

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

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In the Matter of Charges and)
Complaint Against)
ROBERT FEINGOLD, M.D.,)
Respondent.)

Case No. 16-11221-1

FILED

JAN 22 2016

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: _____

FIRST AMENDED COMPLAINT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this formal Complaint (Complaint) against Robert Feingold, M.D. (Respondent), a licensed physician in Nevada. After investigating this matter, the IC has a reasonable basis to believe that the 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:

1. Respondent is currently licensed in active status (License No. 7916), and has been so licensed by the Board since July 30, 1996, and, at all times alleged herein, Respondent was licensed in an active status by the Board pursuant to the provisions of the Medical Practice Act.

2. Previous to the preparation of this Complaint, the Board solicited the services of an independent medical expert to review the medical records of nine patients by Respondent. This record review includes those Patients A through I.

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¹ The Investigative Committee of the Nevada State Board of Medical Examiners is composed of Board members Theodore B. Berndt, M.D., Valerie J. Clark, BSN, RHU, LUTCF, and Michael J. Fischer, M.D.

PATIENT A

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2 3. Patient A was a 47-year-old male at the time of the events at issue. His true identity
3 is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served
4 upon Respondent along with a copy of this Complaint.

5 4. The expert's review of Patient A's medical record concluded that Respondent
6 violated the standard of care in the treatment of Patient A's persistent, nonmalignant cervical,
7 thoracic, and lumbar back pain condition by failing to do a meaningful physical exam, order
8 diagnostic testing, document responses or side effects to prescribed pain medication or test for
9 medication toxicity.

10 5. On or about March 29, 2012, Patient A, with a widely fluctuating, elevated blood
11 pressure (170/110), was seen by the Respondent, who did not perform any medication adjustment
12 in Patient A's Lisinopril (20/25mg) dosage. Respondent did not make any comments or
13 documentation regarding Patient A's elevated blood pressure, did no patient counseling, did no
14 recheck of the blood pressure, did no laboratory tests and performed no EKG.

15 6. On or about December 11, 2012, Patient A, with the complaint of persistent
16 nonmalignant cervical, thoracic and lumbar back pain was seen by the Respondent, who did not
17 perform any examination of Patient A's back or spine; and did not perform a neurological exam,
18 which usually includes assessment of the strength of the affected body part, evaluation of
19 sensation and deep tendon reflexes.

20 7. On or about December 11, 2012, Respondent failed to provide any treatment and
21 evaluation of Patient's A back pain, which should have included a review of Patient A's medical
22 history, a review of symptoms, and the required examinations; Respondent failed to provide
23 adequate follow-up surveillance and repeat assessments regarding Patient A's medical conditions
24 on subsequent evaluations conducted by Respondent, and, no referrals were made to appropriate
25 specialists, such a physical therapist or pain management specialist for further non-narcotic
26 treatment (epidural, steroids, TENS), an orthopedist or a neurologist.

27 8. On or about May 31, 2013, Patient A, with the complaint of a chronic cough, was
28 seen by the Respondent, who prescribed Phenergan with Codeine Elixir (#16oz.) without

1 evaluating Patient A's chest with an X-ray, conducting the necessary blood work, or conducting
2 an upper endoscopy or pulmonary function test to evaluate for emphysema, asthma, or gastric
3 reflux as causes of Patient A's chronic cough.

4 9. On or about May 31, 2013, Respondent's examinations of Patient's A chest
5 indicated that Patient A's lung was "clear" yet Respondent continued to prescribe large amounts
6 of narcotic cough syrup each month in addition to the large amounts of narcotics Patient A was
7 taking for his chronic back pain, and Respondent did not attempt to diagnose the etiology of
8 Patient A's chronic cough.

9 10. Based upon the aforementioned, Respondent violated the standard of care in
10 treating Patient A, and, engaged in malpractice when Respondent failed to use the reasonable care,
11 skill, or knowledge ordinarily used under similar circumstances.

12 **PATIENT B**

13 11. Patient B was a 52-year-old male at the time of the events at issue. His true identity
14 is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served
15 upon Respondent along with a copy of this Complaint.

16 12. The expert's review of Patient B's medical record concluded that Respondent
17 violated the standard of care in the treatment of Patient B's condition of hypertension and Patient
18 B's cervical, thoracic, and lumbar back pain by failing to do a meaningful physical exam, order
19 diagnostic testing, document responses or side effects to pain medication or test for medication
20 toxicity.

21 13. On or about March 29, 2011, Patient B had an MRI of the cervical spine showing
22 "intervertebral disc bulge at C3-4, C4-5; at C5-6 intervertebral disc bulge with an annular tear
23 extending greater to the left without definite evidence of spinal cord compression."

