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

* * * * *

In the Matter of Charges and)
)
Complaint Against)
)
MARYANNE D. PHILLIPS, M.D.,)
)
Respondent.)

Case No. 14-10032-1

FILED

APR 2'2 2014

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 Maryanne D. Phillips, M.D. (Respondent), violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 (Medical Practice Act), hereby issues its formal Complaint, stating the IC's charges and allegations as follows:

FACTUAL BACKGROUND

The following facts are pertinent to a determination on this matter.

1. Respondent has been licensed by the Board since December 21, 1995, pursuant to the provisions of the Medical Practice Act.
2. Respondent is currently licensed in Active-Probation status (License No. 7635) in the state of Nevada.
3. On January 28, 2011, the IC filed a formal Complaint against Respondent charging her with four (4) violations of the Medical Practice Act.

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1 4. On June 8, 2012, the Board adopted a Settlement, Waiver and Consent Agreement
2 (Agreement) in which Respondent agreed that the Board may find she violated two (2) counts of
3 the formal Complaint and agreed that her license to practice medicine in the state of Nevada be
4 revoked, with said revocation stayed for thirty-six (36) months subject to the terms and conditions
5 outlined in the Agreement.

6 5. Respondent provided medical care, including diagnosis and treatment of chronic
7 pain, for Patients A through K. The true identities of Patients A through K are not disclosed in
8 this Complaint to protect their identities; however, their identities are disclosed in the Patient
9 Designation contemporaneously served on Respondent with this Complaint.

10 6. The Medical Practice Act and related regulations establish the standards of practice
11 for the treatment of pain and adopt by reference the “Model Guidelines for the Use of Controlled
12 Substances for the Treatment of Pain”¹ (Model Guidelines). The Model Guidelines establish
13 adequate treatment policies for the treatment of chronic pain, including the use of controlled
14 substances. The Model Guidelines establish that physicians have a responsibility to minimize the
15 potential for abuse and diversion of controlled substances and to follow related pain treatment
16 policies.

17 7. The Model Guidelines outline the criteria by which the Board will evaluate
18 Respondent’s treatment of pain in Patients A through K. The Model Guidelines require, at a
19 minimum, that a medical history and physical examination be obtained, evaluated and
20 documented in the patient’s medical record. The medical record should document the nature and
21 intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or
22 conditions, the effect of the pain on physical and psychological function, history of substance
23 abuse, and the presence of one or more recognized medical indications for the use of a controlled
24 substance. The medical record should contain a written treatment plan that states objectives that
25 will be used to determine treatment success and should indicate if any further diagnostic
26 evaluations or treatments are planned. The medical record should document the physician
27 discussed the risks and benefits of the use of controlled substances with the patient, persons

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¹ In 2004, the Federation of State Medical Boards changed the title of the Model Guidelines to the “Model Policy for the Use of Controlled Substances for the Treatment of Pain.”

1 designated by the patient or with the patient's guardian. If the patient is at high risk for
2 medication abuse or has a history of substance abuse, the physician should enter into a written
3 treatment agreement with the patient. If the patient's progress is unsatisfactory, the physician
4 should assess the appropriateness of continued use of controlled substances and should consider
5 the use of other treatment modalities.

6 8. Respondent failed to follow the Model Guidelines in her medical care and
7 treatment of Patients A through K.

8 9. A review of the medical charts for Patients A through K demonstrates that the
9 charts lack any documentation and/or evidence demonstrating the nature and intensity of each
10 patient's pain, the effect of pain on each patient's ability to function and the presence of
11 recognized medical indications in each patient justifying the use of controlled substances.

12 10. A review of the medical charts for Patients A through K demonstrates that
13 Respondent adjusted each patient's prescribed medication based solely on each patient's
14 subjective complaints and not on any significant objective clinical correlation of physical
15 examination, uses of ancillary services and/or treatment modalities.

16 11. A review of the medical charts for Patients A through K demonstrates that
17 Respondent failed to consider other treatment modalities or adjuvant therapies prior to prescribing
18 controlled substances to Patients A through K.

19 12. A review of the medical charts for Patients A through K demonstrates that
20 Respondent failed to check prior narcotic use for Patients A through K through the prescription
21 monitoring program (PMP) offered by the Nevada State Board of Pharmacy.

22 13. A review of the medical charts for Patients A through K, demonstrates that
23 Respondent never ordered Patients A through K to submit to random urine drug screens to
24 monitor each patient's controlled substance use and compliance.

25 14. A review of the medical charts for Patients A through K demonstrates that
26 Respondent's care and treatment of each patient did not result in any significant improvement in
27 patient function or pain control, the diagnoses and/or presumed pain generators were nebulous and
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1 unsubstantiated, and the follow-up and treatment plan primarily consisted of monthly controlled
2 substance prescription refills.

3 **COUNT I**
4 **(Medical Records Violation)**

5 15. All of the allegations in the above paragraphs are hereby incorporated as if fully set
6 forth herein.

7 16. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
8 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
9 initiating disciplinary action against a licensee.

10 17. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
11 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
12 of Patients A through K when she failed to document in the patients' charts that she had
13 performed musculoskeletal exams, when she failed to document in the patients' charts the nature
14 and intensity of the patients' pain, when she failed to document in the patients' charts the effect of
15 pain on the patients' ability to function, when she failed to document in the patients' charts the
16 presence of a recognized medical indication for the use of controlled substances, when she failed
17 to document in the patients' charts that she required the patients to submit to urine drug screens,
18 and when she failed to document in the patients' charts that she reviewed the patients' prior
19 narcotic use through the PMP.

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

22 **COUNT II**
23 **(Malpractice)**

24 19. All of the allegations contained in the above paragraphs are hereby incorporated by
25 reference as though fully set forth herein.

26 20. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating
27 disciplinary action against a licensee.

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1 to consider the use of other therapeutic modalities for Patients A through K, and Respondent
2 failed to refer Patients A through K to determine the etiology of pain.

3 28. By reason of the foregoing, Respondent is subject to discipline by the Board as
4 provided in NRS 630.352.

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

6 1. That the Board give Respondent notice of the charges herein against her and give
7 her notice that she may file an answer to the Complaint herein as set forth in NRS 630.339(2)
8 within twenty (20) days of service of the Complaint;

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

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

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

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

17 DATED this 2nd day of April, 2014.

18
19 INVESTIGATIVE COMMITTEE OF THE
20 NEVADA STATE BOARD OF MEDICAL EXAMINERS

21 By: 

22 Erin L. Albright, Esq.
23 General Counsel

24 Attorney for the Investigative Committee
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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 22nd day of April, 2014.

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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 23rd day of April 2014; I served a filed copy of COMPLAINT, PATIENT DESIGNATION & FINGERPRINT INFORMATION, via USPS e-certified mail to the following:

Maryanne Phillips, M.D.
2595 S. Cimarron Rd., Ste. 104
Las Vegas, NV 89117

Dated this 23rd day of April, 2014.



Angelia L. Donohoe
Legal Assistant