Final Order No. DOH-08-1385-FOF -MQA

FILED DATE - 4 23 08

STATE OF FLORIDA BOARD OF MEDICINE

Denuty Agency Clerk

DEPARTMENT OF HEALTH,

2008 JUN 24 A 11: 50

Petitioner,

DIVISION OF ADMINISTRATIVE HEARINGS

vs.

DOH CASE NO.: 2003-28432 DOAH CASE NO.: 07-0096PL LICENSE NO.: ME0014791

JOSE SUAREZ-DIAZ, 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
June 6, 2008, in Orlando, Florida, for the purpose of
considering the Administrative Law Judge's Recommended Order(a
copy of which is attached hereto as Exhibit A) in the abovestyled cause. Petitioner was represented by Irving Levine,
Assistant General Counsel. Respondent was not present but was
represented by Sean Ellsworth, Esquire.

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.

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.

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:

- 1. Count I of the Administrative Complaint is hereby dismissed.
- 2. Respondent shall pay an administrative fine in the amount of \$2,500.00 to the Board within 30 days from the date this Final Order is filed.
- 3. Respondent shall document the completion of ten (10) hours of continuing medical education (CME) in the area of medical recordkeeping within one (1) year from the date this Final Order is filed. Respondent is required to take the FMA medical records course as part of the CME required by this

paragraph. In addition, Respondent shall be required to take additional CME in recordkeeping for a total of 10 hours. 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.

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 associated with this case in the amount of \$20,448.06.

Respondent disputed the factual assertions in the Petitioner's Motion to Assess Costs and requested an administrative hearing with regard to the matter of costs. The Board permitted the Respondent 10 days to amend his request for an administrative hearing to set forth the facts in dispute with regard to the costs in this matter. Respondent shall amend his request within 10 days from the date of entry of this Final Order.

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.)

BOARD OF MEDICINE

Larry McPherson, Jr., Executive Director For Robert Cline, 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 JOSE SUAREZ-DIAZ, M.D., 8340 SW 62nd Avenue, Miami, Florida 33143; to Sean Ellsworth, Esquire, 404 Washington Avenue, Suite 750, Miami Beach, Florida 33139; to Larry J. Sartin, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by interoffice delivery to Ephraim Livingston, Department of

Health, 4052 Bald Cypress Way,	Bin #C-65, Tallahassee, Florida
32399-3253 this 23 day of	Treal, 2008.
	Cleres The
	Deputy Agency Clerk
	Behnth Affench Clerk

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: CLEUK

DATE 4:17:08

STATE OF FLORIDA DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

V.

DOH CASE NO. 2003-28432 DOAH CASE NO. 07-0096PL

JOSE SUAREZ-DIAZ, M.D.

Respondent.

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

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

 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), 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 no 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 \$20,448.06, based on the following itemized statement of costs:
 - a. Total soft costs for Complaints \$62.49
 - b. Total soft costs for Investigations \$2,836.68
 - c. Total soft costs for Legal \$10,687.81
 - d. Total expenses \$6,861.08

Therefore, Petitioner seeks an assessment of costs against Respondent in the amount of \$20,448.06, as evidenced in the attached affidavit. (Exhibit A).

4. 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 the

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.

5. Petitioner requests that the Board grant this motion and assess costs in the amount of \$20,448.06 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 Respondent in the amount of \$20,448.06.

DATED this ______ day of April, 2008.

Respectfully Submitted,

Irvine Levine

Assistant General Counsel

Florida Bar No. 0489654

Department of Health

Prosecution Services Unit

4052 Bald Cypress Way, Bin C-65

Tallahassee, FL 32399-3265

(850) 245-4640 office

(850) 245-4681 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true a	and correct copy of the foregoing has
been furnished via:	J.S. Mail, 🗆 Hand-Delivery, 🗆 E-mail
and/or ☐ Facsimile Transmission to S	Sean Ellsworth, Esq. at Ellsworth Law
Firm, P.A., 404 Washington Avenue, S	uite 750, Miami Beach, Florida 33139,
this $15^{\frac{2}{4}}$ day of April, 2008.	
	Irving Levine Assistant General Counsel

Time Tracking System Itemized Expense by Complaint

Complaint 200328432

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OFFICIAL REPORTING SERVICE, INC.

524 South Andrews Avenue, Suite 302N Ft. Lauderdale, Florida 33301-2845 954-467-8204 Fax 954-467-8214 Tax ID 90-0180829

IRVING LEVINE, ESQUIRE AGC DOH - DEPARTMENT OF HEALTH 4052 Bald Cypress Way BIN #C01 Tallahassee, Fl 32399-3251

May 31, 2007

Invoice# 40030409

\$127.51 Balance:

Re: DEPT OF HEALTH VS DIAZ

051101

on 03/19/07 by DALE FLOYD

Billed: 03/20/07

<-- 71 Days Old!

Invoicing Information

Charge Description HEARING BEFORE JUDGE SARTIN ATTENDANCE OF REPORTER: 9:00 NO NOTES TAKEN

Amount

125.00

6041ET 64-22-05-01-05

44:00

1.00% per month on unpaid balance was more

2.51

Total Due: \$127.51 Please Remit --->

BALANCE PAST DUE 30 DAYS SHALL BEAR INTEREST. CLIENT AGREES TO PAY ALL COSTS OF COLLECTION.