24 14. On or about December 28, 2012, Patient B, who was seen by Respondent, was
25 diagnosed with "chronic spine pain (cervical, thoracic, lumbar) and degenerative joint disease.
26 Respondent made no attempts to diagnose the etiology of the back pain, and there was no physical
27 exam of the body parts involved; Patient B was treated monthly with large doses of narcotic
28 (Roxicodone 30mg #120 or Roxicet 30mg #120).

1 hypertension by failing to do meaningful physical examinations, order diagnostic testing, and
2 document responses or side effects to Patient C's prescribed pain medication, or test for
3 medication toxicity.

4 23. On or about February 13, 2009, through December 17, 2012, Patient C, who was
5 seen by Respondent, complained of migraine headaches, bronchitis and hypertension; Respondent
6 prescribed monthly treatment of Roxicodone (30mg tid#90), Fioricet #180, and Phenegan with
7 Codeine (16oz.) and Soma (350mg #180).

8 24. On or about December 17, 2012, Patient C, who was seen by Respondent, was
9 prescribed Soma (350mg #180) for "spasms" but Patient C did not complain about any spasms.
10 Respondent failed to perform any examination of the affected body part that would prompt
11 prescription of this medication.

12 25. On or about January 16, 2013 through April 23, 2014, Patient C, who was seen by
13 Respondent, complained of elevated blood pressure. Respondent failed to recognize that Patient
14 C's blood pressure was 178/110 on January 1, 2013, failed to recognize Patient C's blood pressure
15 was 158/104 on April 23, 2014; failed to recognize Patient C's hypertension and failed to adjust
16 blood pressure medications (Metoprolol ER 50mg daily, Benazepril/Amlodipine 5/10 mg daily).

17 26. On or about January 16, 2013 through April 23, 2014, Patient C, who was seen by
18 Respondent, complained of elevated blood pressure. Respondent failed to provide any treatment
19 or discussion about lifestyle changes, weight loss if needed, adjusting or adding medications,
20 performing an EKG, performing a chest X-ray, assessing for organ damage with laboratory tests
21 and making referrals to specialists as needed.

22 27. On or about January 1, 2013 through June 10, 2013, Respondent prescribed
23 extremely large dosages of Phenergan with Codeine (16oz.) for Patient C, who had no complaints
24 of cough until after July 8, 2013; Respondent documented that Patient C had "lungs clear" on each
25 of the visits; Respondent provided no diagnosis for the large quantity of cough syrup, especially
26 when considering all of the other narcotics Patient C was already prescribed (Roxicodone
27 30mg/#90); and, Respondent failed to perform an evaluation regarding the etiology of the cough.

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1 and documented.

2 40. On or about December 17, 2012 through April 9, 2014, Respondent did not provide
3 the proper and relevant details regarding his treatment to Patient E's drug urine testing;
4 Respondent failed to record the following: creatinine, nitrites, pH, or any specific gravity tested or
5 recorded; additionally, Respondent failed to perform outside laboratory confirmation of Patient
6 E's drug testing.

7 41. On or about December 17, 2012 through April 9, 2014, Respondent failed to
8 provide any recommendation for additional corrective measures; Respondent failed to provide
9 adequate follow-up surveillance and repeat assessments to make sure the procedure was adequate
10 for Patient E's condition on subsequent evaluations conducted by Respondent.

11 42. Based upon the aforementioned, Respondent violated the standard of care in
12 treating Patient E, and, engaged in malpractice when Respondent failed to use the reasonable care,
13 skill, or knowledge ordinarily used under similar circumstances.

14 **PATIENT F**

15 43. Patient F was a 39-year-old male at the time of the events at issue. His true identity
16 is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served
17 upon Respondent along with a copy of this Complaint.

18 44. The expert's review of Patient F's medical record concluded that Respondent
19 violated the standard of care in the treatment of Patient F's cervical, thoracic, and lumbar spine
20 pain; and in the treatment of Patient F with prescribing a high dose of an addictive class IV
21 medication in the Benzodiazepine class.

22 45. On or about December 12, 2012, Patient F was seen by Respondent, who made an
23 initial diagnosis of "chronic pain" of the cervical, thoracic, and lumbar spine. Patient F's
24 treatment as prescribed by Respondent was to take Methadone, Soma, Xanax, and Roxicodone
25 monthly for the aforementioned chronic back pain.

26 46. On or about December 12, 2012 through April 16, 2014, there were approximately
27 16 visits by Patient F to Respondent, who prescribed a treatment of Xanax (2mg #90) each month
28 when there were no subjective complaints of anxiety or panic attacks by Patient F, no objective

1 findings of anxiety in the medical records; no laboratory tests to evaluate for the presence of
2 anemia or thyroid disorder or a metabolic cause of anxiety in Patient F.

3 47. On or about February 18, 2013 through February 7, 2014, Respondent did not
4 provide the details of his treatment to Patient F. During these office visits, there was no inspection
5 or no examination of Patient's F back and Respondent did not document as to whether the pain
6 medication was working and did not document Patient F's care and treatment during the last 10
7 visits within his operative reports.

