

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

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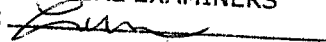
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5 **In The Matter of Charges and** )  
6 )  
7 **Complaint Against** )  
8 )  
9 **BENJAMIN VENGER, M.D.,** )  
10 )  
11 **Respondent.** )

Case No. 10-9819-1

**FILED**

FEB 22 2011

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

By: 

12 **AMENDED COMPLAINT**

13 The Investigative Committee of the Nevada State Board of Medical Examiners (Board),  
14 composed of Charles N. Held, M.D., Theodore B. Berndt, M.D., and Ms. Valerie Clark, BSN,  
15 RHU, LUTCF, by and through Edward O. Cousineau, Deputy Executive Director for the Board  
16 and Attorney for the Investigative Committee, having a reasonable basis to believe that  
17 Benjamin Venger, M.D., hereinafter referred to as "Respondent," has violated the provisions of  
18 NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's  
19 charges and allegations, as follows:

20 1. Respondent was actively licensed to practice medicine by the Board on  
21 September 19, 1987, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes,  
22 and at all times addressed herein was so licensed. Respondent practices medicine in Las Vegas  
23 and his indicated specialty to the Board is Neurosurgery.

24 2. Patient A was a fourteen-year-old male at the time of the events at issue. His true  
25 identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation  
26 served on Respondent along with a copy of this Complaint.

27 3. Patient A presented to Sunrise Hospital in Las Vegas on June 25, 2004, with a two-  
28 week history of headaches, fever and confused. Respondent was called for a neurosurgical consult  
that morning where he noted abnormalities of Patient A's frontal scalp and garbled speech. Tests

1 showed that Patient A had an elevated white blood cell count and high erythrocyte sedimentation  
2 rate. A CT scan of Patient A's head showed a mass effect on the left side of Patient A's brain and  
3 a cerebral edema. Based upon these inputs, Respondent ordered a cerebral angiogram and drug  
4 screen; the results of both were negative. A MRI of Patient A's head accomplished later in the day  
5 confirmed the previous CT scan findings of a left side mass effect and diffuse sinusitis.

6 4. Patient A's circumstance did not improve. Around 0730 on June 26, 2004,  
7 Respondent again conducted an evaluation of Patient A. At the time of the evaluation, Patient A  
8 was comatose, unresponsive to pain or stimulus. Respondent spoke to Patient A's family around  
9 1430 and recommended interventional surgery. Consent from Patient A's family was obtained,  
10 and the surgery began at approximately 2100. Intraoperatively, Respondent discovered a subdural  
11 empyema and multiple intracranial abscesses with intracranial pressure. In response, Respondent  
12 performed a frontotemporoparietal craniotomy with evacuation of the intracranial abscesses and  
13 subdural empyema and decompressive craniectomy.

14 5. After the surgical procedure, Patient A's outlook was poor and Patient A's chances  
15 of survival were deemed minimal. After discussion with Respondent, Patient A's family directed  
16 that life support measures for Patient A be removed. Patient A expired at approximately 0100 on  
17 June 27, 2004.

18 6. Malpractice is defined at NAC 630.040 as "the failure of a physician, in treating a  
19 patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

20 7. Respondent's care and treatment of Patient A constitutes malpractice as defined by  
21 NAC 630.040 as Respondent failed to use the reasonable care, skill, or knowledge ordinarily used  
22 under similar circumstances when the combination of fever, headache, sinusitis, elevated white  
23 blood cell count, and high erythrocyte sedimentation failed to alert Respondent to the fact that  
24 Patient A could be suffering from a subdural empyema. The aforementioned information was  
25 available to Respondent on June 25, 2004, but Respondent did not initiate surgical intervention on  
26 Patient A until the evening of June 26, 2004.

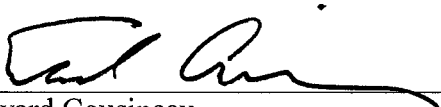
27 8. Based upon the foregoing, Respondent has violated NRS 630.301(4), and is subject  
28 to discipline as provided by NRS 630.352.

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WHEREFORE, the Investigative Committee prays:

1. That the Board set a time and place for a formal hearing;
2. That the Board give Respondent notice of the charges herein against him, the time and place set for the hearing, and the possible sanctions against him;
3. That the Board determine what sanctions it determines to impose for the violation or violations committed by Respondent;
4. That the Board make, issue and serve on Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed;
5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 22<sup>nd</sup> day of February, 2011.

By:   
Edward Cousineau  
Attorney for the Investigative Committee of the  
Nevada State Board of Medical Examiners


VERIFICATION

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STATE OF NEVADA            )  
  : ss.  
COUNTY OF DOUGLAS        )

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 Amended Complaint against the Respondent herein; that he has read the foregoing Amended 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 Amended Complaint against Respondent are true, accurate, and correct.

Dated this 22<sup>nd</sup> day of February, 2011.


  
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Charles N. Held, M.D.

**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 February 2011; I served a file copy of the Amended Complaint by mailing via USPS regular mail to the following:

Andrea S. Thorsteinsson, Esq.  
Alverson, Taylor, Mortensen & Sanders  
7401 West Charleston Blvd.  
Las Vegas, NV 89117-1401

Dated this 22<sup>nd</sup> day of February 2011.

  
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Angelia L. Donohoe  
Legal Assistant