

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

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


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6 **In the Matter of Charges and** )  
7 **Complaint Against** )  
8 **DANIEL K. KIM, M.D.,** )  
9 **Respondent.** )

Case No. 13-9995-1

**FILED**

**JUN 25 2013**

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS  
By: 

10 \_\_\_\_\_ )  
11 **COMPLAINT**

12 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners  
13 (Board), composed at the time of filing of Theodore B. Berndt, M.D., Chairman,  
14 Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member, by and  
15 through Erin L. Albright, Esq., General Counsel and attorney for the IC, having a reasonable basis  
16 to believe that Daniel K. Kim, M.D. (Respondent), violated the provisions of Nevada Revised  
17 Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC)  
18 Chapter 630 (collectively, the Medical Practice Act), hereby issues its formal Complaint, stating  
19 the IC's charges and allegations as follows:

20 1. Respondent is currently licensed in active status (License No. 5693), and has been  
21 so licensed by the Board since July 1, 1988, pursuant to the provisions of the Medical Practice  
22 Act.

23 2. Patient A was a seventy (70)-year-old male with an implanted cardiac defibrillator  
24 at the time of the incidents in question. His true identity is not disclosed in this Complaint to  
25 protect his identity, but his identity is disclosed in the Patient Designation contemporaneously  
26 served on Respondent with this Complaint.

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1 3. On or about December 28, 2010, January 6, 2011, and February 17, 2011, Patient  
2 A was treated by Respondent. On each date, Respondent noted in the patient's chart that the  
3 patient had an implanted defibrillator.

4 4. On or about April 14, 2011, Respondent performed a Radiofrequency Ablation  
5 (RFA) procedure on Patient A. The pre-procedure history and physical for Patient A, which was  
6 filled out by Respondent on the day of RFA procedure, does not mention the patient's  
7 defibrillator.

8 5. Prior to performing the RFA procedure, Respondent did not deactivate Patient A's  
9 defibrillator. During the procedure, Patient A's defibrillator was activated on two separate  
10 occasions.

11 6. As a result of the defibrillator being activated on two separate occasions during the  
12 RFA procedure, Patient A experienced undue anguish and physical pain.

13 7. Further, Respondent's medical records for Patient A are inaccurate, incomplete,  
14 illegible and/or untimely. For example, the medical records do not demonstrate that Respondent  
15 attempted to contact or did contact Patient A's cardiologist prior to or immediately following the  
16 RFA procedure. The medical records do not demonstrate that Respondent conducted a pre-  
17 procedure evaluation of Patient A to screen for contraindications to the procedure.

18 **COUNT I**

19 **(Medical Records Violation)**

20 8. All of the allegations in the above paragraphs are hereby incorporated as if fully set  
21 forth herein.

22 9. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and  
23 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for  
24 initiating discipline against a licensee.

25 10. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
26 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care  
27 of Patient A when he wrote incomplete, inaccurate, untimed and/or illegible entries in Patient A's  
28 chart.

1 11. By reason of the foregoing, Respondent is subject to discipline by the Board as  
2 provided in NRS 630.352.

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4 **COUNT II**

5 **(Malpractice)**

6 12. All of the allegations contained in the above paragraphs are hereby incorporated by  
7 reference as though fully set forth herein.

8 13. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating  
9 disciplinary action against a licensee.

10 14. NAC 630.040 defines malpractice as the failure of a physician, in treating a patient,  
11 to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

12 15. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
13 to use reasonable care, skill or knowledge ordinarily used under similar circumstances when  
14 treating Patient A.

15 16. By reason of the foregoing, Respondent is subject to discipline by the Board as  
16 provided in NRS 630.352.

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

18 1. That the Board give Respondent notice of the charges herein against him and give  
19 him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2)  
20 within twenty (20) days of service of the Complaint;

21 2. That the Board set a time and place for a formal hearing after holding an  
22 Early Case Conference pursuant to NRS 630.339(3);

23 3. That the Board determine the sanctions it will impose if it finds Respondent  
24 violated the Medical Practice Act;

25 4. That the Board make, issue and serve on Respondent, in writing, its findings of  
26 fact, conclusions of law and order, which shall include the sanctions imposed; and

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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 25<sup>th</sup> day of June, 2013.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:   
Erin L. Albright, Esq.  
General Counsel  
Attorney for the Investigative Committee

VERIFICATION

1 STATE OF NEVADA )  
2 : ss.  
3 COUNTY OF WASHOE )

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

11 Dated this 25<sup>th</sup> day of June, 2013.

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13 Theodore B. Berndt  
14 Theodore B. Berndt, M.D.  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 26<sup>th</sup> day of June 2013; I served a filed copy of the COMPLAINT, PATIENT DESIGNATION & FINGERPRINT INFORMATION, via USPS e-certified return receipt mail to the following:

Daniel K. Kim, M.D.  
6950 W. Desert Inn Rd., #110  
Las Vegas, NV 89117

Dated this 26<sup>th</sup>, day of June 2013.

  
\_\_\_\_\_  
Angelia L. Donohoe  
Legal Assistant