

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

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4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **Maryanne D. Phillips, M.D.,**
8 **Respondent.**

Case No. 18-10032-1

FILED

FEB - 9 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
10 **COMPLAINT**

11 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board)
12 hereby issues this formal Complaint (Complaint) against Maryanne D. Phillips, M.D. (Respondent),
13 a licensed physician in Nevada. After investigating this matter, the IC has a reasonable basis to
14 believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) chapter 630 and
15 Nevada Administrative Code (NAC) chapter 630 (collectively Medical Practice Act). The IC
16 alleges the following facts:

17 1. Respondent is currently licensed in Nevada in active status with conditions
18 (License No. 7635). She has been licensed by the Board since December 21, 1995.

19 2. Respondent's license is currently in active status with certain conditions placed on
20 the license pursuant to an order dated December 8, 2017, which removed the probationary status
21 on her license to practice medicine, restored the license to active status, and placed all remaining
22 conditions and restrictions associated with a Settlement Agreement dated September 9, 2016, on
23 her license. Previously, Respondent's license was active-probationary status pursuant to the
24 September 9, 2016 Settlement Agreement between the Respondent and the Board. At the regularly
25 scheduled December 1, 2017 Board Meeting, at which Respondent appeared and requested that

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28 ¹ The Investigative Committee of the Nevada State Board of Medical Examiners at the time the filing of this
Complaint was approved, was composed of Board members Wayne Hardwick, M.D., Chairman, Theodore B. Berndt,
M.D., member, and Mr. M. Neil Duxbury, public member.

1 her probation be lifted, the Board agreed to lift the probation but place the same conditions of her
2 probation on her license.

3 3. Respondent does not have a license to prescribe controlled substances issued by the
4 Nevada State Board of Pharmacy.

5 4. Respondent is not registered with the U.S. Drug Enforcement Agency (DEA) to
6 prescribe controlled substances.

7 5. On or about April 29, 2016, an investigator for the Board sent an allegation letter to
8 Respondent, based on information received by the Board, regarding allegations that Respondent
9 unduly pressures her employees and/or independent contractors to prescribe controlled substances
10 to her patients for financial gain. It was further alleged that Respondent was operating her
11 medical practice under the name of Marianne Elias, rather than Maryanne Phillips. It was further
12 alleged that Respondent was the medical director of Research and Wellness Center or Hormones
13 Center of Nevada located at 2649 Wigwam Parkway, Suite 101, in Henderson, Nevada 89074. It
14 was further alleged that Respondent was facilitating her office manager and husband, Donald
15 Kinsman, to distribute and/or sell controlled substances to patients.

16 6. Respondent provided a response on or about June 1, 2016, in which she denied:
17 (a) ever having used the name of Marianne Elias; (b) ever having been the medical director of
18 Research and Wellness Center or Hormones Center of Nevada; (c) actively seeing patients since
19 May or June of 2014; (d) having an office manager, as she denied having a regular office;
20 (e) facilitating her husband or anyone to distribute and/or sell controlled substances to patients;
21 and (f) extorting office staff to prescribe controlled substances that are unwarranted and not
22 medically necessary, resulting in patient harm, as she denied having office staff.

23 7. A Nevada limited liability company named Research and Wellness Center LLC is
24 registered with the Nevada Secretary of State. Marianne Elias is listed as the manager of the
25 company. The company has been in default since October 31, 2016. The address of the manager
26 is listed as 10920 Southern Highlands Parkway, #2105, Las Vegas, Nevada 89141.

27 8. On or about October 30, 2015, the Research and Wellness Center LLC entered into
28 a Lease Agreement with Marlin A, LLC, to lease real property located at 2649 Wigwam Parkway,

1 Suite 101, Henderson, Nevada 89074.

2 9. The Lease Agreement was signed by Donald Kinsman on behalf of the Research
3 and Wellness Center LLC.

4 10. Upon information and belief, Donald Kinsman is the spouse of Maryanne Phillips.

5 11. Contact names for Research and Wellness Center LLC were listed on the Lease
6 Agreement as Mari Elias and Blas Elias.

7 12. The Lease Agreement was personally guaranteed by MaryAnne Elias.

8 13. The signature of MaryAnne Elias, aka Maryanne Phillips, on the Guaranty was
9 notarized, and she provided a copy of her driver's license. The name on the Nevada driver's
10 license is Maryanne Phillips Elias.

