1	BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA		
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5	In The Matter of Charges and )		
6	Complaint Against )		
7	) Case No. 11-23980-1 GARY ROBERTS, C.R.T., )		
8	) <b>FILED</b>		
9	Respondent.		
10	NEVADA STATE BOARD OF		
11	COMPLAINT By:		
12	The Investigative Committee of the Nevada State Board of Medical Examiners, composed		
13	at the time filing was approved of Theodore B. Berndt, M.D.		
14	Ms. Valerie Clark, BSN, RHU, LUTCF, and Michael Fischer, M.D., having a reasonable basis to		
15	believe that Gary Roberts, C.R.T., hereinafter referred to as Mr. Roberts, has violated the		
16	provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative		
17	Committee's charges and allegations, as follows:		
18	1. Mr. Roberts is licensed to practice respiratory care in the state of Nevada (License		
19	No. RC36), and was originally licensed on November 14, 2001 by the Nevada State Board of		

Medical Examiners pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. On August 5, 2011 Mr. Roberts was working at University Medical Center (UMC). 22 While on duty, staff attempted to page Mr. Roberts over an extended period of time. He was discovered in a restroom in UMC incoherent and disoriented with slurred speech and red, watery 24 eyes.

25 3. Mr. Roberts was taken to the emergency department of UMC and did provide a 26 urine sample which was determined to be positive for opiates.

> 4. Mr. Roberts does not have any current prescriptions for any opiate.

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5. In the restroom that Mr. Roberts was discovered in, a syringe and needle were found in the trash container and a loose hypodermic needle was found on Mr. Roberts in the 2 emergency department which was not consistent with those used in his respiratory duties. 3

6. Mr. Roberts resigned his position at UMC before the investigation into the matter 4 5 was completed.

7. Mr. Roberts has admitted to having an issue with substance abuse and reports he is 6 seeking treatment.

8. On August 20, 2011, the Investigative Committee of the Nevada State Board of Medical Examiners issued its Order summarily suspending the license to practice respiratory care of Mr. Roberts pursuant to NRS 630.326(1).

9. The license to practice respiratory care of Mr. Roberts remains suspended at the time of the filing of this Complaint.

## **Count I**

10. NAC 630.540(9) provides that rendering respiratory care to a patient while under the influence of alcohol or any controlled substance or in any impaired mental or physical condition is grounds for the initiation of a disciplinary action against a respiratory therapist.

11. Mr. Roberts was found to be incoherent and exhibited signs of impairment and subsequent to urine drug test was found to have been under the influence of opiates while at work at UMC where he provided respiratory care to patients on August 5, 2011.

By reason of the foregoing, Mr. Roberts is subject to discipline by the Nevada State 12. 20Board of Medical Examiners as provided in NAC 630.555. 21

## **Count II**

NAC 630.540(23) provides that violation of a provision of NRS 630.301 through 13. 23 NRS 630.3065 is grounds for the initiation of a disciplinary action against a respiratory therapist. 24

14. NRS 630.306(1) provides that inability to practice medicine with reasonable skill 25 and safety because of illness, a mental or physical condition or the use of alcohol, narcotics or any 26 27 other substance is grounds for initiating discipline against a licensee.

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**OFFICE OF THE GENERAL COUNSEL** 11 Nevada State Board of Medical Examinere 12 1105 Terminal Way #301 Reno, Nevada 89502 13 (775) 688-2559 14 15 16 17

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15. Mr. Roberts was found to have been under the influence of opiates for which he did not have a prescription while at work at UMC and therefore was unable to practice respiratory care with reasonable skill and safety due to said drug usage.

4 16. By reason of the foregoing, Mr. Roberts is subject to discipline by the Nevada State
5 Board of Medical Examiners as provided in NAC 630.555.

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WHEREFORE, the Investigative Committee prays:

1. That the Nevada State Board of Medical Examiners give Mr. Roberts 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 Mr. Roberts; and

4. That the Nevada State Board of Medical Examiners make, issue and serve on Mr. Roberts 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 August, 2011.

THE INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

yn 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 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 26th day of <u>August</u>, 2011.

Hedre B. Berndt, M.D

	1	CERTIFICATE OF MAILING
	2	I hereby certify that I am employed by Nevada State Board of Medical Examiners and
	3	that on 26 <sup>th</sup> day of August 2011, I served a file copy of the COMPLAINT & Fingerprint
	4	information via USPS e-certified mail to the following:
	5	Gary Roberts, C.R.T.
	6	170 Shaded Peak St. Henderson, NV 89012
	7	
	8	Dated this 26 <sup>th</sup> day of August 2011.
Ļ	9	Dated this 20 - day of August 2011.
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