

IN THE OHIO SUPREME COURTS

S/O, EX REL SULTAANA

V.

2022-1496

OHIO HEALTH, ET AL

AMENDED COMPLAINT WRIT OF MANDAMUS

Relator Amirah Sultaana, herein referred as relator, moves pursuant to this court rule 12.01 by requesting an order from this court to compel respondents to be incompliance with relator's Ohio Public record request pursuant to Ohio Revised Code 149.43 that was made to all respondents Ohio Public record offices.

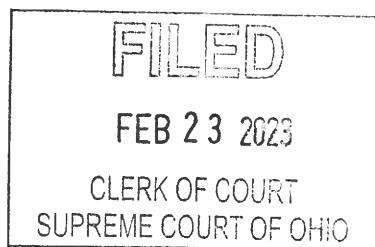
In addition, relator request an order from this court to compel all respondents to perform its obligated duties that Ohio law mandates.

Mainly, State medical board to be incompliance with R.C 4331.22(F)(1).

Board of Nursing of OHio to perform its duties under law pursuant to chapter 4723 and start discipline proceedings under chapter 119 of the Ohio Revised Code.

Ohio Health to correct its patient records pertaining to Hakeem Sultaana's 7/2/222 ER visits.

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Relator adopts and incorporates pages 1-4 from her original complaint that was filed on 12/6/22, her 12/6/22 affidavit of verity & 12/12/22 amended affidavit of verity to this amended complaint.

In particular, relator request respondent Ohio Health to provide her with her son's July 2,2022 billing records and other patient records request from her record request via her valid power of attorney that has not been turned over to relator.

Relator request respondent's State Medical Board & Board of Nursing of Ohio to provide her with a copy of her son's complaint that was mailed & filed by Hakeem Sultaana with its public record offices pertaining to the horrific criminal events that transpired at Ohio Health on 7/2/22 via her son's Emergency Room visits.

Also, relator request an order to compel all adverse parties to lodge what actions were taken by all parties, "on paper", pertaining to her son's complaint to all adverse party's public record offices/legal law offices.

It is axiomatic that in mandamus proceedings, the creation of the legal duty that a relator seeks to enforce is the distinct function of the State Medical Board/Nursing Board of Ohio & Ohio Health, and courts are not authorized to create the legal duty enforceable in mandamus.' (Emphasis sic.)" State ex rel. Stiles v. School Employees Retirement Sys., 102 Ohio St. 3d 156, 2004 Ohio 2140, 807 N.E.2d 353, P15 [****4] , quoting State ex rel. Pipoly v. State Teachers Retirement Sys., 95 Ohio St. 3d 327, 2002 Ohio 2219, 767 N.E.2d 719, P18

Now R.C. 4731.22(F)(1) requires the State Medical Board to "investigate evidence that appears to show that a

person has violated any provision of [R.C. Chapter 4731] or any rule adopted under it." R.C. 4731.39 imposes a **duty** on the secretary of the board to "enforce the laws" relating to the practice of medicine and surgery," and "if he has knowledge or notice of a violation, he shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender."

R.C. 4731.22(F)(5) ("The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board").

Relator asserts she is seeking only if an investigation is or is not under way by the State Medical Board of Ohio.

Relator is aware the plain language of R.C. 4731.22(F)(5) protects "[i]nformation received by the board pursuant to an investigation" - it is not restricted to information relating to patients and complainants. This language provides a "clear legislative directive" that "information received by the board during an investigation is confidential." State Med. Bd. of Ohio v. Murray (1993), 66 Ohio St.3d 527, 536, 1993 Ohio 14, 613 N.E.2d 636.

Again relator just seeks the complaint VIA HER PUBLIC RECORD REQUEST THAT WAS FILED BY HER SON.

Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio's Public Records Act." State ex rel. Physicians Commt. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees, 108 Ohio St.3d 288,

2006 Ohio 903, 843 N.E.2d 174, P 6; R.C. 149.43(C)(1). "We construe the Public Records Act liberally in favor of broad access and resolve any doubt in favor of disclosure of public records." State ex rel. Rocker v. Guernsey Cty. Sheriff's Office, 126 Ohio St.3d 224, 2010 Ohio 3288, 932 N.E.2d 327, P 6.

The State Medical Board of Ohio is a public office for purposes of R.C. 149.43. State ex rel. Wallace v. State Med. Bd. of Ohio (2000), 89 Ohio St.3d 431, 434, 2000 Ohio 213, 732 N.E.2d 960; R.C. 149.011(A)

At this juncture, relator asserts that she has not been offered any concrete evidence that respondent State Medical Board of Ohio has attempted, done or started an investigation pertaining to her son Hakeem Sultaana's complaint that was uttered to respondent State medical Board of Ohio from the 7/2/22 events that transpired in the venue of Ohio Health. NOR HAS SHE RECEIVED HER PUBLIC RECORD REQUEST.

