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

* * * * *

In the Matter of Charges and)
)
Complaint Against)
)
PETER H. PHILANDER, M.D.,)
)
Respondent.)

Case No. 14-12104-1

FILED

JUN - 3 2014

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

COMPLAINT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), composed at the time of filing of Beverly A. Neyland, M.D., Sue Lowden and Bashir Chowdhry, M.D., by and through Erin L. Albright, Esq., Board General Counsel and attorney for the IC, having a reasonable basis to believe that Peter H. Philander, M.D. (Respondent), violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, Medical Practice Act), hereby issues its formal Complaint, stating the IC's charges and allegations as follows:

FACTUAL BACKGROUND

The following facts are pertinent to a determination on this matter.

1. Respondent has been licensed by the Board since February 5, 1998, pursuant to the provisions of the Medical Practice Act.
2. Respondent is currently licensed in active status (License No. 8535) in the state of Nevada. His specialty listed with the Board is family practice. Respondent is not certified by the American Board of Medical Specialties, or any other entity, in pain management.
3. Respondent provided medical care, including diagnosis and treatment of chronic pain, for Patients A through F. The true identities of Patients A through F are not disclosed in this

1 Complaint to protect their identities; however, their identities are disclosed in the Patient
2 Designation contemporaneously served on Respondent with this Complaint.

3 4. The Medical Practice Act and related regulations establish the standards of practice
4 for the treatment of pain and adopt by reference the “Model Policy for the Use of Controlled
5 Substances for the Treatment of Pain” (Model Policy). The Model Policy establishes adequate
6 treatment policies for the treatment of chronic pain, including the use of controlled substances.
7 The Model Policy establishes that physicians have a responsibility to minimize the potential for
8 abuse and diversion of controlled substances and to follow related pain treatment policies.

9 5. The Model Policy outlines the criteria by which the Board will evaluate
10 Respondent’s treatment of pain in Patients A through F. The Model Policy requires, at a
11 minimum, that a medical history and physical examination be obtained, evaluated and
12 documented in the patient’s medical record. The medical record should document the nature and
13 intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or
14 conditions, the effect of the pain on physical and psychological function, history of substance
15 abuse, and the presence of one or more recognized medical indications for the use of a controlled
16 substance. The medical record should contain a written treatment plan that states objectives that
17 will be used to determine treatment success and should indicate if any further diagnostic
18 evaluations or treatments are planned. The medical record should document the physician
19 discussed the risks and benefits of the use of controlled substances with the patient, persons
20 designated by the patient or with the patient’s guardian. If the patient is at high risk for
21 medication abuse or has a history of substance abuse, the physician should enter into a written
22 treatment agreement with the patient. If the patient’s progress is unsatisfactory, the physician
23 should assess the appropriateness of continued use of controlled substances and should consider
24 the use of other treatment modalities.

25 6. Respondent failed to follow the Model Policy in his medical care and treatment of
26 Patients A through F.

27 7. A review of the medical charts for Patients A through F demonstrates that the
28 charts lack any documentation and/or evidence demonstrating the nature and intensity of each

1 patient's pain, the effect of pain on each patient's ability to function and the presence of
2 recognized medical indications in each patient justifying the use of controlled substances.

3 8. A review of the medical charts for Patients A through F demonstrates that
4 Respondent adjusted each patient's prescribed medication based solely on each patient's
5 subjective complaints and not on any significant objective clinical correlation of physical
6 examination, uses of ancillary services and/or treatment modalities.

7 9. A review of the medical charts for Patients A through F demonstrates that
8 Respondent failed to consider other treatment modalities or adjuvant therapies prior to prescribing
9 controlled substances to Patients A through F.

10 10. A review of the medical charts for Patients A through F demonstrates that
11 Respondent failed to check prior narcotic use for Patients A through F through the prescription
12 monitoring program (PMP) offered by the Nevada State Board of Pharmacy.

13 11. A review of the medical charts for Patients A through F demonstrates that
14 Respondent never ordered Patients A through F to submit to random urine drug screens to monitor
15 each patient's controlled substance use and compliance.

16 12. A review of the medical charts for Patients A through F demonstrates that
17 Respondent's care and treatment of each patient did not result in any significant improvement in
18 pain, the basis for the controlled substance prescriptions is unsubstantiated, and the follow-up and
19 treatment plan primarily consisted of monthly controlled substance prescription refills.

20 13. A review of the medical charts for Patients A through F demonstrates that
21 Respondent did not require Patients A through F to enter into written, signed pain management
22 contracts with Respondent.

23 14. A review of the medical charts for Patients A through F demonstrates that
24 Respondent failed to consult pain management specialists to determine if he could treat the pain
25 for Patients A through F using modalities other than controlled substances.

