

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

LEONARD A. RUBINSTEIN, M.D., )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 DEPARTMENT OF HEALTH, BOARD OF )  
 MEDICINE, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Case No. 2D11-2044  
2D11-2046  
2D11-2047

CONSOLIDATED

Opinion filed September 28, 2012.

Appeal from the Department of Health,  
Board of Medicine.

Lane Weinbaum of Weinbaum P.L., Fort  
Lauderdale, for Appellant.

Mark Graham Hanson of Prosecution  
Services Unit Department of Health,  
Tallahassee, for Appellee.

CRENSHAW, Judge.

Leonard A. Rubinstein appeals a final administrative order revoking his license to practice medicine in the state and imposing fines and costs. The final order was entered by the Board of Medicine as a result of three separate administrative complaints filed by the Department of Health which were later consolidated. Because

the Department failed to provide any documentation supporting an award of attorneys' fees, we reverse the award of \$65,134.31 in costs relating to attorneys' fees awarded under section 456.072(4), Florida Statutes (2010). We affirm the remainder of the order without further comment.

The Department of Health concedes error, and we agree that Georges v. Department of Health, 75 So. 3d 759 (Fla. 2d DCA 2011), requires reversal of the award of \$65,134.31 in costs relating to attorneys' fees. "An award of attorneys' fees must be supported by competent, substantial evidence by the attorney performing the services and by an expert as to the value of those services." Id. at 762. Section 456.072(4) permits the Board to impose "costs related to the investigation and prosecution of the case," but requires the Board to "determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto." Here, as in Georges, the Department failed to provide any documentation to support an award of attorneys' fees. And because this "failure to abide by the statutory requirements" constitutes fundamental error, we reverse this portion of costs awarded under section 456.072(4). See Georges, 75 So. 3d at 762.

Affirmed in part; reversed in part.

LaROSE and MORRIS, JJ., Concur.