23B	1.00	\$106.35	\$106.35	11/14/2012	43	PREPARE FOR DEPOSITION
HLL23B	0.50	\$106.35	\$53.18	11/15/2012	35	TELEPHONE CALLS
HLL23B	0.40	\$106.35	\$42.54	11/16/2012	35	TELEPHONE CALLS
HLL23B	4.00	\$106.35	\$425.40	11/16/2012	58	TRAVEL TIME
HLL23B	0.90	\$106.35	\$95.72	11/19/2012	58	TRAVEL TIME
HLL23B	1.70	\$106.35	\$180.80	11/19/2012	44	DEPOSITIONS
HLL23B	4.00	\$106.35	\$425.40	11/19/2012	58	TRAVEL TIME
HLL23B	0.20	\$106.35	\$21.27	12/18/2012	41	REVIEW PLEADING
HLL23B	1.80	\$106.35	\$191.43	01/07/2013	47	TRIAL PREPARATION
HLL23B	0.20	\$106.35	\$21.27	01/09/2013	37	REVIEW LETTER
HLL23B	0.50	\$106.35	\$53.18	01/14/2013	35	TELEPHONE CALLS
HLL23B	0.30	\$106.35	\$31.91	01/15/2013	115	CONTACT WITH INVESTIGATORS
HLL23B	0.10	\$106.35	\$10.64	01/15/2013	35	TELEPHONE CALLS
HLL23B	1.20	\$106.35	\$127.62	01/16/2013	44	DEPOSITIONS
HLL23B	0.60	\$106.35	\$63.81	01/16/2013	40	PREPARATION OF OR REVISION OF A PLEADING
HLL23B	1.00	\$106.35	\$106.35	01/16/2013	47	TRIAL PREPARATION
HLL23B	0.20	\$106.35	\$21.27	02/04/2013	79	STIPULATION
<b>Sub Total</b>	<b>31.70</b>		<b>\$3,343.84</b>			

**Total Cost** \$7,928.89



Division of  
Medical Quality Assurance



Report Date 06/07/2013

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

Complaint 201018780

Page 6 of 6

Staff Code	Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
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23491

**\*\*\* CONFIDENTIAL \*\*\***  
**Time Tracking System**  
**Itemized Expense by Complaint**  
Complaint 201018780

Report Date: 06/07/2013

Page 1 of 1

Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
<b>PROSECUTION SERVICES UNIT</b>				
HLL23B	12/07/2012	\$377.83	131400	COURT REPORTING
HLL23B	11/19/2012	\$255.71	261010	TRAVEL - EMLOYEEE - IN FLA
	<b>SubTotal</b>	<b>\$633.54</b>		
	<b>Total Expenses</b>	<b>\$633.54</b>		

**23492**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Angel Sanders  
DATE OCT 10 2012

**DEPARTMENT OF HEALTH,**

**PETITIONER,**

**v.**

**CASE NUMBER: 2010-18780**

**RANDALL B. WHITNEY, M.D.,**

**RESPONDENT.**

**AMENDED ADMINISTRATIVE COMPLAINT**

Petitioner, Department of Health, by and through its undersigned counsel, files this Amended Administrative Complaint before the Board of Medicine against Respondent, Randall B. Whitney, M.D. thereof alleges:

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

2. At all times material to this Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 8859.

3. Respondent's address of record is 820 Indigo Court, Port Orange, Florida 32129.

4. On or about March 27, 2011, Respondent was arrested for intentionally striking Patient A.R. during or following an attempt to prepare the patient for a procedure.

5. On or about February 7, 2011, Respondent plead nolo contendere to one count of the crime of misdemeanor battery, a violation of Section 784.03(1)(b), Florida Statutes (2010), in the Circuit Court for Orange County, Florida in case number 2010 CF4271000 A0X.

6. Respondent was sentenced to time served of one (1) day, a fine, court costs and fees.

7. Respondent's plea of nolo contendere to misdemeanor battery relates to his practice of medicine or to his ability to practice medicine in that he engaged in the conduct of committing battery upon the patient due to the patient's response to attempts to place an Intravenous line. Respondent was acting in his capacity as a physician and was at the clinic where he performed procedures. Further, the patient was being prepared for a procedure to be performed by Respondent. Without a license to practice medicine, Respondent would not have been in a position to have such intimate contact with the patient.

8. The crime of battery to which Respondent pled nolo contendere requires an actual and intentional touch against the will of the other. A physician licensed in the State of Florida is one of a small number of licensed professionals allowed to intimately examine patients. The Legislature has vested a trust and confidence in these licensed professionals by permitting them to do so. Engaging in conduct wherein that trust and confidence is violated presents a danger to the public health, safety, or welfare, and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

9. Respondent has demonstrated, through his plea as set forth above, a flagrant disregard for the duties and responsibilities imposed upon a physician practicing in the State of Florida and for the health and welfare of his patients and for the citizens of this state. Respondent's actions of actually and intentionally touching another against her will, constitutes a breach of the trust and confidence that the public deservedly expects and that the Legislature placed in him by issuing him a license to practice medicine. It directly relates to the ability to practice medicine.

10. Section 456.072(1)(c), Florida Statutes (2010), provides that being convicted or found guilty of, or entering a plea of nolo contendere to,

regardless of adjudication, a crime in any jurisdiction which relates to the practice of medicine or to the ability to practice medicine subjects a licensee to discipline by the Board of Medicine.

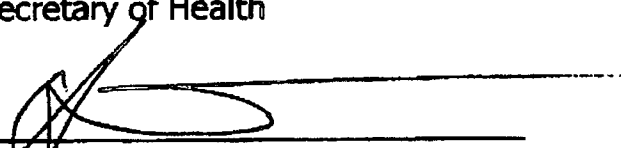
11. On or about February 7, 2011, Respondent plead nolo contendere to misdemeanor battery in the Circuit Court for Orange County, Florida in case number 2010 CF4271000 A0X, a crime related to the practice of medicine or to the ability to practice medicine.

12. Respondent violated Section 456.072(1)(c), Florida Statutes (2010), by pleading nolo contendere to misdemeanor battery a crime related to the practice of medicine or his ability to practice 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 9<sup>th</sup> day of October 2012.

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



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PCP Date: August 17, 2012  
PCP Members: Dr. Lage, Dr. Avila, Mr. Mullins

**DOH v. Randall B. Whitney, M.D., Case No. 2010-18780**