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COUNT I
(Medical Records Violation)

15. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

16. NRS 630.3062(1) provides that the 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 against a licensee.

17. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care of Patients A through F when he failed to document in the patients' charts that he had performed musculoskeletal exams, when he failed to document in the patients' charts the nature and intensity of the patients' pain, when he failed to document in the patients' charts the effect of pain on the patients' ability to function, when he failed to document in the patients' charts the presence of a recognized medical indication for the use of controlled substances, when he failed to document in the patients' charts that he required the patients to submit to urine drug screens, and when he failed to document in the patients' charts that he reviewed the patients' prior narcotic use through the PMP.

18. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT II
(Malpractice)

19. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.

20. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating disciplinary action against a licensee.

21. NAC 630.040 defines malpractice 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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1 22. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
2 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when
3 treating Patients A through F when he failed to follow the Model Policy when prescribing
4 controlled substances to Patients A through F.

5 23. By reason of the foregoing, Respondent is subject to discipline by the Board as
6 provided in NRS 630.352.

7 **COUNT III**
8 **(Prohibited Professional Conduct)**

9 24. All of the allegations contained in the above paragraphs are hereby incorporated by
10 reference as though fully set forth herein.

11 25. NRS 630.306(2)(b) provides that engaging in any conduct that the Board has
12 determined is a violation of the standards of practice established by regulation of the Board is
13 grounds for initiating disciplinary action against a licensee.

14 26. NAC 630.230(1)(k) provides that a licensed physician shall not engage in the
15 practice of writing prescriptions for controlled substances to treat acute or chronic pain in a
16 manner that deviates from the policies set forth in the Model Policy.

17 27. As demonstrated by, but not limited to, the above-outlined facts, Respondent's
18 practice of writing prescriptions for controlled substances to treat acute or chronic pain deviates
19 from the policies set forth in the Model Policy as follows: the medical records for Patients A
20 through F do not document the nature and intensity of the pain, the medical records for Patients A
21 through F do not document the effect of the pain on physical and psychological function, the
22 medical records for Patients A through F do not document the presence of one or more recognized
23 medical indications for the use of controlled substances, Respondent did not enter into or consider
24 entering into written treatment plans with Patients A through F, Respondent based the patients'
25 need for controlled substances on the subjective needs of Patients A through F, Respondent failed
26 to consider the use of other therapeutic modalities for Patients A through F, and Respondent failed
27 to refer Patients A through F to determine the etiology of their pain.

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1 28. By reason of the foregoing, Respondent is subject to discipline by the Board as
2 provided in NRS 630.352.

3 **COUNT IV**
4 **(Practicing Beyond the Scope of Training)**

5 29. All of the allegations contained in the above paragraphs are hereby incorporated by
6 reference as though fully set forth herein.

7 30. NRS 630.306(5) provides that practicing or offering to practice beyond the scope
8 permitted by law or performing services that the licensee knows or has reason to know that he is
9 not competent to perform or which are beyond the scope of his training is grounds for initiating
10 disciplinary action against a licensee.

11 31. As demonstrated by, but not limited to, the above-outlined facts, Respondent is not
12 trained in pain management and he failed to follow the Model Policy when prescribing controlled
13 substances to Patients A through F. Therefore, Respondent was performing services that he was
14 not competent to perform or which were beyond the scope of his training.

15 32. By reason of the foregoing, Respondent is subject to discipline by the Board as
16 provided in NRS 630.352.

17 **WHEREFORE**, the Investigative Committee prays:

18 1. That the Board give Respondent notice of the charges herein against him and give
19 him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2)
20 within twenty (20) days of service of the Complaint;

21 2. That the Board set a time and place for a formal hearing after holding an
22 Early Case Conference pursuant to NRS 630.339(3);

23 3. That the Board determine the sanctions it will impose if it finds Respondent
24 violated the Medical Practice Act;

25 4. That the Board make, issue and serve on Respondent, in writing, its findings of
26 fact, conclusions of law and order, which shall include the sanctions imposed; and

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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 3rd day of June, 2014.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

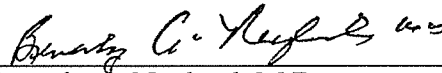
By: 
Erin L. Albright, Esq.
General Counsel
Attorney for the Investigative Committee

VERIFICATION

1 STATE OF NEVADA)
2 : ss.
3 COUNTY OF CLARK)

4 Beverly A. Neyland, M.D., hereby deposes and states under penalty of perjury under the
5 laws of the state of Nevada that she is the Chair of the Investigative Committee of the
6 Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the
7 Respondent herein; that she has read the foregoing Complaint; and that based upon information
8 discovered during the course of the investigation into a complaint against Respondent, she
9 believes the allegations and charges in the foregoing Complaint against Respondent are true,
10 accurate and correct.

11 Dated this 4th day of June, 2014.

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15 Beverly A. Neyland, M.D.
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OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
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CERTIFICATE OF SERVICE

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 4th day of June 2014; I served a filed copy of COMPLAINT, PATIENT DESIGNATION & FINGERPRINT INFORMATION, via USPS e-certified mail to the following:

Peter H. Philander, M.D.
2481 Professional Court
Las Vegas, NV 89128

Dated this 4th day of June, 2014.



Angelia L. Donohoe
Legal Assistant