BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In The Matter of Charges and) Case No. 11-5083-1
Complaint Against) FILED
HENRI WETSELAAR, M.D.)) OCT 0 5 2011
Respondent.) NEVADA STATE BOARD OF MEDICAL EXAMINERS By:
	COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners (Board), composed of Theodore B. Berndt, M.D., Valerie J. Clark, BSN, RHU, LUTCF, and Michael J. Fisher, M.D., by and through Edward O. Cousineau, Deputy Executive Director for the Board and counsel for the Investigative Committee, having a reasonable basis to believe that Henri Wetselaar, M.D. (Respondent), has engaged in conduct that is grounds for discipline pursuant to the provisions of NRS Chapter 630, hereby alleges, charges and complains against Respondent as follows:

Respondent was actively licensed to practice medicine by the Board on 1. September 11, 1977, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes, 20and at all times addressed herein was so licensed. Respondent practices medicine in Las Vegas and his specialties as indicated to the Board are Family Practice and Pain Management.

2. Patient A was a thirty-year-old male at the time of the events at issue. His true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint. Patient B was a twenty-eight-year-old male at the time of the events at issue. His true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint. Patient C was a forty-five-year-old male at the time of the events at issue. His true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation

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

3. Previous to the preparation of this Complaint, the Board solicited the services of an independent medical expert to review the medical records of several patients previously treated by Respondent. The record review included those of Patients A, B, C and D.

4. The expert's review of Patient A's medical records concluded that Respondent's prescribing practices for Patient A were excessive and inconsistent with the appropriate standard of care. Specifically, the expert concluded that Respondent prescribed excessively high doses and amounts of controlled substances to Patient A without considering alternative means of treating the patient's pain or obtaining ancillary diagnostic testing. Further, the medical records for Patient A were lacking in adequate documentation and did not establish sufficient medical justification for Respondent's continued prescribing of controlled substances.

5. The expert's review of Patient B's medical records determined that Respondent prescribed a combination of high-dose controlled substances which put Patient B at extreme risk of overdose and/or respiratory arrest, which was inconsistent with the appropriate standard of care. Further, the medical records for Patient B were lacking in adequate documentation and did not establish sufficient medical justification for Respondent's continued prescribing of controlled substances.

6. The expert's review of Patient C's medical records determined that Respondent's prescribing of controlled substances to Patient C was inconsistent with the appropriate standard of care, in that Respondent's medical record keeping lacked documentation to support his medical decision making, that Respondent failed to consider other drug classes for pain relief as an alternative to the prescribing of high doses of controlled substances with addictive toxicity, and that Respondent failed to obtain alternate diagnostic testing to justify his continued prescribing of controlled substances.

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7. The expert's review of Patient D's medical records concluded that Respondent's prescribing practices for Patient D were inconsistent with the appropriate standard of care and noted that the medical records for Patient D lacked medical justification for Respondent's prescribing of controlled substances. Moreover, the expert believes that there is a causal connection between Respondent's prescribing practices for Patient D and his accidental death from acute polypharmacy intoxication.

COUNT I

8. All of the above paragraphs are incorporated by reference as though fully set forth herein.

9. Respondent's prescribing of controlled substances for Patient A constitutes malpractice. Malpractice is defined at NAC 630.040 as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

10. By reason of the foregoing, Respondent has violated NRS 630.301(4), and is subject to discipline as provided by NRS 630.352.

COUNT II

11. All of the above paragraphs are incorporated by reference as though fully set forth herein.

18 12. Respondent's prescribing of controlled substances for Patient B constitutes
19 malpractice. Malpractice is defined at NAC 630.040 as "the failure of a physician, in treating a
20 patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

21 13. By reason of the foregoing, Respondent has violated NRS 630.301(4), and is subject
22 to discipline as provided by NRS 630.352.

COUNT III

24 14. All of the above paragraphs are incorporated by reference as though fully set forth
25 herein.

Respondent's prescribing of controlled substances for Patient C constitutes
malpractice. Malpractice is defined at NAC 630.040 as "the failure of a physician, in treating a
patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

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By reason of the foregoing, Respondent has violated NRS 630.301(4), and is subject
 to discipline as provided by NRS 630.352.

COUNT IV

4 17. All of the above paragraphs are incorporated by reference as though fully set forth
5 herein.

18. Respondent's prescribing of controlled substances for Patient D constitutes malpractice. Malpractice is defined at NAC 630.040 as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."
19. By reason of the foregoing, Respondent has violated NRS 630.301(4), and is subject to discipline as provided by NRS 630.352.

COUNT V

20. All of the above paragraphs are incorporated by reference as though fully set forth herein.

21. Section 630.3062(1) of the Nevada Revised Statutes (NRS) provides that failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is grounds for initiating disciplinary action.

17 22. Respondent violated NRS 630.3062(1) when he failed to maintain adequate and
18 complete medical records related to Patient A and is subject to discipline by the Nevada State Board
19 of Medical Examiners as provided in NRS 630.352.

COUNT VI

21 23. All of the above paragraphs are incorporated by reference as though fully set forth
22 herein.

23 24. Section 630.3062(1) of the Nevada Revised Statutes (NRS) provides that failure to
24 maintain timely, legible, accurate and complete medical records relating to the diagnosis,
25 treatment and care of a patient is grounds for initiating disciplinary action.

26 25. Respondent violated NRS 630.3062(1) when he failed to maintain adequate and
27 complete medical records related to Patient B and is subject to discipline by the Nevada State
28 Board of Medical Examiners as provided in NRS 630.352.

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COUNT VII

2 26. All of the above paragraphs are incorporated by reference as though fully set forth herein.

27. Section 630.3062(1) of the Nevada Revised Statutes (NRS) provides that failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient is grounds for initiating disciplinary action.

28. Respondent violated NRS 630.3062(1) when he failed to maintain adequate and complete medical records related to Patient C and is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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<u>COUNT VIII</u>

29. All of the above paragraphs are incorporated by reference as though fully set forth herein.

30. Section 630.3062(1) of the Nevada Revised Statutes (NRS) provides that failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient, is grounds for initiating disciplinary action.

16 31. Respondent violated NRS 630.3062(1) when he failed to maintain adequate and complete medical records related to Patient D and is subject to discipline by the Nevada State Board 17 18 of Medical Examiners as provided in NRS 630.352.

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WHEREFORE, the Investigative Committee prays:

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1. That the Board fix a time and place for a formal hearing;

2. That the Board give Respondent notice of the charges herein against him, the time 21 and place set for the hearing, and the possible sanctions against him; 22

3. 23 That the Board determine what sanctions it deems appropriate to impose for the violation committed by Respondent; and 24

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That the Board make, issue and serve on Respondent its findings of fact, conclusions 4. of law and order, in writing, that includes the sanctions imposed. **INVESTIGATIVE COMMITTEE OF** THE NEVADA STATE BOARD OF MEDICAL EXAMINERS By: Edward O. Cousineau Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners Nevada State Board of Medical Examiners 1105 Terminal Way #301 Reno, Nevada 89502 (775) 688-2559

OFFICE OF THE GENERAL COUNSEL

VERIFICATION

STATE OF NEVADA COUNTY OF WASHOE

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 investigated the complaint against Respondent herein; that he has read the foregoing Complaint; and that based upon the results of the Investigative Committee's investigation into a complaint against Respondent, the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

Dated this 5th/day of October, 2011.

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Headere B. Berndt, M.D.

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