This invoice is 71 days past due, Please Remit - Thank You!



BERRYHILL & ASSOCIATES, INC. General Court Reporting Services 501 E. Kennedy Blvd. Suite 1225 Tampa, Florida 33602-5239 (813) 229-8225 Fax: (813) 229-8722

DEPARTMENT OF HEALTH 4052 BALD CYPRESS WAY BIN C-65 TALLAHASSEE, FL 32399-3265 INVOICE NO.:

153241

INVOICE DATE:

11/29/2007

REPORTER:

MARY E. BLAZER

HUIDA IRVING LEVINE, ESQ.

DEPT. OF HEALTH V. SUAREZ-DIAZM 2003-28432

ID# 59-3280942

07-0096PI	_ (CONTRACT #05-1302)	
Date	A Description	Amount
/14/2007	DEPO: DR. CHRISTIE (45 PGS)	
	ORIG & 1 CC TRANS., REG. \$3,95 PER	177.75
/29/2007	FMAILED TO OUTSIT	
-	EMAILED TO CLIENT - POSTAGE/ HANDLING/DELIVERY FEE	
	INV. PREPARED BY: DEBBIE BAKER	
	INV. PREPAREU BY, DEBBIE BAKER	
	Sub Tota	177.75
	Paid	0.00
PRACTITIONER REGULATION Legal 2007 DEC - 3 AM 9: 30	Balance Due	177.75
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REGU AM	+5U	
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	DATE GOODS OR SVCS. REC'D 18/8/07	
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13/24/21

PAYMENT DUE UPON RECEIPT. PAYMENT IS NOT CONTINGENT ON CLIENT REIMBURSEMENT. ACCOUNTS OVER 30 DAYS PAST DUE MAY BE SUBJECT TO A MONTHLY LATE FEE. ALL DISPUTES MUST BE MADE IN WRITING WITHIN 30 DAYS OF THE DATE OF INVOICE.



BERRYHILL & ASSOCIATES, INC. General Court Reporting Services 501 E. Kennedy Blvd. Suite 1225 Tampa, Florida 33602-5239 (813) 229-8225 Fax: (813) 229-8722

DEPARTMENT OF HEALTH 4052 BALD CYPRESS WAY **BIN C-65** TALLAHASSEE, FL 32399-3265

IRVING LEVINE, ESQ.

DEPT. OF HEALTH V. SUAREZ-DIAZM 2003-28432

07-0096PL (CONTRACT #05-1302)

INVOICE NO. :

153243

INVOICE DATE:

11/29/2007

REPORTER:

MARY E. BLAZER

ID# 59-3280942

Description 11/14/2007 DEPO: DR. CHRISTIE (3:00-4:08) FIRST HR OR PORTION THEREOF \$55.00 ADDT'L HR TO NEAREST QRT 55.00 INV. PREPARED BY: DEBBIE BAKER 13.75 Sub Total 68.75 Paid 0.00 Balance Due 68.75

DATE HAVING HOOSIVED /2/3/07 DATE GOODS OR SVOS. REO'D. 14/14/07

DATE GOODS OR SVCS APPROVED 12/7

PAYMENT ADPROVED STORMAN AND SESSION S NOTICE AS TO PAYMENT Dual Person

131400

- NETATION CONS 104-22 -05-01-015

EO: PA OCA: MOAPS

Signature: Address# _____ Zip: __ Mastercard ____ Visa ___ American Express __ Exp. Date: Credit Card Number

PAYMENT DUE UPON RECEIPT. PAYMENT IS NOT CONTINGENT ON CLIENT REIMBURSEMENT. ACCOUNTS OVER 30 DAYS PAST DUE MAY BE SUBJECT TO A MONTHLY LATE FEE, ALL DISPUTES MUST BE MADE IN

Official Reporting Services, LLC

524 South Andrews Avenue, Suite 302N Ft. Lauderdale, Florida 33301-2845 954-467-8204 Fax 954-467-8214 Tax ID 20-5849842

IRVING LEVINE, ESQUIRE AGC DEPT OF HEALTH

4052 Bald Cypress Way BIN #C01 Tallahassee, Fl 32399-3251

February 4, 2008

Invoice# 30100281

\$256.66 Balance:

Re: DOH VS JOSE SUAREZ-DIAZ, MD 07-0056PT 053300

on 01/14/08 by DALE FLOYD

Invoicing Information

Charge Description	Amount
EARING BEFORE JUDGE SARTIN 57 PGS @ 2.95 O+1	168.15
ENT ORIGINAL TO DAOH ON 2/4/08	18.26
SENT COPY TO ATTY ON 2/4/08	20.25
Attendance fee 9:30-10:15	50.00

<u>ال 29</u> 2/5708 JOHNA BROWN

- > Total Due: \$256.66 Remit

EALANCE FAST DUE 30 DAYS SHALL EEAR INTEREST. CLIENT AGREES TO PAY ALL COSTS OF COLLECTION.

