

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

* * * * *

In the Matter of Charges and)
)
Complaint Against)
)
MICHAEL L. FISHELL, M.D.,)
)
Respondent.)

Case No. 12-18246-1

FILED

JAN - 4 2012

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., at the time of the authorization of filing this formal complaint, 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 Michael L. Fishell, 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 was originally issued a license to practice medicine in the state of Nevada on June 3, 2000. Respondent's licensure status is currently active, and at all times alleged herein, Respondent was licensed by the Board, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. Patient A was a seventy-one-year-old female at the time of the events at issue. Her true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.

3. Patient A first presented to Respondent's medical office, which is located in Las Vegas, Nevada, in early August of 2008 with complaints of bi-lateral back and leg pain. After

1 evaluation, Respondent and Patient A agreed that epidural steroid injections would be attempted to
2 alleviate Patient A's pain. Patient A underwent four-level transforaminal epidural procedure on
3 August 14, 2008. The procedure was without complication and Patient A was discharged to home
4 that day with instructions to follow up with Respondent in a few weeks.

5 4. On September 11, 2008, Patient A returned to Respondent and advised that the
6 epidural procedure had only provided Patient A short-term relief from pain and her pain had returned
7 as previous. As a result, on September 18, 2008, Patient A underwent a second epidural procedure.
8 This procedure was thought to be without complication and Patient A was discharged to home that
9 same day.

10 5. On September 20, 2008, Patient A was admitted to the St. Rose Hospital emergency
11 room. Subsequent inquiry by hospital staff established that a hollow needle catheter had been left in
12 Patient A's coccygeal area after the epidural procedure a few days previous. Thereafter, Patient A
13 was hospitalized and placed on antibiotic therapy due an infection that had developed at the site of
14 the catheter.

15 6. It is now alleged by the Investigative Committee that Respondent's care and
16 treatment of Patient A constitutes malpractice, as Respondent failed to use the reasonable care,
17 skill, or knowledge ordinarily used under similar circumstances, when he erroneously left a
18 medical device in Patient A after an epidural procedure.

19 7. Based upon the foregoing, Respondent has violated NRS 630.301(4), and is subject
20 to discipline as provided by NRS 630.352.

21 WHEREFORE, the Investigative Committee prays:

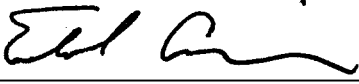
- 22 1. That the Board set a time and place for a formal hearing;
- 23 2. That the Board give Respondent notice of the charges herein against him, the time
24 and place set for the hearing, and the possible sanctions against him;
- 25 3. That the Board determine what sanctions it determines to impose for the violation
26 or violations committed by Respondent;
- 27 4. That the Board make, issue and serve on Respondent its findings of facts,
28 conclusions of law and order, in writing, that includes the sanctions imposed;

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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 4th day of January, 2012.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
Edward O. Cousineau, Esq.
Deputy Executive Director and Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

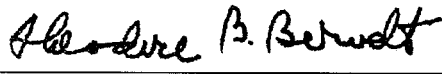
VERIFICATION

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STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

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

Dated this 4th day of January, 2012.



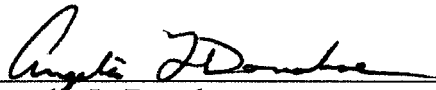
Theodore B. Berndt, M.D.

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 4th day of January 2012, I served a file copy of the COMPLAINT, PATIENT DESIGNATION & Fingerprint information via USPS e-certified mail to the following:

Michael Fishell, M.D.
2505 Anthem Village Dr., Ste. E625
Henderson, NV 89052

Dated this 4th day of January 2012.



Angelia L. Donohoe
Legal Assistant