

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2017-10718

ARNALDO VALLS, M.D.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Administrative Complaint before the Board of Medicine against Respondent Arnaldo Valls, 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 Administrative Complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 82727.

3. Respondent's address of record is 1825 S.W. 125th Court, Miami, Florida 33175.

4. Respondent does not hold any board-certifications.

5. At all times material to this Administrative Complaint, Respondent practiced as a physician at Vanity Cosmetic Surgery¹, located in Miami, Florida.

6. On or about June 16, 2016, S.R., a then twenty-six (26) year-old female, presented to Vanity Cosmetic Surgery and received a suction assisted lipectomy and fat transfer to both gluteal areas, also known as a Brazilian butt-lift, which was performed by Respondent.

7. During the liposuction procedure, Respondent placed a cannula² through the muscle fascia into the peritoneal cavity³ and perforated S.R.'s small bowel.

8. Respondent did not realize the injury and complication, and after the procedure was completed, S.R. was discharged to a local hotel.

9. On or about June 17, 2016, S.R. was expected to visit the surgical center for a follow-up visit, but was not able to because she was not feeling well.

¹ Vanity Cosmetic Surgery has been renamed Jolie Plastic Surgery.

² A cannula is a thin tube inserted into a vein or body cavity to administer medicine, drain off fluid, or insert a surgical instrument.

³ The peritoneal cavity is the space within the abdomen that contains the intestines, the stomach, and the liver.

10. On or about June 22, 2016, S.R. was admitted to JFK Medical Center, located in Atlantis, Florida, with complaints of abdominal pain and green drainage.

11. S.R. was diagnosed with a small bowel obstruction, status post liposuction with enteric drainage from Jackson-Pratt drain with suspected bowel injury.

12. S.R. thereafter underwent an exploratory laparotomy and small bowel resection with washout and closure of abdominal wall.

13. Respondent failed to document the following in S.R.'s medical records at Vanity Cosmetic Surgery:

a. the size of the cannula or record of instruments used during the procedure; and/or

b. a description of the manner in which the liposuction was performed.

14. The appropriate standard of care in this case required the following:

a. for Respondent to perform the liposuction procedure above the abdominal fascia under the skin, not in the deep tissues;

b. for the procedure to not be performed under the rectus abdominal muscle fascia or any other muscle within the abdominal cavity; and

c. to recognize or suspect an injury to timely and appropriately address the complication.

COUNT ONE

15. Petitioner realleges and incorporates paragraphs one (1) through twelve (12) as if fully set forth herein.

16. Section 458.331(1)(t)1., Florida Statutes (2015), subjects a licensee to discipline for committing medical malpractice as defined in section 456.50(1)(g), Florida Statutes. Section 456.50(1)(g), Florida Statutes (2015), states that 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 (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.

17. At times relevant to this case, Respondent failed to meet the prevailing professional standard of care in his treatment of S.R. in one or more of the following ways:

a. By perforating S.R.'s small bowel during a suction assisted lipectomy and fat transfer; and/or

b. By failing to recognize the injury to timely and appropriately address the complication.

18. Based on the foregoing, Respondent violated section 458.331(1)(t)1., Florida Statutes (2015), by committing medical malpractice as defined in section 456.50(1)(g), Florida Statutes.

COUNT TWO

19. Petitioner realleges and incorporates paragraphs one (1) through thirteen (13) as if fully set forth herein.

20. Section 458.331(1)(m), Florida Statutes (2015), subjects a licensee to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that

justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

21. Section 458.331(1)(nn), Florida Statutes (2015), subjects a licensee to discipline for violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

22. Rule 64B8-9.003, Florida Administrative Code (2015), is an administrative rule adopted pursuant to chapter 458, Florida Statutes, which outlines the standards of the adequacy of medical records.

23. Rule 64B8-9.003(1), Florida Administrative Code, provides that medical records are maintained for the following purposes:

- a. To serve as a basis for planning patient care and for continuity in the evaluation of the patient's condition and treatment.
- b. To furnish documentary evidence of the course of the patient's medical evaluation, treatment, and change in condition.

- c. To document communication between the practitioner responsible for the patient and any other health care professional who contributes to the patient's care.
- d. To assist in protecting the legal interest of the patient, the hospital, and the practitioner responsible for the patient.

24. Rule 64B8-9.003(3), Florida Administrative Code, provides that medical records shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient.

25. Respondent failed to create, keep, and/or maintain medical records that justify the course of treatment of S.R. in one or more of the following ways:

a. By failing to create, keep, and/or maintain records of the size of the cannula or record of instruments used during the procedure; and/or

b. By failing to create, keep, and/or maintain records of a description of the manner in which the liposuction was performed.

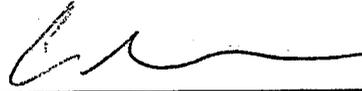
26. Based on the foregoing, Respondent violated section 458.331(1)(m), Florida Statutes (2015) and/or section 458.331(1)(nn), Florida Statutes (2015), through a violation of rule 64B8-9.003, Florida Administrative Code.

{Signature appears on the following page.}

WHEREFORE, 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 8 day of October, 2018.

Celeste Philip, M.D., M.P.H.
Surgeon General and Secretary



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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
Angel Sanders
CLERK
DATE OCT 08 2018

CNE/sdr

PCP Date: September 28, 2018

PCP Members: Dr. Georges El-Bahri, Dr. Seela Ramesh, Ms. Brigitte Goersch

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.