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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and)	Case No. 11-5474-1
Complaint Against)	FILED
ANDREW WELCH, M.D.,)	NOV 2 9 2011
Respondent.)	NEVADA STATE BOARD OF MEDICAL EXAMINERS
)	By:

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed the time of filing approved Theodore was by Berndt, M.D., Ms. Valerie Clark, BSN, RHU, LUTCF, and Michael Fischer, M.D. having a reasonable basis to believe that Andrew Welch, 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. 3713), and was so licensed on December 2, 1978, 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 fifty-two 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.
- Patient A first presented to Respondent in April 2008 with chronic left knee pain after an MRI performed in March 2008 indicated a medial meniscus tear and chondromalacia.
- 4. Patient A underwent outpatient arthroscopic surgery on his left knee performed by Respondent at North Vista Hospital.
- 5. Patient A was seen by Respondent on fairly consistent basis through December 2008 for post-operative care as well as care after he twisted his knee.

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- 6. In June 2009, Patient A returned to Respondent with complaints of right knee pain. An MRI was performed after which it was recommended that Patient A undergo arthroscopic surgery on the right knee.
- 7. On August 13, 2009, Patient A presented to North Vista Hospital for performance of outpatient arthroscopic surgery of his right knee to be performed by Respondent.
- Patient signed an informed consent and authorization for anesthesia indicating that the procedure he was anticipating was a right knee arthroscopic procedure.
- 9. Arthroscopic surgery was performed by Respondent, however when Patient A awoke, it was discovered that Respondent had performed arthroscopic surgery on Patient A's left knee rather than that right knee. With Patient A's consent, a second procedure was undertaken shortly thereafter to perform the procedure on the correct knee.

Count I

- 10. Nevada Administrative Code (NAC) 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."
- 11. Nevada Revised Statute (NRS) section 630.301(4) provides that malpractice is ground for initiating discipline against a licensee.
- 12: Respondent committed malpractice as defined by NAC 630.040 when he performed arthroscopic surgery on Patient A's left knee rather than his right when Patient A's records prior to the procedure clearly indicate issues with his right knee and he signed consent for arthroscopic surgery of his right knee.
- 13. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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.

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2.	That the Nevada State Board of Medical Examiners set a time and place to	for
formal hearing	g 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
- 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; 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 29 day of November, 2011.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

Lyn E. Beggs, Esq.

General Counsel and Attorney for the Investigative Committee

VERIFICATION

STATE OF NEVADA)
COUNTY OF WASHOE	: ss.)

THEODORE B. BERNDT, M.D., having been duly sworn, hereby deposes and states under penalty of perjury that he is the current Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate, and correct.

DATED this 29 day of November, 2011.

THEODORE B. BERNDT, 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 29th day of November 2011, I served a file copy of the COMPLAINT, PATIENT DESIGNATION, SETTLEMENT, WAIVER & CONSENT AGREEMENT & Fingerprint information via USPS e-certified mail to the following:

Andrew Welch, M.D. 1950 E. Desert Inn Rd. Las Vegas, NV 89169

Dated this 29th day of November 2011.

Angelia L. Donohoe Legal Assistant