DEPARTMENT OF HEALTH PROSECUTION SERVICES UNIT 4052 Bald Cypress Way, BIN # C-65 - Tallhassee, Florida 32399-3265

Work Authorization:

EXPERT WITNESS WORK AUTHORIZATION AND INVOICE

Expert Last Name		perform expert services First Name	2. SSN/FEID:		Expiration Dat	
I. MAXIMUM AUTI		\$675.00	5. Type of Servi		Case Review	
. Case Number:	2003-2843	7. Subject L	 ast Name: √ Suarez	-Diaz	8. Board:	ME ME
. Requestor's Full N	ame:	Sheila Autre	y	10. Requestor Pho	ne Number:	850-414-8126
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20. Expert's Signat	ure: <u>Ldll</u>	lly fram	21	.Date Signed:	7.29.04	
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22. Requestor's Sig	mature:	ela tutre	y 23	I. Date Signed:	8-2-04	
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Organizational Code	64220600-	015 CMS App	roval Dorna	a S Brow	Date:	16/04
	Address	Abbason & Associates 127 W. Fairbanks Ave Winter Park, FL. 3278	#452			
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P00064/E0103/4000

DEPARTMENT OF HEALTH

PROSECUTION SERVICES UNIT

4052 Bald Cypress Way, BIN # C-65 - Tallhassec, Florida 32399-

	EXPERT WI	NESS WORK AU	THORIZATION AN	DINVOIC			
		SECTION ONE - V	VORK AUTHORIZ	ATION		•	:
The expert named belo	ow is authorized to pe	form expert services in	this case, per terms of the	DOH Expert Witness	Agreement.		
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. Requestor's Full Nam	e: Lakisha Ni	× _		10. Requestor Phot	ne Number:	850-414-8126	•
11. Issuing Authority:		Jan Jan	signature		Date Signed:	1/12/2005	
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		St. Petersburg, FL 337					!
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PROCESS IN 5 WORKING DAYS AND RETURN TO FINANCE AND ACCOUNTING



DEPARTMENT OF HEALTH

Work Authorization:

~07-7957

PROSECUTION SERVICES UNIT 4052 Bald Cypress Way, BIN # C-65 - Tallhassee, Florida 32399-3265

EXPERT WITNESS WORK AUTHORIZATION AND INVOICE

The expert named bel	ow is authorized to perform		RK AUTHORIA		s Agreement.	
1.Expert Last Name		st Name Joan	2. SSN/FEID:		. Expiration Da	te:
4. MAXIMUM AUTHO	RIZED FUNDS:	\$1,625.00	5. Type of Servic	æ:	FH Prep./Testimo	my
6. Case Number:	2003-28432	7. Subject Last	Name: Snarez	Diaz	8. Board:	ME
9. Requestor's Full Num	E:	Irene Lake/Leving		10. Requestor Pho	one Number:	850-245-4640
11. Issuing Authority:	Irene Lake	(km	Signature	<u> </u>	Date Signed:	3/5/2007
	SECTION TWO	- EXPERT'S INVO	ICE FOR SERV	TCES AND EXPE	NSE	. 57
DO NO Enter se Hourly to Be Sure	TEXCEED the Maximum I include Travel Expension rvices and incidental expension to is set as per the terms to sign and return this on the Requestor if your exp	es on this form. They re censes separately (use de s of the DOH expert Wi riginal form. Attach any	esignated boxes). inces Agreement receipts for inciden	ıtal expenses.	uestions.	1
SERVICES ONLY			· · · · · · · · · · · · · · · · · · ·			
12) Date of Service	(13)	Description of Servi	ce	(14) Hourly Fee	(15)Hours	(16) Total Fee
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20. Experts Signature:	Jean Section three	Chinadae.	211	Date Signed:	2arch	
have performed the service 20. Expert's Signature: The above referenced service. 22. Requestor's Signature.	SECTION THREE sices have been satisfactor	Chinadae.	ACKNOWLEDG	Date Signed:	2arch	
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PROCESS IN 5 WORKING DAYS AND RETURN TO FINANCE AND ACCOUNTING



DEPARTMENT OF HEALTH

Work Authorization:

07-9174

PROSECUTION SERVICES UNIT
4052 Bald Cypress Way, BIN # C-65 - Tallahassee, Florida 32399-3265

EXPERT WITNESS WORK AUTHORIZATION AND INVOICE

AIIUN - DOU Essant Withams	A consequent	
		ate: 11/30/07
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e: Depositi	on Preparation	Testimony
Diaz	8. Board:	ME
10. Requestor Pho	ne Number:	850-245-4640
•	Date Signed:	10/312007
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(14) Hourly Fee	(15)Hours	(16) Total Fee
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Date Signed:	1) 15 RVICES	2
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	e: Depositi Diaz 10. Requestor Photo PICES AND EXPE vel voucher. Ital expenses. It you have any other q (14) Hourly Fee \$160.90 ing costs, etc.) Pleases	Diaz 8. Board: 10. Requestor Phone Number: Date Signed: PICES AND EXPENSES vel voucher. Ital expenses. It you have any other questions. (14) Hourly Fee (15)Hours \$160.90 9 5

11/19/03

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ä	Preparer's Phone No 850-245-4640 ext. 8113	reparer's Phone No.	· •				Warrant No.		
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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 an 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 4052 Bald Cypress Way, Bin C-75, Tallahassee, Florida 32399-3275.
- 4) As an Operations Management Consultant, my job duties includereviewing 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 2003-28432 (Department of Health v. Jose Suarez-Diaz, M.D.) are twenty thousand four hundred and forty -eight dollars and six cents (\$20,448.06).
- 6) The costs for DOH case number 2003-28432 (Department of Health v. Jose Suarez-Diaz, 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 2003-28432 (Department of Health v. Jose Suarez-Diaz, 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) 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 oday of oday of oday of oday of oday. 2008, by James R. Cooksey, who is personally known to me.

