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## BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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5 **In The Matter of Charges and** )  
6 **Complaint Against** )  
7 **JAMES FORSYTHE, M.D.,** )  
8 **Respondent.** )  
9 )  
10 )

NO. Case No. 09-4382-1  
FILED January 28, 2009  
  
CLERK OF THE BOARD

### COMPLAINT

11  
12 The Investigative Committee of the Board of Medical Examiners of the state of Nevada,  
13 composed of Charles N. Held, M.D., Chairman, Cindy Lamerson, M.D., Member, and  
14 Jean Stoess, M.A., Member, by and through Lyn E. Beggs, General Counsel for the Nevada State  
15 Board of Medical Examiners, having a reasonable basis to believe that James Forsythe, M.D., has  
16 violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the  
17 Investigative Committee's charges and allegations, as follows:

18 1. Dr. Forsythe is currently licensed in active status, and was so licensed by the  
19 Nevada State Board of Medical Examiners, hereinafter referred to as "the Board," on  
20 September 4, 1974 (License No. 2864), pursuant to the provisions of Chapter 630 of the Nevada  
21 Revised Statutes, and at all times addressed herein was so licensed.

22 2. Patient A was a seventy-one year old male at the time of the beginning of the events  
23 set forth in this complaint. His true identify is not disclosed to protect his privacy, but his identity  
24 is disclosed in the Patient Designation served on Dr. Forsythe along with a copy of this Complaint.

25 3. Patient A was a long standing patient of Dr. Forsythe. In June 2002, Patient A  
26 presented to Dr. Forsythe. Lab work completed in June 2002, showed Patient A had a Prostate-  
27 Specific Antigen (PSA) level of 3.7 ng/mL.

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OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
1105 Terminal Way #301  
Reno, Nevada 89502  
(775) 688-2559

1           4.       Patient A returned to Dr. Forsythe in August 2002 for a routine follow-up exam. A  
2 digital rectal examination was performed during which a 1 cm right prostate lobe nodule was  
3 discovered.

4           5.       Patient A had lab work performed in early September 2002 which indicated a PSA  
5 level of 5.9 ng/mL. Patient A returned to Dr. Forsythe who diagnosed Patient A with prostate  
6 nodule cancer and informed Patient A of such. At the same visit Dr. Forsythe administered an  
7 injection of Zoladex, otherwise known as goserelin, often used to treat prostate cancer.

8           6.       Dr. Forsythe failed to obtain any tissue biopsy or obtain any further diagnostic  
9 studies before rendering his diagnosis of prostate cancer.

10          7.       Patient A once again underwent lab work in December 2002 at which time his PSA  
11 level was indicated to be 1.8 ng/mL.

12          8.       Patient A returned to Dr. Forsythe in January 2003 at which time Dr. Forsythe  
13 again injected Patient A with Zoladex. A third injection of Zoladex was administered at a follow  
14 up appointment in April 2003.

15          9.       Lab work performed in April 2003 indicated that Patient A's PSA level had  
16 decreased to 1.0 ng/mL and subsequent lab tests performed in August 2003 indicated a further  
17 drop to 0.6 ng/mL.

18          10.      Patient A saw Dr. Forsythe in December 2003 and January 2004, but was then  
19 followed by physicians outside of the Reno area until August 2004 when he was again seen by  
20 Dr. Forsythe. In August 2004, lab work indicated Patient A's PSA level was 4.9 ng/mL. In  
21 December 2004, Patient A's PSA level decreased slightly to 4.5 ng/mL.

22          11.      Patient A's PSA level remained steady at 4.5 ng/mL according to lab results from  
23 March 23, 2005. Also on March 23, 2005, Patient received a final injection of Zoladex.

24          12.      Patient A's PSA level as of April 19, 2005 was 17.2 ng/mL. He was seen shortly  
25 thereafter in the emergency room for urinary retention and followed up with Dr. Jonathan Garey-  
26 Sage for treatment. During the course of Patient A's treatment with Dr. Garey-Sage, a prostate  
27 needle biopsy was performed which was negative for prostate cancer.

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**Count I**

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2 13. Nevada Administrative Code Section 630.040 defines malpractice as the failure of  
3 a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used  
4 under similar circumstances.

5 14. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds  
6 for initiating disciplinary action against a licensee.

7 15. Dr. Forsythe failed to use the reasonable care, skill, or knowledge ordinarily used  
8 under similar circumstances when he failed to properly diagnose whether Patient A truly had  
9 prostate cancer before treating him for the alleged prostate cancer and thus he has violated NRS  
10 630.301(4).

11 16. By reason of the foregoing, Dr. Forsythe is subject to discipline by the Nevada  
12 State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

**Count II**

13  
14 17. Nevada Administrative Code Section 630.040 defines malpractice as the failure of  
15 a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used  
16 under similar circumstances.

17 18. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds  
18 for initiating disciplinary action against a licensee.

19 19. Dr. Forsythe failed to use the reasonable care, skill, or knowledge ordinarily used  
20 under similar circumstances when he informed Patient A that he had prostate cancer without  
21 making a proper diagnosis of the alleged cancer and thus he has violated NRS 630.301(4).

22 20. By reason of the foregoing, Dr. Forsythe is subject to discipline by the Nevada  
23 State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

24 **WHEREFORE**, the Investigative Committee prays:

25 1. That the Nevada State Board of Medical Examiners fix a time and place for a  
26 formal hearing;

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1           2.       That the Nevada State Board of Medical Examiners give Respondent, notice of the  
2 charges herein against him, the time and place set for the hearing, and the possible sanctions  
3 against him;

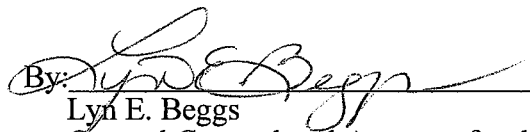
4           3.       That the Nevada State Board of Medical Examiners determine what sanctions to  
5 impose for the violation or violations committed by Respondent; and

6           4.       That the Nevada State Board of Medical Examiners make, issue and serve on  
7 Respondent its findings of fact, conclusions of law and order, in writing, that includes the  
8 sanctions imposed; and

9           5.       That the Nevada State Board of Medical Examiners take such other and further  
10 action as may be just and proper in these premises.

11           DATED this 28<sup>th</sup> day of January, 2009.

12                               INVESTIGATIVE COMMITTEE OF  
13                               THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

14                               By:   
15                               Lyn E. Beggs  
16                               General Counsel and Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA            )  
  : ss.  
COUNTY OF DOUGLAS        )

Charles N. Held, M.D., having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate, and correct.

DATED this 28<sup>th</sup> day of January, 2009.

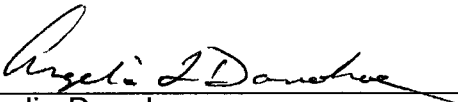
  
\_\_\_\_\_  
Charles N. Held, M.D.

**CERTIFICATE OF MAILING**

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 28<sup>th</sup> day of January 2009, I served a file copy of the COMPLAINT, PATIENT DESIGNATION, NOTICE OF PREHEARING/HEARING along with a copy of the appointment letter by mailing USPS certified return receipt to the following:

James Forsythe, M.D.  
521 Hamill Lane  
Reno, NV 89511

Dated this 28<sup>th</sup> day of January 2009.

  
\_\_\_\_\_  
Angelia Donohoe  
Legal Assistant