8 48. On or about February 18, 2013 through February 7, 2014, Respondent failed to
9 document Patient F's response to the prescribed narcotics used; failed to do reasonable histories
10 (past medical, social & surgical histories); failed to properly prescribe Benzodiazepines by
11 prescribing them without a reasonable diagnosis, failed to do the appropriate and meaningful
12 physical examinations; and failed to do the appropriate laboratory work when needed or required.

13 49. Based upon the aforementioned, Respondent violated the standard of care in
14 treating Patient F, and, engaged in malpractice when Respondent failed to use the reasonable care,
15 skill, or knowledge ordinarily used under similar circumstances.

16 **PATIENT G**

17 50. Patient G was a 41-year-old male at the time of the events at issue. His true identity
18 is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served
19 upon Respondent along with a copy of this Complaint.

20 51. The expert's review of Patient G's medical record concluded that Respondent
21 violated the standard of care in the treatment of Patient G's chronic pain and left arm pain; and, in
22 failing to properly conduct a complete initial evaluation as the documentation was abbreviated,
23 incomplete without any prior medical history (surgical, medication, social, family, review of
24 systems and laboratory results).

25 52. On or about December 18, 2012, Patient G was seen by Respondent for the first
26 time for chronic left arm pain and was prescribed the following treatment of monthly dosages of
27 narcotics including Roxycodone (30mg #160), Lortab (10/500mg #130), Soma (350mg #190) and
28 Xanax (2mg #60); Respondent documents state the following: "cough x 1wk; fever resolved; +

1 HA; L arm pain 5/10,” but there is no documentation or notes regarding any examination of
2 Patient G’s arm.

3 53. On or about December 18, 2012, Respondent failed to properly document within
4 Patient G’s evaluation this patient’s past medical history and treatment; specifically, Respondent
5 failed to indicate that Patient G was previously seen by Dr. Lee (in Las Vegas, NV) and treated for
6 chronic regional pain syndrome after an open reduction and internal fixation of his left wrist;
7 Patient G received surgery and physical therapy in 2008 and had a nerve block performed
8 postoperatively.

9 54. On or about December 18, 2012 through November 13, 2013, Respondent did not
10 provide the details (nature of pain, current and past treatments for pain or underlying or coexisting
11 diseases) of his treatment to Patient G.

12 55. On or about November 13, 2013, Patient G had a motor accident.

13 56. On December 13, 2013, Patient G complained of back and neck pain, neck popping
14 and headaches to Respondent, who failed to conduct any examination of Patient G’s neck or back
15 during this visit; Respondent prescribed treatment with Roxicodone (30mg #180) and MS Contin
16 (20mg #60).

17 57. On or about March 7, 2014, Respondent failed to provide adequate follow-up
18 surveillance and repeat assessments regarding Patient G’s condition and conducted no
19 examination of Patient G’s neck or back on this specific visit.

20 58. Based upon the aforementioned, Respondent violated the standard of care in
21 treating Patient G, and, engaged in malpractice when Respondent failed to use the reasonable care,
22 skill, or knowledge ordinarily used under similar circumstances.

23 **PATIENT H**

24 59. Patient H was a 33-year-old male at the time of the events at issue. His true identity
25 is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served
26 upon Respondent along with a copy of this Complaint.

27 60. The expert’s review of Patient H’s medical record concluded that Respondent
28 violated the standard of care in the treatment of Patient H’s chronic pain and left arm pain; and, in

1 failing to properly conduct a complete initial evaluation as the documentation was abbreviated,
2 incomplete without any prior medical history (surgical, medication, social, family, review of
3 systems and laboratory results).

4 61. On or about December 18, 2012, Patient H complained of “chronic R shoulder
5 pain” to Respondent, who treated and prescribed monthly Roxicodone (30mg #160), Lortab
6 (10/500 #120), Soma (350mg #90) and Xanax (2mg #30)(Note: however, Nevada Prescription
7 Monitoring Service indicates #60).

8 62. On or September 11, 2010, Patient H’s X-ray showed a comminuted left clavicular
9 structure and left 2nd, 3rd, and 4th rib fractures.

10 63. On or about January 21, 2013, Respondent did conduct an examination of
11 Patient H’s shoulder, and that is the only documented examination conducted by Respondent.

12 64. On or about December 18, 2012 through April 16, 2014, Respondent prescribed
13 treatment to Patient H with monthly Xanax (2mg #60), which is potentially addictive and a class
14 IV controlled substance used to treat anxiety and panic disorder; Respondent failed to provide any
15 recommendation for additional corrective measures; and failed to provide documentation
16 indicating that Patient H had either Generalized Anxiety Disorder or Panic Disorder, but
17 Respondent still prescribed this drug without a proper diagnosis.