Notary Signature

Name of Notary Printed

Stamp Commissioned Name of Notary Public:

DENISE RITZEL
MY COMMISSION # DD 46113!
EXPIRES: August 11, 2009
Bonded Thri Notery Public Underwriters

Complaint Cost Summary Complaint Number: 200328432

Complainant's

DOH (J.C.) 0004002

Name:

Subject's Name: SUAREZ-DIAZ, JOSE C

	***** Cost to	Date ****
	Hours	Costs
Complaint:	1.20	\$62.49
Investigation:	45.50	\$2,836.68
Legal:	91.50	\$10,687.81
Compliance:	0.00	\$0.00
	*****	*****
Sub Total:	138.20	\$13,586.98
Expenses to Date:		\$6,861.08
Prior Amount:		\$0.00
Total Costs to Date:		\$20,448.06

Page 1 of 6								BPOENAS, NOTICE TO CE/									·		•		itemizedcost	
Time Tracking System Itemized Cost by Complaint Complaint 200328432	Activity Description		MQA REPORT ENTRY INITIAL REVIEW AND ANALYSIS OF COMPLAINT REVIEW CASE FILE			ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK SERVICE OF ADMINISTRATIVE COMPLAINTS, SUBPOENAS, NOTICE TO CEASE	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK ROUTINE INVESTIGATIVE WORK	TIME	KOU LINE IN VESTIGATIVE WORK TRAVEL TIME	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK ROUTINE INVESTIGATIVE WORK	ROUTINE INVESTIGATIVE WORK	REPORT PREPARATION		
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	Staff Rate		\$50.18 \$50.18 \$61.55		S UNIT	\$63.28	\$63.28	\$63.28	\$63.28	\$62.06	\$63.28	\$63.28 \$52.37	\$52.37	\$52.37	\$63.28	\$63.28	\$63.28	\$63.28	\$63.28	\$03.28		
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Time Tracking System Itemized Cost by Complaint

Complaint 200328432

Staff Code Activity Hours	tivity Hours	Staff Rate	Cost	Activity Date	Activity Code	ode Activity Description
Sub Total	45.50		\$2,836.68			•
ROSECUTIC	PROSECUTION SERVICES UNIT	UNIT				
111 1 10 4	0.70	\$80.81	856.57	03/04/2005	25	REVIEW CASE FILE
HLL10A	0.70	\$80.81	\$32.32	03/07/2005	36	PREPARATION OR REVISION OF LETTER
HLLIOA	0.20	\$80.81	\$16.16	05/23/2005	37	REVIEW LETTER
HLL10A	0.20	\$80.81	\$16.16	05/23/2005	25	REVIEW CASE FILE
HLL10A	0.30	\$80.81	\$24.24	06/09/2005	37	REVIEW LETTER
HLL10A	0.40	\$80.81	\$32.32	06/13/2005	37	REVIEW LETTER
HLL10A	0.20	\$80.81	\$16.16	06/13/2005	35	TELEPHONE CALLS
HLL10A	0.20	\$136.37	\$27.27	03/16/2006	35	TELEPHONE CALLS
HLL10A	0.20	\$136.37	\$27.27	03/24/2006	35	TELEPHONE CALLS
HLL10A	0.30	\$136.37	\$40.91	04/25/2006	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.30	\$136.37	\$40.91	05/08/2006	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL10A	0.80	\$136.37	\$109.10	05/17/2006	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
HLL10A	0.50	\$136.37	\$68.19	01/27/2006	22	STIPULATION
HLL10A	0.30	\$136.37	\$40.91	08/03/2006	8	POST PROBABLE CAUSE PROCESSING
HLL10A	0.20	\$136.37	\$27.27	10/19/2006	35	TELEPHONE CALLS
HLL10A.	0.20	\$136.37	\$27.27	11/02/2006	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.20	\$136.37	\$27.27	11/09/2006	36	PREPARATION OR REVISION OF LETTER
HLL10A	1.60	\$136.37	\$218.19	11/09/2006	40	PREPARATION OF OR REVISION OF A PLEADING
HLL10A	0.30	\$136.37	\$40.91	11/14/2006	47	TRIAL PREPARATION
HLL10A	0.40	\$136.37	\$54.55	11/14/2006	35	TELEPHONE CALLS
HLL10A	0.40	\$136.37	\$54.55	11/15/2006	35	TELEPHONE CALLS
HLL10A	0.20	\$136.37	\$27.27	11/15/2006	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.20	\$136.37	\$27.27	11/15/2006	36	PREPARATION OR REVISION OF LETTER
HL58B	0.20	\$141.12	\$28.22	11/16/2006	70	CONFERENCES WITH LAWYERS
HLL10A	0.30	\$136.37	\$40.91	11/16/2006	37.	REVIEW LETTER
HLL10A	0.30	\$136.37	\$40.91	11/16/2006	36	PREPARATION OR REVISION OF LETTER
HLL10A	1.20	\$136.37	\$163.64	11/16/2006	28	PREPARE OR REVISE ADMINISTRATIVE COMPLAINT
LII T SOA	1 20	617677	6177 00	11/20/2006	30	DDEDADE AMENDED A/C

