

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

3 * * * * *

4
5 **In The Matter of Charges and**)
6 **Complaint Against**)
7 **LUKE St. JOHN CESARETTI, M.D.,**)
8)
9 **Respondent.**)

Case No. 10-7235-1

FILED

SEP 20 2011

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

10
11 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

12 The above-entitled matter came on regularly for decision on the Complaint filed herein
13 before the Nevada State Board of Medical Examiners, hereinafter "Board," on Friday,
14 September 9, 2011, at the Board's offices located at 1105 Terminal Way, Suite 301, Reno,
15 Nevada, 89502, and by video conference at the offices of the Nevada State Board of Dental
16 Examiners located at 6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada
17 89118. Respondent Luke St. John Cesaretti, M.D., hereinafter "Respondent," was present at
18 the Board meeting in Las Vegas with his attorney, John Curtas, Esq.

19 The members of the Board participating in the decision were:
20 Benjamin J. Rodriguez, M.D., Beverly A. Neyland, M.D., Michael J. Fischer, M.D.,
21 Ms. Donna Ruthe and Mrs. Sue Lowden. Harry Ward, J.D., Deputy Attorney General, acted
22 as legal counsel to the Board.

23 The Board, having received and read the Complaint and exhibits admitted in this
24 matter, as well as the Synopsis of Record prepared by the hearing officer who presided over
25 the hearing and the transcript of the hearing, proceeded to make a decision pursuant to the
26 provisions of NRS Chapters 233B and 630.

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1 The Board, after due consideration of the record, evidence and law, and being fully
2 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND
3 ORDER in this matter as follows:

4 **FINDINGS OF FACT**

5 **I.**

6 Respondent held a license to practice as a physician in the state of Nevada at all
7 relevant times.

8 **II.**

9 On October 28, 2010, the Investigative Committee filed the Complaint in this matter
10 alleging violations of Chapter 630 of the Nevada Revised Statutes.

11 **III.**

12 On May 11, 2011, a hearing was held before an appointed hearing officer on the
13 allegations contained within the Complaint; five counts. Count V was dismissed at end of the
14 hearing pursuant to the evidence adduced at the hearing. Respondent was present and
15 represented by counsel, Patric Hooper, Esq. and John Curtas, Esq. The Investigative
16 Committee was represented by Bradley O. Van Ry, Esq.

17 **IV.**

18 Respondent was involved in a Medicare billing fraud case. That case went on for four
19 (4) years as Respondent's billing, patient treatment and diagnostic records were examined by
20 the Department of Health and Human Services and the Office of the Inspector General for
21 fraud.

22 Respondent entered into a settlement of the matter with the Department of Health and
23 Human Services and the Office of the Inspector General in March 2009. As part of the
24 settlement, Respondent also entered into an Integrity Agreement with the same federal
25 entities, which includes oversight and supervision over Respondent until March 2014.

26 **V.**

27 The Board finds by reliable, probative and substantial evidence that Respondent
28 violated NRS 630.301(9), as alleged in Count II, when he engaged in conduct that brought the

1 medical profession into disrepute by failing to disclose the examination by the Department of
2 Health and Human Services and the Office of the Inspector General to the Board on three (3)
3 successive license renewal applications in 2005, 2007 and 2009 and by being under
4 examination for fraud arising from the Medicare billing and records of Respondent's practice
5 for over four (4) years.

6 **VI.**

7 The Board finds by reliable, probative and substantial evidence that Respondent
8 violated NRS 630.3062(1), as alleged in Count III, by failing to maintain timely, legible,
9 accurate and complete medical records when his medical records and billing inaccuracies led
10 to the Medicare fraud allegations and ultimate settlement agreement and Integrity Agreement
11 with the Department of Health and Human Services and the Office of the Inspector General.

12 **VII.**

13 If any of the forgoing Findings of Fact is more properly deemed a Conclusion of Law, it
14 may be so construed.

15 **CONCLUSIONS OF LAW**

16 **I.**

17 The Board has jurisdiction over Respondent.

18 **II.**

19 Respondent was properly served with notice of the hearing via certified mail at the
20 address on file with the Board pursuant to NRS Chapter 630 and NRS Chapter 233B.

21 **III.**

22 The Board concludes that Respondent has violated NRS 630.301(9) as described
23 above and as alleged in Count II of the Complaint and, that accordingly, he is subject to
24 discipline pursuant to NRS 630.352.

25 **IV.**

26 The Board concludes that Respondent has violated NRS 630.3062(1) as described
27 above and as alleged in Count III of the Complaint and, that accordingly, he is subject to
28 discipline pursuant to NRS 630.352.

V.

If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it may be so construed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. Respondent shall be issued a public reprimand;
2. Respondent shall pay a fine of \$5,000.00 for each violation found above for a total of \$10,000.00, to be paid to the Board within one hundred twenty (120) days of the date of this Order;
3. Respondent shall pay the costs of investigation and prosecution of this matter, totaling \$5,225.04, to be paid to the Board within one hundred twenty (120) days of the date of this Order;
4. Respondent shall attend and participate in twelve (12) hours of Continuing Medical Education in Medical Ethics and/or Ethics and provide proof of attendance to the Board; and
5. Counts I and IV of the Complaint are dismissed.

DATED this 20th day of September, 2011.

NEVADA STATE BOARD OF MEDICAL EXAMINERS



Benjamin J. Rodriguez, M.D., President
Nevada State Board of Medical Examiners

1 **CERTIFICATION**

2 I certify that the foregoing is the full and true original
3 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the
4 Board of Medical Examiners in the matter of LUKE St. JOHN CESARETTI, M.D., Case No.
5 10-7235-1.

6 I further certify that BENJAMIN J. RODRIGUEZ, M.D., is the senior member of the
7 adjudicating panel of the Nevada State Board of Medical Examiners, and its President, and
8 that full force and credit is due to his official acts as such; and that the signature affixed to the
9 foregoing ORDER is the signature of said BENJAMIN J. RODRIGUEZ, M.D.

10 IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as
11 Secretary-Treasurer of the Nevada State Board of Medical Examiners.

12 DATED this 20th day of September, 2011.

13 

14 VALERIE J. CLARK, BSN, RHU, LUTCF
15 Secretary-Treasurer
16 Nevada State Board of Medical Examiners