BEFORE THE BOARD OF MEDICAL EXAMINERS 1 **OF THE STATE OF NEVADA** 2 * * * * * 3 4 5 In the Matter of Charges and Case No. 16-28531-2 6) 7 **Complaint Against** FILED 8 STUART S. KAPLAN, M.D., AUG 1 7 2016 9 NEVADA STATE BOARD OF **Respondent.** MEDICAL EXAMINERS 10 11 **COMPLAINT** 12

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this formal Complaint (Complaint) against Stuart S. Kaplan, M.D. (Respondent), a licensed physician in Nevada. After investigating this matter, the IC has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act).

The IC alleges the following facts:

Respondent is currently licensed in active status (License No. 10758), and has been
 licensed by the Board since December 30, 2003. At all times alleged herein, Respondent was
 licensed in an active status by the Board pursuant to the provisions of the Medical Practice Act.

22 2. On or about December 27, 2014, the University Medical Center of Southern
23 Nevada (UMC), pursuant to NRS 630.307, informed the Board regarding an investigation of
24 Respondent and that the UMC Medical Executive Committee voted that Respondent was in
25 violation of NRS 630.3062 and NAC 630.230 when UMC discovered that Respondent's physician
26 assistant was signing Respondent's name on the progress notes of patients not seen by
27 Respondent.

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¹ The Investigative Committee of the Nevada State Board of Medical Examiners is composed of Board members Beverly A. Neyland, M.D., Rachakonda Prabhu, M.D., and Ms. Sandy Peltyn.

3. On or about January 21, 2015, Respondent replied to the Board's January 12, 2015 1 Letter and stated the following: "I do appreciate that it was not the right decision to ask Mr. 2 Simons to sign my name." 3

4. Previous to the preparation of this Complaint, the Board solicited the services of an independent medical expert (IME) to review the conduct of the Respondent in this matter and render an opinion regarding whether Respondent, through his acts and omissions, violated the Medical Practice Act.

5. Based upon the foregoing, the IC charges Respondent with the following violations 8 of the Medical Practice Act.

COUNT I

(Engaging in Conduct that Brings the Medical Profession into Disrepute - NRS 630.301(9))

All of the allegations in the above paragraphs are hereby incorporated as if fully set

forth herein.

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7. NRS 630.301(9) provides that engaging in conduct that brings the medical profession into disrepute is grounds for initiating disciplinary action.

16 8. As demonstrated by, but not limited to, the above-outlined facts, Respondent committed acts that bring the medical profession into disrepute by instructing his physician assistant to sign Respondent's name on progress reports for patients not seen by Respondent.

19 9. By reason of the foregoing, Respondent is subject to discipline by the Board as 20 provided in NRS 630.352.

COUNT II

(Deception - NRS 630.306(2)(a))

23 All of the allegations in the above paragraphs are hereby incorporated as if fully set 10. 24 forth herein.

25 11. NRS 630.306(2)(a) provides that engaging in any conduct which is intended to 26 deceive constitutes grounds for initiating disciplinary action.

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12. As demonstrated by, but not limited to, the above outlined facts, Respondent 1 intended to deceive when he instructed his physician assistant to sign Respondent's name on 2 3 progress notes of patients not seen by Respondent.

By reason of the foregoing, Respondent is subject to discipline by the Board as 4 13. provided in NRS 630.352.

COUNT III

(Standard of Practice – NRS 630.306(2)(b))

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

15. NRS 630.306(2)(b) provides that engaging in any conduct which the Board has determined is a violation of the standards of practice established by regulation of the Board is grounds for initiating disciplinary action.

16. The standards of practice adopted by the Board are codified in NAC 630.185 through NAC 630.230, inclusive.

NAC 630.230(1)(a) prohibits the falsification of records of health care by a 15 17. physician or physician assistant. 16

17 18. NAC 630.230(1)(b) prohibits the falsification of medical records of a hospital by a physician or physician assistant so as to indicate his presence at a time when he was not in 18 19 attendance or falsification of records to indicate that procedures were performed by him which were in fact not performed by him. 20

19. As demonstrated by, but not limited to, the above-outlined facts, Respondent 21 22 falsified records of health care when he instructed his physician assistant to sign Respondent's name on progress notes of patients not seen by Respondent. 23

20. As demonstrated by, but not limited to, the above-outlined facts, Respondent 24 falsified hospital medical records so as to indicate his presence when he was not present or to 25 indicate procedures performed by him when in fact they were performed by his physician assistant 26 when he instructed his physician assistant to sign Respondent's name on progress notes of patients 27 not seen by Respondent. 28

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1	21. By reason of the foregoing, Respondent is subject to discipline by the Board as	5		
2	provided in NRS 630.352.			
3	<u>COUNT IV</u>			
4	(Medical Records - NRS 630.3062(1), (2))			
5	22. All of the allegations in the above paragraphs are hereby incorporated as if fully se	t		
6	forth herein.			
7	23. NRS 630.3062(1) provides that failure to keep accurate medical records relating to	,		
8	the diagnosis, treatment and care of a patient is grounds for discipline.			
9	24. NRS 630.3062(2) provides that altering medical records of a patient is grounds for	•		
10	discipline.			
. 11	25. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed	L		
12	to keep accurate medical records and altered the medical records of patients by having his	;		
13	physician assistant sign Respondent's name in the records as having examined the patient, when			
14	Respondent did not actually examine the patient.			
15	26. 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;			
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4. That the Board make, issue and serve upon the Respondent, in writing, its findings 1 of fact, conclusions of law and order, which shall include the sanctions imposed; and 2 5. That the Board take such other and further action as may be just and proper in these 3 premises. 4 DATED this _____ day of August, 2016. 5 6 INVESTIGATIVE COMMITTEE OF THE 7 NEVADA STATE BOARD OF MEDICAL EXAMINERS 8 By: 9 Jasmine K. Mehta, Esq. Deputy General Counsel for the Board Attorney for the Investigative Committee 10 11 12 By: Robert Kilroy, Esq. 13 (775) 688-2559 General Counsel for the Board Attorney for the Investigative Committee 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 5

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VERIFICATION

STATE OF NEVADA COUNTY OF CLARK

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

Dated this $\frac{18}{18}$ day of August, 2016.

) : ss.

Beverly A. Nevland, M.D.

	1	CERTIFICATE OF MAILING	
	2	I hereby certify that I am employed by Nevada State Board of Medical Examiners and that	
	3	on 18 th day of August 2016; I served a file stamp copy of the COMPLAINT, by mailing via USPS	
	4	e-certified return receipt mail to the following:	
	5	John Cotton, Esq.	
	6	John H. Cotton & Associates, Ltd. 7900 W. Sahara, Ste. 200	
	7	Las Vegas, NV 89117	
	8	Dated this 18 th day of August, 2016.	
	9	The to Donkue	
SEL	10	Angelia L. Donohoe	
GENERAL COUNSEL do f Medical Examiners ninal Way #301 Nevada 89502 5) 688-2559	11	Legal Assistant	
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