

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

RONALD A. NICHOLS, M.D.
License No. 43-01-053762

Complaint No. 43-08-109430

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An Administrative Complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on November 19, 2009, charging Ronald A. Nichols, M.D. (Respondent) with having violated sections 16221(a), (b)(i), and (b)(vi) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.*

The parties have stipulated that the Disciplinary Subcommittee may enter this Consent Order. The Disciplinary Subcommittee has reviewed the Stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding Complaint. Therefore, the Disciplinary Subcommittee finds that the allegations of fact contained in the Complaint are true and that Respondent has violated sections 16221(a), (b)(i), and (b)(vi) of the Public Health Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$10,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 43-08-109430 clearly indicated on the check or money order) within 90 days from the effective date of this Order. The timely payment of the fine shall be Respondent's responsibility.

Within 180 days of the effective date of this Order, Respondent shall perform 100 hours of COMMUNITY SERVICE. The community service must be approved in advance by the Chairperson of the Board or the Chairperson's designee. Respondent shall mail the request for approval of the community service and proof of successful completion of the community service to the Department.

Respondent shall direct any communications to the Department that are required by the terms of this Order to: Sanction Monitoring Unit, Bureau of Health Professions, Department of Community Health, P.O. Box 30670, Lansing, Michigan 48909. Respondent shall mail the fine required by the terms of this Order to: Sanction Monitoring, Bureau of Health Professions, Department of Community Health, P.O. Box 30185, Lansing, Michigan 48909.

Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this Consent Order.

Respondent shall be responsible for the timely compliance with the terms of this Consent Order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this Order.

This Order shall be effective on the date signed by the Chairperson of the Disciplinary Subcommittee or the Disciplinary Subcommittee's authorized representative, as set forth below.

Signed on 4-21, 2010.

MICHIGAN BOARD OF MEDICINE

By Jim Fraloy
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the Complaint are true and constitute a violation of the Public Health Code.
2. Respondent understands and intends that, by signing this Stipulation, he is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges before the Disciplinary

Subcommittee or its authorized representative. Should the Disciplinary Subcommittee reject the proposed Consent Order, the parties reserve the right to proceed to hearing.

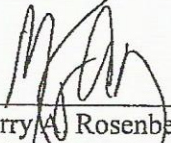
3. The Disciplinary Subcommittee may enter the above Consent Order, supported by Board conferee George Shade, Jr., M.D. Dr. Shade or an attorney from the Licensing and Regulation Division may discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. Dr. Shade and the parties considered the following factors in reaching this agreement:

- A. Respondent has cooperated fully in the resolution of this Administrative Complaint;
- B. Respondent recognizes the errors he made in his treatment of B.R. and is remorseful for his conduct;
- C. Respondent submitted an essay to Dr. Shade articulating those errors and what he has learned in order to avoid a similar error;
- D. Respondent has revamped his referral team to ensure that the physicians to whom he refers complex patients are equipped to safely handle their care.
- E. Respondent has made changes in his office practice, including personally performing ultrasounds in appropriate cases.

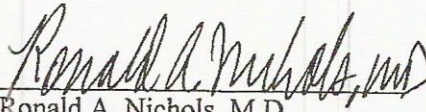
By signing this Stipulation, the parties confirm that they have read,
understand and agree with the terms of the Consent Order.

AGREED TO BY:



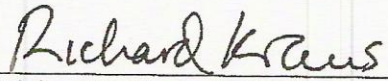
Merry A. Rosenberg (P32120)
Assistant Attorney General
Attorney for Complainant
Dated: 2/23/10

AGREED TO BY:



Ronald A. Nichols, M.D.
Respondent

Dated: 2/18/10



Richard C. Kraus (P27553)
Attorney for Respondent
Dated: 2/21/10

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
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In the Matter of

RONALD A. NICHOLS, M.D.
License No. 43-01-053762

Complaint No. 43-08-109430

ADMINISTRATIVE COMPLAINT

Attorney General Michael A. Cox, through Assistant Attorney General Merry A. Rosenberg, on behalf of the Department of Community Health, Bureau of Health Professions (Complainant), files this Complaint against Ronald A. Nichols, M.D., (Respondent), alleging upon information and belief as follows:

1. The Board of Medicine, (Board), an administrative agency established by the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq*, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee (DSC).
2. At all times relevant to this Administrative Complaint, Respondent was licensed by this Board and performed pregnancy terminations at WomansChoice/Healthcare Clinic located in Lansing, Michigan. He is a board certified obstetrician/gynecologist.
3. Code section 16221(a) authorizes the DSC to discipline licensees for, "a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or

any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully practice the health profession.”

4. Section 16221(b)(i) of the Code authorizes the DSC to discipline licensees for incompetence, defined at section 16106(1) as, “a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs.”

