

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

3 * * * * *

4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **CYNTHIA V. IVEY, CRT,**
8 **Respondent.**

Case Nos. 19-30399-1

FILED

APR 13 2020

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
10 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

11 The above-entitled matter came on regularly for decision before the Nevada State Board of
12 Medical Examiners (Board), on Friday, March 6, 2020, at the Board's office located at 9600
13 Gateway Drive, Reno, Nevada, 89521, and by video conference at 6010 S. Rainbow Blvd,
14 Building A, Suite 1, Las Vegas, NV 89118, on the Complaint filed herein. Cynthia V. Ivey, CRT,
15 (Respondent), who was duly served with notice of the adjudication, was not present and not
16 represented by counsel. The adjudicating members of the Board participating in these Findings of
17 Fact, Conclusions of Law (FOFCOL) and Order were: Mr. M. Neil Duxbury, Ms. April
18 Mastroluca, Dr. Aury Nagy, Dr. Weldon Havins, Ms. Maggie Arias-Petrel, and Dr. Bret W. Frey.
19 Henna Rasul, Esq., Senior Deputy Attorney General, served as legal counsel to the Board.

20 The Board, having received and read the Complaint and exhibits admitted in the matter
21 and filed into the record in this case, the Synopsis of Record After Formal Hearing, prepared by
22 the Hearing Officer, Charles B. Woodman, Esq., who presided over the hearing, and the transcript
23 of the hearing, proceeded to make a decision pursuant to the provisions of Nevada Revised
24 Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively,
25 the Medical Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as applicable.

26 The Board, after due consideration of the record, evidence and law, and being fully
27 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND
28 ORDER in this matter, as follows:

1 **FINDINGS OF FACT**

2 **I.**

3 Respondent held a license to practice respiratory care in the State of Nevada issued by the
4 Board at all relevant times.

5 **II.**

6 On January 15, 2019, the Investigative Committee filed its formal Complaint in Case No.
7 19-30399-1, alleging Respondent violated the Medical Practice Act. Respondent was mailed the
8 Complaint via U.S. Mail, First Class, e-certified return receipt on January 22, 2019, and it was
9 delivered and signed for on January 25, 2019. The Complaint alleges as follows: Count I,
10 violation of NRS 630.3062(1)(a) (Failure to Maintain Timely, Legible, Accurate and Complete
11 Medical Records); and Count II, violation of NRS 630.304(1) (Misrepresentation in Obtaining or
12 Renewing License). Respondent did not answer or file a response to the allegations set forth in
13 the Complaint. Pursuant to NAC 630.460(4), the allegations of the Complaint are deemed
14 generally denied if an answer is not filed.

15 **III.**

16 An Order was filed on June 11, 2019, scheduling the Early Case Conference for the
17 pending matter for July 17, 2019. This Order was personally served upon Respondent by a
18 process server on June 21, 2019. The Early Case Conference was held July 17, 2019, at which
19 time Respondent did not appear either telephonically or personally. As a result of the Early Case
20 Conference, the Pre-Hearing Conference was scheduled for August 23, 2019, with the formal
21 Hearing calendared to commence on September 24, 2019. A Notice and Order Scheduling Pre-
22 Hearing and Hearing was personally served by a process server on July 27, 2019.

23 At the Pre-Hearing Conference, legal counsel for the Investigative Committee, Donald K.
24 White, Esq., Deputy General Counsel, appeared. Neither the Respondent nor any representative
25 of the Respondent contacted the Board or the Investigative Committee concerning this proceeding
26 or appeared at the Pre-Hearing Conference. Neither the Respondent nor any representative of the
27 Respondent belatedly appeared, nor at any subsequent time did any such individual make contact
28 with the Board, the Investigative Committee or the Hearing Officer to discuss the scheduling of

1 the Hearing. At the Pre-Hearing Conference, counsel for the Investigative Committee provided
2 the Hearing Officer with the mandated Pre-Hearing Conference Disclosures and had copies of
3 both the Pre-Hearing Conference Statement and the mandated Pre-Hearing Disclosures available
4 for the parties. Respondent was timely and properly served with the Pre-Hearing Conference
5 Statement and the mandated Pre-Hearing Disclosures in accordance with NRS and NAC Chapters
6 630, NRS Chapters 241, 622A and 233B, and the requirements of due process. However, the
7 package containing the Pre-Hearing Conference Statement and mandated Pre-Hearing Disclosures
8 was returned to the Nevada State Board of Medical Examiners' Reno Office.