11 14. A cashier's check was provided with the Lease Agreement. On the Remitter
12 (Purchased by) line, the cashier's check states "Mary Anne Phillips Elias Wellness Ctr."

13 15. On or about January 11, 2016, the Lease Agreement between Research and
14 Wellness Center LLC and Marlin A, LLC, was amended. The amendment changed the guarantors
15 from Donald Kinsman and Mary Anne Elias to Donald Kinsman, Mary Anne Elias, and David
16 Memmoli.

17 16. Maryanne Phillips previously practiced medicine at 2649 Wigwam Parkway, Suite
18 101, Henderson, Nevada 89074.

19 17. Maryanne Phillips-Elias, MD is listed on the WebMD website as having a practice
20 with Daniel F. Royal, D.O. at 9065 S. Pecos Road, Suite 250, Henderson, Nevada 89074.

21 18. Dr. Maryanne Phillips was listed on letterhead for Comprehensive Pain
22 Management and Wellness, located at 9065 S. Pecos Road, Suite 250, Henderson, Nevada 89074,
23 from November 2013 through September 2015.

24 19. Respondent treated patients as late as December of 2014.

25 20. From on or around November 2015 through May 2016, one or more members of
26 Respondent's staff and/or independent contractors witnessed Respondent review patients' charts.

27 21. From on or around November 2015 through May 2016, one or more members of
28 Respondent's staff and/or independent contractors witnessed Respondent remove progress notes

1 and/or other information from patients' charts.

2 22. From on or around November 2015 through May 2016, one or more members of
3 Respondent's staff and/or independent contractors witnessed Respondent replace information in
4 patients' charts.

5 **Patient A**

6 23. Patient A's true identity is not disclosed to protect his privacy, but his identity is
7 disclosed in the Patient Designation served on Respondent, along with a copy of this Complaint.

8 24. In December 2015 or January 2016, Patient A came to Respondent's practice for
9 treatment of pain. He was seen by an advanced practice registered nurse contracting with
10 Respondent and/or Research and Wellness Center LLC.

11 25. The advanced practice registered nurse, after having a discussion with Patient A,
12 prescribed Patient A a different pain management regimen than was requested by Patient A.

13 26. Upon receiving an alternate pain management regimen, Patient A chose to
14 discontinue care with Respondent's practice.

15 27. Respondent and her husband, Donald Kinsman, subsequently admonished the
16 advanced practice registered nurse and claimed that because the advanced practice registered
17 nurse had failed to prescribe Oxycodone to Patient A, they had lost both Patient A and the
18 additional patients he would have brought into the practice.

19 28. Upon information and belief, Patient A was subsequently told by Respondent
20 and/or Donald Kinsman that he would be prescribed Oxycodone, and returned to Respondent's
21 practice. Prior to the office visit, Donald Kinsman informed the advanced practice registered
22 nurse that Patient A had been using his parents' Oxycodone for his pain management.

23 29. On or about February 15, 2016, Patient A again presented to Respondent's practice.

24 30. The advanced practice registered nurse told Patient A that using his parents'
25 medication was wrong, to which Patient A replied that he knew.

26 31. After discussion with Patient A, during which time Patient A returned the other
27 prescriptions, admitted to not filling them, said that only the Oxycodone worked, and repeatedly
28 asked whether he would get a prescription for Oxycodone, the advanced practice registered nurse

1 determined that Patient A was exhibiting drug-seeking behaviors and refused to prescribe
2 Oxycodone.

3 32. Patient A stated that he had wasted his time and left Respondent's practice.

4 33. On or about February 15, 2016, Donald Kinsman confronted the advanced practice
5 registered nurse about why he had not prescribed Oxycodone to Patient A. The advanced practice
6 registered nurse responded that Patient A had gone without a prescription for two weeks, which
7 demonstrated he did not really need pain medication. He indicated that in his experience, patients
8 in pain will typically try any pain management regimen in hopes of obtaining pain relief, rather
9 than go without any pain medication at all because it is not Oxycodone.

10 34. On or about March 1, 2016, a member of Respondent's staff witnessed Respondent
11 remove the advanced practice registered nurse's note from the examination of Patient A that took
12 place on or about February 15, 2016, and replace that day's note with a note Respondent then
13 wrote herself.

14 35. Upon information and belief, Respondent has signed off the chart notes entered by
15 the advanced practice registered nurse for Patient A.

