COPY

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and Complaint Against

VANESSA L. BENES, P.A.-C.,

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 Vanessa L. Benes, P.A.-C., 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 as a physician assistant 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. Patient A 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 her identity is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.
- 3. Patient A presented to the emergency room at Valley Hospital in Las Vegas, Nevada on March 25, 2002, after being involved in a motor vehicle accident with complaints of neck and back pain and a laceration of her face.
 - 4. The laceration was in the left periorbital region of the Patient A's face.

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- 5. Respondent performed the eye examinations required by Valley Hosptial, which did not show any abnormal results.
- 6. Respondent also ordered an x-ray of Patient A's ocular orbits, however the x-ray found no irregularities in the superior orbital rim, no evidence of separation or the zygomatico frontal sutures and no evidence of erosion, trauma, or overlying soft tissue swelling in the inferior orbital rim.
- 7. Respondent did not perform a visual acuity examination or extraocular muscle motility examination and no visual acuity was documented in the medical record.
 - 8. Respondent did not perform a computerized tomography (CT) scan of the ocular region.
 - 9. Respondent sutured the periorbital laceration using local anesthetic.
- 10. Patient A was discharged with instructions to follow up with her regular doctor or another provider whose name and number were provided to her.
- 11. Patient A did not follow up until April 1, 2002, when she presented to Dr. Anit Dua for removal of her stitches who referred the patient to Dr. Pizzio upon finding the eyelid swollen with pain and tenderness.
- 12. After evaluation and an initial surgery by Dr. Pizzio, a large scleral laceration was discovered resulting in an ultrasound evaluation which indicated a tear in the ruptured globe and no evidence of a normal retina.
 - 13. Ultimately Patient A's left eye was removed on April 3, 2002.

Count I

- 14. Nevada Administrative Code Section 630.380(1)(f) provides that disciplinary action may be taken against a physician assistant if they are found to have committed malpractice.
- 15. Nevada Administrative Code Section 630.040 defines malpractice as the failure, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.
- 16. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances when she failed to perform a visual acuity examination at the time Patient A presented to the emergency room.

17. By reason of the foregoing, Respondent is subject to discipline by the Nevada State 1 2 Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes. 3 **Count II** 18. Nevada Administrative Code Section 630.380(1)(f) provides that disciplinary action may 4 5 be taken against a physician assistant if they are found to have committed malpractice. Nevada Administrative Code Section 630.040 defines malpractice as the failure, in 6 7 treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar 8 circumstances. 9 20. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances when she failed to order a computerized tomography (CT) scan of the orbital 10 11 region at the time Patient A presented to the emergency room. By reason of the foregoing, Respondent is subject to discipline by the Nevada State 12 21. Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes. 13 14 WHEREFORE, the Investigative Committee prays: 15 That the Nevada State Board of Medical Examiners fix a time and place for a formal 16 hearing; 17 2. That the Nevada State Board of Medical Examiners give respondent notice of the charges herein against him, the time and place set for the hearing, and the possible sanctions against 18 19 him; 3. That the Nevada State Board of Medical Examiners determine what sanctions it 20 21 determines to impose for the violation or violations committed by Respondent; 22 4. That the Nevada State Board of Medical Examiners make, issue and serve on Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions 23 24 imposed; and 25 /// /// 26 /// 2.7 28 ///

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1	5. That the Nevada State Board of Medical Examiners take such other and further action as
2	may be just and proper in these premises.
3	DATED this 22 day of January, 2008.
4	INVESTIGATIVE COMMITTEE OF
5	THE NEVADA STATE BOARD OF MEDICAL EXAMINERS
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7	De Other & Branch
8	By: While Beggs Lyn/E. Beggs
	Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners
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1	VERIFICATION
2	STATE OF NEVADA)
3	COUNTY OF DOUGLAS : ss.
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5	CHARLES N. HELD, M.D., having been duly sworn, hereby deposes and states under penalty
6	of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical
7	Examiners that authorized the complaint against the Respondent herein; that he has read the foregoing
8	Complaint; and that based upon information discovered in the course of the investigation into a
9	complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint
10	against Respondent are true, accurate, and correct.
11	DATED this 22 day of 1000.
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14	Charles Marie Charles
15	CHARLES N. HELD, WI.D.—
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CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 22nd day of January 2008, I served a file copy of the COMPLAINT, NOTICE OF PRE-HEARING CONFERENCE & HEARING and PATIENT DESIGNATION, along with appointment letter, by mailing via USPS certified return receipt mail to the following:

Vanessa Benes, P.A.-C. 12132 Vista Linda Avenue Las Vegas, NV 89138-5008

Dated this 22nd day of January 2008.

Angelia Donohoe Legal Assistant