In short State Medical Board has not been incompliance with R.C 4731.22(F)(1) whatsoever. or has its secretary filed any complaint at this juncture OR CONTACTED RELATOR'S SON WHATSOEVER.

Now R.C. 4723.28(B) authorizes the Board to "deny, revoke, suspend, or place restrictions on any nursing license" if a nurse violates any one of a number of standards.

The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

- (1) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;
- (2) Engaging in the practice of nursing or engaging in practice as a dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;
- (3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;
- (4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;
- (5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate

therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

(8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way that is not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance;

(9) Habitual or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs the individual's ability to provide safe nursing care or safe dialysis care;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care

or safe dialysis care because of the use of drugs, alcohol, or other chemical substances;

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Misappropriation or attempted misappropriation of money or anything of value in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the United States department of defense or department of veterans affairs for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate;

(18) Failure to use universal and standard precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

- (21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;
- (22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;
- (23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;
- (24) In the case of an advanced practice registered nurse, except as provided in division (M) of this section, either of the following:
 - (a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;
 - (b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.
- (25) Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code;
- (26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;
- (27) In the case of an advanced practice registered nurse:

- (a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;
- (b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(28) In the case of an advanced practice registered nurse other than a certified registered nurse anesthetist, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of an advanced practice registered nurse who is designated as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:

- (a) Sexual contact, as defined in section 2907.01 of the Revised Code;
- (b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(33) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(34) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;

(35) Failure to comply with section 4723.487 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(36) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under **Chapter 119.** of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

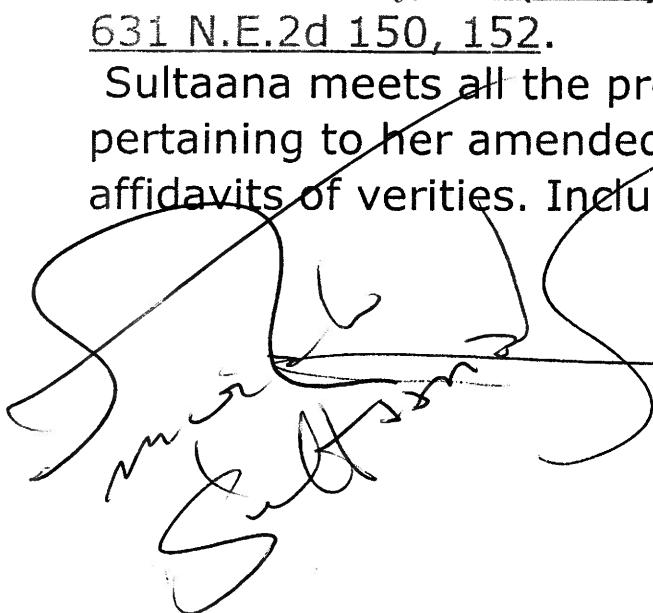
(D) The hearings of the board shall be conducted in accordance with

Relator also seeks statutory damages pursuant to R.C 149.43 for all respondent's failure to provide relator with her public record request.

In order to be entitled to a writ of **mandamus**, Sultaana has to establish a clear legal right to the requested relief, a clear legal duty on the part of respondent's to provide such relief, and the lack of an adequate remedy in the ordinary course of the law. State ex rel. Cassels v. Dayton City School Dist. Bd. of Edn. (1994), 69 Ohio St. 3d 217, 218-219, 631 N.E.2d 150, 152.

Sultaana meets all the prongs in her instant request pertaining to her amended complaint and her on file affidavits of verities. Including new affidavit of verity.