18 65. On or about December 18, 2012 through April 16, 2014, Respondent failed to
19 provide adequate follow-up surveillance and repeat assessments to make sure the Procedure was
20 adequate for Patient H’s condition on subsequent evaluations conducted by Respondent.

21 66. Based upon the aforementioned, Respondent violated the standard of care in
22 treating Patient H, and, engaged in malpractice when Respondent failed to use the reasonable care,
23 skill, or knowledge ordinarily used under similar circumstances.

24 **PATIENT I**

25 67. Patient I was a 48 year-old female at the time of the events at issue. Her true
26 identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation
27 served upon Respondent along with a copy of this Complaint.

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1 76. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
2 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge
3 ordinarily used under similar circumstances, is grounds for discipline.

4 77. As demonstrated by, but not limited to, the above-outlined facts, Respondent
5 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
6 Patient A' s cervical, thoracic, and lumbar spine pain, shoulder and knee pain when Respondent:

7 i) failed to do an examination of Patient's back, shoulder and knee by conducting an evaluation of
8 the aforementioned pain, including the Patient's history and review of systems, ii) failed to do a
9 neurological examination that should have included an examination of the affected body part and
10 to assess for the presence and the severity of neurologic deficits, and, iii) failed to properly
11 document any type of examination regarding Patient's condition; thus, Respondent violated the
12 standard of care² for the treatment and evaluation of Patient A's pain from three (3) different body
13 locations.

14 78. As demonstrated by, but not limited to, the above-outlined facts, Respondent
15 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
16 Patient A's hypertension (high blood pressure) when Respondent: i) provided no medication
17 adjustment to Patient A's Lisinopril (20/25mg), ii) provided no comment regarding this elevated
18 blood pressure, no patient counseling, no recheck of the blood pressure, and, iii) performed no
19 laboratory tests or EKG. Thus, Respondent violated the standard of care³ for the treatment and
20 evaluation of Patient A's widely fluctuating blood pressures.

21 79. As demonstrated by, but not limited to, the above-outlined facts, Respondent
22 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
23 Patient A's cough by prescribing a potent narcotic medication without a diagnosis or physical
24 examination of Patient A's upper body and cough; thus, Respondent violated the standard of care
25 for the treatment and evaluation of Patient A's cough.

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28 ² Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline
from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

³ JAMA 2003, 289 (19) 2560-2572. Seventh Report of the Joint National Committee of Prevention, Detection,
Evaluation & Treatment of HTN, JNC 7.

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

3 **PATIENT A**

4 **COUNT II**

5 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

8 82. NRS 630.301(8) provides that the failure to offer appropriate procedures or
9 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
10 failure occurs with intent of positively influencing the financial well-being of the practitioner are
11 grounds for discipline.

12 83. As demonstrated by, but not limited to, the above-outlined facts, Respondent
13 violated NRS 603.301(8) with regard to Patient A’s medical conditions (treatment of back pain,
14 hypertension, and coughing) when Respondent failed to offer appropriate procedures or studies
15 and to provided necessary services or to refer Patient A to an appropriate provider as
16 Respondent’s failure to perform all of the aforementioned occurred with the intent of positively
17 influencing the financial well-being of the Respondent’s practice.

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

20 **PATIENT A**

21 **COUNT III**

22 **(Medical Records Violation - NRS 630.3062(1))**

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

25 86. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
26 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
27 initiating discipline against a licensee.

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1 adjustment to Patient B’s Benazepil (10mg daily), ii) provided no comment regarding this
2 elevated blood pressure, no patient counseling, no recheck of the blood pressure, and, iii) no
3 laboratory tests or EKG performed. Thus, Respondent violated the standard of care⁵ for the
4 treatment and evaluation of Patient’s widely fluctuating blood pressures.

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

7 **PATIENT B**

8 **COUNT II**

9 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

12 95. NRS 630.301(8) provides that the failure to offer appropriate procedures or
13 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
14 failure occurs with intent of positively influencing the financial well-being of the practitioner are
15 grounds for discipline.

16 96. As demonstrated by, but not limited to, the above-outlined facts, Respondent
17 violated NRS 630.301(8) with regard to Patient B’s medical conditions (treatment of back and arm
18 pain and hypertension) when Respondent failed to offer appropriate procedures or studies, to
19 provided necessary services or to refer Patient B to an appropriate provider as Respondents failure
20 to perform occurred with the intent of positively influencing the financial well-being of
21 Respondent’s practice.

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

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28 ⁵ JAMA 2003, 289 (19) 2560-2572. Seventh Report of the Joint National Committee of Prevention, Detection, Evaluation & Treatment of HTN, JNC 7.

PATIENT B

COUNT III

(Medical Records Violation - NRS 630.3062(1))

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

6 99. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
7 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
8 initiating discipline against a licensee.