5. Section 16221(b)(vi) of the Code authorizes the DSC to take disciplinary action against Respondent for a lack of good moral character. Good moral character is defined in section 1 of 1974 PA 381, as amended; MCL 338.41 *et seq.*, as “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 16226 of the Code authorizes the DSC to impose sanctions against persons licensed by the Board if, after opportunity for a hearing, the DSC determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Code.

7. B.R., (initials used to protect patient confidentiality), a 22 year old female, G3P2Ab0,¹ presented to WomansChoice Health Care Clinic (Clinic) on August 1, 2008, for evaluation of an unplanned pregnancy and possible pregnancy termination. Her blood pressure was 126/68 and her pulse 114.

8. B.R. informed the Clinic's personnel that her last period was in March 2008 and that she had been using Depo-Provera, an injectable medication for birth control. The Clinic's

¹ This means B.R. had been pregnant 3 times and had delivered 2 children.

records do not include the date of B.R.'s last injection or the outcomes of her prior pregnancies, *i.e.*, normal deliveries, cesarean sections, complications, fetal losses, *etc.*

9. Clinic personnel performed a pelvic ultrasound that stated, "gest. age: 12 twins." This ultrasound is of poor quality and the images do not substantiate a 12-week gestation. What is purported to be "twins" is actually a single fetus; the interpretation does not include information regarding fetal femur length, biparietal diameter, and crown-rump measurement. The sole clear image displays a fetal skull of 20 +/- weeks' gestation that is neither measured nor recorded. The "12 twins" information was lined out, replaced with a notation stating, "18 - 20".

10. Respondent performed a pelvic examination and recorded an estimated gestational age of 12 weeks with an anteverted uterus.

11. Respondent administered a para-cervical block, dilated B.R.'s cervix, inserted an 11 mm suction canula to aspirate the contents of the uterus, and ruptured the fetal membranes. Upon discovering that the gestational age was 18 to 20 weeks and not 12, Respondent aborted the procedure.

12. Respondent advised B.R. to continue the procedure in Bloomfield Hills, Michigan, 80 miles away, because the Clinic did not have the appropriate equipment to complete the procedure.

13. After B.R. refused this plan, she was required to sign a statement as follows:

Patient B.R. was advised on the importance of seeking immediate medical attention regarding this matter. Appointment has been set up with an experienced provider in this area of medicine who is agreeing to see her immediately. Patient insists that she wants to go to the emergency room with less experienced providers. Risks and consequences of her decision discussed with patient which include infection, sepsis, bleeding, increased pain and/or death. Pt understands

and accepts responsibility for her decision and will not hold Dr. Nichols, Women's Choice, its associates, or employees liable.

14. B.R. then drove herself home, located approximately five miles from the Clinic, still bleeding from the vagina. Her boyfriend's mother then took her to Ingham Regional Medical Center (IRMC), a distance of approximately eight miles from the Clinic.

15. At IRMC an ultrasound determined she was 20.5 weeks gestation. An examination confirmed that her fetal membranes had been ruptured and that the fetus was viable. She was admitted to IRMC, but the fetus expired the next day. Labor was induced and B.R. delivered a nonviable female infant weighing 370 grams.

16. Before initiating a pregnancy termination, gestational age must be ascertained; this includes correlating data between pelvic examination and ultrasound findings.

17. IRMC made several attempts to obtain the Clinic's chart to facilitate B.R.'s treatment. However, the Clinic refused to release the records until an attorney intervened on B.R.'s behalf after she was discharged. When B.R. went to retrieve them, Clinic personnel told her they had not released the records for fear they could end up "in the wrong hands."

18. B.R.'s Clinic chart does not include the results of a pregnancy test or a hemoglobin level.

COUNT I

19. Respondent's conduct as described above constitutes negligence, in violation of section 16221(a) of the Code.

COUNT II

20. Respondent's conduct as described above constitutes incompetence, in violation of section 16221(b)(i) of the Code.

COUNT III


21. Respondent's conduct as described above constitutes a lack of good moral character, in violation of section 16221(b)(vi) of the Code.

THEREFORE, Complainant requests this Complaint be served upon Respondent and Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the aforesaid license. If compliance is not shown, Complainant further requests formal proceedings be commenced pursuant to the Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*

RESPONDENT IS NOTIFIED, pursuant to Code section 16231(7), he has 30 days from receipt of this Complaint to submit a written response to the allegations. The written response shall be submitted to the Bureau of Health Professions, Department of Community Health, P.O. Box 30670, Lansing, Michigan, 48909, with a copy to the undersigned Assistant Attorney General. Further, per Code section 16231(8), failure to submit a written response within 30 days shall be deemed an admission of the allegations and shall result in transmittal of the Complaint directly to the Board's DSC for imposition of an appropriate sanction.

Respectfully Submitted,

MICHAEL A. COX
Attorney General


Merry A. Rosenberg (P32120)
Assistant Attorney General
Licensing and Regulation Division
P.O. Box 30754
Lansing, MI 48909
Telephone: (517) 373-1146
Fax: (517) 241-1997

Dated: November 19, 2009

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