

The Investigative Committee of the Nevada State Board of Medical Examiners, composed 12 the time of at filing was approved by Theodore Berndt. M.D., 13 Ms. Valerie Clark, BSN, RHU, LUTCF, and Michael Fischer, M.D. having a reasonable basis to 14 believe that Lynn Greenhouse, M.D., hereinafter referred to as "Respondent," has violated the 15 provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative 16 Committee's charges and allegations, as follows:

17 1. Respondent is currently licensed in active status (License No. 7482), and was so
18 licensed on July 1, 1995 by the Nevada State Board of Medical Examiners pursuant to the
19 provisions of Chapter 630 of the Nevada Revised Statutes.

20 2. Patient A, is a forty-nine-year-old female patient who has been a regular patient of
21 Respondent for several years. Her true identity is not disclosed to protect her privacy, but her
22 identity is disclosed in the Patient Designation served on Respondent along with a copy of this
23 Complaint.

3. Between February 2006 and September 2010, Respondent ordered controlled
substances and dangerous drugs from Henry Schein, a pharmaceutical wholesaler. Drugs received
from Henry Schein must either be administered or dispensed to a patient by an individual licensed
to do so in accordance with federal and state laws.

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4. As a regular patient of Respondent, Patient A was prescribed both dangerous drugs and controlled substances which were dispensed through licensed pharmacies.

5. A licensed physician may only dispense a dangerous drug or controlled substance in the state of Nevada if that individual holds a certificate for registration to dispense issued by the Nevada State Board of Pharmacy in accordance with Nevada Administrative Code (NAC) 639.742(1). Respondent does not, nor has she ever held a certificate of registration to dispense in the state of Nevada.

6. Nevada Administrative Code (NAC) section 639.745 delineates the records that must be kept by a practitioner regarding any dangerous drugs or controlled substances dispensed by the practitioner and the manner in which they may be dispensed. Respondent did not keep records regarding the controlled substances and dangerous drugs she dispensed as required by law or dispense said substances in the manner required by NAC 639.745.

7. Respondent dispensed many of the dangerous drugs and controlled substances she purchased through Henry Schein to Patient A. Patient A would often fax Respondent a request for the dangerous drugs and controlled substances she needed or wanted and would then pay Respondent for the drugs.

17 8. Respondent also sold Patient A dexamethasone sodium phosphate, a dangerous
18 drug, which Patient A utilized in her physical therapy practice. Respondent knew or should have
19 known that that Patient A was not lawfully allowed to possess and administer dexamethasone
20 sodium phosphate.

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## Count I

9. Nevada Revised Statute (NRS) section 630.306(2)(c) provides that engaging in
conduct which is in violation of a regulation adopted by the State Board of Pharmacy is grounds
for initiating disciplinary action against a licensee.

10. NAC 639.945(1)(k), a regulation adopted by the State Board of Pharmacy, provides
that performing any act, task operation for which licensure, certification or registration is required
without the required license, certificate or registration is prohibited conduct.

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1 11. NAC 639.742(1) requires any practitioner who wishes to dispense controlled
 2 substances or dangerous drugs to apply to the Board of Pharmacy for a certificate of registration to
 3 dispense controlled substances or dangerous drugs.

12. Respondent dispensed controlled substances and dangerous drugs to Patient A and possibly other patients but has never held a certificate of registration to dispense controlled substances or dangerous drugs and therefore is in violation of a regulation adopted by the Nevada State Board of Pharmacy and accordingly is in violation of NRS 630.306(2)(c).

13. By reason of the foregoing, Respondent is subject to discipline by the Nevada StateBoard of Medical Examiners as provided in NRS 630.352.

## Count II

14. Nevada Revised Statute (NRS) section 630.306(2)(c) provides that engaging in conduct which is in violation of a regulation adopted by the State Board of Pharmacy is grounds for initiating disciplinary action against a licensee.

14 15. NAC 639.945(1)(g), a regulation adopted by the State Board of Pharmacy, provides 15 that supplying or diverting drugs which are legally sold in pharmacies or by wholesalers, so that 16 unqualified persons can circumvent any law pertaining to the legal sale of such articles is 17 prohibited conduct.

18 16. Respondent supplied Patient A with dexamethasone sodium phosphate, a 19 dangerous drug that Patient A is not licensed to legally procure, for use in Patient A's physical 20 therapy practice and accordingly Respondent's actions are in violation of NAC 639.945(1)(g) and 21 therefore her conduct is in violation of NRS 630.306(2)(c).

17. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
Board of Medical Examiners as provided in NRS 630.352.

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## <u>Count III</u>

18. NRS 630.306(3) provides that administering, dispensing or prescribing any
controlled substance, or any dangerous drug to herself or others except as authorized by law is
grounds for initiating disciplinary action against a licensee.

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1 19. Respondent's actions as described in the paragraphs above show that she dispensed 2 both dangerous drugs and controlled substances without a certificate of registration and has failed 3 to comply with the provisions of NAC 639.745 in dispensing any dangerous drugs or controlled 4 substances and is accordingly in violation of NRS 630.306(3).

5 20. By reason of the foregoing, Respondent is subject to discipline by the Nevada State
6 Board of Medical Examiners as provided in NRS 630.352.

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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);

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 \_\_\_\_\_\_ day of December, 2011.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

General Counsel and Attorney for the Investigative Committee

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2	VERIFICATION STATE OF NEVADA )	
3	COUNTY OF WASHOE )	
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5	THEODORE B. BERNDT, M.D., having been duly sworn, hereby deposes and states	
6	under penalty of perjury that he is the current Chairman of the Investigative Committee of the	
7	Nevada State Board of Medical Examiners that authorized the complaint against the Respondent	
8	herein; that he has read the foregoing Complaint; and that based upon information discovered in	
9	the course of the investigation into a complaint against Respondent, he believes that the	
10	allegations and charges in the foregoing Complaint against Respondent are true, accurate, and	1
11	correct.	ļ
12	DATED this 1 st day of Decentra, 2011.	
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14	Alesdere B. Berndt	
15	THEODORE B. BERNDT, M.D.	
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	1	CERTIFICATE OF MAILING
	2	I hereby certify that I am employed by Nevada State Board of Medical Examiners and
	3	that on 1 <sup>st</sup> day of December 2011, I served a file copy of the COMPLAINT, PATIENT
	4	DESIGNATION & Fingerprint information via USPS e-certified mail to the following:
	5	Shawn K. Jones, Esq.
	6	Wilson Barrows Salyer Jones 442 Court St.
	7	Elko, NV 89801
	8	Dated this 1 <sup>st</sup> day of December 2011.
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GENERAL COUNSEL do f Medical Examiners ninal Way #301 Nevada 89502 5) 688-2559	10	$\Lambda \rightarrow$
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CE OF THE GENERAL COU Nevada State Board of Medical Examiners 1105 Terminal Way #301 Reno, Nevada 89502 (775) 688-2559	12	Legal Assistant
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