9 100. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
10 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
11 of Patient B when he failed to record his care and treatment of Patient B on December 28, 2012
12 through March 29, 2013 in Patient B's medical records.

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

PATIENT C

COUNT I

(Malpractice - NRS 630.301(4))

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

20 103. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
21 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge
22 ordinarily used under similar circumstances, is grounds for discipline.

23 104. As demonstrated by, but not limited to, the above-outlined facts, Respondent
24 committed malpractice when he failed to exercise reasonable care, skill and knowledge regarding
25 Patient C's migraine headaches, bronchitis, and hypertension when Respondent: i) failed to do
26 meaningful physical examinations, order diagnostic testing, and document responses or side
27 effects to Patient C's prescribed pain medication, or test for medication toxicity, ii) prescribed
28 Soma (350mg #180) for "spasms" when Patient C did not complain about any spasms, iii) failed

1 to perform any examination of the affected body part for “spasms” that would prompt prescription
2 of this medication, iv) failed to recognize that Patient C’s blood pressure was 178/110 on January
3 1, 2013 and failed to recognize Patient C’s blood pressure was 158/104 on April 23, 2014, v)
4 failed recognize Patient C’s hypertension, vi) failed to adjust blood pressure medications
5 (Metoprolol ER 50mg daily, Benazepril/Amlodipine 5/10 mg daily), vii) failed to provide any
6 hypertension/high blood pressure any treatment or discussion about lifestyle changes, weight loss
7 if needed, adjusting or adding medications, performing an EKG, performing a chest X-ray,
8 assessing for organ damage with laboratory tests and making referral to a specialists as needed,
9 viii) failed to provide a diagnosis for the large quantity of cough syrup, especially when
10 considering all of the other narcotics Patient C was already prescribed (Roxicodone 30mg tid
11 #90), and, x) failed to perform evaluation regarding the etiology of the cough. All of the
12 aforementioned Respondent’s acts and omissions are below the standard of care as previously
13 cited.

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

16 **PATIENT C**

17 **COUNT II**

18 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

21 107. NRS 630.301(8) provides that the failure to offer appropriate procedures or
22 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
23 failure occurs with intent of positively influencing the financial well-being of the practitioner are
24 grounds for discipline.

25 108. As demonstrated by, but not limited to, the above-outlined facts, Respondent
26 violated NRS 630.301(8) with regard to Patient C’s medical conditions (headaches, bronchitis and
27 hypertension) when Respondent failed to offer appropriate procedures or studies, to provide
28 necessary services or to refer Patient C to an appropriate provider as Respondents failure to

1 perform occurred with the intent of positively influencing the financial well-being of
2 Respondent's practice.

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

5 **PATIENT C**

6 **COUNT III**

7 **(Medical Records Violation - NRS 630.3062(1))**

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

10 111. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
11 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
12 initiating discipline against a licensee.

13 112. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
14 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
15 of Patient C when he failed to record his care and treatment of Patient C on February 13, 2009
16 through June 10, 2013 in Patient C's medical records.

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

19 **PATIENT D**

20 **COUNT I**

21 **(Malpractice - NRS 630.301(4))**

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

24 115. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
25 failure of a physician, in treating a patient, to use the reasonable care, skill and knowledge,
26 ordinarily used under similar circumstances, is grounds for discipline.

27 116. As demonstrated by, but not limited to, the above-outlined facts, Respondent
28 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding

1 Patient D's chronic right knee pain, and, chronic thoracic & lumbar spine pain when Respondent:
2 i) failed to do an examination of Patient D's back and knee by conducting an evaluation of the
3 aforementioned pain, including the Patient D's history and review of systems, ii) failed to do a
4 neurological examination that should have included an examination of the affected body part and
5 to assess for the presence and the severity of neurologic deficits, and, iii) failed to properly
6 document any type of examination regarding Patient's condition. Thus, Respondent violated the
7 standard of care⁶ for the treatment and evaluation of Patient D's pain from two (2) different body
8 locations.

9 117. As demonstrated by, but not limited to, the above-outlined facts, Respondent
10 committed malpractice when he failed to exercise reasonable care, skill or knowledge when
11 Respondent: i) failed to provide any documented diagnosis for his treatment of Patient D with the
12 Adderall, which is generally used to treat Narcolepsy or Adult Deficit Hyperactive Disorder
13 (ADHD); there was no etiology for the knee pain, the thoracic or lumbar back pain; and, ii)
14 Respondent failed to provide any referral to Patient D for further diagnosis and/or treatment to an
15 orthopedics, physical therapy or pain management specialist – all to be expected with pain of this
16 intensity.

