BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and Complaint Against KENNETH WESTFIELD, M.D., Respondent.	**Case No. 09-5797-1**

FILED
DEC 10 2009
NEVADA STATE BOARD OF MEDICAL EXAMINERS

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed at the time of approval of the filing of the instant complaint, of Charles N. Held, M.D., Benjamin J. Rodriguez, M.D. and Ms. Jean Stoess, having a reasonable basis to believe that Kenneth Westfield, M.D., hereinafter referred to as Dr. Westfield, has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Dr. Westfield is currently licensed in active status, and was so licensed by the Nevada State Board of Medical Examiners, on January 1, 1980 (License No. 3953), pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, and at all times addressed herein was so licensed.

2. Patient A was a fifty-nine year old male at the time he first presented to Dr. Westfield. His true identity is not disclosed to protect his privacy, but his identity is disclosed in the Patient Designation served on Dr. Westfield along with a copy of this Complaint.

3. Patient A presented to Dr. Westfield for the first time on March 1, 2000. Patient A had no prior ocular history and wore only over-the-counter reading glasses. He also used over-the-counter artificial tears as needed for dry eyes. He reported that he was recently diagnosed with diabetes and that his blood sugar was not stable. His uncorrected visual acuity was measured at

///

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

20/25-3 in the right eye and 20/40 in the left eye. His best corrected visual acuity was 20/20-2 for the right eye and 20/30 for the left eye.

4. Dr. Westfield noted an impression of diabetes, astigmatism and age related macular degeneration, left eye greater than right. Patient A was scheduled for a Lasik work up for possible Lasik surgery to be performed on his left eye, aiming for -1.00.

5. Patient A returned on March 6, 2000 for his pre-operative workup. The cycloplegic refraction on his left eye at the time was +0.50 +0.50 x 001 with best corrected refraction of 20/30 +1. Informed consent was also provided and Patient A signed an informed consent form.

6. Patient A underwent the Lasik procedure on his left eye on March 27, 2000. The programmed correction was +0.75. He was seen for his first post-operative visit the following day on March 28, 2000 and reported that his eye felt fine. There were no issues noted.

7. Patient A was seen four more times post-operatively through May 31, 2000. His uncorrected vision varied between 20/25 and 20/30.

8. Patient A returned to see Dr. Westfield on July 23, 2002 with complaints that his reading vision seemed weaker. Patient A's uncorrected vision was 20/25 on the right eye and 20/30 +1 on the left. Best corrected was 20/20 on the right eye and 20/25 +1 on the left. Dr. Westfield's examination noted mild cataract, diabetes, age-related macular degeneration and no evidence of retinopathy. The plan was for a Lasik enhancement on the left eye, aiming for -1.25. It was noted that Patient A wished to proceed and Patient A did sign a new informed consent form. There is no record indicating that topography, pachymetry or a Schirmer's test were completed prior to determining to proceed forward with the Lasik enhancement.

9. Patient A underwent the Lasik enhancement procedure on August 20, 2002 with a programmed correction of +1.56+0.50 x 148.

10. Patient A returned for his first post-operative visit on August 21, 2002 indicating that he had done okay the previous night. Patient A subsequently saw Dr. Westfield on multiple occasions through June 2006 with continuing complaints of foggy, blurry vision and pain. Patient A had significant fluctuations in visual acuity over the next several years and suffered from keratitis sicca.

11. At the time of Patient A's last appointment with Dr. Westfield, his uncorrected vision was 20/30 in his right eye and 20/100 – 1 in his left. Patient A continued to complain about very foggy vision in his left eye even with correction.

Count I

12. Nevada Administrative Code Section 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

13. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.

14. Dr. Westfield failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances, when he performed Lasik on March 27, 2000 on Patient A, a patient with a minimal refraction error and minimal potential for noticeable gain in visual acuity, and when he proceeded with the procedure on a patient with recently diagnosed diabetes and unstable blood sugar and accordingly Dr. Westfield 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

15. Nevada Administrative Code Section 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

16. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.

17. Dr. Westfield failed to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances when he performed a Lasik enhancement on Patient A without noting that topography, pachymetry or a whether Schirmer's test was completed and he failed to exercise reasonable discretion and judgment when he advised Patient A to undergo the enhancement without consideration and discussion of the increased risk of visual aberration in a diabetic patient with dry eyes, cataract and retinopathy and with unrealistic expectations for visual improvement

///

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

and accordingly Dr. Westfield is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

WHEREFORE, the Investigative Committee prays:

1. That the Nevada State Board of Medical Examiners fix a time and place for a formal hearing;

2. That the Nevada State Board of Medical Examiners give Dr. Westfield notice of the charges herein against him, the time and place set for the hearing, and the possible sanctions against him;

3. That the Nevada State Board of Medical Examiners determine what sanctions to impose for the violation or violations committed by Dr. Westfield; and

4. That the Nevada State Board of Medical Examiners make, issue and serve on Dr. Westfield its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed; and

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

DATED this 10th day of December, 2009.

THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Lyn E. Beggs, Esq.
General Counsel and Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 10th day of December 2009, I served a file copy of the COMPLAINT, PATIENT DESIGNATION and FINGERPRINT INFORMATION, by mailing USPS certified mail to the following:

Kenneth Westfield, M.D.
2575 Lindell Rd.
Las Vegas, NV 89102-5409

Dated this 10th day of December 2009.

Angelia Donohoe
Legal Assistant

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559