

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

3 * * * * *

4 **In the Matter of Charges and**
5 **Complaint Against**
6 **IVAN LEE GOLDSMITH, M.D.,**
7 **Respondent.**

Case No. 18-8756-1

FILED

OCT 17 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9 **COMPLAINT**

10 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board)
11 hereby issues this formal Complaint (Complaint) against Ivan Lee Goldsmith, M.D. (Respondent), a
12 physician licensed in Nevada. After investigating this matter, the IC has a reasonable basis to
13 believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and
14 Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC
15 alleges the following facts:

16 **A. Respondent's Violations of Nevada Prescribing Laws, and the Nevada State Board of**
17 **Pharmacy's Disciplinary Action.**

18 1. Respondent is a physician licensed to practice medicine in the State of Nevada
19 (License No. 6116). He has been continuously licensed by the Board since August 25, 1990.

20 2. Respondent held both a Controlled Substance Registration, Certificate
21 No. CS20816, and a Practitioner Dispensing Registration, Certificate No. PD00413, issued by the
22 Nevada State Board of Pharmacy (Pharmacy Board) at the time of the events set forth herein in
23 this Section A.

24 3. On Wednesday, September 5, 2018, in Reno, Nevada, the Pharmacy Board held a
25 formal disciplinary hearing in Pharmacy Board Case No. 17-101-CS-S, pertaining to allegations
26 by the Pharmacy Board against Respondent. Pursuant to the final disciplinary order of the
27

28 ¹ The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal
 Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M.
 Neil Duxbury, and Aury Nagy, M.D.

1 Pharmacy Board, dated September 13, 2018 (Pharmacy Board Order), the Pharmacy Board made
2 formal findings of fact, *inter alia*, as follows:

- 3 a. On December 9, 2013, the Pharmacy Board granted Respondent an account for
4 Internet access to the Nevada Prescription Monitoring Program (PMP) for purposes
5 authorized under federal and state law.
- 6 b. Before receiving access, Respondent signed a Practitioner Certification Statement
7 on December 6, 2013, stating that he understood and agreed under penalty of
8 perjury that he was responsible for all patient information transmitted from his
9 account, that he would treat PMP information as confidential, that he would protect
10 any PMP information in his possession or control in accordance with federal and
11 state laws governing health care information, and that he would safeguard his
12 password and not share his login credentials with any other person.
- 13 c. Stephen Paddock (Paddock) was the perpetrator of the October 1, 2017, Las Vegas
14 mass shooting, and committed suicide immediately after the incident, sometime
15 before midnight.
- 16 d. On or about October 2, 2017, Respondent verified through his office electronic
17 medical records system (EMR) that Paddock was never his patient.
- 18 e. From October 2, 2017, at 9:25 a.m., to October 3, 2017, at 2:20 p.m., Respondent's
19 PMP account was used to query the PMP database five separate times using
20 different search parameters for each query, to access Paddock's confidential patient
21 information, and to obtain patient utilization reports detailing Paddock's
22 prescription-controlled substance utilization history.
- 23 f. The fourth search, conducted on October 3, 2017, at 10:18 a.m., yielded specific
24 prescription information regarding two prescriptions for Paddock filled at
25 Evergreen Drugs in Henderson, Nevada in 2016, and at a Walgreens pharmacy in
26 Reno, Nevada, in 2017.
- 27 g. On October 3, 2017 at 9:00 p.m., the Las Vegas Review-Journal published an
28 article written by reporter Paul Harasim. That article purported to include

- 1 Paddock's confidential patient information, including information about the two
2 prescriptions, which the reporter attributed to and obtained from the PMP.
- 3 h. The Las Vegas Review-Journal updated the article on October 4, 2017, at 10:00
4 a.m., to reference specific prescription data and prescriber information related to
5 Paddock from June 7, 2016, and June 21, 2017.
- 6 i. Respondent's PMP account is the only possible source for the details in the Las
7 Vegas Review-Journal article that are attributed to the PMP, because only the
8 fourth search from his PMP account corresponds to the dates and time frames
9 specified in the article.
- 10 j. On or about November 8, 2017, Respondent, through his counsel, Jacob L. Hafter,
11 Esq., filed an Amended Declaration with the Eighth Judicial District Court of Clark
12 County, Nevada, in Case No. A-17-762877-W, in which Respondent admits to
13 directing his office staff to use his PMP account to query Paddock's confidential
14 patient information and to obtain patient utilization reports on October 2, 2017, and
15 again on October 3, 2017.
- 16 k. In his Amended Declaration, Respondent also admits to routinely allowing his staff
17 to use his PMP account to query the PMP on his behalf.
- 18 4. Pursuant to the Pharmacy Board Order, the Pharmacy Board made conclusions of
19 law, *inter alia*, as follows:
- 20 a. By accessing or directing his staff to access Paddock's confidential data in the PMP
21 database, when Paddock was deceased and never his patient, and by obtaining
22 Paddock's patient utilization report, Respondent performed his duties as the holder
23 of a Nevada Controlled Substance Registration in an incompetent, unskillful or
24 negligent manner and engaged in unprofessional conduct or conduct contrary to the
25 public interest pursuant to NAC 639.945(1)(i). Respondent's Controlled Substance
26 Registration, Certificate of Registration No. CS20816, and Practitioner Dispensing
27 Registration, Certificate No. PD00413, are therefore subject to discipline pursuant
28 to NRS 639.210(4) and NRS 639.255.

