

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

3 * * * * *

4
5 **In the Matter of Charges and Complaint**

Case No. 21-8734-1

6 **Against:**

FILED

7 **ABDEL MALICK KHALEK, M.D.,**

FEB - 1 2021

8 **Respondent.**

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**
By: 

9
10 **COMPLAINT**

11 The Investigative Committee (IC)¹ of the Nevada State Board of Medical Examiners
12 (Board), by and through Aaron Bart Fricke, Esq., Senior Deputy General Counsel and attorney for
13 the IC, having a reasonable basis to believe that Abdel Malick Khalek, M.D. (Respondent), violated
14 the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code
15 (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the
16 IC's charges and allegations as follows:

17 1. Respondent was at all times relative to this Complaint a licensed medical doctor
18 holding an active license to practice medicine in the State of Nevada (License No. 6899).
19 Respondent was originally licensed by the Board on August 14, 1993.

20 2. Respondent held at all times relative to this Complaint a controlled substance
21 registration, Certificate of Registration No. CS 19745, and a dispensing practitioner registration,
22 Certificate of Registration No. PD00722, issued by the Nevada State Board of Pharmacy
23 (Pharmacy Board).

24 3. Vinay Kumar Bararia, M.D. ("Bararia"), at all times relative to this Complaint, did
25 not hold license to practice medicine in the State of Nevada issued by the Board, and did not hold

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28 ¹The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this formal
Complaint was authorized for filing, was composed of Board members Mr. M. Neil Duxbury, Chairman, Aury Nagy,
M.D., and Michael C. Edwards, M.D., FACS.

1 a controlled substance registration, dispensing practitioner registration or any other kind of license
2 issued by the Pharmacy Board.

3 4. On March 8, 2013, the Board ordered and accepted the voluntary surrender of
4 Bararia's license to practice medicine (License No. 11355), pursuant to NAC 630.240, while
5 under investigation.

6 5. On October 23, 2014, in the matter of *United States of America v. Vinay Bararia*,
7 United States District Court, District of Nevada, Case No. 2:12-cr-00236, the Court entered its
8 Judgment in a criminal case, adjudging Bararia as guilty of violating 21 U.S.C. 841(a)(1) &
9 (b)(1)(C), felony distribution of a controlled substance, and sentenced him to forty-four (44)
10 months of imprisonment, among other sanctions.

11 6. Following Bararia's release from incarceration, on August 26, 2018, Bararia
12 formed Nevada Health Services, LLC, a Nevada Limited-Liability Company, operating a medical
13 practice doing business as Trimcare (Trimcare), located at 5375 South Fort Apache Road, Suites
14 102 and 103, Las Vegas, Nevada 89148.

15 7. Respondent co-owned and/or was employed at Trimcare from at least
16 October 2018 through April 2019.

17 8. Bararia in the course of operating Trimcare, purchased, accessed, stored, possessed,
18 administered, furnished, prescribed and/or dispensed controlled substances and dangerous drugs
19 under Respondent's name, without Respondent having a bona fide therapeutic relationship with
20 patients, without Respondent being present at the time prescriptions were dispensed, and/or
21 otherwise falsely represented himself as a practitioner entitled to write prescriptions in this state.

22 9. Respondent failed to prevent Bararia, in the course of operating Trimcare, to
23 purchase, access, store, possess, administer, furnish, prescribe and/or dispense controlled
24 substances and dangerous drugs under Respondent's name, without Respondent having a bona
25 fide therapeutic relationship with any such patient or being present at the time the prescription was
26 dispensed, and/or otherwise falsely represent himself as a practitioner entitled to write
27 prescriptions in this state.

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1 10. Bararia misappropriated Respondent's controlled substance registration to
2 unlawfully issue prescriptions for controlled substances and/or dangerous drugs including, without
3 limitation, Testosterone, Phentermine, Phendimetrazine, Topamax, Botox, and Juvederm, for at
4 least two-hundred ninety-eight (298) patients with whom he did not have a bona fide therapeutic
5 relationship from September 2019 to April 2019. Respondent aided and abetted Bararia's
6 unlawful conduct by pre-signing prescriptions, providing his log-on information to e-scribing
7 systems to Bararia, and/or failing to secure from Bararia his secondary authenticator for e-scribing
8 CII medications.

