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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and) Case No. 12-6960-1
Complaint Against	(FILED
DONALD DEAN YARBRO, Jr., M.D.,) JUL - 5 2012
Respondent.) NEVADA STATE BOARD OF MEDICAL EXAMINERS) By:

COMPLAINT

The Investigative Committee ("IC") of the Nevada State Board of Medical Examiners ("Board"), comprised of, at the time of authorizing the filing of this Complaint, Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member, by and through its counsel, Bradley O. Van Ry, Esq., Counsel. having reasonable basis believe Board Deputy General that Donald Dean Yarbro, Jr., M.D., hereinafter referred to as "Respondent," has violated the provisions of Nevada Revised Statutes (NRS) Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

- 1. Respondent is currently licensed in active status (License No. 4777), and he has been so licensed since April 9, 1983, by the Nevada State Board of Medical Examiners pursuant to the provisions of NRS 630.
- 2. Patient A was a forty-six (46)-year-old female at the time of the incidents in question. Her true identity is not disclosed to protect her privacy, but her identity is disclosed in the Patient Designation served on Respondent along with a copy of this formal Complaint.
- 3. On or about March 30, 2011, Patient A suffered a fall from a sixteen (16)-foot ladder and injured her right leg and knee. She presented to Concentra Medical Center for diagnosis, treatment and care.

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- 4. As a result of the examination, the treating physician ordered x-rays. The treating physician ordered three (3) x-ray views of the right knee. The x-rays were taken that day.
- 5. Respondent was the reviewing radiologist of the x-rays. He viewed and interpreted the three (3) x-ray views on April 1, 2011.
- Respondent dictated an April 1, 2011 report with findings, "[n]o fracture is noted. Joint alignment and soft tissues are unremarkable. Bone density and morphology are within normal limits. There is no evidence of radiopaque foreign body noted." The impression was, "[n]o significant abnormality of the knee."
- Unfortunately, a large joint effusion existed in the suprapatellar region which was 7. not mentioned in Respondent's report. There was also a displaced fracture of the lateral tibial plateau.
- 8. Due to the patient's inability to bear weight, the treating physician also ordered an The MRI was performed on March 31, 2011 and confirmed the MRI on that same day. lateral tibial plateau fracture and large joint effusion not mentioned in Respondent's report.

Count I

- 9. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 10. Nevada Administrative Code (NAC) 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.
- NRS 630.301(4) provides that malpractice of a physician is grounds for initiating 11. disciplinary action against a licensee.
- 12. Respondent's care and treatment of Patient A as described above shows a failure to use reasonable care, skill, or knowledge ordinarily used under similar circumstances.
- 13. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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WHEREFORE, the Investigative Committee prays:

- That the Nevada State Board of Medical Examiners give Respondent notice of the 1. charges herein against him and give him notice that he may file an answer to the formal Complaint herein as set forth in NRS 630.339 within twenty (20) days of service of the formal Complaint;
- 2. That the Nevada State Board of Medical Examiners set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
- That the Nevada State Board of Medical Examiners determine what sanctions it 3. impose if it determines there has been a violation or violations of the Medical Practice Act (NRS Chapter 630) committed by Respondent;
- 4. That the Nevada State Board of Medical Examiners make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and,
- That the Nevada State Board of Medical Examiners take such other and further 5. action as may be just and proper in these premises.

DATED this 5 day of 14/4, 2012.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Bv:

Bradley O. Van Ry, Esq. Deputy General Counsel

Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 1105 Terminal Way #301

VERIFICATION

STATE OF NEVADA)
COUNTY OF WASHOE	: ss.)

Theodore B. Berndt, M.D., hereby deposes and states under penalty of perjury under the laws of the state of Nevada that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the formal Complaint against the Respondent herein; that he has read the foregoing formal Complaint; and that based upon information discovered during the course of the investigation into a complaint against Respondent, he believes the allegations and charges in the foregoing formal Complaint against Respondent are true, accurate and correct.

Dated this 5^{th} day of 3^{th} , 2012

THEODORE B. BERNDT, M.D.