16 36. On or about May 9, 2017, the IC issued an Order to Produce Medical Records
17 regarding Patient A to Respondent. The Order required Respondent to produce the records within
18 10 days of service.

19 37. Respondent previously provided health care records for patients of Research and
20 Wellness Center LLC; however, Respondent has not complied with the May 9, 2017 Order to
21 Produce Medical Records.

22 38. On or about May 17, 2017, Respondent sent a message by electronic mail to the
23 IC's investigative staff that she vaguely remembered a patient by the name of the patient
24 requested, but was in California most of the time and had not treated a pain patient since 2014.

25 39. In response to a question from investigative staff as to who currently was the
26 custodian of records for Research and Wellness Center LLC, on or about May 20, 2017,
27 Respondent sent a message by electronic mail to investigative staff that she was no longer the
28 custodian of records and that Research and Wellness Center LLC was no longer in existence.

1 40. In response to additional correspondence from investigative staff requesting the
2 identity of the current custodian of records, on or about May 24, 2017, Respondent sent a message
3 by electronic mail, stating the following, verbatim:

4 This is not a patient I have seen in five years and the Research and
5 Wellness was not a pain clinic and it was only established for a year in
6 later part of 2015 for a research project for a topical cream and only in
7 existence for a year Davison has now taken over that research They no
8 longer need an MD to work on the project. I'm training for a cancer
9 research project but I don't need Research and Wellness LLC to do it the
10 larger pharmaceutical companies are in charge of any further research.
11 And just so you have the correct information I was not the manager of
12 Research and Wellness Center because it is not a Center it is Research and
13 Wellness LLC and it is Not the same as Wellness Center which was
14 primary care including weight loss B12 shots nutritional pain treatment as
15 needed counseling infusion therapy and I believe even history and
16 physicals only for marijuana patients (started by Memmoli whose no
17 longer there) my DEA license was Retired in may 2014 by me because I
18 did not need it for the research and you might be confusing me with Kim
19 Phillips who worked a the same location in 2014 that I previously was at,
20 most of the records in 2016 were put into EMR and I obviously did not
21 need paper records to do anesthesia at a hospital. Unfortunately some of
22 the providers actually took some of the paper record that were there like
23 Dr Foote in 2012. The original practice was Dr Nagy's and I worked for
24 him on a salary basis and all persons working there were his employees or
25 independent contractors and there were issues with several of them so I
26 left and came back for a while in 2013-14 until Dr Emmerling took over
27 patient care . Most of the charts were with him that were paper and
28 transcribed into EMR. It is physically impossible to know where every

1 patient I ever saw for Dr Nagy is. I would suggest you check the PNP and
2 see who saw them three years ago and contact them?

3 If you need a copy of my previous contract with Dr Nagy or the state
4 information on Research and Wellness LLC I will provide it. I did
5 neuroanesthesia for Dr Nagy and he decided he wanted a private pain
6 clinic to refer his surgical patients to but it didn't work out. I apologize for
7 any problems his former employees might have given you but like I said I
8 had no control over him or them I just saw patients!

9 41. To date, Respondent has not provided the information requested in the Order to
10 Produce Medical Records.

11 **Count I:**

12 **NRS 630.306(1)(b)(1): Engaging in Conduct Intended to Deceive**

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

15 43. NRS 630.306(1)(b)(1) provides that engaging in any conduct which is intended to
16 deceive is grounds for initiating disciplinary action.

17 44. Respondent denied to the IC ever having used the name of Marianne Elias, though
18 she has used various forms of the name Maryanne Phillips, MaryAnne Phillips, Mary Anne
19 Phillips, Maryanne Phillips-Elias, Mary Anne Phillips Elias, Marianne Elias, Mari Tiffany
20 Phillips-Elias, Mari Elias and Maryanne Elias on her driver's license, lease agreement, guaranty of
21 lease agreement, list of officers for Research and Wellness Center LLC, emails, and on websites
22 advertising her services.

23 45. Respondent denied to the IC ever having been the medical director of Research and
24 Wellness Center LLC or Hormones Center of Nevada, though a Marianne Elias is listed as the
25 manager of Research and Wellness Center LLC and that entity signed a lease agreement, which
26 MaryAnne Elias personally guaranteed.

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1 46. Respondent denied actively seeing patients since May or June of 2014, though she
2 continued to refer at least one patient to physical therapy on or about November 12, 2014, and to
3 medical imaging on or about December 10, 2014.

