

OFFICE OF THE GENERAL COUNSEL  
Nevada State Board of Medical Examiners  
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**BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF NEVADA**

\* \* \* \* \*

**In The Matter of Charges and )  
)  
Complaint Against )  
)  
JAMES S. TATE, M.D., )  
)  
Respondent. )**

**Case No. 10-9809-1**

**FILED**

**JUN 25 2010**

**NEVADA STATE BOARD OF  
MEDICAL EXAMINERS**

**COMPLAINT**

The Investigative Committee of the Nevada State Board of Medical Examiners (Board), composed of Charles N. Held, M.D., Theodore B. Berndt, M.D., and Valerie J. Clark, BSN, RHU, LUTCF, by and through Edward O. Cousineau, Esq., Deputy Executive Director for the Board, and Christine Guerci-Nyhus, Esq., co-counsel for Investigative Committee, having a reasonable basis to believe that James S. Tate, M.D. (Respondent), has engaged in conduct that is grounds for discipline pursuant to the provisions of NRS Chapter 630, hereby alleges, charges and complains against Respondent as follows:

1. Respondent was actively licensed to practice medicine by the Board on July 1, 1988, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, and at all times addressed herein was so licensed. Respondent's indicated specialties to the Board are surgery and critical care.

2. On February 23, 2010, at approximately 4:00 p.m., Respondent was scheduled to perform a lypoma removal surgical procedure at Valley Hospital in Las Vegas. During the preliminary stages of the procedure, individuals involved on the surgical team noted Respondent appeared impaired. Additionally, the odor of alcohol was noted on Respondent's breath.

3. Based upon the foregoing, Valley Hospital administration was contacted. Administration then directed Respondent to cease the surgical procedure, leave the operating room, and requested that Respondent submit to blood alcohol and urine toxicology screenings.

1           4.       While preparing to have his blood drawn, Respondent admitted that he had  
2 consumed alcohol with his lunch. Shortly thereafter, Respondent was informed medical staff  
3 privileges at Valley Hospital were summarily suspended to reduce any likelihood of immediate  
4 danger to the health and safety of the Hospital's patients.

5           5.       At approximately 5:00 p.m. that same day, Respondent provided both blood and  
6 urine samples, the subsequent results of which showed an ethanol (alcohol) concentration of 0.06  
7 g/dL (%) in Respondent's system.

8    **COUNT I**

9           6.       All of the above paragraphs are incorporated by reference as though fully set forth  
10 herein.

11           7.       Nevada Administrative Code (NAC) 630.185 provides that NAC 630.185 to  
12 NAC 630.230, set forth the standards of practice established by the Board.

13           8.       NAC 630.230(1)(c) provides that a physician shall not render professional  
14 services to a patient while the physician is under the influence of alcohol or any controlled  
15 substance or is in any impaired mental or physical condition.

16           9.       Nevada Revised Statute (NRS) 630.306(2)(b) provides that engaging in conduct  
17 which the Board has determined is a violation of the standards of practice established by  
18 regulation is grounds for initiating disciplinary action

19           10.       By reason of the foregoing, Respondent has violated NAC 630.230(1)(c) and  
20 NRS 630.306(2)(b), and is subject to discipline as provided by NRS 630.352.

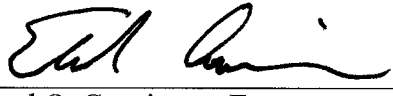
21           **WHEREFORE**, the Investigative Committee prays:

- 22           1.       That the Board set a time and place for a formal hearing;
- 23           2.       That the Board give Respondent notice of the charges herein against him, the time  
24 and place set for the hearing, and the possible sanctions against him;
- 25           3.       That the Board determine what sanctions it determines to impose for the violation  
26 or violations committed by Respondent;
- 27           4.       That the Board make, issue and serve on Respondent its findings of facts,  
28 conclusions of law and order, in writing, that includes the sanctions imposed;

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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 25<sup>th</sup> day of June, 2010.

By:   
Edward O. Cousineau, Esq.  
Christine Guerci-Nyhus, Esq.  
Attorneys for the Investigative Committee of the  
Nevada State Board of Medical Examiners

VERIFICATION

1  
2 STATE OF NEVADA )  
3 COUNTY OF DOUGLAS ) : ss.

4  
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  
7 Medical Examiners that authorized the Complaint against the Respondent herein; that he has read  
8 the foregoing Complaint; and that based upon information discovered in the course of the  
9 investigation into a complaint against Respondent, he believes that the allegations and charges in  
10 the foregoing Complaint against Respondent are true, accurate, and correct.

11 Dated this 25<sup>th</sup> day of June, 2010.

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15 Charles N. Held, M.D.  
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