

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

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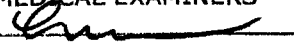
4 In The Matter of Charges and)
5 Complaint Against)
6 PAUL CUTARELLI, M.D.,)
7 Respondent.)
8)
9)

Case No. 08-29655-3

FILED

MAR 15 2011

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

10 **AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

11 The above-entitled matter came on for consideration before the Nevada State
12 Board of Medical Examiners, hereinafter "Board," on March 11, 2011, at the Board's
13 offices located at 1105 Terminal Way, Suite 301, Reno, Nevada, 89502, and by video
14 conference at the offices of the Nevada State Board of Dental Examiners located at
15 6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118, on the
16 Complaint filed herein. Respondent Paul Cutarelli, M.D., hereinafter "Respondent," was
17 not present but attorney, David J. Mortensen, Esq., was present on his behalf.
18 Lyn E. Beggs, Esq. was present on behalf of the Investigative Committee which
19 authorized the Second Amended Complaint.

20 The members of the Board participating in the decision were:
21 Javid Anwar, M.D.; Beverly Neyland, M.D.; Michael Fischer, M.D. and Theodore
22 Berndt, M.D. Keith Marcher, Chief Deputy Attorney General, acted as legal counsel to
23 the Board.

24 The Board, having previously received and read the Second Amended Complaint
25 and exhibits admitted in the matter, as well as the Synopsis of Record prepared by the
26 hearing officer who presided over the hearing and the transcript of the hearing, and
27 hearing arguments from Mr. Mortensen and Ms. Beggs, proceeded to make a decision
28 pursuant to the provisions of NRS chapters 233B and 630.

1 The Board, after due consideration of the record, evidence, arguments, law, and
2 Petition for Judicial Review filed by Respondent, and being fully advised in the premises,
3 amends its FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in this matter
4 as follows:

5 **FINDINGS OF FACT**

6 **I.**

7 Respondent held a license to practice medicine in the state of Nevada at all
8 relevant times.

9 **II.**

10 On October 30, 2008, the Investigative Committee filed the Complaint in this
11 matter alleging violations of Chapter 630 of the Nevada Revised Statutes. A First
12 Amended Complaint was subsequently filed on December 19, 2008. A Second
13 Amended Complaint was filed on January 27, 2010.

14 **III.**

15 On January 27, 2010 and January 28, 2010, a hearing was held before an
16 appointed hearing officer on the allegations contained within the Second Amended
17 Complaint. Respondent was represented by counsel; Hal Taylor, Esq. and C. Gregory
18 Tiemeier, Esq. The Investigative Committee was represented by Lyn E. Beggs, Esq. At
19 the time of hearing, count II was dismissed.

20 **IV.**

21 The matter was presented to the above-listed Board members for consideration
22 at the regularly scheduled Board meeting on June 11, 2010, and after discussion and
23 deliberation the Board entered its previously filed Findings of Facts, Conclusions of Law
24 and Order.

25 **V.**

26 On July 22, 2010, through new counsel of record, David J. Mortensen, Esq.,
27 Respondent caused to be filed in the First Judicial District Court of the State of Nevada

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1 in and for Carson City, a timely Petition for Judicial Review contesting and appealing the
2 Board's Findings of Fact, Conclusions of Law and Order.

3 **VI.**

4 The Board has reconsidered its previously entered findings and in consideration
5 and review of all information before it on March 11, 2011, the Board deems it
6 appropriate to enter an Amended Findings of Fact, Conclusions of Law and Order and
7 withdraw the previously issued Findings of Fact, Conclusions of Law and Order.

8 **VII.**

9 Patient N came to Valley Eye Center on June 18, 2008 for Lasik surgery to be
10 performed by Respondent. Prior to surgery, Respondent performed a slit-lamp
11 examination on Patient N through the Nidek microscope. All findings of the examination
12 on Patient N were within normal limits, but the slit-lamp examination was not noted in
13 Patient N's medical records.

14 **VIII.**

15 The Board finds by a preponderance of the evidence that although Respondent
16 did not commit medical malpractice, Respondent violated NRS 630.3062(1) in that he
17 failed to maintain timely, legible, accurate and complete medical records relating to the
18 diagnosis, treatment and care of Patient N when he failed to note in the medical records
19 that he performed a normal slit-lamp examination of Patient N through the Nidek
20 microscope.

21 **IX.**

22 The Board rescinds its previous finding that Respondent violated NRS 630.301(4)
23 as alleged in Count I, and NRS 630.306(7) as alleged in Count III, of the Second
24 Amended Complaint, as the evidence does not support such a finding.

25 **X.**

26 If any of the foregoing Findings of Fact is more properly deemed a Conclusion of
27 Law, it may be so construed.

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CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent.

II.

Respondent was properly served with notice of the hearing via certified mail at the address on file with the Board pursuant to NRS and NAC chapters 630 and NRS chapter 233B.

III.

The Board concludes that Respondent has violated NRS 630.3062(1).

IV.

If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it may be so construed.

ORDER

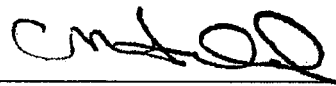
Based upon the foregoing Amended Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. The Findings of Fact, Conclusions of Law and Order filed on June 23, 2010 is RESCINDED.
2. Respondent shall reimburse the Board the reasonable costs and expenses incurred in the investigation and prosecution of this case in the amount of \$15,000.

Dated this 11th day of March, 2011.

NEVADA STATE BOARD OF MEDICAL EXAMINERS



CHARLES N. HELD, President
Nevada State Board of Medical Examiners

CERTIFICATION

I certify that the foregoing is the full and true original Amended FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners in the matter of PAUL CUTARELLI, M.D., Case no. 08-29655-3.

I further certify that CHARLES N. HELD, M.D. is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing ORDER is the signature of said CHARLES N. HELD, M.D.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.



Valerie Clark, BSN, RHU, LUTCF
Secretary-Treasurer
Nevada State Board of Medical Examiners