

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO.: 2016-29245

ELIZABETH ANNE JOHNSON, M.D.,

RESPONDENT.

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ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Elizabeth Anne Johnson, M.D., and in support 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 69818.

3. Respondent's address of record is 4500 San Pablo Road, Jacksonville, Florida 32224.

4. Respondent is board certified in internal medicine with a subspecialty in oncology.

5. On or about May 15, 2015, Patient K.E., a then forty-eight year old female, presented to Respondent at the Mayo Clinic Jacksonville for assessment for cancer treatment.

6. Patient K.E. presented with a history of a palpable rectal mass and bloody stool.

7. Patient K.E. presented to Respondent after undergoing a colonoscopy and CT scan at Borland Grover Clinic, which revealed several tumors suspicious for metastases.

8. Borland Grover Clinic took a biopsy of the affected area, and initial pathology indicated suspicion for adenocarcinoma.

9. Borland Grover Clinic sent the sample to Cleveland Clinic for confirmation.

10. Cleveland Clinic returned a diagnosis of endometriosis, not cancer.

11. Respondent did not obtain the pathology reports from Borland Grover Clinic or Cleveland Clinic.

12. Respondent diagnosed Patient K.E. with rectal cancer, with possible spread to liver, lungs, and mediastinum.

13. Respondent ordered an endobronchoscopic ultrasound (EBUS).

14. Patient K.E.'s EBUS showed some concern for cancer, but the pathologist deemed the results of the EBUS insufficient for a definitive cancer diagnosis.

15. Despite not having a pathologic diagnosis of cancer, from May to July of 2015, Respondent ordered and Patient K.E. received a port placement and three chemotherapy treatments.

16. Due to continuing rectal pain, on or about July 6, 2015, Respondent referred Patient K.E. to Dr. D.C., a colorectal surgeon.

17. As part of his review, Dr. D.C. obtained Patient K.E.'s pathologic results from Borland Grover Clinic and Cleveland Clinic, which showed that Patient K.E. had endometriosis and did not have cancer.

18. On or about July 16, 2015, Dr. K.M., a Mayo Clinic pathologist, reviewed Patient K.E.'s previous biopsy sample and came to a final diagnosis of endometriosis.

19. On or about September 3, 2015, Dr. D.C. and Dr. M.R. performed a procedure to remove the endometrioma.

20. At all times material to this complaint, the prevailing professional standard of care dictated that a physician obtain a pathologic diagnosis of cancer prior to initiating cancer treatment for a patient.

21. Section 458.331(1)(t), Florida Statutes (2014-2015), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Section 456.50(1)(g), Florida Statutes (2014-2015), states medical malpractice means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2014-2015), provides that the prevailing standard of care for a given healthcare provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

22. Respondent fell below the standard of care in her treatment of Patient K.E. by failing to obtain a pathologic diagnosis of cancer prior to initiating cancer treatment for Patient K.E.

23. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2014-2015).

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 18th day of December, 2017.

Celeste Philip, MD, MPH
Surgeon General and Secretary



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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Amber Greene
DATE DEC 18 2017

CD/sdw

PCP Date: December 11, 2017

PCP Members: Jorge Lopez, M.D. & Mr. Nicholas Romanello

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 to any other discipline imposed.