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

19 PATIENT D

20 COUNT II

21 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

24 120. NRS 630.301(8) provides that the failure to offer appropriate procedures or
25 studies, to provide necessary services or to refer a patient to an appropriate provider, when the
26 failure occurs with intent of positively influencing the financial well-being of the practitioner are
27 grounds for discipline.

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⁶ Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

1 121. As demonstrated by, but not limited to, the above-outlined facts, Respondent
2 violated NRS 630.301(8) with regard to Patient D's medical conditions (treatment of back pain &
3 prescribing anti-anxiety medications) when Respondent failed to offer appropriate procedures or
4 studies, to provided necessary services or to refer Patient D to an appropriate provider as
5 Respondents failure to perform occurred with intent of positively influencing the financial well-
6 being of Respondent's practice.

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

9 **PATIENT D**

10 **COUNT III**

11 **(Medical Records Violation - NRS 630.3062(1))**

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

14 124. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
15 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
16 initiating discipline against a licensee.

17 125. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
18 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
19 of Patient D when he failed to record his care and treatment of Patient D on December 31, 2012
20 through August 6, 2013 in Patient D's medical records.

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

23 **PATIENT E**

24 **COUNT I**

25 **(Malpractice - NRS 630.301(4))**

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

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1 128. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
2 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge
3 ordinarily used under similar circumstances, is grounds for discipline.

4 129. As demonstrated by, but not limited to, the above-outlined facts, Respondent
5 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
6 Patient E' s thoracic and lumbar spine pain after suffering through three (3) motor vehicle
7 accidents when Respondent: i) failed to do an examination of Patient E's back by conducting an
8 evaluation of the aforementioned pain, including the Patient E's medical history and review of
9 systems, ii) failed to do a neurological examination that should have included an examination of
10 the affected body part and to assess for the presence and the severity of neurologic deficits, and,
11 iii) failed to properly document any type of examination regarding Patient's condition. Thus,
12 Respondent violated the standard of care⁷ for the treatment and evaluation of Patient's pain from
13 three (3) different body locations.

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

16 **PATIENT E**

17 **COUNT II**

18 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

21 132. NRS 630.301(8) provides that the failure to offer appropriate procedures or
22 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
23 failure occurs with intent of positively influencing the financial well-being of the practitioner are
24 grounds for discipline.

25 133. As demonstrated by, but not limited to, the above-outlined facts, Respondent
26 violated NRS 630.301(8) with regard to Patient E's medical conditions (treatment of back pain)
27 when Respondent failed to offer appropriate procedures or studies, to provided necessary services
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⁷ Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

1 or to refer Patient E to an appropriate provider as Respondents failure to perform occurred with
2 intent of positively influencing the financial well-being of Respondent's practice.

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

5 **PATIENT E**

6 **COUNT III**

7 **(Medical Records Violation - NRS 630.3062(1))**

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

10 136. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
11 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
12 initiating discipline against a licensee.

13 137. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
14 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
15 of Patient E when he failed to record his care and treatment of Patient E on December 17, 2012
16 through April February 12, 2010 in Patient E's medical records.

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

19 **PATIENT F**

20 **COUNT I**

21 **(Malpractice - NRS 630.301(4))**

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

24 140. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
25 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge,
26 ordinarily used under similar circumstances, is grounds for discipline.

27 141. As demonstrated by, but not limited to, the above-outlined facts, Respondent
28 committed malpractice when he failed to exercise reasonable care, skill and knowledge regarding

1 Patient F' s cervical, thoracic, and lumbar spine pain when Respondent: i) failed to do an
2 examination of Patient F's back by conducting an evaluation of the aforementioned pain,
3 including Patient F's history and review of systems, ii) failed to do a neurological examination
4 that should have included an examination of the affected body part and to assess for the presence
5 and the severity of neurologic deficits, and, iii) failed to properly document any type of
6 examination regarding Patient's condition. Thus, Respondent violated the standard of care⁸ for
7 the treatment and evaluation of Patient F's pain from different body locations.

8 142. As demonstrated by, but not limited to, the above-outlined facts, Respondent
9 committed malpractice when he failed to exercise reasonable care, skill or knowledge when
10 Respondent: i) treated Patient F, who did not complain of anxiety or panic attack, by prescribing
11 Xanax (#90/monthly), ii) provided no objective findings of nervousness, iii) provided
12 documentation within Patient F's medical charts; iv) performed no laboratory tests to evaluate for
13 the presence of anemia or thyroid disorder or a metabolic cause of anxiety in Patient F. Thus,
14 Respondent violated the standard of care for the treatment and evaluation of Patient F, who did not
15 complain anxiety, yet Respondent prescribed a high dose of an addictive class IV medication in
16 the Benzodiazepine class, because a patient who has an anxiety disorder would be referred to a
17 therapist for further therapy, such as cognitive behavior therapy, in conjunction with medication.

