

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF HEALTH CARE SERVICES  
BOARD OF MEDICINE  
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JAMES R. NEUENSCHWANDER, M.D.  
License No. 43-01-050438

Complaint No. 43-13-127479

ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Jennifer Fitzgerald, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Health Care Services, files this complaint against Respondent James R. Neuenschwander, M.D., alleging upon information and belief as follows:

JURISDICTIONAL ALLEGATIONS

1. The Board of Medicine, 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 Public Health Code through its Disciplinary Subcommittee (DSC).
2. Respondent is currently licensed to practice medicine pursuant to the Code. At all times relevant to this complaint, Respondent practiced medicine at Bio Energy Medical Center, located in Ann Arbor, Michigan.
3. Section 16221(a) of the Code gives the DSC authority to take disciplinary action against Respondent for violation of a 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 gives the Disciplinary Subcommittee the authority to discipline Respondent for incompetence. Incompetence is defined under MCL 333.16106(1) as, "a departure from, or failure to conform 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 Disciplinary Subcommittee to impose sanctions against persons licensed by the Board, if, after opportunity for hearing, the Disciplinary Subcommittee determines that the licensee violated one or more of the subdivisions contained in section 16221 of the Code.

#### FACTUAL ALLEGATIONS

6. Respondent's background is in emergency medicine. He currently provides holistic care and alternative treatment to patients.

7. S.N. (D.O.B. 10-11-1966; initials used to protect patient privacy) first presented to Respondent on July 25, 2011, seeking an alternative homeopathic treatment for her health conditions. In total, she saw Respondent eleven times.

8. S.N. had a complicated medical history. In 2008, she was diagnosed with lobular breast carcinoma with positive estrogen receptors and positive

progesterone receptors and negative HER2. She also suffered from Sjogren's syndrome, an autoimmune disorder.

9. Following S.N.'s cancer diagnosis, she was treated with chemotherapy and radiation. She also underwent a bilateral mastectomy and breast reconstruction. In 2009, S.N.'s oncologist prescribed her Tamoxifen, an estrogen receptor antagonist. Tamoxifen is used for the treatment of estrogen receptor positive breast cancer in both pre- and post-menopausal women.

10. On August 31, 2011, S.N. presented to Respondent. At the appointment Respondent charted, "breast cancer. On Tamoxifen for three years. Consider discontinuation. Patient to decide based on risks." Respondent went on to chart, "fatigue. Related to Tamoxifen and decreased nutrition."

11. S.N. presented to Respondent on July 30, 2012. Respondent made a chart entry that S.N. had stopped taking Tamoxifen. Respondent also charted that S.N. had struggled with side effects of Tamoxifen.

12. At S.N.'s November 20, 2012 appointment, Respondent prescribed the following hormone replacement therapy: Estro-Dim twice daily; DHEA 10 mg daily; progesterone 2% for one week; and progesterone 10% for 2 weeks.

13. Subsequently, S.N. returned to her oncologist on February 5, 2013, for a follow up on her breast cancer. S.N. scheduled the follow up visit because she had self-palpated several skin nodules in her left reconstructed breast and axilla. S.N.'s oncologist strongly recommended she discontinue the hormone therapy, and

continue her Tamoxifen therapy. For the skin nodules, S.N.'s oncologist recommended a biopsy.

14. The hormone therapy provided by Respondent was contraindicated by S.N.'s status of estrogen receptor positive and progesterone receptor positive breast cancer.

15. Additionally, despite chart notations that it was S.N.'s decision to discontinue Tamoxifen, Respondent made several notations suggesting he encouraged that decision.

16. Respondent, whose training was in emergency medicine, failed to consult with an oncologist upon undertaking treatment of a complex cancer patient like S.N.

#### COUNT I

17. Respondent's conduct as described above constitutes negligence or failure to exercise due care, in violation of 16221(a) of the Code.

#### COUNT II

18. 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 Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*; MSA 3.560(101) *et seq*.

RESPONDENT IS NOTIFIED that, pursuant to section 16231(7) of the Code, Respondent has 30 days from the 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 Care Services, Department of Licensing and Regulatory Affairs, 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 the transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

Respectfully Submitted,  
BILL SCHUETTE  
Attorney General



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Date: July 29, 2014