

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**  
2 **OF THE STATE OF NEVADA**

3 \* \* \* \* \*

4  
5 **In The Matter of Charges and** )  
6 )  
7 **Complaint Against** )  
8 )  
9 **YVONNE BARRY, M.D.,** )  
10 )  
11 **Respondent.** )

Case No. 10-7835-1

**FILED**

**APR 22 2010**

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

11 **COMPLAINT**

12 The Investigative Committee of the Nevada State Board of Medical Examiners, composed of  
13 Charles N. Held, M.D., Chairman, Theodore B. Berndt, M.D., Member, and  
14 Valerie J. Clark, BSN, RHU, LUTCF, Member, by and through Bradley O. Van Ry,  
15 Deputy General Counsel for the Nevada State Board of Medical Examiners, having a reasonable  
16 basis to believe that Yvonne Barry, M.D., (Respondent), has violated the provisions of NRS Chapter  
17 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and  
18 allegations, as follows:

- 19 1. Respondent was licensed in active status to practice medicine in the state of Nevada  
20 on October 26, 1995 by the Nevada State Board of Medical Examiners, pursuant to the provisions  
21 of Chapter 630 of the Nevada Revised Statutes, and at all times addressed herein was so licensed.  
22 Beginning on April 8, 2010, Respondent's license was summarily suspended by the Investigative  
23 Committee of the Nevada State Board of Medical Examiners for placing the health, safety and  
24 welfare of the public at imminent risk.
- 25 2. Respondent specializes in Family Practice in the Las Vegas area.
- 26 3. The medical records in this matter relate to patients who will be herein referred to  
27 as Patients A, B, C and D. The patients' true identities have not been disclosed to protect their  
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1 privacy, but are disclosed in a separate Patient Designation incorporated by reference to this  
2 Complaint and served upon Respondent with a copy of this complaint.

3 4. From approximately November 2008 to June 2009, Respondent wrote prescriptions  
4 for controlled substances to Patient A, a twenty-two (22) year old female. These controlled  
5 substances included, but were not limited to, Zolpidem, Alprazolam and Temazepam. It is  
6 suspected that these prescriptions were not used by Patient A, but were picked up and likely used  
7 by Respondent.

8 5. From approximately February 1997 to July 2009, Respondent wrote prescriptions  
9 for controlled substances to Patient B, an approximately seventy year old female. These controlled  
10 substances included, but were not limited to, Zolpidem, Phendimetrazine, Adipex, Ambien and  
11 Phentermine. It is suspected that these prescriptions were not used by Patient B, but were picked  
12 up and likely used by Respondent.

13 6. During February 2009, Respondent wrote prescriptions for controlled substances to  
14 Patient C, a nineteen (19) year old male. These controlled substances included, but were not  
15 limited to, Alprazolam, Zolpidem. It is suspected that these prescriptions were not used by Patient  
16 C, but were picked up and likely used by Respondent.

17 7. From approximately December 1999 to April 2009, Respondent wrote  
18 prescriptions for controlled substances to Patient D, a fifty-one (51) year old male. These  
19 controlled substances included, but were not limited to, Temazepam, Zolpidem, Hydrocodone. It  
20 is suspected that these prescriptions were not used by Patient D, but were picked up and likely  
21 used by Respondent.

22 8. All the above patients were family members of Respondent. The foregoing further  
23 demonstrates Respondent's ongoing pattern of using family members' names as the patient(s) to  
24 write prescriptions for controlled substances. She would then pick up the prescription(s) in her  
25 family members' names and convert the controlled substances for her own, personal use.

26 9. The evidence further reveals that Respondent did not foster or maintain a  
27 bona fide therapeutic relationship(s) with the foregoing patients as required under the law, Nevada  
28 Administrative Code Section 639.945(o), Nevada Administrative Code Section 639.752(o) and

1 Nevada Administrative Code Section 639.752(2)(b)(2), for prescribing of controlled substances.  
2 The prescriptions were written under a pretext of such therapeutic relationship(s) so that  
3 Respondent could convert the controlled substances to her own personal use.

4 10. NRS §0.031, significantly, defines a “controlled substance” as a drug, immediate  
5 precursor or other substance which is listed in schedule I, II, III, IV or V for control by the State  
6 Board of Pharmacy pursuant to NRS 453.146 and NAC 453.510 to NAC 453.550.

7 11. Through further investigation it was discovered that Respondent also wrote  
8 prescriptions to herself for her own use. On at least one occasion, September 26, 2008,  
9 Respondent wrote a prescription for Ambien to herself.