9 11. Respondent failed to issue a written prescription for each medication dispensed,
10 failed to verify medications for accuracy prior to dispensing, failed to maintain complete, accurate
11 and readily retrievable records of all controlled substances and dangerous drugs purchased and
12 dispensed, failed to inventory controlled substances at least once every two (2) years, failed to
13 properly store and maintain the inventory, failed to maintain the security of the inventory from
14 unauthorized access, and failed to segregate and/or dispose of adulterated and/or expired
15 dangerous drugs.

16 COUNT I

17 **NRS 630.306(1)(c) (Unlawful Prescribing of Controlled Substances and Dangerous Drugs)**

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

20 13. Pursuant to NRS 630.306(1)(c), prescribing any controlled substance or dangerous
21 drug, as defined in chapter 454 of NRS, to another, except as authorized by law, is grounds for
22 initiating disciplinary action or denying licensure.

23 14. Pursuant to NRS 639.235(1), no person, other than a practitioner holding a license
24 to practice his or her profession in this State, may prescribe or write a prescription.

25 15. A prescription for a controlled substance may be issued only for a legitimate
26 medical purpose and in the usual course of professional practice by an individual practitioner who
27 holds a DEA registration and is authorized to prescribe controlled substances by the jurisdiction in
28 which he is licensed to practice his profession. *See* 21 CFR § 1306.03(a)(1); NRS 453.381(1).

1 16. It is a crime to falsify a prescription for a controlled substance. *See* 21 U.S.C. §
2 841(a); 21 U.S.C. § 842(a); NRS 453.331(1)(c), (d), (f), (h) and (i).

3 17. It is a crime to falsely represent oneself as a practitioner entitled to write
4 prescriptions in this state. *See* 21 U.S.C. § 841(a); 21 U.S.C. § 842(a); NRS 639.281(1);
5 NRS 639.2813(1).

6 18. A dispensing practitioner must issue a written prescription for each medication
7 dispensed, verify medications for accuracy prior to dispensing, maintain complete, accurate and
8 readily retrievable records of all controlled substances and dangerous drugs purchased and
9 dispensed, inventory controlled substances at least once every two (2) years, properly store and
10 maintain the inventory, maintain the security of the inventory from unauthorized access, and
11 segregate and/or dispose of adulterated and/or expired dangerous drugs. *See* NRS 453.246;
12 NRS 585.370; NRS 585.420; NRS 639.282; NAC 453.400; NAC 453.410; NAC 453.475;
13 NAC 454.040; NAC 639.475; NAC 639.476; NAC 639.510; NAC 639.601; NAC 639.742,
14 NAC 639.743; NAC 639.745; 21 U.S.C. § 842(a)(5); 21 CFR 1304.11; 21 CFR 1304.21.

15 19. Performing or in any way being a party to any fraudulent or deceitful practice or
16 transaction constitutes unprofessional conduct or conduct contrary to the public interest pursuant
17 to NAC 639.945(1)(h).

18 20. Performing any duties as the holder of a controlled substance registration in an
19 incompetent, unskillful or negligent manner constitutes unprofessional conduct or conduct
20 contrary to the public interest pursuant to NAC 639.945(1)(i).

21 21. Aiding or abetting a person not licensed to practice pharmacy in the State of
22 Nevada constitutes unprofessional conduct or conduct contrary to the public interest pursuant to
23 NAC 639.945(1)(j).

24 22. Dispensing a drug as a dispensing practitioner or prescribing a drug as a
25 prescribing practitioner to a patient with whom the practitioner does not have a bona fide
26 therapeutic relationship constitutes unprofessional conduct or conduct contrary to the public
27 interest pursuant to NAC 639.945(1)(o).

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1 23. Pursuant to NRS 639.23507, a practitioner shall, before issuing an initial
2 prescription for a controlled substance listed in schedule II, III or IV or an opioid that is a
3 controlled substance listed in schedule V and at least once every ninety (90) days thereafter for the
4 duration of the course of treatment using the controlled substance, obtain a patient utilization
5 report regarding the patient from the computerized program established by the Pharmacy Board
6 and the Investigation Division of the Department of Public Safety pursuant to NRS 453.162
7 (hereinafter, the "NPMP"). The practitioner shall:

8 (a) Review the patient utilization report; and

9 (b) Determine whether the patient has been issued another prescription for
10 the same controlled substance that provides for ongoing treatment using
11 the controlled substance.