itemizedcost

-- FOR INTERNAL USE ONLY

Florida Department of Health



Time Tracking System Itemized Cost by Complaint

Complaint 200328432

Page 3 of 6																				ATIY GEN OFF.							•							
Pa	Activity Description	PREPARATION OR REVISION OF LETTER	TRIAL PREPARATION	PREPARATION	TELEPHONE CALLS	RIAL PREPARATION	PREPARE/RESPOND TO DISCOVERY	FRIAL PREPARATION	PREPARE/RESPOND TO DISCOVERY	SEARCH Proposity TO Discoving V	PREPARE/RESPOND TO DISCOVERION TO DISCOVERION	MESTOND TO DISCOVERY	AE CALLS	ETTEK	PREPARATION OR REVISION OF LETTER	FELEPHONE CALLS	FRIAL PREPARATION	PREPARATION OF OR REVISION OF A PLEADING	IRIAL PREPARATION	JEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF.	TELEPHONE CALLS	PREPARATION	PREPARATION	RATION OR REVISION OF LETTER	PREPARATION	PREPARATION	PREPARATION	PREPARATION	ETTER	PREPARATION OR REVISION OF LETTER	TRIAL PREPARATION	NOL	FELEPHONE CALLS	TRIAL PREPARATION
	Activity Code	36 PREPARAT		TRIAL			- '					39 PREPAREA				`	•	_		_	TELEPI	TRIAL	TRIAL	PREPA	TRIAL	TRIAL	TRIAL	TRIAL	_		. —	σ,	.	47 TRIAL PRI
	Activity Date	12/04/2006	01/09/2007	01/10/2007	01/10/2007	01/17/2007	. 01/18/2007	01/18/2007	01/23/2007	01/23/2007	01/25/2007	01/26/2007	01/26/2007		02/14/2007	02/15/2007	02/23/2007	02/26/2007	02/26/2007	03/02/2007	03/02/2007	03/02/2007	03/05/2007	03/06/2007	03/06/2007	03/09/2007	03/12/2007	03/13/2007	03/14/2007	03/14/2007	03/14/2007	03/14/2007	4,	03/15/2007
	Cost	\$54.55	\$163.64	\$95.46	\$40.91	\$81.82	\$231.83	\$40.91	\$40.91	\$122.73	\$81.82	\$40.91	\$40.91	\$27.27	\$13.64	\$68.19	\$40.91	\$150.01	\$27.27	\$54.55	\$40.91	\$81.82	\$177.28	\$40.91	\$81.82	\$136.37	\$40.91	\$68.19	\$27.27	\$68.19	\$218.19	\$40.91	\$40.91	\$150.01
	Staff Rate	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37	\$136.37
Report Date: 04/11/2008	Activity Hours	0.40	1.20	0.70	0.30	0.60	1.70	0.30	0.30	06.0	0.60	0.30	0.30	0.20	0.10	0.50	0.30	01.1	0.20	0.40	0.30	09.0	1.30	0.30	09.0	1.00	0.30	0.50	0.20	0.50	1.60	0.30	0:30	1.10
Report Date	Staff Code A		HI LIDA	HILLIOA	HI.L.10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HCL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A	HLL10A

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Time Tracking System Itemized Cost by Complaint

Complaint 200328432

HLL15 A 0.20 \$118.58 \$35.57 031/15/2007 35 TELEPHONE CALLS HLL10A 0.20 \$136.37 \$27.27 031/62/2007 35 TELEPHONE CALLS HLL10A 0.20 \$136.37 \$40.91 031/22/2007 31 TELEPHONE CALLS HLL10A 0.20 \$136.37 \$40.91 031/22/2007 31 BOARD MEETING PREPARATION HLL10A 0.20 \$136.37 \$27.27 041/12/2007 31 BOARD MEETING PREPARATION HLL10A 0.20 \$136.37 \$27.27 041/12/2007 31 BOARD MEETING PREPARATION HLL10A 0.20 \$136.37 \$27.27 05/07/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$136.37 \$40.91 07/02/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$114.89 \$22.28 09/19/2007 35 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$114.89 \$22.28 09/19/2007 36 PREPARATION OR REVISION OF OR REVISION OF LETTER HLL10A 0.20 \$114.89 \$22.29 09/19/2007 37 REPRARATION OR REVISION OF OR REVISION OF LETTER HLL10A 0.20 \$114.89 \$23.29 09/19/2007 36 PREPARATION OR REVISION OF A PLEADING HLL10A 0.20 \$91.00 \$18.20 10/02/2007 37 REVIEW PLEADING HLL10A 0.20 \$91.00 \$18.20 10/02/2007 36 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$91.00 \$23.29 09/19/2007 36 PREPARATION OR REVISION OF LETTER HLL10A 0.20 \$91.00 \$18.20 10/02/2007 36 PREPARATION OR REVISION OF LETTER HLL10A 0	Staff Code	Staff Code Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	Activity Description
0.20 \$136.37 \$27.27 03/16/2007 35 1.30 \$136.37 \$17.28 03/16/2007 47 0.30 \$136.37 \$40.91 03/16/2007 47 0.20 \$136.37 \$20.91 04/11/2007 35 0.20 \$136.37 \$20.91 04/11/2007 31 0.20 \$136.37 \$20.91 05/10/2007 31 0.30 \$136.37 \$20.91 07/02/2007 31 0.10 \$136.37 \$20.91 07/02/2007 31 0.40 \$136.37 \$20.91 07/02/2007 36 0.40 \$136.37 \$24.55 07/24/2007 36 0.40 \$136.37 \$54.55 07/24/2007 36 0.50 \$136.37 \$54.55 07/24/2007 36 0.50 \$136.37 \$54.55 07/24/2007 36 0.50 \$114.89 \$22.98 09/19/2007 36 0.20 \$114.89 \$52.98 09/19/2007	HIJSIA	0.30	\$118.58	\$35.57	03/15/2007	2	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ATTY GEN OFF
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0.20 \$91.00 \$18.20 11/09/2007 36 1 0.40 \$91.00 \$36.40 11/13/2007 43 1 0.20 \$91.00 \$18.20 11/13/2007 36 1	HLL10A	0.30	\$91.00	\$27.30	11/09/2007		PREPARE FOR DEPOSITION
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0.20 \$91.00 \$18.20 11/13/2007 36	HLL.10A	0.40	\$91.00	\$36.40	11/13/2007		PREPARE FOR DEPOSITION
	HLL10A	0.20	\$91.00	\$18.20			PREPARATION OR REVISION OF LETTER

