

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2017-23375

HARVEY CRAIG ROTH, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against Respondent, Harvey Craig Roth, 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 64837.

3. Respondent's address of record is: 20423 State Road 7, Suite F6-199, Boca Raton, Florida 33498.

4. Respondent is board certified by the American Board of Obstetrics and Gynecology, in the field of obstetrics and gynecology.

5. On or about December 11, 2017, Patient K.M., then a thirty-five (35) year old female, presented to Respondent at A Woman's Center of Hollywood, 3829 West Hollywood Boulevard, Suite C, Hollywood, Florida 33021, for a medical termination of her pregnancy (the correct procedure).

6. On or about December 11, 2017, Patient S.H. provided informed consent for the medical termination of her pregnancy.

7. On or about December 11, 2017, Respondent performed a surgical termination of pregnancy procedure on Patient K.M. (the wrong procedure), instead of assisting Patient K.M. with a medical termination of her pregnancy.

8. Patient K.M. did not authorize Respondent to perform a surgical termination of pregnancy procedure on her prior to Respondent's performance of the surgical termination of pregnancy procedure.

9. Section 456.072(1)(bb), Florida Statutes (2017), provides that performing or attempting to perform health care services (including the preparation of the patient) on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is

medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition is grounds for disciplinary action by the Board of Medicine.

10. Respondent performed a wrong procedure and/or an unauthorized procedure when he performed a surgical termination of pregnancy procedure on Patient K.M., instead of assisting her in a medical termination of her pregnancy.

11. Based on the foregoing, Respondent violated section 456.072(1)(bb), Florida Statutes (2017), by performing a wrong procedure and/or unauthorized procedure on Patient K.M., by performing an unauthorized surgical termination of pregnancy procedure on Patient K.M. instead of assisting Patient K.M. with a medical termination of her pregnancy.

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.

[Signature appears on the following page.]

SIGNED this 3rd day of January, 2019.

Celeste Philip, MD, MPH
State Surgeon General

for Coryn Alberto
Zachary Bell 68814
Assistant General Counsel
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK: *Angel Sanders*
DATE: **JAN 03 2019**

ZB

PCP: December 28, 2018.

PCP Members: Georges El-Bahri, M.D.; Seela Ramesh, M.D.;
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.

Please be advised that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this agency action.

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.