4 47. Respondent denied having an office manager, as she denied having a regular office;
5 however, the Lease Agreement demonstrates that she guaranteed the lease for 2649 Wigwam
6 Parkway, Suite 101, in Henderson, Nevada, which Lease Agreement was executed by her
7 husband, Donald Kinsman, on behalf of Research and Wellness Center LLC. Medical records of
8 multiple patients indicate that patients were seen there from November 2015 through at least May
9 2016.

10 48. Upon information and belief, Respondent was present in the office at 2649
11 Wigwam Parkway, Suite 101, in Henderson, Nevada, nearly every day that the office was open for
12 the time period in question in this Complaint.

13 49. Respondent denied facilitating her husband or anyone to distribute and/or sell
14 controlled substances to patients, and denied extorting office staff to prescribe controlled
15 substances that were unwarranted and not medically necessary, as she denied having office staff.
16 However, one advanced practice registered nurse working at 2649 Wigwam Parkway, Suite 101,
17 in Henderson, Nevada, was pressured by both Respondent and Donald Kinsman to prescribe
18 Oxycodone to Patient A, in spite of the fact that the advanced practice registered nurse believed,
19 in his medical judgment, that Patient A exhibited drug-seeking behaviors and that such
20 prescription was inappropriate.

21 50. Accordingly, Respondent's response to the Board's investigative staff was less than
22 truthful and was intended to deceive investigative staff.

23 51. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
24 Board of Medical Examiners as provided in NRS 630.352.

25 **Count II:**

26 **NRS 630.306(1)(p): Engaging in Unsafe or Unprofessional Conduct**

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

1 53. NRS 630.306(1)(p) provides that engaging in any act that is unsafe or
2 unprofessional conduct in accordance with regulations adopted by the Board is grounds for
3 initiating disciplinary action.

4 54. NAC 630.230(1)(a) prohibits falsifying records of health care.

5 55. Respondent falsified records of health care by destroying notes written by an
6 advanced practice registered nurse in patients' charts.

7 56. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
8 Board of Medical Examiners as provided in NRS 630.352.

9 **Count III:**

10 **NRS 630.3062(2): Altering Medical Records**

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

13 58. NRS 630.3062(2) provides that altering medical records of a patient is grounds for
14 disciplinary action.

15 59. Respondent altered the medical record of Patient A by destroying a medical note
16 that an advanced practice registered nurse had included in Patient A's file, and/or replacing that
17 note with one she wrote herself.

18 60. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
19 Board of Medical Examiners as provided in NRS 630.352.

20 **Count IV:**

21 **NRS 630.3062(2): Altering Medical Records**

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

24 62. NRS 630.3062(2) provides that altering medical records of a patient is grounds for
25 disciplinary action.

26 63. Respondent altered patients' medical records by removing medical notes and/or
27 information from patients' charts.

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1 64. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
2 Board of Medical Examiners as provided in NRS 630.352.

3 **Count V:**

4 **NRS 630.301(6): Disruptive Behavior That Interferes With Patient Care or Has an Adverse**
5 **Impact on the Quality of Patient Care**

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

8 66. NRS 630.301(6) provides that disruptive behavior with physicians, hospital
9 personnel, patients, members of the families of patients or any other persons if the behavior
10 interferes with patient care or has an adverse impact on the quality of care rendered to a patient is
11 grounds for disciplinary action.

12 67. Respondent exerted pressure, coercion and/or intimidation on the advanced
13 practice registered nurse in her employ or who was an independent contractor in her office, to
14 prescribe opioids to Patient A, when it was not in the patient's best interest in the opinion of the
15 advanced practice registered nurse.

16 68. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
17 Board of Medical Examiners as provided in NRS 630.352.

18 **Count VI:**

19 **NRS 630.301(9): Engaging in Conduct That Brings the Medical Profession Into Disrepute**

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

22 70. NRS 630.301(9) provides that engaging in conduct that brings the medical
23 profession into disrepute, including, without limitation, conduct that violates any provision of a
24 code of ethics adopted by the Board by regulation based on a national code of ethics is grounds for
25 disciplinary action.

26 71. Respondent's insistence that an advanced practice registered nurse in her employ,
27 or working as an independent contractor in her office, prescribe medically unwarranted opioids to
28 Patient A in violation of the Model Policy on the Use of Opioid Analgesics in the Treatment of

1 Chronic Pain, adopted by reference in NAC 630.187, brings the medical profession into disrepute.

2 72. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
3 Board of Medical Examiners as provided in NRS 630.352.