9
10 **IV.**

11 On September 24, 2019, a hearing was held before the Hearing Officer to receive evidence
12 and to hear arguments. On or about November 4, 2019, the Hearing Officer received the complete
13 Record of Proceedings, including the transcript of the testimony received and the exhibits
14 admitted. Upon receipt of the Record of Proceedings, the hearing was closed. The Hearing
15 Officer provided the Synopsis of Record After Formal Hearing dated November 20, 2019. The
16 matter was scheduled for final adjudication on Friday, March 6, 2020, at a regularly scheduled
17 Board meeting. The notice of the adjudication along with the Synopsis of Record After Formal
18 Hearing, and the Hearing transcripts were mailed to Respondent on January 24, 2020, via priority
19 mail certified with return receipt requested, and Respondent received and signed for said
20 documents on January 27, 2020.

21 **V.**

22 Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing
23 Officer are hereby approved by the Board in their entirety, with modification to the discipline, and
24 are hereby specifically incorporated and made part of this Order by reference.

25 **VI.**

26 In accord with the Findings and Recommendations, the Board hereby finds that each count
27 set forth in the Complaint, and as recapitulated in Paragraph II above, has been established by a
28 preponderance of the evidence.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VII.

If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be so construed.

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent and the Complaint, and an adjudication of this matter by the Board members as set forth herein is proper.

II.

Respondent was timely and properly served with the Complaint, and all notices and orders in advance of the hearing and adjudication thereon, in accord with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process.

III.

With respect to the allegations of the Complaint, the Board concludes that Respondent has violated NRS 630.3062(1)(a) (Failure to Maintain Timely, Legible, Accurate and Complete Medical Records), as alleged in Count I; and has violated NRS 630.304(1) (Misrepresentation in Obtaining or Renewing License), as alleged in Count II. Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

IV.

The Board finds that, pursuant to NRS 622.400, it may recover from Respondent reasonable attorneys' fees and costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings against Respondent as it hereby enters this FOFCOL and Order, finding that Respondent has violated the Medical Practice Act, which the Board has the authority to enforce.

V.

The Board has reviewed the Investigative Committee's Memorandum of Costs and Disbursements and Attorneys' Fees, and the Board finds them to be the actual fees and costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings against Respondent, and finds them to be reasonable based on: (1) the abilities, training,

1 education, experience, professional standing and skill demonstrated by Board staff and attorneys;
2 (2) the character of the work done, its difficulty, its intricacy, its importance, the time and skill
3 required, the responsibility imposed and the prominence and character of the parties where, as in
4 this case, they affected the importance of the litigation; (3) the work actually performed by the
5 Board's attorneys and staff, and the skill, time and attention given to that work; and (4) the
6 product of the work and benefits to the Board and the people of Nevada that were derived
7 therefrom.

8 **VI.**

9 If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it
10 may be so construed.

11 **ORDER**

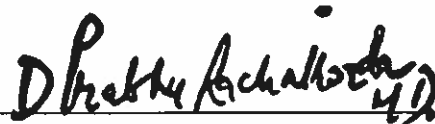
12 Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause
13 appearing therefore,

14 IT IS HEREBY ORDERED that:

- 15 1. Pursuant to NRS 630.352(4)(e) and NRS 622A.410(1), respectively, Respondent's
16 license to practice medicine, License No. RC1108, is immediately revoked and
17 Respondent may not apply for reinstatement of a license for a period of two (2)
18 years;
- 19 2. Respondent shall be issued a Public Letter of Reprimand; and
- 20 3. Respondent shall reimburse the Board the reasonable costs and expenses actually
21 incurred in the investigation and prosecution of this case in the amount of \$8285.40,
22 which amount Respondent shall pay immediately upon reapplication.

23 Dated this 13th day of April, 2020.

24 NEVADA STATE BOARD OF MEDICAL EXAMINERS

25 

26 Rachakonda D. Prabhu, M.D., President
27 Nevada State Board of Medical Examiners
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATION

I certify that the foregoing is the full and true original FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners in the matter of CYNTHIA V. IVEY, CRT, Case No. 19-30399-1.

I further certify that Rachakonda D. Prabhu, M.D., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing ORDER is the signature of said Rachakonda D. Prabhu, M.D.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

Dated this 13th day of April, 2020.



April Mastroluca, Secretary-Treasurer
Nevada State Board of Medical Examiners