BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and Complaint Against

JAMES SOMERS, P.A.-C,

Respondent.

Case No. 10-19294-1

FILED

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NEVADA STATE BOARD OF MEDICAL EXAMINERS

COMPLAINT

The Investigative Committee of the Board of Medical Examiners of the state of Nevada, composed of Charles N. Held, M.D., Chairman, Theodore B. Berndt, M.D. Member, and Valerie Clark, Member, by and through Bradley O. Van Ry, Deputy General Counsel for the Nevada State Board of Medical Examiners, having a reasonable basis to believe that James Somers, 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's license is currently in active status (License No. PA658) and was so licensed at all times herein and was licensed by the Nevada State Board of Medical Examiners on August 17, 2000 pursuant to Chapter 630 of the Nevada Revised Statutes.
- 2. Patient A was a fifty-two year old male at the time of the matters in question. His true identity is not disclosed to protect his privacy, but his identity is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.
- 3. On October 6, 2003, Patient A was first seen by Respondent. Respondent had already undergone previous treatment and two (2) weeks of antibiotics from a previous provider for an infection of the third left finger. Despite the failure of the antibiotic regimen to clear up the infection, Respondent placed Patient A on antibiotics for another month.

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- 4. Patient A returned in November 2003. Although the finger was reported as much better, Respondent recommended continuous soaking and to return for a re-check. This was a red flag because Patient A had been over six (6) weeks on antibiotics without full resolution of the infection.
- 5. Patient A returned in January 2004. The finger was still hurting him. Respondent recommended initiating antifungal therapy at this point because the antibiotics had failed. Even though this was the third time for Respondent to see Patient A, no consultation with the supervising physician was sought, no referral was made, no testing such as a culture was done and no imaging studies were ordered.
- 6. The infection had been present for over four (4) months. Since Respondent was unsure of the etiology of the infection, he should have referred Patient A to specialty care, ordered an X-ray of the finger or other imaging study, or consulted with his supervising physician.
- 7. Patient A finally returned in May 2004. An X-ray was performed on May 7, 2004 that showed an ungual tuft resorption of the distal phalanx of the left third digit. A three-phase bone scan was performed on May 18, 2004 that showed osteomyelitis of the distal phalanx of the left third digit.

Count I

- 8. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 9. 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.
- 10. 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.
- 11. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under the same or similar circumstances when he failed to refer Patient A to specialty care, failed to order an X-ray or other imaging study of the finger in a timely manner and/or failed to consult with the supervising physician in this matter.
- 12. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.410 of the Nevada Administrative Code.

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WHEREFORE, the Investigative Committee prays:

- 1. That the Nevada State Board of Medical Examiners give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in Section 630.339 of the Nevada Revised Statutes within twenty (20) days of service of the Complaint.
- 2. That the Nevada State Board of Medical Examiners set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS §630.339(3);
- 3. That the Nevada State Board of Medical Examiners determine what sanctions it determines to impose if it determines there has been a violation or violations of the Medical Practice Act (Nevada Revised Statutes Chapter 630) committed by Respondent; and
- 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 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 7 day of July , 2010.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Bradley O. Van Ry

Deputy General Counsel for the Investigative Committee of the Nevada

State Board of Medical Examiners

VERIFICATION

Charles N. Held, M.D., hereby deposes and states under penalty of perjury under the laws of the state of Nevada that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered during the course of the investigation into a complaint against Respondent, that he believes the allegations and charges in the foregoing Complaint against Respondent are true, accurate, and correct.

DATED this 7th day of July, 2010.

CHARLES N. HELD, M.D.

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 7th day of July 2010; I served a file copy of the Complaint, Patient Designation and Fingerprint Information by mailing via USPS certified return receipt mail to the following:

James Somers, P.A.-C. 3315 E. Russell Rd Ste A-4 #410 Las Vegas, NV 89120

Dated this 7th day of July 2010.

Angelia L. Donohoe Legal Assistant