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

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and First Amended Complaint Against SUSAN L. BOYD, M.D., Respondent	**Case No. 13-10054-1**

FILED
APR 2 1 2015
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

FIRST AMENDED 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., Valerie J. Clark, BSN, RHU, LUTCF, and Michael J. Fischer, M.D., by and through Erin L. Albright, Esq., General Counsel and attorney for the IC, having a reasonable basis to believe that Susan L. Boyd, 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 First Amended Complaint, stating the IC's charges and allegations as follows:

1. Respondent has been licensed by the Board since August 23, 1996 (License No. 7944), pursuant to the provisions of the Medical Practice Act, and is currently licensed in active status.

2. Patient A was a thirty-six (36)-year-old female at the time of the incidents in question. Her true identity is not disclosed in this First Amended Complaint to protect her identity, but her identity is disclosed in the Patient Designation contemporaneously served on Respondent with the original Complaint.

3. On or about June 16, 2010, Patient A presented to Respondent with complaints of pain from her IUD and a history of a large cystocele and rectocele causing incontinence of urine

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1 and difficulty evacuating bowels. The patient's medical records from this visit fail to document
2 the physical findings of the pelvic exam.

3 4. On or about November 30, 2010, Patient A underwent a surgical total vaginal
4 hysterectomy, which was performed by Respondent.

5 5. Patient A's medical chart lacks documentation demonstrating that the patient was
6 seen preoperatively, that Respondent discussed the proposed surgery with the patient, that
7 Respondent proposed alternatives to surgery, that the physical findings supported the performance
8 of a total vaginal hysterectomy, that Respondent performed an adequate evaluation of patient's
9 disease and that patient gave her informed consent to the surgery.

10 6. Respondent failed to document in Patient A's medical records preoperative pelvic
11 findings that would support the indication or medical need for the vaginal hysterectomy and
12 anterior posterior repair performed on Patient A on November 30, 2010.

13 7. On or about December 20, 2010, Patient A presented to Respondent for a
14 postoperative examination with complaints of increased pain after the hysterectomy and a foul
15 smelling discharge from her vagina. Respondent performed a physical examination on Patient A
16 and noted the presence of feces in her vaginal cuff and an opening extending from Patient A's
17 rectum into her vagina. Respondent scheduled Patient A for a diagnostic laparoscopy and
18 examination under anesthesia.

19 8. On or about December 23, 2010, Patient A presented to the Las Vegas Surgery
20 Center for the diagnostic laparoscopy and examination under anesthesia, which was performed by
21 Respondent. Respondent examined Patient A and noted the vaginal area contained a recto-vaginal
22 fistula with inflammation.

23 9. Patient A's medical chart lacks any documentation demonstrating that Respondent
24 performed a laparoscopic evaluation of Patient A or obtained Patient A's consent prior to
25 performing the diagnostic laparoscopy on December 23, 2010.

26 10. Treatment of a recto-vaginal fistula, regardless of etiology, requires measures to
27 decrease inflammation and to let the tissues surrounding the recto-vaginal fistula to fully heal
28 before attempting repair. This is necessary so the true extent of tissue damage can be ascertained.

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The measures generally employed to decrease inflammation include antibiotics and observation for at least six (6) to eight (8) weeks.

11. Despite noting the existence of inflammation surrounding Patient A's recto-vaginal fistula, Respondent proceeded to surgically close the recto-vaginal fistula with chromic and Monocryl sutures in a layered fashion. Respondent noted in Patient A's chart that it was "doubtful that this will maintain integrity due to the inflammation of the tissues."

12. On or about December 30, 2010, Patient A underwent a laparoscopic loop ileostomy performed by another surgeon. A laparoscopic loop ileostomy was performed due to the inflamed vaginal tissue, thus allowing the tissue to heal before repairing the recto-vaginal fistula.