10 12. Additional investigation uncovered that Respondent was arrested for  
11 Driving Under the Influence on November 10, 2003, October 16, 2008 and March 5, 2010. None  
12 of these arrests were disclosed as required, within thirty days of arrest, or on the biennial licensing  
13 renewal forms with the Nevada State Board of Medical Examiners, wherein it states, “Have you  
14 been arrested, investigated for, charged with, convicted or, or pled guilty or nolo contendere to any  
15 criminal offense. . . .”

16 13. Due to growing concerns about a possible dependency issue for Respondent, the  
17 Investigative Committee of the Nevada State Board of Medical Examiners issued an order for a  
18 drug and alcohol evaluation to Respondent and served her with it on September 30, 2009. While  
19 being served with the order, Respondent agreed to enter into Michael’s House, an in-patient drug  
20 rehabilitation facility. It is believed that she attended Michael’s House through  
21 October 28, 2009 and successfully completed the program.

22 14. Because of continued concerns about possible drug dependency issues for  
23 Respondent, she was ordered by the Investigative Committee of the Nevada State Board of  
24 Medical Examiners to enter the PRN-PRN treatment program located at Montevista Hospital on  
25 November 6, 2009. Respondent began participation on the same date, November 6, 2009. She  
26 was, unfortunately, consistently non-compliant with the program throughout November, December  
27 and January.

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1            15. Due to Respondent's non-compliance, on February 5, 2010, the Nevada State  
2 Board of Medical Examiners, by and through its Investigative Committee, issued another order  
3 ("Order") against Respondent. She was ordered to comply with each and every agreed upon term  
4 in her drug and/or alcohol treatment and monitoring contractual agreement ("Agreement") with  
5 the PRN-PRN program. Respondent was served with the Order on February 9, 2010. Under the  
6 terms of the Agreement and Order, Respondent was required to attend and participate in  
7 rehabilitation meetings, monthly and weekly. Respondent was also to provide urine/serum  
8 samples for drug screens at the discretion of the treatment center.

9            16. On April 5, 2010, Respondent failed, in violation of the existing Order, to appear  
10 for a random urine screen as prescribed under the agreement.

11            17. On April 6, 2010, Respondent failed, in violation of the existing Order, to appear  
12 for her meeting with the PRN-PRN program director.

13    **COUNT I**

14            18. All of the allegations contained in the above paragraphs are hereby incorporated by  
15 reference as though fully set forth herein.

16            19. Nevada Revised Statute Section 630.3065(2)(a) provides that the willful failure to  
17 comply with an order of the Board or committee designated by the Board to investigate a  
18 complaint against a physician is grounds for initiating discipline against a licensee.

19            20. Respondent willfully failed to comply with an order of the  
20 Nevada State Board of Medical Examiners by, among other things, continually being non-  
21 compliant with the PRN-PRN agreement, program and related treatment as ordered.

22            21. By reason of the foregoing, Respondent is subject to discipline by the  
23 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
24 Nevada Revised Statutes.

25    **COUNT II**

26            22. All of the allegations contained in the above paragraphs are hereby incorporated by  
27 reference as though fully set forth herein.

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1 23. Nevada Revised Statute Section 630.306(2)(a) provides that engaging in any  
2 conduct which is intended to deceive is grounds for initiating discipline against a licensee.

3 24. Respondent engaged in numerous instances of intending to deceive by, among  
4 other things, her ongoing pattern of improper conduct of writing prescriptions in other's names for  
5 her own personal use and for self-prescribing a controlled substance.

6 25. By reason of the foregoing, Respondent is subject to discipline by the  
7 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
8 Nevada Revised Statutes.

9 **COUNT III**

10 26. All of the allegations contained in the above paragraphs are hereby incorporated by  
11 reference as though fully set forth herein.

12 27. Nevada Revised Statute Section 630.306(10) provides that habitual intoxication  
13 from alcohol or dependency on controlled substances is grounds for initiating discipline against a  
14 licensee.

15 28. The continuous and chronic nature of Respondent's improper conduct demonstrates  
16 her dependency on controlled substances. Further, Respondent has admitted to investigative staff  
17 members of the Nevada State Board of Medical Examiners that she was writing fraudulent  
18 prescriptions for phentermine in order to satisfy her addiction to it; that she was arrested in the  
19 past for Driving Under the Influence; and, that she has done what she was accused of by the  
20 Nevada State Board of Medical Examiners. All of Respondent's admitted conduct was for the  
21 purpose of satisfying her dependency on controlled substances. Respondent's three DUI arrests  
22 also demonstrate a problem with habitual intoxication from alcohol or dependency on controlled  
23 substances.

24 29. By reason of the foregoing, Respondent is subject to discipline by the  
25 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
26 Nevada Revised Statutes.