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

20 **PATIENT F**

21 **COUNT II**

22 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

25 145. NRS 630.301(8) provides that the failure to offer appropriate procedures or
26 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
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28 ⁸ Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

1 failure occurs with intent of positively influencing the financial well-being of the practitioner are
2 grounds for discipline.

3 146. As demonstrated by, but not limited to, the above-outlined facts, Respondent
4 violated NRS 630.301(8) with regard to Patient F's medical conditions (treatment of back pain
5 and anxiety/nervousness) when Respondent failed to offer appropriate procedures or studies, to
6 provided necessary services or to refer Patient F to an appropriate provider as Respondents failure
7 to perform occurred with intent of positively influencing the financial well-being of Respondent's
8 practice.

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

11 **PATIENT F**

12 **COUNT III**

13 **(Medical Records Violation - NRS 630.3062(1))**

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

16 149. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
17 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
18 initiating discipline against a licensee.

19 150. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
20 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
21 of Patient F when he failed to record his care and treatment of Patient F on December 19, 2012
22 2009 through April 16, 2014 in Patient F's medical records.

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

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PATIENT G

COUNT I

(Malpractice - NRS 630.301(4))

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

6 153. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
7 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge,
8 ordinarily used under similar circumstances, is grounds for discipline.

9 154. As demonstrated by, but not limited to, the above-outlined facts, Respondent
10 committed malpractice when he failed to exercise reasonable care, skill and knowledge regarding
11 Patient G's left arm pain and chronic back pain when Respondent: i) failed to do an examination
12 of Patient G's knee and back by conducting an evaluation of the aforementioned pain, including
13 the Patient G's history and review of systems, ii) failed to do a neurological examination that
14 should have included an examination of the affected body parts and to assess for the presence and
15 the severity of neurologic deficits, and, iii) failed to properly document any type of examination
16 regarding Patient G's condition. Thus, Respondent violated the standard of care⁹ for the treatment
17 and evaluation of Patient's pain from two (2) different body locations.

18 155. As demonstrated by, but not limited to, the above-outlined facts, Respondent
19 committed malpractice when he failed to exercise reasonable care, skill or knowledge when
20 Respondent: i) treated Patient G, who did not complain of anxiety or panic attack, by prescribing
21 Xanax (#90/monthly), ii) provided no objective findings of nervousness, iii) provided no
22 documentation within Patient G's medical charts; and, iv) no laboratory tests to evaluate for the
23 presence of anemia or thyroid disorder or a metabolic cause of anxiety in Patient G. Thus,
24 Respondent violated the standard of care for the treatment and evaluation of Patient G, who did
25 not complain anxiety, yet Respondent prescribed a high dose of an addictive class IV medication
26 in the Benzodiazepine class, because a patient who has an anxiety disorder would be referred to a
27 therapist for further therapy such as cognitive behavior therapy in conjunction with medication.

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⁹ Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

1 163. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
2 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
3 of Patient G when he failed to record his care and treatment of Patient G on December 18, 2012
4 through March 7, 2014 in Patient G's medical records.

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

7 **PATIENT H**

8 **COUNT I**

9 **(Malpractice - NRS 630.301(4))**

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

12 166. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
13 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge,
14 ordinarily used under similar circumstances, is grounds for discipline.

15 167. As demonstrated by, but not limited to, the above-outlined facts, Respondent
16 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
17 Patient H's chronic pain and left arm when Respondent: i) failed to do an examination of Patient
18 H's back by conducting an evaluation of the aforementioned pain, including the Patient's history
19 and review of systems, ii) failed to do a neurological examination that should have included an
20 examination of the affected body part and to assess for the presence and the severity of neurologic
21 deficits, and, iii) failed to properly document any type of examination regarding Patient H's
22 condition. Thus, Respondent violated the standard of care for the treatment and evaluation of
23 Patient's pain.

24 168. As demonstrated by, but not limited to, the above-outlined facts, Respondent
25 committed malpractice when he failed to exercise reasonable care, skill and knowledge when
26 Respondent: i) treated Patient H, who did not complain of anxiety or panic attack, by prescribing
27 Xanax (#90/monthly), ii) provided no objective findings of nervousness, iii) no documentation
28 within Patient H's medical charts; and, iv) provided no laboratory tests to evaluate for the

1 presence of anemia or thyroid disorder or a metabolic cause of anxiety in Patient H. Thus,
2 Respondent violated the standard of care for the treatment and evaluation of Patient H, who did
3 not complain anxiety, yet Respondent prescribed a high dose of an addictive class IV medication
4 in the Benzodiazepine class, because a patient who has an anxiety disorder would be referred to a
5 therapist for further therapy such as cognitive behavior therapy in conjunction with medication.

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

8 **PATIENT H**

9 **COUNT II**

10 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

13 171. NRS 630.301(8) provides that the failure to offer appropriate procedures or
14 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
15 failure occurs with intent of positively influencing the financial well-being of the practitioner are
16 grounds for discipline.

