

**For Public**

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

\* \* \* \* \*

**In the Matter of Charges and  
Complaint Against  
BENJAMIN VENGER, M.D.,  
Respondent.**

NO. Case No. 08-9819-1

FILED 26 June 2008

  
EXECUTIVE DIRECTOR

**COMPLAINT**

The Investigative Committee of the Nevada State Board of Medical Examiners, composed of Charles N. Held, M.D., Cindy Lamerson, M.D., and Jean Stoess, M.A., by and through Edward Cousineau, Deputy General Counsel for the Investigative Committee, having a reasonable basis to believe that Benjamin Venger, M.D., hereinafter referred to as "Respondent," has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Respondent is currently licensed in active status to practice medicine in the state of Nevada, and at all times alleged herein, was so licensed by the Nevada State Board of Medical Examiners, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. On or about January 9, 2008, a Criminal Indictment was filed in the United States District Court, District of Nevada (Case No. 02:07-cr-0039-JLQ-LRL), against two Defendants, Howard Awand, Esq. and Noel Gage, Esq., alleging various charges including mail fraud, wire fraud and conspiracy. One of the assertions by the government in the Criminal Indictment was that the Defendants had entered into a conspiracy that provided monetary remuneration to Respondent in exchange for Respondent referring potential medical malpractice clients to the Defendants, and additionally, offering favorable, albeit disingenuous, professional medical opinions in matters involving clients of the Defendants. Respondent's testimony was of significant import to establish elements of

1 the government's case and as a result, he was granted prosecutorial "use" immunity by the United  
2 States Attorney's Office in exchange for his testimony against Mr. Gage at the criminal trial.

3 3. The trial of the two Defendants was severed after the aforementioned Criminal  
4 Indictment filing and the criminal proceeding solely against Mr. Gage took place from February 19,  
5 2008 to March 11, 2008.

6 4. On or about March 3, 2008, Respondent testified under oath at the criminal proceeding  
7 regarding his involvement in the alleged criminal conduct by Mr. Gage. During this testimony,  
8 Respondent indicated that he had previously participated in the referral to, and favorable medical  
9 evaluation of, clients of the Defendants in exchange for monetary compensation from the Defendants.  
10 Moreover, Respondent testified that sworn deposition and trial testimony that he had previously  
11 provided regarding his professional evaluation of a client of Mr. Gage was untruthful in multiple  
12 aspects, and that Respondent offered this untruthful testimony with the intent of positively influencing  
13 the monetary award to Mr. Gage and his client, and receiving monetary remuneration therefore.  
14 Respondent further testified at the criminal proceeding that as an additional incentive, the Defendants  
15 offered to protect Respondent from being sued for medical malpractice by the Defendants and other  
16 attorneys they worked with, thereby negating the potential for Respondent's malpractice insurance to  
17 be negatively affected, in exchange for these referrals and favorable medical opinions.

## 18 COUNT I

19 5. All of the allegations in the above paragraphs are incorporated herein as if set forth in full.

20 6. Section 630.301(7) of the Nevada Revised Statutes provides that engaging in conduct that  
21 violates the trust of a patient and exploits the relationship between the physician and the patient for  
22 financial or other personal gain is grounds for discipline.

23 7. Respondent violated Section 630.301(7) when he knowingly and purposefully referred  
24 clients to the Defendants, and offered untruthful professional medical opinions of clients of the  
25 Defendants during sworn deposition and trial testimony, for monetary and other benefit, and later  
26 acknowledged this disingenuous conduct during his sworn testimony in a United States District Court  
27 proceeding.

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1 COUNT II

2 8. All of the allegations in the above paragraphs are incorporated herein as if set forth in full.

3 9. Section 630.301(9) of the Nevada Revised Statutes provides that engaging in conduct that  
4 brings the medical profession into disrepute is grounds for discipline.

5 10. Respondent violated Section 630.301(9) when he knowingly and purposefully referred  
6 clients to the Defendants, and offered untruthful professional medical opinions of clients of the  
7 Defendants during sworn deposition and trial testimony, for monetary and other benefit, and later  
8 acknowledged this disreputable conduct during his sworn testimony in a United States District Court  
9 proceeding.

10 COUNT III

11 11. All of the allegations in the above paragraphs are incorporated herein as if set forth in full.

12 12. Section 630.306(2)(a) of the Nevada Revised Statutes provides that engaging in any  
13 conduct which is intended to deceive is grounds for disciplinary action.

14 13. Respondent violated Section 630.306(2)(a) when he knowingly and purposefully referred  
15 clients to the Defendants, and offered untruthful professional medical opinions of clients of the  
16 Defendants during sworn deposition and trial testimony, for monetary and other benefit, and later  
17 acknowledged this deceitful conduct during his sworn testimony in a United States District Court  
18 proceeding.

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

21 WHEREFORE, the Investigative Committee prays that the Nevada State Board of Medical  
22 Examiners conduct a hearing on the Complaint herein as provided by statute, find and determine that  
23 Respondent has violated one or more provisions of the Medical Practice Act (NRS Chapter 630), enter

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1 findings of fact, conclusions of law, and an order imposing sanctions upon Respondent according to  
2 NRS 630.352 and take such other and further action as may be just and proper in these premises.

3 DATED this 26<sup>th</sup> day of June, 2008.

4  
5 By:



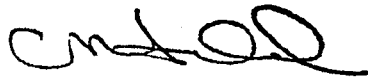
6 Edward Cousineau  
7 Attorney for the Investigative Committee of the  
8 Nevada State Board of Medical Examiners  
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VERIFICATION

STATE OF NEVADA            )  
  : ss.  
COUNTY OF DOUGLAS        )

Charles N. Held, M.D., 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 26<sup>th</sup> day of June, 2008.



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Charles N. Held, M.D.

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1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am employed by Nevada State Board of Medical Examiners and  
3 that on the 26<sup>th</sup> day of June 2008, I served a file copy of the COMPLAINT, NOTICE OF  
4 PREHEARING & HEARING & copy of the appointment letter, via USPS certified return receipt  
5 to the following:

6 Snell & Wilmer  
7 Kathleen Janssen, Esq.  
8 3883 Howard Hughes Pkwy Ste. 1100  
9 Las Vegas, NV 89169

10 Dated this 26<sup>th</sup> day of June 2008.

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Angelina Donohoe  
14 Legal Assistant  
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