For Public

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

2	OF THE STATE OF NEVADA
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4 5	In The Matter of Charges and) Case No. 08-18131-1
	Complaint Against) FILED 14 Tact 200 8
6 7	DANA MARKS, M.D., And Clark EXECUTIVE DIRECTOR
8	Respondent.
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COMPLAINT

The Investigative Committee of the Board of Medical Examiners of the state of Nevada, composed of Charles N. Held, M.D., Chairman, Cindy Lamerson, M.D. Member, and Jean Stoess, M.A., Member, by and through Lyn E. Beggs, Deputy General Counsel for the Nevada State Board of Medical Examiners, having a reasonable basis to believe that Dana Marks, 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, and was so licensed by the Nevada State Board of Medical Examiners, hereinafter referred to as "the Board," pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, at the time of the incidents in question.
- 2. K.L. was a twenty-one year old female at the time of the matter in question. Her true identity is not disclosed to protect her privacy, but has been made known to Respondent.
- 3. K.L. presented to the emergency room of St. Mary's Hospital in January 2007 with her daughter who was examined and treated by Respondent.
- 4. On or around March 30, 2007, Respondent encountered K.L. again at her place of employment at which time K.L. convinced Respondent to write her a prescription for pain medication for alleged back pain.

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- 5. Respondent did not exam K.L., take a history or create any type of medical record for K.L. but did phone a prescription for Norco, a schedule III substance to Walgreens Pharmacy #05295 for her.
 - 6. K.L. did obtain the prescription called into Walgreens Pharmacy.
- 7. Over the course of the next month and a half period, Respondent wrote or called in nine additional prescriptions for controlled substances for K.L. that were filled at a variety of pharmacies.
- 8. At no time during the month and a half period did Respondent ever examine K.L., obtain a history or create or maintain a medical record for her.
- 9. On or about April 23, 2007, K.L. requested that Respondent write a prescription for Xanax and a pain medication for her roommate, V.G., who was a twenty-three year old female at the time of the incidents in question. Her true identity is not disclosed to protect her privacy, but has been made known to Respondent.
- 10. Respondent did phone in a prescription for Xanax, a schedule IV controlled substance, and a prescription for Norco, a schedule III controlled substance to Safeway Pharmacy #2656.
- 11. Respondent never met or spoke to V.G. and performed no examination, obtained no history and did not create or maintain any sort of medical record for V.G.

Count I

- 12. Nevada Revised Statute Section 630.306(2)(c) provides that engaging in conduct which is in violation of a regulation adopted by the State Board of Pharmacy is ground for initiating disciplinary action against a licensee.
- 13. Nevada Administrative Code Section 639.945(o) provides that prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship is unprofessional conduct and contrary to the public interest.
- 14. Respondent had no bona fide therapeutic relationship with either K.L. or V.G. when he prescribed controlled substances for either of them.
- 15. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

Count II 1 Nevada Revised Statute Section 630.306(3) provides that prescribing a controlled 2 16. substance or any dangerous drug as defined by chapter 454 of NRS to himself or others except as 3 authorized by law is grounds for initiating disciplinary action against a licensee. 4 Nevada Revised Statute Section 453.381(1) provides that a physician may prescribe or 5 17. administer controlled substances only for a legitimate medical purpose and in the usual course of his 6 7 professional practice. Respondent's prescribing of controlled substances for K.L. and V.G. were for no 18. 8 legitimate medical purpose and was not done in the usual course of his professional practice as 9 10 described in the preceding paragraphs. By reason of the foregoing, Respondent is subject to discipline by the Nevada State 19. 11 Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes. 12 WHEREFORE, the Investigative Committee prays: 13 That the Nevada State Board of Medical Examiners fix a time and place for a formal 14 15 hearing; 2. That the Nevada State Board of Medical Examiners give Respondent notice of the 16 charges herein against him, the time and place set for the hearing, and the possible sanctions against 17 him; 18 That the Nevada State Board of Medical Examiners determine what sanctions it will 3. 19 impose for the violation or violations committed by Respondent; 20 That the Nevada State Board of Medical Examiners make, issue and serve on 21 4. Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions 22 23 imposed; and /// 24

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That the Nevada State Board of Medical Examiners take such other and further action as 5. may be just and proper in these premises.

DATED this 30 day of June, 2008.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners

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 14th day of **J.**, 2008.

CHARLES N. HELD, M.D.

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 14th day of July 2008, I served a file copy of the COMPLAINT & copy of the SETTELEMNT, WAIVER & CONSENT AGREEMENT, via USPS certified return receipt to the following:

Osborn, Ohlson & Hall, Chtd. John Ohlson, Esq. 555 S. Center Street Reno, NV 89501

Dated this 14th day of July 2008.

Angelia Donohoe Legal Assistant