BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and)	Case No. 11-12112-1
Complaint Against)	
ALAN GEORGE BURSTEIN, M.D.)	FILED
Dognandant		SEP 2 0 2011
Respondent.)	NEVADA STATE BOARD OF MEDICAL EXAMINERS
		By:

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed at the time filing of Benjamin Rodriguez, M.D., Chairman, Beverly A. Neyland, M.D., Member, and Donna A. Ruthe, Member, having a reasonable basis to believe that Alan George Burstein, 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. 8524), and has been so licensed since January 24, 1998 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-one (41) year old female at the time of the incidents in question. Her true identity is not disclosed to protect her privacy, but her identity is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.
- 3. Patient B was a twenty-nine (29) year old 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.

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- 4. Patient A initially presented to Respondent on March 30, 2009 and complained of severe abdominal pain. Respondent prescribed large doses of narcotics and benzodiazepine for treatment of the abdominal pain with a diagnosis of uterine fibroids and toxic megacolon.
- 5. Patient B initially presented to Respondent on August 16, 2010. He complained of severe knee, shoulder and low back pain. Respondent prescribed large doses of oxycodone for the diagnosis of back pain, knee pain and shoulder dislocation.
- In both instances, Respondent's medical records were inadequate, missing important information and without discussion of treatment options or differential diagnoses workup. Relatedly, no lab tests such as urine, chemistry and hematology are included in the medical records. Diagnostic imaging tests such as ultrasound and/or CT scans are also not included in the records. Lastly, no consultations for definitive surgical treatment for Patient A are included in the records.

Count I

- 7. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 8. 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.
- 9 Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.
- 10. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under the same or similar circumstances, by among other things, when he failed to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain" by not maintaining a thorough documentation of medical history, physical exam, diagnosis and treatment plans for both Patient A and B.
- 11. 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.

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Count II

- 12. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 13. Nevada Revised Statute Section 630.3062(1) provides that the failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is grounds for initiating discipline against a licensee.
- 14. Respondent failed to ensure that the medical records in these matters were accurate and complete by failing to document medical history and physical; failing to document vital signs; failing to include lab tests; failing to include diagnostic imaging tests; failing to record consultations for definitive surgical treatment and failing to record differential diagnoses for both Patient A and B.
- 15. 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:

- 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.
- 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.

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5.	That the	Nevada	State	Board	of Medical	Examiners	take	such	other	and	furthe
action as may be just and proper in these premises.											

DATED this Zo day of September, 2011.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

Bradley O. Van Ry, Esq.
Attorney for the Investigative Committee

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

VERIFICATION

STATE OF NEVADA)	
COUNTY OF CLARK	: ss)	۶.

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Benjamin Rodriguez, 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 authorized the foregoing Board Medical **Examiners** that Nevada State of the foregoing Complaint against Respondent herein; that he has read the Complaint; and that based upon information discovered during the course of the investigation into the underlying facts of this Complaint, that he believes the allegations and charges in the foregoing Complaint against Respondent are true, accurate, and correct.

Dated this 2017 day of September, 2011.

BENJAMIN RODRIGUEZ, 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 20th day of September 2011, I served a file copy of the COMPLAINT, PATIENT DESIGNATION & Fingerprint information via USPS e-certified mail to the following:

Alan Burstein, M.D. 9030 W. Sahara Ave., PMB #441 Las Vegas, NV 89117-5744

Dated this 20th day of September 2011.

Angelia L. Donohoe Legal Assistant