

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF NEVADA

\* \* \* \* \*

In the Matter of Charges and )  
Complaint Against )  
KATHLEEN D. SMITH, M.D., )  
Respondent. )

Case No. 13-28205-1

FILED  
OCT 17 2013

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS  
By: 

COMPLAINT

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

1. Respondent is currently licensed in active status (License No. 10735), and has been so licensed by the Board since December 4, 2003, pursuant to the provisions of the Medical Practice Act.

2. Patient A was a fifty-four (54)-year-old male at the time of the incidents in question. His true identity is not disclosed in this Complaint to protect his identity, but his identity is disclosed in the Patient Designation contemporaneously served on Respondent with this Complaint.

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

4 13. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
5 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care  
6 of Patient A when she failed to document in Patient A's medical chart the preoperative physical  
7 exam she performed on Patient A.

8 14. By reason of the foregoing, Respondent is subject to discipline by the Board as  
9 provided in NRS 630.352.

10 **COUNT II**  
11 **(Malpractice)**

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

14 16. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating  
15 disciplinary action against a licensee.

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

18 18. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
19 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when  
20 she failed to obtain an abdominal CT scan from Patient A prior to performing the Vaser  
21 Liposuction.

22 19. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
23 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when  
24 she failed to refer Patient A to a general surgeon prior to performing the Vaser Liposuction.

25 20. By reason of the foregoing, Respondent is subject to discipline by the Board as  
26 provided in NRS 630.352.

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**WHEREFORE**, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against her and give her notice that she may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;
2. That the Board set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
3. That the Board determine the sanctions it will impose if it finds Respondent violated the Medical Practice Act;
4. That the Board make, issue and serve on Respondent, in writing, its findings of fact, conclusions of law and order, which shall include the sanctions imposed; and
5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 17<sup>th</sup> day of October, 2013.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
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(775) 688-2559

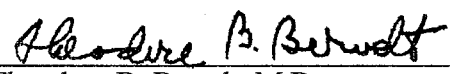
VERIFICATION

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STATE OF NEVADA            )  
                                      : ss.  
COUNTY OF WASHOE        )

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 foregoing Complaint against the Respondent herein; that he has read the foregoing 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 Complaint against Respondent are true, accurate and correct.

Dated this 17<sup>th</sup> day of October, 2013.


  
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Theodore B. Berndt, M.D.

CERTIFICATE OF SERVICE

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 17<sup>th</sup> day of October 2013; I served a filed copy of the COMPLAINT, PATIENT DESIGNATION and Fingerprint Information, via USPS e-certified return receipt mail to the following:

Kathleen D. Smith, M.D.  
8660 Spring Mountain Ste. 101  
Las Vegas, NV 89117

Dated this 17<sup>th</sup> day of October, 2013.

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