

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

NEW YORK STATE DIVISION OF HUMAN  
RIGHTS on the Complaint of

**CRYSTAL** [REDACTED]

Complainant,

v.

**GARNET HEALTH MEDICAL CENTER,**

Respondent.

**COMPLAINT**

Case No. \_\_\_\_\_

**INTRODUCTION**

1. Crystal [REDACTED] never imagined that the last thing she ate before giving birth to her son – a bagel with poppy seeds – would lead to one of the most traumatic experiences of her life. But that is exactly what happened when Garnet Health Medical Center (“GHMC”) drug tested Crystal without her knowledge or consent and reported a single unconfirmed, false positive drug test result to the New York State Central Register of Child Abuse and Maltreatment, prompting a highly invasive child abuse investigation.

2. GHMC drug tested Crystal without her consent even though there is no medical necessity, reason, or justification for drug testing perinatal patients, and reported her even though her baby was healthy and tested negative for any controlled substances.

3. GHMC drug tests perinatal patients without their consent, on the basis of sex and pregnancy, in violation of the New York State Human Rights Law (“NYSHRL”).

4. GHMC’s discriminatory actions on the basis of sex, pregnancy, and race tarnished Crystal’s irreplaceable first moments with her newborn son – time Crystal and her husband will never get back. GHMC subjected her to discriminatory and accusatory treatment

that led to Crystal losing the ability to breastfeed her newborn. What was supposed to be one of the most joyful occasions in her family's life quickly became a nightmare, leading to emotional and psychological pain and suffering, humiliation, and lasting trauma for the [REDACTED] family.

5. Crystal files this complaint to ensure that GHMC ceases its unlawful discriminatory practice of non-consensually drug testing perinatal patients and institutes related policies, procedures, and training. Crystal also seeks a declaration that non-consensual drug testing of perinatal patients violates the NYSHRL, a letter of apology, a correction to her and her baby's medical records, damages, attorney's fees, and any other relief the Commissioner deems proper.

#### **PARTIES**

6. Complainant Crystal [REDACTED] is an adult resident of Orange County, New York.

7. Respondent Garnet Health Medical Center is a not-for-profit corporation with a principal place of business located at 707 East Main Street, Middletown, NY 10940, which is duly authorized to conduct business within the State of New York. Respondent GHMC was, at all times relevant, acting by and through its duly authorized agents, employees and/or assigns, who were then and there acting within the course and scope of their employment and in accordance with the customs, policies, and practices of GHMC.

#### **FACTS**

8. Complainant Crystal [REDACTED] is the mother of an infant boy, T.H.

9. Prior to giving birth to T.H., Crystal received necessary and appropriate prenatal medical care with Garnet Health Doctors. Crystal's doctors took a urine sample at each prenatal appointment to ensure there was no blood in her urine and to check protein levels.

10. On December 18, 2020, at 11:29 AM, Crystal was admitted to the GHMC hospital after a prenatal appointment at Garnet Health Doctors, where they determined her water had started to leak.

11. Following Crystal’s admission and without her knowledge or consent, GHMC employees collected her urine for the purpose of testing it for drugs, including opiates. Crystal believed this was another routine test to check for blood and proteins.

12. GHMC had no medical necessity, reason, or justification to test Crystal’s urine for drugs. Leading medical authorities, like the American College of Obstetricians and Gynecologists, reject practices that screen perinatal people for substance use via drug testing.<sup>1</sup>

13. GHMC did not request or obtain Crystal’s consent to test her urine for drugs.

14. The results of Crystal’s initial drug test results came back “presumptive positive” for opiates.

15. The drug test results state:

This test provides a *preliminary result only*; positive results are *unconfirmed*. A *more specific chemical method must be used for confirmation*. Clinical consideration and professional judgment should be applied to any drug of abuse test result, particularly when preliminary positive results are used. Confirmatory testing will be performed by request only when ordered *within 48 hours* of specimen receipt. (emphasis added).

16. Expert medical associations agree that any positive screening result should be confirmed with a second, more accurate test.<sup>2</sup>

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<sup>1</sup> See Hayley R. Price et al., *Screening Pregnant Women and Their Neonates for Illicit Drug Use: Considerations of the Integrated Technical, Medical, Ethical, Legal, and Social Issues*, 9 *Frontiers in Pharmacology* 1, 2, 4 (2018); American College of Obstetricians and Gynecologists, *ACOG Committee Opinion: Opioid Use and Opioid Use Disorder in Pregnancy*, Aug. 2017, at 4–6.

