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

\* \* \* \* \*

In the Matter of Charges and

**Complaint Against** 

Kiarash L. Mirkia, M.D.,

Respondent.

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Case No. 17-32904-1

FILED

SEP 2 7 2017

**NEVADA STATE BOARD OF** MEDICAL EXAMINERS

### **COMPLAINT**

The Investigative Committee<sup>1</sup> (IC) of the Nevada State Board of Medical Examiners, hereby issues this formal Complaint against Kiarash L. Mirkia, M.D. (hereinafter referred to as Dr. Mirkia or 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:

1. Respondent is currently licensed in active status (License No. 12548). Respondent was issued his license from the Nevada State Board of Medical Examiners on December 1, 2007, pursuant to NRS Chapter 630.

### Respondent's Misrepresentations in Renewing His License

On August 6, 2013, Sunrise Hospital & Medical Center (Sunrise Hospital) 2. summarily suspended Respondent's medical staff member and clinical privileges at Sunrise Hospital. The basis for this suspension was a complaint received by Sunrise Hospital alleging Respondent engaged in inappropriate behavior of a sexual nature on hospital premises.

<sup>&</sup>lt;sup>1</sup> The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of this Complaint was approved, was composed of Wayne Hardwick, M.D., Theodore B. Berndt, M.D., and Mr. M. Neil Duxbury.

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3. On his 2015 License Renewal Application dated June 20, 2015, Respondent answered "NO" to the following question: "Have you had hospital staff privileges denied, suspended, limited, revoked or not renewed by the hospital, including any and all resignations from any medical staff in lieu of disciplinary or administrative action?"

### Count I

### NRS 630.304(1)

### (Renewing License By Fraud or Misrepresentation)

- 4. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 5. NRS 630.304(1) provides that obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement is grounds for initiating disciplinary action.
- 6. Respondent renewed his license to practice medicine in 2015 by misrepresentation and by a false, misleading and inaccurate statement when he answered "NO" to the question set forth in paragraph 3 above; when, in fact, his medical staff member and clinical privileges had been suspended by Sunrise Hospital on August 6, 2013.
- 7. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

### Respondent's Improper Patient Care and Recordkeeping В.

8. Beginning in or before October, 2014, Respondent began prescribing various controlled substances and prescription drugs to his wife, Poupak Ziaei, M.D. (Ziaei), for unspecified conditions, including Phentermine, Topiramate, Buproprion and Escitalopram. Respondent prescribed Phentermine, a Schedule IV controlled substance pursuant to NAC 453.540(5), to Ziaei at least three times, on August 27, 2015, November 22, 2015, and January 24, 2016, which prescriptions were filled on August 27, 2015 (a thirty-day supply), September 28, 2015 (a thirty-day supply), October 30, 2015 (a thirty-day supply), November 22, 2015 (a thirtyday supply), December 23, 2015 (a thirty-day supply), and January 24, 2016 (a thirty-day supply).

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- 9. Respondent did not maintain any medical records of any kind for Ziaei related to his diagnosis, treatment and care of Ziaei.
- 10. At all relevant times, Respondent was a general surgeon specializing in critical care.

### **Count II**

### NRS 630.306(1)(b)(3)

### (Engaging in Conduct in Violation of Regulations Adopted by the State Board of Pharmacy)

- 11. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 12. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the State Board of Pharmacy is grounds for initiating disciplinary action.
- Respondent violated regulations adopted by the State Board of Pharmacy when he 13. prescribed Phentermine, a Schedule IV controlled substance pursuant to NAC 453.540(5), to Ziaei without medical records that reflect a legitimate medical purpose and outside the usual course of his professional practice as a general surgeon specializing in critical care, in violation of NRS 453.381(1).
- 14. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

### Count III

### NRS 630.306(1)(b)(3)

### (Engaging in Conduct in Violation of Regulations Adopted by the State Board of Pharmacy)

- 15. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 16. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the State Board of Pharmacy is grounds for initiating disciplinary action.
- 17. Respondent violated regulations adopted by the State Board of Pharmacy when he prescribed the drugs Phentermine, Topiramate, Buproprion and Escitalopram to Ziaei without medical records that reflect a bona fide patient relationship, in violation of NAC 639.945(1)(0),

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which prohibits prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

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

### Count IV

### NRS 630.306(1)(b)(3)

### (Engaging in Conduct in Violation of Regulations Adopted by the State Board of Pharmacy)

- 19. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 20. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the State Board of Pharmacy is grounds for initiating disciplinary action.
- 21. NRS 639.23507 mandates that a practitioner, before prescribing a controlled substance listed in schedule II, III or IV, obtain a patient utilization report regarding the patient from the computerized program established by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety pursuant to NRS 453.162 if: (a) the patient is a new patient of the practitioner; or (b) the prescription is for more than seven days and is part of a new course of treatment for the patient.
- 22. Respondent prescribed Phentermine, a Schedule IV controlled substance pursuant to NAC 453.540(5), to Ziaei for a period of more than seven days without obtaining and without attempting to obtain a patient utilization report.
- By reason of the foregoing, Respondent is subject to discipline by the Nevada State 23. Board of Medical Examiners as provided in NRS 630.352.

### Count V

### NRS 630.3062(1)

### (Failure to Maintain Timely, Legible, Accurate and Complete Medical Records)

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

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25. NRS 630.3062(1) provides that failure to maintain timely, legible, acc	urate and
complete medical records relating to the diagnosis, treatment and care of a patient is gr	ounds for
initiating disciplinary action.	

- 26. Respondent treated Ziaei for various, unspecified, non-emergent medical conditions and repeatedly prescribed several drugs, including a controlled substance, without maintaining medical records of any kind related to his diagnosis, treatment and care.
- 27. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in NRS 630.352.

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

- 1. That the Nevada State Board of Medical Examiners give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;
- 2. That the Nevada State Board of Medical Examiners set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
- 3. That the Nevada State Board of Medical Examiners determine what sanctions to impose if it determines there has been a violation or violations of the Medical Practice Act committed by Respondent;
- 4. That the Nevada State Board of Medical Examiners make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and
- That the Nevada State Board of Medical Examiners take such other and further 5. action as may be just and proper in these premises.

DATED this 27 day of September, 2017.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

Robert Kilroy, Esq., General Counsel Aaron Bart Fricke, Esq., Deputy General Counsel Attorneys for the Investigative Committee

# OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

Nevada State Board of Medical Examiners 1105 Terminal Way #301

### **VERIFICATION**

STATE OF NEVADA	)
COUNTY OF WASHOE	: ss. )

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

DATED this 27th day of September, 2017.

Wayne Hardwick, M.D.

# 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 the Nevada State Board of Medical Examiners and that on the 27<sup>th</sup> day of September, 2017, I served a file-stamped copy of the COMPLAINT and FINGERPRINT INFORMATION, via USPS e-certified return receipt mail (9171 9690 0935 0096 3210 24) to the following:

Kirash L. Mirkia, M.D. 9050 West Warm Springs Road, Suite 2179 Las Vegas, NV 89148

DATED this 27<sup>th</sup> day of September, 2017.

Kimberly Rosling, Employee