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Time Tracking System Itemized Cost by Complaint

Complaint 200328432

Report Da	Report Date: 04/11/2008					Page 5 of 6
Staff Code	Staff Code Activity Hours	Staff Rate	Cost	Activity Date	Activity Code	e Activity Description
HI I 10A	0.20	\$91.00	\$18.20	11/13/2007	35	TELEPHONE CALLS
HILIOA	4.50	\$111.56	\$502.02	11/13/2007	58	TRAVEL TIME
H11.10A	2.50	\$91.00	\$227.50	11/14/2007	44	DEPOSITIONS
HI L.10A	5.00	\$111.56	\$557.80	11/14/2007	58	TRAVEL TIME
HLL10A	0:30	\$91.00	\$27.30	11/15/2007	41	REVIEW PLEADING
HLL10A	0.40	\$91.00	\$36.40	11/26/2007	. 64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ALLY GEN OFF
HL58B	0.30	\$91.00	\$27.30	11/27/2007	64	LEGAL ADVICE/DISCUSSION - BOARD OFFICE, DEPT STAFF OR ALLY GEN OFF
HLL10A	0.40	\$91.00	\$36.40	11/27/2007	49	FICE, DEPT STAFF OR ALLY GEN
HLL10A	0.50	\$91.00	\$45.50	11/27/2007	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.50	\$91.00	\$45.50	11/28/2007	47	TRIAL PREPARATION
HLL 10A	09.0	\$91.00	\$54.60	12/04/2007	47	TRIAL PREPARATION
HLL10A	1.70	\$91.00	\$154.70	12/05/2007	47	TRIAL PREPARATION
HLL10A	0.80	. 00'16\$	\$72.80	12/06/2007	47	TRIAL PREPARATION
HLL10A	1.20	\$91.00	\$109.20	12/10/2007	47	TRIAL PREPARATION
· HLL10A	0.20	\$91.00	\$18.20	12/17/2007	35	TELEPHONE CALLS
HLL10A	0.20	\$91.00	\$18.20	12/17/2007	47	TRIAL PREPARATION
HLL10A	0.20	\$91.00	\$18.20	12/27/2007	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.40	\$91.00	\$36.40	12/27/2007	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HLL10A	0.40	\$111.56	\$44.62	12/28/2007	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.30	\$111.56	\$33.47	12/28/2007	36	PREPARATION OR REVISION OF LETTER
HLL10A	0.50	\$111.56	\$55.78	12/28/2007	40	PREPARATION OF OR REVISION OF A PLEADING
HLL10A	08'0	\$111.56	\$89.25	12/28/2007	47	TRIAL PREPARATION
HLL10A	0.30	\$111.56	\$33.47	12/28/2007	35	TELEPHONE CALLS
HLL10A	0.20	\$111.56	\$22.31	01/03/2008	36	PREPARATION OR REVISION OF LETTER
HLL10A	09.0	\$111.56	\$66.94	01/03/2008	47	TRIAL PREPARATION
HLL10A	2.40	\$111.56	\$267.74	01/03/2008	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HLL10A	1.60	\$111.56	\$178.50	01/04/2008	47	TRIAL PREPARATION
HLL10A	0.30	\$111.56	\$33.47	01/04/2008	46	LEGAL RESEARCH
HLL10A	0.70	\$111.56	\$78.09	01/10/2008	47	TRIAL PREPARATION
HLL10A	0.30	\$111.56	\$33.47	01/10/2008	35	TELEPHONE CALLS
HLL10A	1.50	\$111.56	\$167.34	01/11/2008	47	TRIAL PREPARATION
HLL10A	2.00	\$111.56	\$557.80	01/13/2008	28	TRAVEL TIME
HLL10A	1.00	\$111.56	\$111.56	01/13/2008	4	TRIAL PREPARATION