<sup>2</sup> See American College of Obstetricians and Gynecologists, *ACOG Committee Opinion: Substance Abuse Reporting and Pregnancy: The Role of the Obstetrician–Gynecologist*, Jan. 2011; Substance Abuse and Mental Health Services Administration, *Clinical Guidance for Treating Pregnant and Parenting Women with Opioid Use Disorder and Their Infants*, Jan 2018.

17. When the nurse who collected her urine informed Crystal of the test result, Crystal felt shocked and confused as she had never consumed opiates or consented to a drug test.

18. A couple of hours before she was admitted to GHMC, Crystal had eaten a bagel containing poppy seeds. She informed her nurse that she consumed poppy seeds earlier in the day.

19. Crystal asked the medical staff to re-test her urine and offered to provide a blood or hair sample.

20. The nurse ignored and dismissed Crystal's request for a confirmatory re-test. GHMC did not conduct a confirmatory test within 48 hours.

21. The nurse then spoke to the Garnet Health Doctors obstetrician on duty about the test and Crystal's consumption of poppy seeds, and the obstetrician suggested that consuming poppy seeds could result in a false positive drug test result.

22. The result on the initial drug test were solely due to Crystal's ingestion of a bagel containing poppy seeds a few hours before providing the urine sample and not due to any opiates consumed by Crystal.

23. After the drug test result, Crystal was met with accusatory and dismissive treatment from the primarily white nursing staff. The nursing staff were short and brusque in their interactions with Crystal, ordering her around and ignoring her repeated requests to make the experience of laboring more comfortable.

24. GHMC's accusatory and dismissive treatment of Crystal continued throughout her entire admission at the hospital. Crystal asked GHMC nursing staff for information on how to care for herself and her baby, but she received little support.

25. GHMC medical staff made Crystal feel like a mother who was incapable of caring for her child due to the false positive drug test result.

26. At all times relevant, GHMC was aware, and/or knew or should have known, that its urine drug tests were unreliable and likely to lead to false positive results as GHMC uses an extremely low “cut-off” to qualify as a positive result. GHMC’s threshold of 300 ng/mL falls far below the threshold used by the federal government.<sup>3</sup>

27. Crystal’s false positive drug test result was unconfirmed and based on a medically unjustified standard for qualifying as a true “positive” result.

28. On December 19, 2020, Crystal gave birth to a healthy baby boy, T.H.

29. That same day, without Crystal’s knowledge or consent, GHMC performed a urine drug test on T.H.

30. T.H.’s drug test results came back negative for all substances, including opiates.

31. An hour or two after T.H. was born, Crystal asked the nursing staff about feeding her baby since no one had provided any support or guidance yet.

32. The nurse responded that Crystal was not allowed to breastfeed in the hospital because she had tested positive for opiates.

33. Crystal immediately began advocating for herself to be allowed to breastfeed.

34. Later that day, the nurse, after consultation with the obstetrician and pediatrician, informed Crystal that she was allowed to breastfeed. Despite this approval, the nurse did not help T.H. to latch and provided no support.

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<sup>3</sup> In 1998, the U.S. Department of Health and Human Services raised its testing threshold from 300 ng/mL to 2,000 ng/mL for workplace screening to avoid false-positive results from poppy seeds. See Karen E. Moeller, PharmD, BCPP, et al., *Urine Drug Screening: Practical Guide for Clinicians*, Mayo Clin Proc. 2008;83(1)66-76 (noting that the U.S. Department of Health and Human Services (DHHS) adjusted its threshold to 2,000ng/mL “to help eliminate false-positive results (e.g., poppy seeds causing positive opium results).”).

35. As a first-time mother, Crystal did not know how to nurse her child without assistance and asked GHMC medical staff for guidance and assistance many times.

36. Crystal's requests for guidance and assistance were repeatedly ignored until December 21, 2020, when GHMC finally provided an electric pump and sent a lactation consultant to see Crystal.

37. The lactation consultant was initially very short with Crystal, but her attitude and demeanor changed immediately upon learning that Crystal's drug test result was a false positive.

38. By the time the lactation consultant was able to see Crystal, T.H. could not latch. Crystal was never able to get T.H. to successfully latch, and she ultimately lost the ability to breastfeed him.