13. Respondent dictated two (2) separate operative reports for the November 30, 2010 procedure. The first operative report was dictated by Respondent on March 14, 2011. The second operative report was dictated by Respondent on March 19, 2011. These reports contain significant differences in the description of Patient A's November 30, 2010 surgery, including, but not limited to the following: The March 14, 2011 dictation states that Patient A's bladder was not emptied nor was a speculum initially placed. The March 19, 2011 dictation states that Patient A's bladder was straight catherized and a speculum placed. The March 14, 2011 dictation states that the repair of Patient A's rectocoele ended two (2) centimeters below her vaginal cuff. The March 19, 2011 dictation notes that the posterior repair was carried up Patient A's vaginal cuff. The March 14, 2011 dictation does not describe a vaginal pack being placed at the end of surgery. The March 19, 2011 dictation describes a vaginal pack with Premarin being placed at the end of surgery. The March 14, 2011 dictation documents the preoperative diagnosis of "severe dyspareunia and chronic pelvic pain." The March 19, 2011 dictation does not include these diagnoses.

COUNT I

(Medical Records Violation)

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

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

16. Respondent failed to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care of Patient A when she failed to: document the physical findings of Patient A's pelvic exam on June 16, 2010, document that Patient A was seen preoperatively, document that she discussed the proposed surgery with Patient A, document that Patient A had given her informed consent, document that she discussed alternatives to surgery with Patient A, document an adequate evaluation of Patient A's disease process, and document physical findings supporting the performance of surgery on Patient A's November 30, 2010 hospital pre-operative history and physical examination.

17. Respondent failed to maintain timely medical records relating to Patient A's November 30, 2010 surgery when she dictated two operative reports for the November 30, 2010 surgery approximately three and one-half (3.5) months after the surgery.

18. Respondent failed to maintain accurate medical records for Patient A's November 30, 2010 surgery when she dictated two operative reports for the surgery that contain significant differences in the description of Patient A's surgery, as outlined above.

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

COUNT II

(Malpractice)

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

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

22. 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.

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23. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to use reasonable care, skill or knowledge ordinarily used under similar circumstances when she made an intra-operative decision to repair Patient A's recto-vaginal fistula on December 23, 2010 despite the inflammation of tissues and large size of the fistula.

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

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 First Amended Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the First Amended 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);

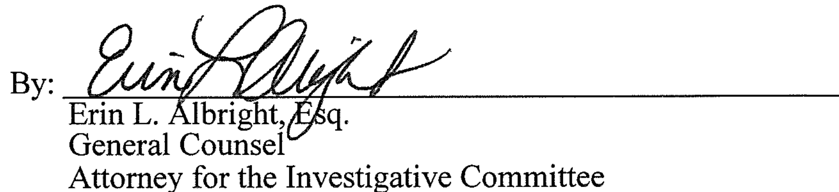
3. That the Board determine the sanctions it will impose if it finds Respondent violated the Medical Practice Act;

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 21st day of April, 2015.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS



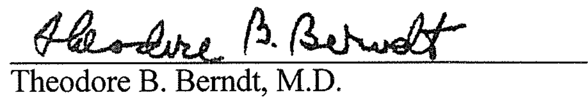
By: ______________________
Erin L. Albright, Esq.
General Counsel
Attorney for the Investigative Committee

VERIFICATION

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 Chair of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the foregoing First Amended Complaint against the Respondent herein; that he has read the foregoing First Amended Complaint; and based upon information discovered during the course of the investigation into a First Amended Complaint against Respondent, he believes the allegations and charges in the foregoing First Amended Complaint against Respondent are true, accurate and correct.

Dated this 21st day of April, 2015.



Theodore B. Berndt, M.D.

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CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 22nd day of April, 2015; I served a filed copy of the FIRST AMENDED COMPLAINT, via USPS regular mail to the following:

David J. Mortensen, Esq.
7401 West Charleston Blvd.
Las Vegas, NV 89117-1401

Charles B. Woodman, Hearing Officer
548 W. Plumb Lane, Ste. B
Reno, NV 89509

Dated this 22nd day of April, 2015.

Angelia L. Donohoe
Legal Assistant

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