

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
) AMENDED NOTICE OF CHARGES
Keith Emery Johnson, M.D.) AND ALLEGATIONS;
) NOTICE OF HEARING
Respondent.)

The North Carolina Medical Board (hereafter, "Board") has preferred and does hereby prefer the following charges and allegations:

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes.

2. On June 7, 1986, the Board issued a license to practice medicine to Keith Emery Johnson, M.D., license number 30178 (hereafter, "Dr. Johnson").

3. During the times relevant herein, Dr. Johnson practiced in Southern Pines, North Carolina.

4. On October 10, 2002, the Board preferred allegations and charges against Dr. Johnson based on information regarding Dr. Johnson soliciting confidential information. A hearing was initially scheduled for April 24, 2003. On April 4, 2003, the Board ordered that the hearing on the allegations and charges be continued to July 18, 2003. This Amended Notice of Charges and

Allegations replace the original October 10, 2002 Notice of Allegations and Charges. The hearing date of July 18, 2003, remains.

5. In the Spring of 2002, Dr. Johnson visited a local psychologist and requested from him the names of his patients with Acquired Immune Deficiency Syndrome (hereafter, "AIDS") or cancer. Dr. Johnson claimed to have a device called an Electro-Scaler that was able to diagnose and treat such ailments as AIDS and cancer. Dr. Johnson wanted the names of the psychologist's patients so that he could offer them treatment with the Electro-Scaler. Dr. Johnson describes the Electro-Scaler as being able to scan a patient's photograph, and then by attaching the photograph to an electrode followed by sincere prayer for a good outcome, the patient will be cured of most diseases. However, Dr. Johnson states that the Electro-Scaler does not seem to work on persons with colon cancer.

6. In or about the Summer of 2000, Dr. Johnson had a telephone conversation with Mr. Bengie M. Hair, Program Manager for the South Central Consortium (hereafter, "Consortium"). The Consortium is an organization created to provide information and resources to individuals afflicted with AIDS.

7. During his telephone conversation with Mr. Hair, Dr. Johnson claimed that he had a cure for AIDS. Dr. Johnson then

requested that Mr. Hair provide him with a list of the names of those individuals who were clients of the Consortium and who had AIDS so that he could contact them and tell them about his cure. Mr. Hair adamantly rejected Dr. Johnson's request. Mr. Hair also asked Dr. Johnson whether he was an actual physician, because Mr. Hair could not believe a physician would make a request that would require such an obvious breach of confidentiality. Dr. Johnson assured Mr. Hair that he was, in fact, a physician.

8. After Mr. Hair rejected Dr. Johnson's initial request, Dr. Johnson then requested that Mr. Hair arrange a meeting between the Consortium's clients and Dr. Johnson so that Dr. Johnson could explain his cure to the clients. Again, Mr. Hair adamantly rejected Dr. Johnson's request, and at that point, Mr. Hair ended the conversation.

9. Dr. Johnson's solicitation of confidential patient information, as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit Dr. Johnson's license to

practice medicine issued by the Board or to deny any future application he might make.

NOTICE TO DR. JOHNSON

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Amended Notice of Charges and Allegations will be held before the Board at 1:00 p.m., on Friday, July 18, 2003, or as soon thereafter as the Board may hear it, at the offices of the Board at 1201 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.4, 14.5, and 14.6. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf.

You may, if you desire, file written answers to the charges and complaints preferred against you within 30 days after the service of this notice.

Pursuant to N.C. Gen. Stat. § 150B-40(c)(5), it is further ordered that the parties shall arrange a prehearing conference at which they shall prepare and sign a stipulation on prehearing conference. The prehearing stipulation shall be submitted to the undersigned no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. §

150B-40(d), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 27th day of May, 2003.

NORTH CAROLINA MEDICAL BOARD

Charles L. Garrett, Jr., M.D.

By:

Charles L. Garrett, Jr., M.D.
President

ATTEST:

R. David Henderson

R. David Henderson
Executive Director

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Keith Emery Johnson, M.D.,) CONSENT ORDER
)
Respondent.)