39. GHMC's discriminatory treatment of Crystal caused her to miss out on critical bonding through breastfeeding and deprived her child of the important nutrients provided by maternal breastmilk.

40. On or about December 20, 2020, while she was still at the hospital, a GHMC case manager informed Crystal that GHMC was going to report her unconfirmed, false positive test results to the New York State Central Register of Child Abuse and Maltreatment ("State Central Register") without her consent.

41. The State Central Register immediately opened a full child abuse and maltreatment investigation.

42. GHMC did not request or obtain Crystal's consent to report the results of her urine drug test to third parties, including government agencies like the State Central Register or the Orange County Department of Social Services ("OCDSS").

43. GHMC did not disclose to Crystal that GHMC would report an unconfirmed, false positive test result to the State Central Register or OCDSS even if her baby was born healthy, was not exposed to opiates, and tested negative for opiates.

44. An unconfirmed, preliminary positive drug test result does not constitute suspicion of abuse or neglect. There is no state or federal statute or regulation that requires hospitals to report a single, unconfirmed, preliminary test to the State Central Register, much less a false positive test result.

45. Crystal continued to request a confirmatory drug test at the hospital upon learning of the report to the State Central Register. On December 21, 2020, a GHMC patient advocate finally agreed to a confirmatory urine drug test.

46. Crystal's confirmatory urine re-test results were negative for opiates.<sup>4</sup>

47. Upon information and belief, GHMC refused to withdraw the State Central Register report and failed to send them the negative test results.

48. At all times relevant, GHMC knew that when it reported the false positive urine drug test results to the State Central Register, the ensuing investigation by OCDSS caseworkers would cause Crystal to suffer emotional distress, embarrassment, and humiliation.

49. Crystal was discharged from GHMC on December 21, 2020 and returned home with T.H. and her husband.

50. Within twelve hours of discharge, an OCDSS caseworker arrived at Crystal's home and conducted an invasive search. It was particularly invasive as it occurred during the COVID-19 pandemic. Crystal and her husband were quarantined and not permitting anyone, including close family, to come over to visit their newborn.

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<sup>4</sup> A three-month confirmatory hair follicle drug test, taken by Crystal after her discharge, was also negative for opiates.

51. At all times relevant, GHMC was aware that when it reported the alleged positive urine drug screen results to OCDSS that OCDSS would in turn conduct a highly intrusive child abuse and maltreatment investigation.

52. After a 60-day investigation, Crystal's abuse and maltreatment investigation was determined to be unfounded and expunged nine months later.

53. Crystal suffered additional emotional distress as a result of this investigation.

54. Crystal is aware of at least one other GHMC patient, [REDACTED], who was similarly drug tested without her consent, received a false positive result due to poppy seed consumption, and was referred to the State Central Register.

### **CLAIMS**

55. Respondent GHMC's actions violate the New York State Human Rights Law, Executive Law § 296. Respondent GHMC's practice of drug testing perinatal patients without their informed consent is unlawful sex and pregnancy discrimination and its treatment of Crystal violated New York's prohibitions on race discrimination.

56. Complainant Crystal [REDACTED] has suffered substantial harm as a result of Respondent GHMC's actions, including but not limited to, emotional and psychological pain and suffering, embarrassment, and humiliation.

### **PRAYER FOR RELIEF**

Complainant respectfully requests the following relief:

- A. Fully investigate Crystal's complaint and issue a finding that probable cause for unlawful discrimination occurred;
- B. Declare that Respondent's actions violate the New York State Human Rights Law, Executive Law § 296;



- C. Order Respondent to cease and desist its unlawful discriminatory practice of drug testing perinatal patients without their consent;
- D. Order Respondent to establish policies, procedures, and training relating to informed consent and pregnancy discrimination;
- E. Order Respondent to issue a letter of apology;
- F. Order Respondent to amend Crystal's medical records and those of her baby to remove any reference to her false positive drug test result;
- G. Award Complainant compensatory damages for mental and psychological pain and suffering;
- H. Award Complainant costs and attorneys' fees; and
- I. Grant such other relief as the Commissioner deems proper.

Dated: December 17, 2021  
New York, NY

Respectfully submitted,

NEW YORK CIVIL LIBERTIES UNION  
FOUNDATION



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