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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and)
Complaint Against)
) Case No. 10-11398-1
WILLIAM SMITH, M.D.)
Respondent.) FILED
) JUN 1 6 2010
	NEVADA STATE BOARD OF

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed at the time filing of Charles N. Held, M.D., Chairman, Theodore B. Berndt, M.D., Member, and Valerie J. Clark, Member, having a reasonable basis to believe that William Smith, 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 (License No. 7897), and has been so licensed since July 7, 1996 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 forty-five year old (45) male at the time of the incidents 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. Patient A suffered from a kyphoscoliosis deformity with partial paraplegia and chronic intractable pain. The kyphotic deformity was of the thoracolumbar spine from T10-L3.
- 4. Respondent recommended anterior-posterior T10-L3 surgery. Patient A was informed of the potential outcomes of the surgery, including paraplegia, and consented.

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- 5. Patient A underwent surgery on September 29, 2004. The surgery was complex, and the situation was difficult. Surgery proceeded without too much incident. It was the postoperative care that fell below the standard of care.
- 6. A post-operative CT scan was done on September 30, 2004. The radiologist admitted that it was hard to evaluate because of post-operative changes, likely metallic artifact. A possible breach of the canal from a thoracic pedicle screw was also mentioned. Additionally, this CT scan was a plain scan without intrathecal contrast. That made reading it difficult.
- 7. Days after the surgery, Patient A was found to have lost motor function in his lower extremities having sensory preservation. An imaging study should have been performed previously to assess for cord compression.
- 8. Either a thoracolumbar myelogram or an MRI study should have been used to assess for possibilities of an epidural hematoma or some other reason to account for Patient A's neurologic deterioration. Had such pathology been identified, Patient A should have been returned immediately to the operating room for repair.
- 9. Alternatively, as Patient A deteriorated neurologically, Respondent should have taken Patient A back to the operating room for exploration and discovery of the underlying pathology. Consideration should have also been given to a return to surgery to release the distraction on the cord. This was not done at any time.

Count I

- 10. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 11. 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.
- 12. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.
- 13. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under the same or similar circumstances when he failed and omitted to utilize available and

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appropriate post-operative imaging, or alternatively, failed to return Patient A to the operating room after he was found to be significantly neurologically worse after the operation.

14. 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.

WHEREFORE, the Investigative Committee prays:

- 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
- 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 / day of June, 2010.

THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Bradley O. Van Ry, Esq.

Deputy 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

VERIFICATION

STATE OF NEVADA SS. COUNTY OF DOUGLAS

(775) 688-2559

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 _16 M/day of June, 2010.

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 1105 Terminal Way #301 Reno, Nevada 89502

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 16th day of June 2010; I served a file copy of the COMPLAINT, PATIENT DESIGNATION & Fingerprint Information, by mailing via USPS certified return receipt to the following:

William Smith, M.D. 3061 S. Maryland Parkway, #200 Las Vegas, NV 89109

Dated this 16th day of June 2010.

Angelia L. Donohoe Legal Assistant