Report Date: 04/11/2008

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Time Tracking System Itemized Cost by Complaint

Complaint 200328432

Page 6 of 6

Staff Code	taff Code Activity Hours	Staff Rate	Cost	Activity Date Activity Code	Activity Co	le Activity Description
HI I JOA	02.6	\$111.56	\$301.21	01/14/2008	48	FORMAL HEARING
HI.I.10A	4.30	\$111.56	\$479.71	01/14/2008	58	TRAVEL TIME
HLC10A	1.80	\$111.56	\$200.81	02/04/2008	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED URDER
HLL10A	1.40	\$111.56	\$156.18	02/06/2008	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HLL10A	1.00	\$111.56	\$111.56	02/14/2008	49	REVIEW TRANSCRIPTS AND PREPAKE RECUMMENDED UNDER
HLL10A	09.0	\$111.56	\$66.94	02/15/2008	49	REVIEW TRANSCRIPTS AND PREPARE RECOMMENDED ORDER
HLL10A	0.40	\$111.56	\$44.62	03/13/2008	41	REVIEW PLEADING
HLL10A	0.20	\$111.56	\$22.31	03/13/2008	16	BOARD MEETING PREPARATION
Sub Total	91.50		\$10,687.81			

Total Cost

\$13,586.98

- FOR INTERNAL USE ONLY -



Time Tracking System Itemized Expense by Complaint

Expense Page 10f Page Page Page Page Page 10f Page P	begins here	1			Itemized Expense by Complaint Complaint 200328432
Expense Expense Expense Expense Date Annount Code 3ATIVE SERVICES UNIT \$168.55 497010 SubTotal \$168.55 497010 TION SERVICES UNIT \$127.51 131400 03/19/2007 \$177.75 131400 11/14/2007 \$68.75 131400 02/05/2008 \$5256.66 131630 02/05/2004 \$1,520.00 131630 02/05/2004 \$1,520.00 131630 02/19/2007 \$1,520.00 131630 03/19/2007 \$1,520.00 131630 03/19/2007 \$1,520.00 131630 01/15/2008 \$888.41 261010 SubTotal \$6,692.53 Total Expenses \$6,802.63	Report Date: 04/11	1/2008			Ps
\$168.55 497010 \$168.55 \$127.51 131400 \$177.75 131400 \$256.66 131400 \$675.00 131630 \$750.00 131630 \$1,520.00 131630 \$222.80 261010 \$888.41 261010 \$6,692.53 \$6,801.08	Staff Code	Expense Date	Expense Amount	Expense Code	Expense Code Description
\$168.55 \$168.55 \$127.51 \$127.51 \$131400 \$68.75 \$131400 \$256.66 \$675.00 \$131630 \$750.00 \$1,520.00 \$1,520.00 \$2522.80 \$261010 \$888.41 \$261010 \$6,692.53 \$6,861.08	INVESTIGATIVE	SERVICES UNIT			
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A 03/19/2007 \$127.51 131400 A 12/03/2007 \$177.75 131400 A 11/14/2007 \$68.75 131400 A 02/05/2008 \$256.66 131400 A 02/05/2004 \$675.00 131630 02/25/2005 \$750.00 131630 03/21/2007 \$1,520.00 131630 11/19/2007 \$1,520.00 131630 A 11/14/2007 \$388.41 261010 A 01/15/2008 \$888.41 261010 A 01/15/2008 \$6,692.53 Total Expenses \$6,861.08	PROSECUTION SI	ERVICES UNIT			
12/03/2007		03/19/2007	\$127.51	131400	COURT REPORTING
11/14/2007		12/03/2007	\$177.75	131400	COURT REPORTING
A 02/05/2008 \$256.66 131400 (8/02/2004 \$675.00 131630 02/25/2005 \$75.00 131630 131630 03/21/2007 \$1,625.00 131630 131/9/2007 \$1,520.00 131630 131/9/2007 \$222.80 261010 4 11/14/2007 \$380.65 261010 26	_	11/14/2007	\$68.75	131400	COURT REPORTING
08/02/2004 \$675.00 131630 02/25/2005 \$750.00 131630 02/25/2005 \$1,625.00 131630 131/9/2007 \$1,520.00 131630 131/9/2007 \$1,520.00 131630 131/9/2007 \$522.80 261010 261010		02/02/2008	\$256.66	131400	COURT REPORTING
02/25/2005 \$750.00 131630 03/21/2007 \$1,625.00 131630 11/19/2007 \$1,520.00 131630 131/9/2007 \$1,520.00 131630 131/9/2007 \$222.80 261010 11/14/2007 \$380.65 261010 261010		08/02/2004	\$675.00	131630	EXPERT WITNESS
03/21/2007 \$1,625.00 131630 11/19/2007 \$1,520.00 131630 03/19/2007 \$1,520.00 131630 11/14/2007 \$3380.65 261010		02/25/2005	\$750.00	131630	EXPERT WITNESS
11/19/2007		03/21/2007	\$1,625.00	131630	EXPERT WITNESS
03/19/2007 \$222.80 261010 A 11/14/2007 \$380.65 261010 A 01/15/2008 \$888.41 261010 SubTotal \$6,692.53 56,861.08		11/19/2007	\$1,520.00	131630	EXPERT WITNESS
A 11/14/2007 \$380.65 261010 A 01/15/2008 \$888.41 261010 SubTotal \$6,692.53 Total Expenses \$6,861.08		03/19/2007	\$222.80	261010	TRAVEL - EMOLOYEE - IN FLA
01/15/2008 \$888.41 261010 SubTotal \$6,692.53 Total Expenses \$6,861.08	_	11/14/2007	\$380.65	261010	TRAVEL - EMOLOYEE - IN FLA
\$6,692 \$6,861		01/15/2008	\$888.41	261010	TRAVEL - EMOLOYEE - IN FLA
86,861		SubTotal	\$6,692.53		
_	.	otal Expenses	86,861.08		

STATE OF FLORIDA DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

٧.

