

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Robert Eric Berg, M.D.)

Case No. 800-2016-028158

**Physician's and Surgeon's)
Certificate No. C 51102)**

**Respondent)
_____)**

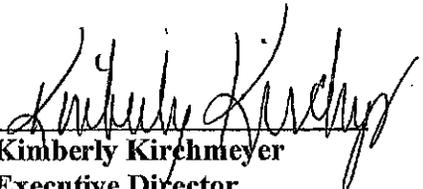
DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 21, 2017.

IT IS SO ORDERED August 14, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 ALICE W. WONG
Deputy Attorney General
4 State Bar No. 160141
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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Attorneys for Complainant

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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-028158

13 **ROBERT ERIC BERG, M.D.**

14 3357 SW Villa Place
15 Palm City, FL 34990-8120

16 Physician's and Surgeon's Certificate No.
17 C51102

Respondent.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Alice W. Wong,
24 Deputy Attorney General.

25 2. On or about March 5, 2003, the Board issued Physician's and Surgeon's Certificate
26 No. C51102 to Robert Eric Berg, M.D. (Respondent). The Physician's and Surgeon's Certificate
27 expired on March 31, 2017, and has not been renewed. It is in a delinquent status. Accusation
28 No. 800-2016-028158 was filed before the Board, and is currently pending against Respondent.

1 The Accusation and all other statutorily required documents were properly served on Respondent
2 on June 8, 2017.

3 3. Respondent has waived his right to be represented by counsel and is representing
4 himself in this matter.

5 4. Respondent has received, read and understands the charges and allegations in the
6 Accusation No. 800-2016-028158, a copy of which is attached as Exhibit A, and is incorporated
7 by reference. Respondent also has carefully read and understands the effects of this Stipulated
8 Surrender of License.

9 5. Respondent is fully aware of his legal rights in this matter, including the right to a
10 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
11 his own expense; the right to confront and cross-examine the witnesses against him; the right to
12 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
13 the attendance of witnesses and the production of documents; the right to reconsideration and
14 court review of an adverse decision; and all other rights accorded by the California
15 Administrative Procedure Act and other applicable laws.

16 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
17 every right set forth above.

18 7. Respondent agrees that the Board has jurisdiction and cause to take action against his
19 Physician's and Surgeon's Certificate by virtue of the allegations set forth in the Accusation.
20 Respondent wishes to surrender his California license.

21 8. Pursuant to section 2224(b) of the Business and Professions Code, this Stipulation for
22 Surrender of License shall be subject to approval by the Board. Respondent understands and
23 agrees that the Medical Board's staff and counsel for Complainant may communicate directly
24 with the Board regarding this Stipulation for Surrender of License, without notice to or
25 participation by Respondent. By signing this Stipulation for Surrender of License, Respondent
26 understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation
27 prior to the time the Board considers and acts upon it. In the event that this Stipulation is rejected
28 for any reason by the Board, it will be of no force or effect, except for this paragraph, for either

1 party. The Board will not be disqualified from further action in this matter by virtue of its
2 consideration of this Stipulation.

3 9. Upon acceptance of this Stipulation for Surrender of License by the Board,
4 Respondent understands that he will no longer be permitted to practice as a physician and surgeon
5 in California, and also agrees to surrender and cause to be delivered to the Board any license and
6 wallet certificate in his possession before the effective date of the decision. The admissions made
7 by Respondent herein are only for the purposes of this proceeding, or any other proceedings in
8 which the Medical Board or other professional licensing agency is involved, and shall not be
9 admissible in any other criminal or civil proceeding.

10 11. Respondent fully understands and agrees that if he ever files an application for
11 relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
12 reinstatement, and Respondent must comply with all laws, regulations and procedures for
13 reinstatement of a revoked license in effect at the time the petition is filed. Information gathered
14 in connection with Accusation No. 800-2016-028158 may be considered by the Board in
15 determining whether or not to grant the petition for reinstatement. For the purposes of the
16 reinstatement hearing, the allegations in Accusation No. 800-2016-028158 shall be deemed to be
17 true, correct, and admitted by Respondent, and Respondent waives any and all defenses based on
18 a claim of laches or the statute of limitations.

19 12. The parties understand and agree that facsimile or electronic copies of this Stipulated
20 Surrender of License, including facsimile or electronic signatures thereto, shall have the same
21 force and effect as the originals.