This matter is before the North Carolina Medical Board (hereafter "Board") on Notice of Charges and Allegations issued on 10 October 2002 and amended 27 May 2003 regarding Keith Emery Johnson, M.D., (hereafter "Dr. Johnson"). Dr. Johnson admits, and the Board finds and concludes, that:

Whereas, the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted to it under Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto, and

Whereas, On June 7, 1996, the Board issued a license to practice medicine to Keith Emery Johnson, M.D., license number 30178 (hereafter "Dr. Johnson"), and

Whereas, on or about February and March 2002 Dr. Johnson contacted Craig Farmer, Phd. Pyschologist (hereafter "Dr. Farmer"), Tony Tyndall (hereafter " Mr. Tyndall") and Bengie Hair (hereafter "Mr. Hair") for the purposes of discussing Dr. Johnson's experimentation with a diagnostic device in a clinical

setting and the need to obtain patients to participate in the experiment. During the course of this contacting, Dr. Johnson made reference to support group(s) of persons dealing with issues related to AIDS/HIV (such support group(s) being known by Dr. Farmer, Mr. Tyndall and Mr. Hair) and Dr. Johnson's desire to make a presentation regarding his experimentation to the support group(s) and to have those persons later participate in experimentation with respect to the diagnostic device in a clinical setting; and

Whereas, some of the persons involved in the said support group(s) are patients of health care providers and their treatment and identity are subject to patient confidentiality protections; and

Whereas, in the particular circumstances and context of the conferring and contacts by Dr. Johnson described above, a reasonable person could infer and believe, and Dr. Farmer, Mr. Tyndall, and Mr. Hair do believe, that Dr. Johnson's conferring and contacts gave the appearance that Dr. Johnson desired to obtain confidential patient information without appropriate releases and authorizations from patients, and then contact the patients and arrange for them to participate in the diagnostic device experimentation in a clinical setting; and

Whereas, Dr. Johnson admits that in the course of his contacts described above, he employed experimental research

methods in a clinical setting that gave the appearance of failure to conform to the standards of acceptable and prevailing medical practice, and the ethics of the medical profession, irrespective of whether a patient is injured thereby, and thus constituting unprofessional conduct not in compliance with N.C. Gen. Stat. 90-14(a)(6), and

Whereas, Dr. Johnson further admits that the above constitutes grounds under those sections of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Johnson's license number 30178 to practice medicine issued by the Board or to deny any application he may make in the future for a license to practice medicine, and

Whereas, no patient confidential information was disclosed in the course of the activities that were the subject of the investigation by the Board in connection with the Amended Charges, and no patient has been harmed by Dr. Johnson; and

Whereas, Dr. Johnson would like to resolve this matter without the need for more formal proceedings; and

Whereas, the Board has determined that it is in the public interest to resolve this case as set forth below;

Now, therefore, with Dr. Johnson's consent, it is ORDERED

that:

1. Dr. Johnson's license to practice medicine is hereby SUSPENDED for a period of one (1) year, such suspension STAYED IMMEDIATELY, for the above-described conduct.
2. Dr. Johnson shall forthwith attend Board approved seminars and courses with four (4) CME hours credit with respect to compliance with the Health Insurance Portability & Accountability Act (HIPPA) or other topics dealing with patient confidentiality.
3. Dr. Johnson shall submit himself and a psychological report by Art Lluca, MA, MTID, DABFE, FACFE [Board Certified Forensic Examiner, specializing in Psychological Assessment and Diagnostics] to Warren Pendergast, M.D. of the North Carolina Physicians Health Program (hereafter, NCPHP) for examination, evaluation and the devising of any recommended treatment plan and compliance therewith;
4. Dr. Johnson agrees to comply with all laws, rules and regulations in the future;
5. Dr. Johnson hereby waives any requirement under any law or rule that this Consent Order be served on him.
6. Upon execution by Dr. Johnson and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General

Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses, as required by law, including, but not limited to the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank.

By Order of the North Carolina Medical Board, this the 15th day of July, 2003.

NORTH CAROLINA MEDICAL BOARD



Charles L. Garrett, Jr., M.D.
President

ATTEST:



R. David Henderson
Executive Director

Consented to this the 22 day of July, 2003.

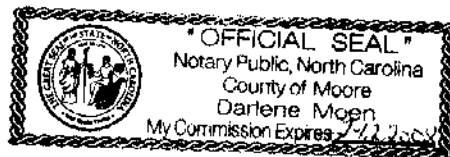
Keith Emery Johnson, MD
Keith Emery Johnson, M.D.

State of North Carolina
Moore County

I, Darlene Moon, a Notary Public for the above named County and State, do hereby certify that Keith Emery Johnson, M.D., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal
This the 22 day of July, 2003

Darlene Moon
Notary Public



My Commission expires: 2-12-2008