CASE NO. 2003-28432

JOSE SUAREZ-DIAZ, M.D.,

RESPONDENT.

AMENDED 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 the Respondent, Jose Suarez-Diaz, 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.
- Respondent's address of record is 8340 S.W. 62nd Avenue,
 Miami, Florida 33143.
 - 3. Respondent is board certified in Anesthesiology.

- 4. At all times material to this complaint, Respondent was a licensed physician within the State of Florida, having been issued license number 14791.
- 5. On or about October 28, 2003, Patient J.C., a forty-nine (49) year-old male, was admitted to Mercy Hospital in Miami, Florida with a diagnosis of possible appendicitis.
- 6. Patient J.C. underwent a chest x-ray which revealed moderate cardiomegaly and an EKG which revealed left ventricular hypertrophy.
- 7. In the pre-anesthesia evaluation, Respondent documented Patient J.C.'s history of a heart attack in 1998, pneumonia two months prior to admission and chronic obstructive pulmonary disease.
- 8. At approximately 11:30 p.m. of the same day, Patient J.C. was anesthetized for the purpose of undergoing an emergency appendectomy.
- 9. At approximately 12:35 a.m., on or about October 29, 2003, Patient J.C. was extubated and transferred from the operating room table to the stretcher. He developed respiratory difficulty, became dusky and pulseless.
- 10. Respondent did not maintain adequate records of the cardiorespiratory status prior to and after extubation. The existing medical

records indicate intra-operative difficulties with oxygenation while the patient was on high levels of oxygen suggesting that the patient might fail extubation. Under such circumstances, continued monitoring after extubation and during transfer was warranted.

- 11. At approximately 12:45 a.m., Patient J.C. was re-intubated and a code was called. Cardiac massage and defibrillation were performed.
- 12. Subsequently, Patient J.C. was admitted to the Intensive Care Unit where an echocardiogram was performed. The echocardiogram revealed a dilated cardiomyopathy with a left ventricular ejection fraction of 18%, severe left ventricular dysfunction, mild tricuspid sclerosis and mild atrial dilatation.
 - An EEG was also performed which revealed anoxic brain injury.
- 14. On or about November 10, 2003, Patient J.C. was extubated at the request of his family secondary to his poor prognosis.
 - 15. Patient J.C. expired on or about November 18, 2003.
- monitoring or pulse oximetry prior to and after extubation and during the transfer of Patient J.C. from the operating room table to the stretcher.

17. Respondent failed to maintain adequate medical records in that much of his records for Patient J.C. are illegible, dosages of paralytic and reversal medications are not appropriately recorded, and oxygen saturations and vital signs are not recorded frequently enough.

COUNT I

- 18. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.
- 19. Section 458.331(1)(t), Florida Statutes (2003), provides that 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 constitutes grounds for disciplinary action by the Board of Medicine.
- 20. 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 one or more of the following ways: (a) By failing to maintain adequate monitoring prior to and immediately after extubation despite intra-operative indications of oxygenation difficulty; (b) By failing to maintain adequate medical records in that much of his records for Patient J.C. are

illegible, dosages of paralytic and reversal medications are not appropriately recorded, and oxygen saturations and vital signs are not recorded frequently enough.

21. Based on the foregoing, Respondent has violated Section 458.331(1)(t), Florida Statutes (2003), 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.

COUNT II

- 22. Petitioner realleges and incorporates paragraphs one (1) through seventeen (17) as if fully set forth herein.
- 23. Section 458.331(1)(m), Florida Statutes (2003), provides that failing to keep legible medical records that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test_results; records_of_drugs_prescribed, dispensed, or administered; and reports-of-consultations-and-hospitalizations, constitutes grounds for disciplinary action by the Board of Medicine.
- 24. Respondent failed to keep legible medical records justifying the course of treatment in one or more of the following ways: (a) by preparing

illegible records; (b) by failing to adequately document the dosages of medications prescribed to Patient J.C., including neuromuscular reversal agents; (c) by not recording the oxygen saturations, neuromuscular monitoring, and vital signs frequently enough.

25. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2003), by failing to keep legible medical records that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

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 29th day of November, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D. Secretary, Department of Health

By: Irving Levine

DEPARTMENT OF HEALTH

CLERK: Minia Doub

Assistant General Counsel

DOH-Prosecution Services Unit

4052 Bald Cypress Way-Bin C-65

Tallahassee, Florida 32399-3265

Florida Bar # 0822957

(850) 245-4640, ext 8128

(850) 245-4680 fax

PCP:

July 28,2006

PCP Members:

El-Bahri, Tucker, long

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.