

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

**DOH Case Nos. 2015-19442;
2015-20428; 2015-17616;
2015-18000**

OSAKATUKEI O. OMULEPU, M.D.,

Respondent.

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ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, files this Administrative Complaint before the Board of Medicine against Respondent, Osakatukey O. Omulepu, 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, and Chapters 456 and 458, Florida Statutes.

2. At all times material hereto, Respondent was a licensed physician within the state of Florida, having been issued license number ME 99126.

3. At all times material hereto, Respondent did not hold any certifications from specialty boards recognized by the Board of Medicine.

4. Respondent's address of record is 4300 N. University Drive, Suite A202, Lauderhill, Florida 33351.

5. At all times material hereto, Respondent worked at Vanity Cosmetic Surgery, Inc., located at 8506 S.W. 8th Street, Miami, Florida 33144 (Vanity) and Spectrum-Aesthetics Center for Cosmetic Surgery, located at 51 SW 42nd Ave, Miami, FL 33134 (Spectrum).

Facts Related to Patient D.M.¹

6. On or about May 15, 2015, Patient D.M., a 31 year-old female, presented to Respondent at Spectrum and underwent liposuction with bilateral fat transfer to the gluteal areas.²

7. During the procedure, the Respondent injected tumescent solution³ into Patient D.M.

8. The standard concentration for tumescent solution is approximately one part epinephrine per 1 million units.

9. Respondent used a tumescent solution with a concentration of one part epinephrine per 4 million units.

¹ Department of Health Case No. 2015-19442.

² Commonly referred to as a "Brazilian Butt Lift."

³ A combination of a diluted anesthetic agent and epinephrine (a vasoconstrictor used to slow the absorption of, and therefore prolong the action of, the anesthetic agent). The tumescent technique, as opposed to "dry liposuction," involves the injection of tumescent solution into the patient's fatty deposits to reduce the amount of blood lost during the procedure.

10. During the procedure, Respondent repeatedly perforated Patient D.M.'s liver.

11. Respondent injected Patient D.M.'s buttocks with 1250 cubic centimeters (cc) (bilaterally) of fatty tissue.

12. The standard amount of fatty tissue injected into a buttocks during this procedure is approximately 500 cc.

13. Respondent failed to discharge Patient D.M. to a medical facility capable of providing post-operative care and observation.

Facts Related to Patient N.F. ⁴

14. On or about May 15, 2015, Patient N.F., a 35 year-old female, presented to Respondent at Spectrum and underwent liposuction with bilateral fat transfer to the gluteal areas.

15. During the procedure, the Respondent injected tumescent solution into Patient N.F.

16. The standard concentration for tumescent solution is approximately one part epinephrine per 1 million units.

17. Respondent used a tumescent solution with a concentration of one part epinephrine per 4 million units.

⁴ Department of Health Case No. 2015-20428.

18. During the procedure, Respondent repeatedly perforated Patient N.F.'s small bowel.

19. Respondent injected fatty tissue into Patient N.F.'s sciatic nerve.

20. Respondent failed to discharge Patient N.F. to a medical facility capable of providing post-operative care and observation.

Facts Related to Patient L.L.⁵

21. On or about May 14, 2015, Patient L.L., a 29 year-old female, presented to Respondent at Vanity and underwent liposuction of her stomach, planks, abdomen, and bilateral thighs.

22. During the procedure, the Respondent injected tumescent solution into Patient L.L.

23. The standard concentration for tumescent solution is approximately one part epinephrine per 1 million units.

24. Respondent used a tumescent solution with a concentration of one part epinephrine per 4 million units.

25. Respondent failed to discharge Patient L.L. to a medical facility capable of providing post-operative care and observation.

⁵ Department of Health Case No. 2015-17616.

Facts Related to Patient P.N.⁶

26. On or about May 16, 2015, Patient P.N., a 35 year-old female, presented to Respondent at Vanity and underwent liposuction with bilateral fat transfer to the gluteal areas.

27. During the procedure, the Respondent injected tumescent solution into Patient P.N.

28. The standard concentration for tumescent solution is approximately one part epinephrine per 1 million units.

29. Respondent used a tumescent solution with a concentration of one part epinephrine per 4 million units.

30. Respondent failed to discharge Patient P.N. to a medical facility capable of providing post-operative care and observation.

Section 458.331(1)(t), Florida Statutes

31. Section 458.331(1)(t), Florida Statutes (2014), 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 (2014), states medical malpractice means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized

⁶ Department of Health Case No. 2015-18000.

in general law related to health care licensure. Section 766.102, Florida Statutes (2014), 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.

Count I- Patient D.M.