Respectfully submitted,


Amirah Sultaana

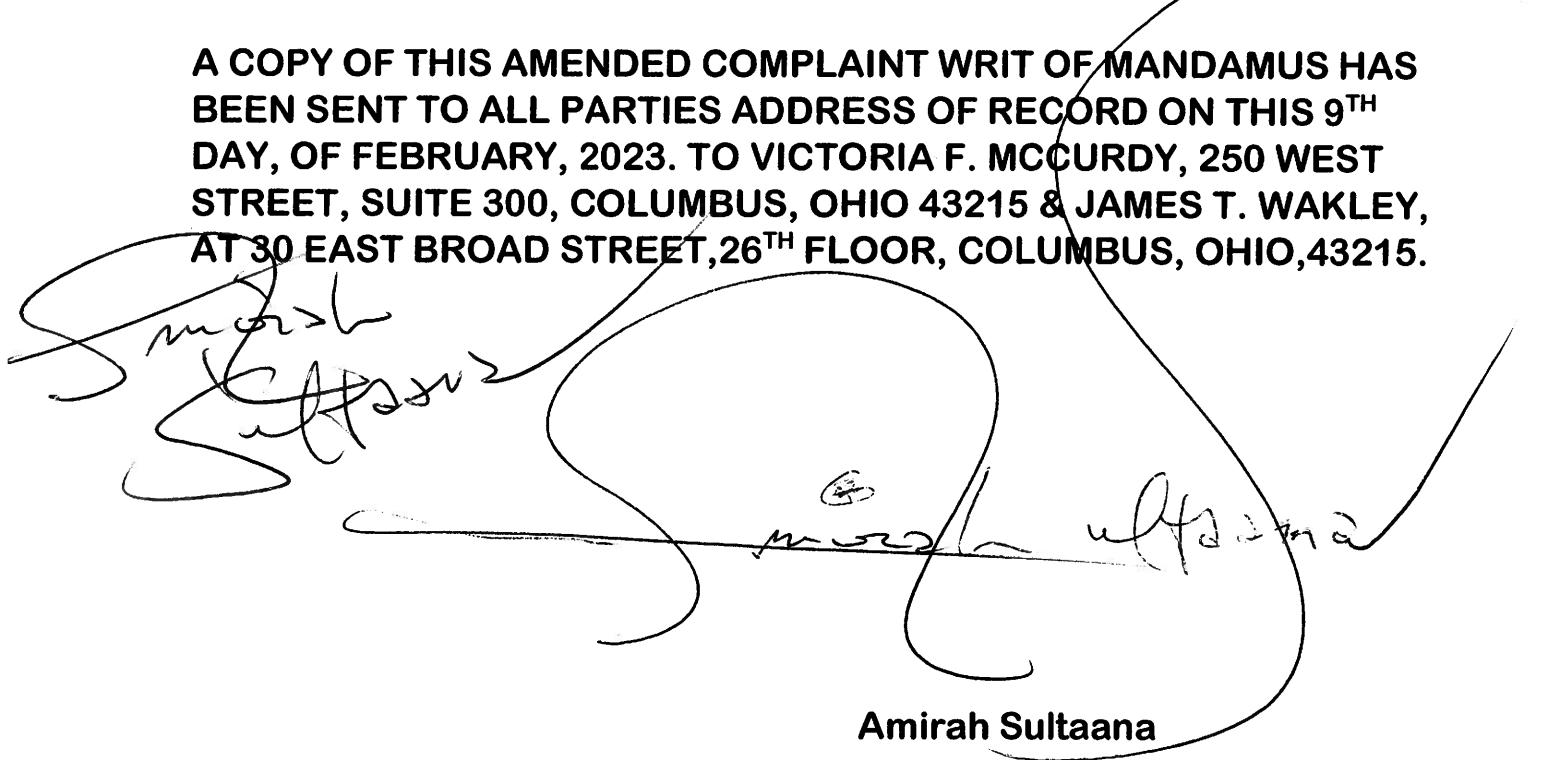
16410 Scottsdale

Shaker Heights, Ohio 44120


amirahsultaana@live.com

CERTIFICATE OF SERVICE

**A COPY OF THIS AMENDED COMPLAINT WRIT OF MANDAMUS HAS
BEEN SENT TO ALL PARTIES ADDRESS OF RECORD ON THIS 9TH
DAY, OF FEBRUARY, 2023. TO VICTORIA F. MCCURDY, 250 WEST
STREET, SUITE 300, COLUMBUS, OHIO 43215 & JAMES T. WAKLEY,
AT 30 EAST BROAD STREET, 26TH FLOOR, COLUMBUS, OHIO, 43215.**



Amirah Sultaana

NOTICE

HAKEEM SULTAANA HAS FORWARD A COPY OF HIS COMPLAINT TO THE STATE MEDICAL BOARD OF OHIO & BOARD OF NURSING FOR A 2ND TIME PPERTAINING TO THE HORRIFIC CRIMINAL EVENTS THAT WAS BLASTED ON HIM BY OHIO HEALTH MARION GENERAL ON JULY 2,2022.

USP CETIFIED MAIL #'S ARE AS FOLLOW:

7022 2410 0002 5565 6142

7022 2410 0002 5565 6081

7022 2410 0002 5565 6159

NOTICE IS GIVEN THAT AMIRAH SULTAANA HAS MADE A SECOND OHIO PUBLIC RECORD REQUEST TO THE STATE MEDICAL BOARD AND BOARD OF NURSING SEEKING TO OBTAIN A COPY OF HER SON'S COMPLAINT SENT TO ABOVE PARTIES PUBLIC RECORD OFFICE.

2935.09 SHALL BE IMPLIMENT AND DOJ COMPLAINT. JUST WANT RECIEPT OF AN INVESTAGATION IS STARTED OR NOT. AGAIN ALL COULD BE RESOLVED IN THIS INSTANT MEDIATION.