

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

In the Matter of

FRANKLYN SEABROOKS, M.D.
_____ /

Complaint No. 43-02-42712

ADMINISTRATIVE COMPLAINT

Attorney General Michael A. Cox, through Assistant Attorney General, on behalf of the Department of Community Health, Bureau of Health Professions (Complainant), files this complaint against Franklyn Seabrooks, 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 (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. Respondent is currently licensed to practice medicine pursuant to the Public Health Code. At all times relevant to this Complaint, Respondent was board certified in obstetrics-gynecology.
3. Section 16221(a) of the Code provides the DSC with authority to take disciplinary action against Respondent 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 which impairs, or may impair, his ability to safely and skillfully practice medicine.

4. Section 16221(b)(i) of the Code provides the DSC with authority to take disciplinary action against Respondent for incompetence, defined at section 16106(1) to mean: "[A] departure from, or failure to confirm to, minimal standards of acceptable and prevailing practice for a health profession whether or not actual injury to an individual occurs."

5. Section 16226 of the Code authorizes the DSC to impose sanctions against a person's license by the Board if, after opportunity for a hearing, the DSC determines that a license violated one or more of the subdivisions contained in section 16221 of the Code.

6. On November 15, 2001, J.K., (initials used to protect patient confidentiality), a 21 year old female, presented to the Health Care Clinic seeking to terminate her pregnancy. J.K. is 5 foot 4 inches tall and at the time weighed 274 pounds. She advised the Health Care Clinic staff that her last menstrual period was on October 8, 2001, and that she believed she was approximately 5-6 weeks pregnant.

7. Respondent performed a pelvic examination of J.K. prior to initiating the abortion procedure. The exam consisted of Respondent feeling J.K.'s uterus with his hands. Respondent documented in the pre-operative report that J.K. was 9-10 weeks gestation and her cervix was closed. Respondent did not perform an ultrasound prior to beginning the abortion procedure.

Due to the J.K.'s obesity, her stated gestational age of the fetus (5-6 weeks) and the purported gestational size as recorded on the chart by Respondent (9-10 weeks), an accurate pelvic sonogram was mandated to determine the size, shape and position of J.K.'s uterus and confirm the gestational age of the fetus.

8. Respondent obtained 24 grams of gestational tissue on the initial suction aspiration of J.K.'s uterus. The volume of tissue obtained on a 9-10 week gestation suction abortion should have equaled approximately 50 grams. The uterine contents were placed in a specimen jar and examined by Respondent. Respondent did not observe any fetal parts normally observed in the tissue obtained from a 9-10 week gestation suction abortion.

9. After Respondent performed the initial suction abortion procedure; he performed a second pelvic exam and then an ultrasound. Upon completing the ultrasound, Respondent performed a second suction procedure. Following the second suction procedure, Respondent advised J.K. that he felt tumors in her uterus. Respondent performed a second ultrasound, followed by a third suction procedure. At this point, J.K. was experiencing a considerable amount of pain. J.K. was advised by Respondent that he needed to perform the second and third suction procedures to get the remaining tissue from her uterus.

10. After performing the three suction termination procedures, Respondent advised J.K. that he felt her uterus was still large and that he wanted a second opinion. J.K. agreed to be transported approximately 30 miles to Dr. Rodolfo Finkelstein's¹ office in Livonia, a physician

¹ An Administrative Complaint is also being filed against Rodolfo Finkelstein, M.D.

who performed abortions on patients that were over 20 weeks' gestation. J.K. was transported by Lisa Carey, Respondent's assistant, in Ms. Carey's vehicle to Dr. Finkelstein's office. Respondent followed in his car.

11. Respondent documented in J.K.'s patient chart that she was taken to Dr. Finkelstein's office for a second opinion because Respondent "found a large abdominal mass". Department of Community Health investigator Danene Nunez interviewed Dr. Finkelstein on August 22, 2003. Dr. Finkelstein denied that J.K. was brought to his office for a second opinion. He advised Danene Nunez that J.K. was brought to his office for a second trimester abortion.

12. Dr. Finkelstein performed a pelvic exam, a vaginal ultrasound and a regular ultrasound on J.K. Respondent was present during this exam. After reviewing the ultrasounds, both Respondent and Dr. Finkelstein advised J.K. that she had a large pelvic mass, possibly three fibroid tumors on her uterus, and that she should make an appointment with a gynecologist two weeks from her post abortion procedure appointment. J.K. was transported back to the Health Care Clinic where her vital signs were taken; and she was given aftercare instructions. J.K. was discharged home with prescriptions for tetracycline, methenemine, and Tylenol #3.

13. On November 20, 2001, J.K. called the Health Care Clinic complaining of back pain. J.K. was advised that she was most likely constipated because she had not had a bowel movement in several days (a common post-procedure complaint). J.K. was instructed to take her pain medication and laxatives.

14. On November 21, 2001, J.K. presented to the Huron Valley Sinai Hospital emergency room complaining of severe back pain and vaginal bleeding. The emergency room physician attempted to perform a pelvic exam but could not insert the speculum. The physician felt with his hand a hard firm mass consistent with the head of a fetus. The physician immediately performed an ultrasound and determined that J.K. had a near full term pregnancy. At 7:50 pm that evening, J.K. delivered a 35 week gestation viable male infant.

15. The infant weighed 5 pounds, 1 ounce and had apgar scores of 8 at one and five minutes. He was treated in the critical care nursery for respiratory distress, hypernatremia, metabolic acidosis and probable sepsis. His examination was remarkable for multiple scalp abrasions and erythema and he appeared to experience pain when his scalp was palpated. The infant was discharged home in stable condition on December 13, 2001.

COUNT I

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

COUNT II

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


THEREFORE, Complainant requests that this complaint be served upon Respondent and that 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 that formal proceedings be commenced pursuant to the Public Health 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 HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, Respondent has 30 days from receipt of this complaint to submit a written response to the allegations contained in it. 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, pursuant to section 16231(8), failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully submitted,

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Attorney General


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