17 172. As demonstrated by, but not limited to, the above-outlined facts, Respondent
18 violated NRS 630.301(8) with regard to Patient H's medical conditions (treatment of shoulder
19 pain) when Respondent failed to offer appropriate procedures or studies, to provided necessary
20 services or to refer Patient H to an appropriate provider as Respondents failure to perform
21 occurred with intent of positively influencing the financial well-being of the Respondent's
22 practice.

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

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1 **PATIENT H**

2 **COUNT III**

3 **(Medical Records Violation - NRS 630.3062(1))**

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

6 175. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
7 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
8 initiating discipline against a licensee.

9 176. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
10 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
11 of Patient H when he failed to record his care and treatment of Patient H on December 18, 2012
12 through April 16, 2014 in Patient H's medical records.

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

15 **PATIENT I**

16 **COUNT I**

17 **(Malpractice - NRS 630.301(4))**

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

20 179. NRS 630.301(4) provides that malpractice, as defined in NAC 630.040, means the
21 failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge,
22 ordinarily used under similar circumstances, is grounds for discipline.

23 180. As demonstrated by, but not limited to, the above-outlined facts, Respondent
24 committed malpractice when he failed to exercise reasonable care, skill or knowledge regarding
25 Patient I's thoracic and lumbar spine pain when Respondent: i) failed to do an examination of
26 Patient I's back by conducting an evaluation of the aforementioned pain, including the Patient I's
27 history and review of systems, ii) failed to do a neurological examination that should have
28 included an examination of the affected body part and to assess for the presence and the severity

1 of neurologic deficits, and, iii) failed to properly document any type of examination regarding
2 Patient's condition. Thus, Respondent violated the standard of care¹⁰ for the treatment and
3 evaluation of Patient's pain.

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

6 **PATIENT I**

7 **COUNT II**

8 **(Failure to Provide Procedures, Studies, Services, Referrals – NRS 630.301(8))**

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

11 183. NRS 630.301(8) provides that the failure to offer appropriate procedures or
12 studies, to provided necessary services or to refer a patient to an appropriate provider, when the
13 failure occurs with intent of positively influencing the financial well-being of the practitioner are
14 grounds for discipline.

15 184. As demonstrated by, but not limited to, the above-outlined facts, Respondent
16 violated NRS 630.301(8) with regard to Patient I's medical conditions (treatment of back pain)
17 when Respondent failed to offer appropriate procedures or studies, to provide necessary services
18 or to refer Patient I to an appropriate provider, as Respondents failure to perform occurred with
19 intent of positively influencing the financial well-being of Respondent's practice.

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

22 **PATIENT I**

23 **COUNT III**

24 **(Medical Records Violation - NRS 630.3062(1))**

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

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¹⁰ Chou R., Qaseen A., Snow V., et al. Diagnosis & Treatment of Low Back Pain: A Joint Clinical Practical Guideline from the American College of Physician & American Pain Society. Ann Internal Med 2007; 147: 478-491.

1 187. NRS 630.3062(1) provides that the failure to maintain timely, legible, accurate and
2 complete medical records relating to the diagnosis, treatment and care of a patient is grounds for
3 initiating discipline against a licensee.

4 188. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
5 to maintain accurate and/or complete medical records relating to the diagnosis, treatment and care
6 of Patient I when he failed to record his care and treatment of Patient I on February 11, 2013
7 through April 25, 2014 in Patient I's medical records.

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

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

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

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

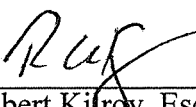
16 3. That the Board determines the sanctions it will impose if it finds Respondent
17 violated the Medical Practice Act;

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

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

22 DATED this 22 day of January, 2016.

23
24 INVESTIGATIVE COMMITTEE OF THE
25 NEVADA STATE BOARD OF MEDICAL EXAMINERS

26 By: 
27 Robert Kilroy, Esq.
28 General Counsel for the Board
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

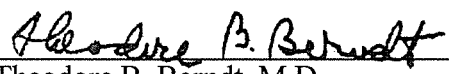
VERIFICATION

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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 she is the Chair 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 based upon information discovered during the course of the investigation into a complaint against Respondent, he believes the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

Dated this 22nd day of January, 2016.



Theodore B. Berndt, M.D.

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

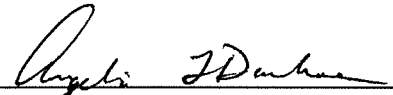
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CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 22nd day of January 2016; I served a file stamp copy of the FIRST AMENDED COMPLAINT, via USPS e-certified mail to the following:

Robert Feingold, M.D.
c/o Harold Gewerter, Esq.
1212 South Center Blvd.
Las Vegas, NV 89104

Dated this 22nd day of January, 2016.



Angella L. Donohoe
Legal Assistant