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1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 ALICE W. WONG
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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-028158

13 **Robert Eric Berg, M.D.**
14 **3357 SW Villa Place**
15 **Palm City, FL 34990-8120**

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. C51102,**

Respondent.

18 Complainant alleges:

PARTIES

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On or about March 5, 2003, the Medical Board issued Physician's and Surgeon's
23 Certificate Number C51102 to Robert Eric Berg, M.D. (Respondent). The Physician's and Surgeon's
24 Certificate is in delinquent status, having expired on March 31, 2017. On April 14, 2017, an Out-of-
25 State Suspension Order was issued on Physician's and Surgeon's Certificate Number C51102.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following laws.
3 All section references are to the California Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical
6 Practice Act may have his or her license revoked, suspended for a period not to exceed one year,
7 placed on probation and required to pay the costs of probation monitoring, or such other action taken
8 in relation to discipline as the Board deems proper.

9 5. Section 2305 of the Code states:

10 "The revocation, suspension, or other discipline, restriction or limitation imposed by another
11 state upon a license or certificate to practice medicine issued by that state, or the revocation,
12 suspension, or restriction of the authority to practice medicine by any agency of the federal
13 government, that would have been grounds for discipline in California of a licensee under this
14 chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the
15 licensee in this state."

16 6. Section 141 of the Code states:

17 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
18 department, a disciplinary action taken by another state, by any agency of the federal government, or
19 by another country for any act substantially related to the practice regulated by the California license,
20 may be a ground for disciplinary action by the respective state licensing board. A certified copy of
21 the record of the disciplinary action taken against the licensee by another state, an agency of the
22 federal government, or another country shall be conclusive evidence of the events related therein.

23 "(b) Nothing in this section shall preclude a board from applying a specific statutory provision
24 in the licensing act administered by that board that provides for discipline based upon a disciplinary
25 action taken against the licensee by another state, an agency of the federal government, or another
26 country."

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1 CAUSE FOR DISCIPLINE

2 (Discipline, Restriction, or Limitation Imposed by Another State)

3 7. On or about November 22, 2016, the Florida Board of Medicine issued a Final Order
4 approving the Settlement Agreement entered between the Florida Board of Medicine and Respondent.
5 Respondent agreed to payment of \$3,871.12 to the Florida Board of Medicine and suspension from
6 the practice of medicine until such time as he can demonstrate to the Florida Board of Medicine his
7 ability to practice medicine with reasonable skill and safety. The Settlement Agreement stemmed
8 from a mental and physical evaluation of Respondent that diagnosed the Respondent with Alcohol
9 Use Disorder, and found the Respondent was unable to practice medicine with reasonable safety.

10 A copy of the Final Order and Settlement Agreement is attached as Exhibit A.

11 8. Respondent's conduct and the action of the Florida Board of Medicine as set forth in
12 paragraph 7, above, constitutes cause for discipline pursuant to sections 2305 and/or 141 of the Code.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and
15 that following the hearing, the Medical Board of California issue a decision:

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate Number C51102, issued to
17 Robert Eric Berg, M.D.;
- 18 2. Revoking, suspending or denying approval of Robert Eric Berg, M.D.'s authority to
19 supervise physician assistants, pursuant to section 3527 of the Code and advanced practice nurses;
- 20 3. Ordering Robert Eric Berg, M.D., if placed on probation, to pay the Board the costs of
21 probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: June 8, 2017

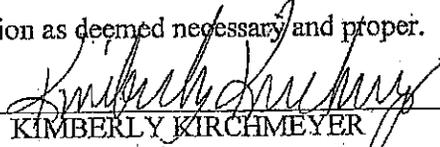

24 KIMBERLY KIRCHMEYER
25 Executive Director
26 Medical Board of California
27 Department of Consumer Affairs
28 State of California
Complainant

Exhibit A

Accusation No. 800-2016-028158

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2015-26504
LICENSE NO.: ME0071748

ROBERT BERG, M.D.,

Respondent.

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) pursuant to Sections 120.569 and 120.57(4), Florida Statutes, on November 4, 2016, in Jacksonville, Florida, for the purpose of considering a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in this cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, the arguments of the parties, and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Settlement Agreement as submitted be and is hereby approved and adopted in toto and incorporated herein by reference with the following clarification:

The costs set forth in Paragraph 1 of the Stipulated Disposition shall be set at \$3,871.12.

Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Settlement Agreement as clarified above.

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

DONE AND ORDERED this 22nd day of November, 2016.

BOARD OF MEDICINE

Claudia Kemp
Claudia Kemp, J.D., Executive Director
For Sarvam TerKonda, M.D., Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **Certified Mail** to ROBERT BERG, M.D., 528 SE Osceola Street, 2nd Floor, Stuart, Florida 34994; to Christopher T. Lewis, Esquire, The Lewis Law Group, P.A., 1115 SE Ocean Boulevard, Stuart, Florida 34996; by email to Louise Wilhite-St. Laurent, Deputy General Counsel, Department of Health, at Louise.Stlaurent@flhealth.gov; and by email to Edward A. Tellechea, Chief Assistant Attorney General,

at Ed.Tellechea@myfloridalegal.com this 26th day of

November, 2016.

Bryel Sanders

Deputy Agency Clerk

7016 1370 0001 6706 5501
[Barcode]

Dr. Robert Berg

Christopher T. Lewis, Esq.

7016 1370 0001 6706 5518
[Barcode]

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2015-26504

ROBERT ERIC BERG, M.D.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Robert Eric Berg, M.D., referred to as the "Respondent," and the Department of Health, referred to as "Department," stipulate and agree to the following Agreement and to the entry of a Final Order of the Board of Medicine, referred to as "Board," incorporating the Stipulated Facts and Stipulated Disposition in this matter.

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

STIPULATED FACTS

1. At all times material hereto, Respondent was a licensed physician in the State of Florida having been issued license number ME 71748.

2. The Department charged Respondent with an Administrative Complaint that was filed and properly served upon Respondent alleging violations of Chapter 458, Florida

Statutes, and the rules adopted pursuant thereto. A true and correct copy of the Administrative Complaint is attached hereto as Exhibit A.

3. For purposes of these proceedings, Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

1. Respondent admits that, in his capacity as a licensed physician, he is subject to the provisions of Chapters 456 and 458, Florida Statutes; and the jurisdiction of the Department and the Board.

2. Respondent admits that the facts alleged in the Administrative Complaint, if proven, would constitute violations of Chapter 458, Florida Statutes.

3. Respondent agrees that the Stipulated Disposition in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

1. **Reimbursement of Costs** - Pursuant to Section 456.072, Florida Statutes, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case ("Department costs"). Such costs exclude the costs of obtaining supervision or monitoring of the practice, the cost of quality assurance reviews, any other costs Respondent incurs to comply with the Final Order, and the Board's administrative costs directly associated with Respondent's probation, if any. Respondent agrees that the amount of Department costs to be paid in this case is **Three Thousand Five Hundred Seventy-six Dollars and Seventy-nine Cents (\$3,576.79)**, but shall not exceed **Four Thousand Five Hundred Seventy-six**

Dollars and Seventy-nine Cents (\$4,576.79). Respondent will pay such Department costs to: Payments, Department of Health, Compliance Management Unit, Bin C-76, P.O. Box 6320, Tallahassee, FL 32314-6320, within thirty (30) days from the reinstatement of his medical license. All costs shall be paid by cashier's check or money order. Any change in the terms of payment of costs imposed by the Board must be approved in advance by the Probation Committee of the Board.

RESPONDENT ACKNOWLEDGES THAT THE TIMELY PAYMENT OF THE COSTS IS HIS/HER LEGAL OBLIGATION AND RESPONSIBILITY AND RESPONDENT AGREES TO CEASE PRACTICING IF THE COSTS ARE NOT PAID AS AGREED IN THIS SETTLEMENT AGREEMENT. SPECIFICALLY, IF RESPONDENT HAS NOT RECEIVED WRITTEN CONFIRMATION WITHIN 45 DAYS OF THE DATE OF FILING OF THE FINAL ORDER THAT THE FULL AMOUNT OF THE COSTS NOTED ABOVE HAS BEEN RECEIVED BY THE BOARD OFFICE, RESPONDENT AGREES TO CEASE PRACTICE UNTIL RESPONDENT RECEIVES SUCH WRITTEN CONFIRMATION FROM THE BOARD.