4 **Count VII:**

5 **NRS 630.304(6): Attempting by Way of Intimidation, Coercion or Deception, to Obtain or**
6 **Retain a Patient or to Discourage the Use of a Second Opinion**

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

9 74. NRS 630.304(6) provides that attempting directly or indirectly, by way of
10 intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a
11 second opinion is grounds for disciplinary action.

12 75. Respondent coerced and/or intimidated an advanced practice registered nurse
13 working in her office to prescribe opioids to Patient A in order to obtain that Patient, who would
14 supposedly bring in more patients.

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

17 **Count VIII:**

18 **NRS 630.305(1)(a): Receiving From Any Person Compensation Which is Intended or Tends**
19 **to Influence the Physician's Objective Evaluation or Treatment of a Patient**

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

22 78. NRS 630.305(1)(a) provides that directly or indirectly receiving from any person,
23 corporation or other business organization any fee, commission, rebate or other form of
24 compensation which is intended or tends to influence the physician's objective evaluation or
25 treatment of a patient is grounds for disciplinary action.

26 79. Respondent, in order to receive compensation from Patient A, exerted pressure,
27 coercion and/or intimidation upon an advanced practice registered nurse working in her office to
28 prescribe opioids to Patient A.

1 80. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
2 Board of Medical Examiners as provided in NRS 630.352.

3 **Count IX:**

4 **NRS 630.3062(4): Failure to Make the Medical Records of a Patient Available for**
5 **Inspection and Copying as Provided in NRS 629.061**

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

8 82. NRS 630.3062(4) provides that the failure to make the medical records of a patient
9 available for inspection and copying as provided in NRS 629.061 is grounds for initiating
10 disciplinary action.

11 83. NRS 629.061(1)(g) provides that a provider of health care shall make the health
12 care records of a patient available for physical inspection by an authorized investigator of a state
13 licensing board during the course of any investigation authorized by law.

14 84. The IC's investigative staff made a request for the records of Patient A to
15 Respondent by a lawful Order to Produce Medical Records.

16 85. Respondent failed to comply with the Order to Produce Medical Records.

17 86. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
18 Board of Medical Examiners as provided in NRS 630.352.

19 **Count X:**

20 **NRS 630.3065(2)(a): Failure to Comply With Order of the Board or Committee Designated**
21 **by the Board to Investigate a Complaint**

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

24 88. NRS 630.3065(2)(a) provides that knowingly or willingly failing to comply with an
25 order of the Board or committee designated by the Board to investigate a complaint against a
26 physician is grounds for initiating disciplinary action.

27 89. Respondent knowingly and willingly failed to comply with the IC's Order to
28 Produce Medical Records.

1 90. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
2 Board of Medical Examiners as provided in NRS 630.352.

3 **WHEREFORE**, the IC prays that the Board:

- 4 1. Give Respondent notice of the charges set forth in this Complaint;
- 5 2. Give Respondent notice that Respondent may file an answer to the Complaint as
6 set forth in NRS 630.339(2) within 20 days of service of the Complaint;
- 7 3. Set a time and place for a formal hearing after holding an Early Case Conference
8 pursuant to NRS 630.339(3);
- 9 4. Determine the sanctions it will impose if it finds Respondent violated the Medical
10 Practice Act;
- 11 5. Make, issue, and serve on Respondent, in writing, its findings of fact, conclusions
12 of law and order, which shall include the sanctions, if imposed; and
- 13 6. Take such other and further action as may be just and proper in this matter.

14 DATED this 9 day of February, 2018.

15 INVESTIGATIVE COMMITTEE OF THE
16 NEVADA STATE BOARD OF MEDICAL EXAMINERS

17 By: _____

18 Robert Kifroy, Esq., General Counsel
19 Jasmine K. Mehta, Esq., Deputy Executive Director
20 Attorneys for the Investigative Committee

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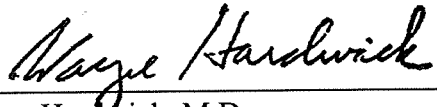
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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Wayne Hardwick, 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 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 9th day of February, 2018.



Wayne Hardwick, M.D.
Chairman, Investigative Committee
Nevada State Board of Medical Examiners