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**COUNT IV**

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2 30. All of the allegations contained in the above paragraphs are hereby incorporated by  
3 reference as though fully set forth herein.

4 31. Nevada Revised Statute Section 630.306(2)(c) provides that engaging in any  
5 conduct which is in violation of a regulation adopted by the State Board of Pharmacy is grounds  
6 for initiating discipline against a licensee.

7 32. Nevada Administrative Code Section 639.945(o), a regulation adopted by the  
8 Nevada State Board of Pharmacy, provides that prescribing a drug as a prescribing practitioner to a  
9 patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship  
10 is unprofessional conduct and contrary to the public interest.

11 33. Nevada Administrative Code Section 639.752(o), a regulation adopted by the  
12 Nevada State Board of Pharmacy, provides that prescribing a drug as a prescribing practitioner to a  
13 patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship  
14 is unprofessional conduct and contrary to the public interest.

15 34. Nevada Administrative Code Section 639.752(2)(b)(2), a regulation adopted by the  
16 Nevada State Board of Pharmacy, provides that prescribing a drug as a prescribing practitioner to a  
17 patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship  
18 is unprofessional conduct and contrary to the public interest.

19 35. Respondent violated the foregoing regulations and statute by, among other things,  
20 continually prescribing controlled substances to patients with which she did not have a bona fide  
21 therapeutic relationship, discovered by the Nevada State Board of Medical Examiners to be her  
22 family members.

23 36. By reason of the foregoing, Respondent is subject to discipline by the  
24 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
25 Nevada Revised Statutes.

**COUNT V**

26  
27 37. All of the allegations contained in the above paragraphs are hereby incorporated by  
28 reference as though fully set forth herein.

1 38. Nevada Revised Statute Section 630.304(1) provides that obtaining, maintaining or  
2 renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery,  
3 fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement is  
4 grounds for initiating discipline against a licensee.

5 39. Respondent's failure to admit the two Driving Under the Influence arrests, in 2003  
6 and 2008, on three separate biennial licensing renewal forms, 2005, 2007, 2009, is a violation of  
7 Nevada Revised Statute Section 630.304(1).

8 40. By reason of the foregoing, Respondent is subject to discipline by the  
9 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
10 Nevada Revised Statutes.

11 **COUNT VI**

12 41. All of the allegations contained in the above paragraphs are hereby incorporated by  
13 reference as though fully set forth herein.

14 42. Nevada Revised Statute Section 630.306(12) provides that the failure by a licensee  
15 to report in writing, within 30 days, any criminal action taken against the licensee.

16 43. Respondent's failure to report in writing the three Driving Under the Influence  
17 arrests, in 2003, 2008 and 2010, is a violation of Nevada Revised Statute Section 630.306(12).

18 44. By reason of the foregoing, Respondent is subject to discipline by the  
19 Nevada State Board of Medical Examiners as provided in Section 630.352 of the  
20 Nevada Revised Statutes.

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

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

24 2. That the Nevada State Board of Medical Examiners give Respondent notice of the  
25 charges herein against her, the time and place set for the hearing, and the possible sanctions against  
26 her;

27 3. That the Nevada State Board of Medical Examiners determine what sanctions it  
28 deems appropriate to impose for the violation committed by Respondent; and

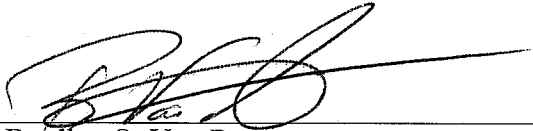
OFFICE OF THE GENERAL COUNSEL

Nevada State Board of Medical Examiners  
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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.

DATED this 20<sup>th</sup> day of April, 2010.

By:   
Bradley O. Van Ry  
Attorney for the Investigative Committee of the  
Nevada State Board of Medical Examiners




VERIFICATION

1 STATE OF NEVADA )  
2 : ss.  
3 COUNTY OF DOUGLAS )  
4

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

12 Dated this 22<sup>nd</sup> day of April, 2010.

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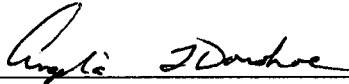
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15 Charles N. Held, M.D.  
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CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 22<sup>nd</sup> day of April 2010, I served a file copy of the COMPLAINT, PATIENT DESIGNATION, & Fingerprint Processing Information by mailing via USPS certified return receipt mail to the following:

Yvonne Barry, M.D.  
1979 Orchard Mist St.  
Las Vegas, NV 89135

Dated this 22<sup>nd</sup> day of April 2010.



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Angelia L. Donohoe  
Legal Assistant

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