2. Suspension Language Respondent's Florida medical license is hereby SUSPENDED until such time as he demonstrates to the Board his ability to practice medicine with reasonable skill and safety. Such demonstration of skill and safety shall include an evaluation facilitated through the Professionals Resource Network (PRN). The Board reserves jurisdiction in this matter to impose additional terms and conditions, including a period of probation with terms and conditions to be determined by the Board at the time of reinstatement of Respondent's license to practice medicine. However, the term of

suspension shall be imposed prior to the Board's considering Respondent's petition for reinstatement. Respondent shall not practice medicine in Florida until he petitions the Board for reinstatement, appears before the Board, and has his license reinstated.

STANDARD PROVISIONS

1. Appearance - Respondent is required to appear before the Board at the meeting of the Board where this Agreement is considered.

2. No Force or Effect until Final Order - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

4. Addresses - Respondent must provide current residence and practice addresses to the Board. Respondent shall notify the Board in writing within ten (10) days of any changes of said addresses

5. Future Conduct - In the future, Respondent shall not violate Chapter 456, 458 or 893, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice medicine to include, but not limited to, all statutory requirements related to practitioner profile and licensure renewal updates. Prior to signing this agreement, the Respondent shall read Chapters 456, 458 and 893 and the Rules of the Board of Medicine, at Chapter 64B8, Florida Administrative Code.

6. Violation of Terms - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 458, Florida Statutes.

7. Purpose of Agreement - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. No Preclusion Of Additional Proceedings - Respondent and the Department fully understand that this Agreement and subsequent Final Order will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

9. Waiver Of Attorney's Fees And Costs - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of Department costs

noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

10. Waiver of Further Procedural Steps - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

[Signatures appear on the following page.]

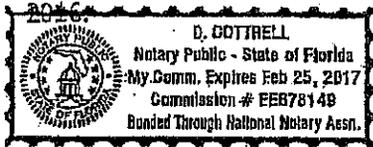
SIGNED this 4 day of June, 2016.

Robert Eric Berg, M.D.
Robert Eric Berg, M.D.

STATE OF FLORIDA
COUNTY OF Martin

BEFORE ME personally appeared Robert E. Berg M.D., whose identity is known to me or who produced _____ (type of identification) and who, under oath, acknowledges that his/her signature appears above.

SWORN TO and subscribed before me this 4 day of June



D. Gottrell
NOTARY PUBLIC

My Commission Expires:

APPROVED this 12 day of July, 2016.

Celeste Philip, M.D., M.P.H.
Surgeon General and Secretary

By: Kristen M. Summers
Kristen M. Summers
Assistant General Counsel
Department of Health

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2015-26504

ROBERT BERG, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health (Department) files this Administrative Complaint before the Board of Medicine (Board) against Respondent Robert Berg, M.D., and in support thereof alleges:

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

2. At all times material to this Complaint, Respondent was licensed to practice medicine within the State of Florida, having been issued license number ME 71748.

3. At all times material to this Complaint, Respondent's address of record was 528 S.E. Osceola Street, 2nd Floor, Stuart, Florida 34994.

4. At all times material to this Complaint, Respondent practiced dermatology as an independent contractor at Dermatology of the Treasure Coast located in Stuart, Florida.

5. On or about December 2, 2015, E.K., M.D., a physician specializing addiction recovery, performed a mental and physical evaluation Respondent pursuant to Department order.

6. Dr. E.K. diagnosed Respondent with Alcohol Use Disorder.

7. Dr. E.K. opined that Respondent is unable to practice medicine with reasonable skill and safety to patients.

8. Section 458.331(1)(s), Florida Statutes (2015), allows the Board of Medicine to impose discipline against a licensee for being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition.

9. Respondent is unable to practice medicine with reasonable skill and safety to patients by reason of his alcohol use disorder.

10. Based on the foregoing, Respondent violated Section 458.331(1)(s), Florida Statutes (2015).

WHEREFORE, Petitioner respectfully requests that the Board 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 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 8th day of January, 2016.

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

Kristen M. Summers

Kristen M. Summers
Assistant General Counsel
FL DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
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(E) Kristen.Summers@flhealth.gov

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Bridget Coates*
DATE JAN 08 2016

PCP Meeting: January 8, 2016
PCP Members: Mark Avila, Magda Averhoff, Joy Tootle, Deborah Gerbert

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. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

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 any other discipline imposed.