

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

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Case No. 10-19294-1

4 **In The Matter of Charges and**
5 **Complaint Against**
6 **James Somers, P.A.-C**
7 **Respondent.**

FILED

JUN 14 2011

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

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9 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

10 The above-entitled matter came on regularly for decision on the Complaint filed herein
11 before the Nevada State Board of Medical Examiners, hereinafter "Board," on Friday,
12 June 10, 2011, at the Board's offices located at 1105 Terminal Way, Suite 301, Reno,
13 Nevada, 89502, and by video conference at the offices of the Nevada State Board of Dental
14 Examiners located at 6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada
15 89118. Respondent James Somers, P.A.-C, hereinafter "Respondent," was present at the
16 meeting in Las Vegas with his attorney, Michael Phillips, Esq.

17 The members of the Board participating in the decision were: Javaid Anwar, M.D.,
18 Beverly A. Neyland, M.D., Michael J. Fischer, M.D., Ms. Donna Ruthe, and Mrs. Sue Lowden.
19 Henna Rasul, J.D., Deputy Attorney General, acted as legal counsel to the Board.

20 The Board, having received and read the Complaint and exhibits admitted in this
21 matter, as well as the Synopsis of Record prepared by the hearing officer who presided over
22 the hearing and the transcript of the hearing, proceeded to make a decision pursuant to the
23 provisions of NRS Chapters 233B, 630 and NAC Chapter 630.

24 The Board, after due consideration of the record, evidence and law, and being fully
25 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND
26 ORDER in this matter as follows:

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1 **FINDINGS OF FACT**

2 **I.**

3 Respondent held a license to practice as a physician assistant in the state of Nevada
4 at all relevant times.

5 **II.**

6 On July 7, 2010, the Investigative Committee filed the Complaint in this matter alleging
7 violations of Chapter 630 of the Nevada Revised Statutes and Chapter 630 of the Nevada
8 Administrative Code.

9 **III.**

10 On March 1, 2011, a hearing was held before an appointed hearing officer on the
11 allegations contained within the Complaint. Respondent was present and represented by
12 counsel, Michael Phillips, Esq.. The Investigative Committee was represented by
13 Bradley O. Van Ry, Esq.

14 **IV.**

15 Patient A was a fifty-two-year-old male who presented to Respondent with a hurt finger
16 on October 6, 2003. As a result of the examination, Respondent placed Patient A on
17 antibiotics for one month.

18 Patient A returned to Respondent in November 2003. Respondent recommended
19 continuous soaking and to return for a re-check. This made it over six (6) weeks on antibiotics
20 without full resolution of the infection.

21 Patient A returned to Respondent again in January 2004. The finger still hurt.
22 Respondent recommended initiating antifungal therapy at this point because the antibiotics
23 had failed. Even though this was the third time for Respondent to see Patient A, no
24 consultation with his supervising physician was sought, no referral was made, no testing such
25 as a culture was done and no imaging studies were ordered.

26 Patient A finally returned to the clinic and saw a different physician assistant in May
27 2004. An x-ray was performed on May 7, 2004 that showed an unguual tuft resorption of the

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1 distal phalanx of the left third digit. A three-phase bone scan was performed on May 18, 2004
2 that showed osteomyelitis of the distal phalanx of the left third digit.

3 **V.**

4 The Board finds by reliable, probative and substantial evidence that Respondent
5 violated Nevada Administrative Code 630.380(1)(f) and 630.040 when he failed to seek
6 consultation with the supervising physician; when he failed to refer the matter to a specialist;
7 and when he failed to perform diagnostic testing such as an x-ray or other imaging study.

8 **VI.**

9 If any of the forgoing Findings of Fact is more properly deemed a Conclusion of Law, it
10 may be so construed.

11 **CONCLUSIONS OF LAW**

12 **I.**

13 The Board has jurisdiction over Respondent.

14 **II.**

15 Respondent was properly served with notice of the hearing via certified mail at the
16 address on file with the Board pursuant to NRS and NAC Chapters 630 and
17 NRS Chapter 233B.

18 **III.**

19 The Board concludes that Respondent has violated Nevada Administrative Code
20 630.380(1)(f) and 630.040 as described above and, accordingly, is subject to discipline
21 pursuant to Nevada Revised Statutes 630.352.

22 **IV.**

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

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ORDER

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

IT IS HEREBY ORDERED that:

1. Respondent shall be issued a public reprimand;
2. Respondent shall reimburse the Board the reasonable costs and expenses incurred in the investigation and prosecution of this case in the amount of \$12,077.52 within six (6) months of the date of the filing of this Order; and
3. Respondent shall attend and participate in five (5) hours of Continuing Medical Education in the treatment of paronychia and osteomyelitis of the fingers, or treatment of infections of the bone within six (6) months of the date of the filing of this Order.

DATED this 14th day of June, 2011.

NEVADA STATE BOARD OF MEDICAL EXAMINERS



Charles N. Held, M.D., President
Nevada State Board of Medical Examiners

CERTIFICATION

I certify that the foregoing is the full and true original FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners in the matter of JAMES SOMERS, P.A.-C, Case no. 10-19294-1.

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 affixed 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.

DATED this 14th day of June, 2011.



VALERIE J. CLARK, BSN, RHU, LUTCF
Secretary-Treasurer
Nevada State Board of Medical Examiners