12 24. Bararia accessed, stored, possessed, administered, furnished, dispensed and
13 prescribed controlled substances and dangerous drugs under Respondent's name and Pharmacy
14 Board credentials, falsely represented himself as a practitioner entitled to write controlled
15 substance prescriptions in this state, falsified prescriptions for controlled substances, was a party
16 with Respondent to fraudulent and deceitful practices and transactions, and with respect to the
17 controlled substances, issued prescriptions for controlled substances without querying the NPMP,
18 without reviewing the NPMP patient utilization report and determining whether the patient had
19 been issued another prescription for the same controlled substance.

20 25. Bararia's conduct constitutes the practice of medicine pursuant to NRS 630.020.

21 26. Respondent failed to secure from Bararia and thereby permitted him to access,
22 store, possess, administer, furnish, dispense and/or prescribe controlled substances and dangerous
23 drugs under Respondent's name and Pharmacy Board credentials, permitted Bararia to falsely
24 represent himself as a practitioner entitled to write controlled substance prescriptions in this state,
25 permitted Bararia to falsify prescriptions for controlled substances, was a party to fraudulent and
26 deceitful practices and transactions, performed duties as the holder of a controlled substance
27 registration in an incompetent, unskillful and negligent manner, aided and abetted Bararia, a
28 person not licensed to practice pharmacy in the State of Nevada, to prescribe and dispense drugs

1 to patients with whom Respondent did not have a bona fide therapeutic relationship, and, with
2 respect to the controlled substances, to prescribe these without querying the NPMP and without
3 reviewing the NPMP patient utilization report and determining whether the patient had been
4 issued another prescription for the same controlled substance.

5 27. Respondent failed to issue a written prescription for each medication dispensed,
6 failed to verify medications for accuracy prior to dispensing, failed to maintain complete, accurate
7 and readily retrievable records of all controlled substances and dangerous drugs purchased and
8 dispensed, failed to inventory controlled substances at least once every two (2) years, failed to
9 properly store and maintain the inventory, failed to maintain the security of the inventory from
10 unauthorized access, and failed to segregate and/or dispose of adulterated and/or expired
11 dangerous drugs.

12 28. By, without limitation, the conduct described herein, Respondent unlawfully
13 prescribed controlled substances and dangerous drugs to others in violation of federal and state
14 laws, including, but not limited to, each of those cited in paragraphs 13-25 above, and any one
15 such violation is independent grounds for initiating disciplinary action pursuant to
16 NRS 630.306(1)(c).

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

19 **COUNT II**

20 **NRS 630.305(1)(e) (Aiding and Assisting the Unlicensed Practice of Medicine)**

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

23 31. Pursuant to 630.305(1)(e), aiding, assisting, employing or advising, directly or
24 indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions
25 of NRS Chapter 630 and the regulations of the Board is grounds for initiating disciplinary action
26 or denying licensure.

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1 32. By, without limitation, the conduct described herein, Respondent aided and
2 assisted, directly and indirectly, Bararia, a person not licensed to practice pharmacy in the State of
3 Nevada, to engage in the practice of medicine contrary to the provisions of NRS Chapter 630 and
4 the regulations of the Board.

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

7 **WHEREFORE**, the IC prays:

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

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


13 3. That the Board determine what sanctions to impose if it finds and concludes that
14 there has been a violation or violations of the Medical Practice Act committed by Respondent;

15 4. That the Board make, issue and serve on Respondent its findings of fact,
16 conclusions of law and order, in writing, to include sanctions to be imposed; and

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

19 DATED this 1 day of February, 2021.

20 INVESTIGATIVE COMMITTEE OF THE
21 NEVADA STATE BOARD OF MEDICAL EXAMINERS

22 By: 
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24 Aaron Bart Fricke, Esq., Senior Deputy General Counsel
25 Attorney for the Investigative Committee
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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Mr. M. Neil Duxbury, having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

DATED this 1st day of February, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

M. NEIL DUXBURY
M. Neil Duxbury, Chairman