32. Petitioner re-alleges and incorporates paragraphs 1 through 13 and 30 as if fully set forth herein.

33. At all times material hereto, the prevailing standard of care required Respondent to treat Patient D.M. in the following manner:

- a. Use the proper epinephrine concentration in the tumescent solution used for the procedure;
- b. Not puncture Patient D.M.'s internal organs;
- c. Inject the proper amount of fatty tissue into Patient D.M.'s buttocks; and/ or
- d. Arrange for Patient D.M. to stay at a medical facility capable of providing post-operative care and observation.

34. Respondent fell below the standard of care in his treatment of D.M. in one or more of the following ways:

- a. By failing to use the proper epinephrine concentration in the tumescent solution used for the procedure;
- b. By injecting an improper amount of fatty tissue into Patient D.M.'s buttocks;
- c. By repeatedly puncturing Patient D.M.'s liver; and/or
- d. By failing to arrange for Patient D.M. to stay at a medical facility capable of providing post-operative care and observation.

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

Count II- Patient N.F.

36. Petitioner re-alleges and incorporates paragraphs 1 through 5, 14 through 20, and 30 as if fully set forth herein.

37. At all times material hereto, the prevailing standard of care required Respondent to treat Patient N.F. in the following manner:

- a. Use the proper epinephrine concentration in the tumescent solution used for the procedure;
- b. Not puncture Patient N.F.'s internal organs;
- c. Not inject fatty tissue into Patient N.F.'s nerves; and/ or

d. Arrange for Patient D.M. to stay at a medical facility capable of providing post-operative care and observation.

38. Respondent fell below the standard of care in his treatment of D.M. in one or more of the following ways:

a. By failing to use the proper epinephrine concentration in the tumescent solution used for the procedure;

b. By injecting fatty tissue into N.F.'s sciatic nerve;

c. By repeatedly puncturing Patient N.F.'s small bowel; and/or

d. By failing to arrange for Patient N.F. to stay at a medical facility capable of providing post-operative care and observation.

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

Count III- Patient L.L.

40. Petitioner re-alleges and incorporates paragraphs 1 through 5, 21 through 25, and 30 as if fully set forth herein.

41. At all times material hereto, the prevailing standard of care required Respondent to treat Patient L.L. in the following manner:

a. Use the proper epinephrine concentration in the tumescent solution used for the procedure; and/or

b. Arrange for Patient L.L. to stay at a medical facility capable of providing post-operative care and observation.

42. Respondent fell below the standard of care in his treatment of Patient L.L. in one or more of the following ways:

a. By failing to use the proper epinephrine concentration in the tumescent solution used for the procedure; and/or

b. By failing to arrange for Patient L.L. to stay at a medical facility capable of providing post-operative care and observation.

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

Count IV- Patient P.N.

44. Petitioner re-alleges and incorporates paragraphs 1 through 5 and 26 through 30 as if fully set forth herein.

45. At all times material hereto, the prevailing standard of care required Respondent to treat Patient P.N. in the following manner:

a. Use the proper epinephrine concentration in the tumescent solution used for the procedure; and/or

b. Arrange for Patient P.N. to stay at a medical facility capable of providing post-operative care and observation.

46. Respondent fell below the standard of care in his treatment of Patient P.N. in one or more of the following ways:

- a. By failing to use the proper epinephrine concentration in the tumescent solution used for the procedure; and/or
- b. By failing to arrange for Patient P.N. to stay at a medical facility capable of providing post-operative care and observation.

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

Count V

48. Petitioner realleges and incorporates paragraphs 1 through 47 as if fully set forth herein.

49. Section 458.331(1)(t), Florida Statutes, subjects a licensee to discipline for committing repeated medical malpractice as defined in Section 456.50. A person found by the board to have committed repeated medical malpractice based on Section 456.50, may not be licensed or continue to be licensed by this state to provide healthcare services as a medical doctor in this state.

50. Respondent committed repeated medical malpractice by committing three or more incidents of medical malpractice on Patients D.M., N.F., L.L., and/or P.N.

51. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2014), by committing repeated medical malpractice.

WHEREFORE, Petitioner respectfully requests 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 Respondent on probation, corrective action, refund of fees billed or collected, remedial education, and/or any other relief the Board of Medicine deems appropriate.

[Signature appears on following page]

SIGNED this 3rd day of March, 2016.

John H. Armstrong, M.D., F.A.C.S.
State Surgeon General and
Secretary of Health



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CLERK: *Bridget Cortes*

DATE MAR 04 2016

PCP: March 3, 2016

PCP Members: Mark Avila, M.D., Sarvam TerKonda, M.D., Brigitte Goersch

Administrative Complaint

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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 of Health within 21 days from the day Respondent received this 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 this 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 of Medicine shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on Respondent in addition to any other discipline imposed.