- 1 b. By accessing or directing his staff to access Paddock’s confidential data in the PMP
2 database, when Paddock was deceased and never his patient, and by obtaining
3 Paddock’s patient utilization report, Respondent violated the HIPAA Privacy Rule.
4 His Controlled Substance Registration, Certificate of Registration No. CS20816,
5 and Practitioner Dispensing Registration, Certificate No. PD00413, are therefore
6 subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.
- 7 c. By accessing or directing his staff to access Paddock’s confidential data in the PMP
8 database, when Paddock was deceased and never his patient, and by obtaining
9 Paddock’s patient utilization report, Respondent violated, attempted to violate,
10 assisted or abetted in the violation of, or conspired to violate NRS 453.164(7)
11 and/or the HIPAA Privacy Rule. His Controlled Substance Registration, Certificate
12 of Registration No. CS20816, and Practitioner Dispensing Registration, Certificate
13 No. PD00413, are therefore subject to discipline pursuant to NRS 639.210(12) and
14 NRS 639.255.
- 15 d. By disclosing, or allowing to be disclosed, to the Las Vegas Review-Journal and/or
16 writer Paul Harasim Paddock’s confidential PMP data and patient utilization report,
17 which were accessed only by Respondent’s PMP account on October 2 and
18 October 3, 2017, Respondent violated state and federal law, including the HIPAA
19 Privacy Rule and NRS 639.164(7). His Controlled Substance Registration,
20 Certificate of Registration No. CS20816, and Practitioner Dispensing Registration,
21 Certificate No. PD00413, are therefore subject to discipline pursuant to NRS
22 639.210(4), (11) and (12) as well as NRS 639.255.
- 23 e. By accessing or directing his staff to access Paddock’s confidential data in the PMP
24 database, when Paddock was deceased and never his patient, and by obtaining
25 Paddock’s patient utilization report, Respondent committed an act that would
26 render his Nevada Controlled Substance Registration inconsistent with the public
27 interest pursuant to NRS 453.231, and is subject to discipline pursuant to NRS
28 453.236(l)(d) and NRS 453.241(1).

1 8. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation
2 adopted by the Pharmacy Board is grounds for initiating disciplinary action.

3 9. By the misconduct set forth in the Pharmacy Board Order, which order is
4 conclusive evidence of its occurrence, Respondent engaged in conduct that violates regulations
5 adopted by the Pharmacy Board, specifically including but not limited to NAC 639.945(1)(i).

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

8 **COUNT II**

9 **NRS 630.301(9) (Disreputable Conduct)**

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

12 12. Pursuant to NRS 630.346(4), in any disciplinary hearing, a certified copy of the
13 record of a licensing agency showing a conviction or plea of nolo contendere or the suspension,
14 revocation, limitation, modification, denial or surrender of a license to practice medicine is
15 conclusive evidence of its occurrence.

16 13. Conduct that brings the medical profession into disrepute is grounds for discipline
17 pursuant to NRS 630.301(9), including, without limitation, conduct that violates any provision of
18 a code of ethics adopted by the Board by regulation based on a national code of ethics.

19 14. By the misconduct set forth in the Pharmacy Board Order, which order is
20 conclusive evidence of its occurrence, Respondent engaged in conduct that brings the medical
21 profession into disrepute.

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

24 **COUNT III**

25 **NRS 630.306(1)(r) (Failure to Adequately Supervise a Medical Assistant)**

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

28 17. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical

1 assistant pursuant to the regulations of the Board is an act that constitutes grounds for initiating
2 disciplinary action.

3 18. Pursuant to NAC 630.830, a delegating practitioner retains responsibility for the
4 safety and performance of each task which is delegated to a medical assistant.

5 19. By the misconduct set forth in the Pharmacy Board Order, which order is
6 conclusive evidence of its occurrence, Respondent failed to adequately supervise his medical
7 assistants in their performance of medical tasks.

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

10 **B. Respondent's Dispensing of Controlled Substances to Himself.**

11 21. Pursuant to NRS 453.256(7), an individual practitioner may not dispense a
12 substance included in schedule II, III or IV for the practitioner's own personal use except in a
13 medical emergency.

14 22. Pursuant to NAC 453.010(2), a medical "emergency" within the meaning of
15 NRS 453.256 and Nevada State Board of Pharmacy regulations means a situation in which a
16 prescribing practitioner determines that:

- 17 (a) Immediate administration of the controlled substance is
18 necessary for the proper treatment of the patient;
19 (b) No appropriate alternative treatment is available, including
20 administration of a drug which is not a controlled substance under
21 schedule II of the Uniform Controlled Substances Act; and
22 (c) It is not reasonably possible for the prescribing practitioner to
23 provide a written prescription to be presented to the person
24 dispensing the substance before he or she dispenses it.

25 23. Respondent prescribed and dispensed Phentermine 37.5 mg tablets to himself for
26 his own personal, non-emergency use on December 1, 2014, March 27, 2015, July 27, 2015, and
27 October 19, 2015.

28 24. Phentermine is a Schedule IV controlled substance pursuant to NAC 453.540(5).

29 25. Respondent prescribed and dispensed Phendimetrazine 35 mg tablets to himself for
his own personal, non-emergency use on on June 29, 2015.

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Count VI

NRS 630.3062(1)(a) (Failure to Maintain Complete Medical Records)

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

38. NRS 630.3062(1)(a) 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 discipline against a licensee.

39. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of himself.

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

COUNT VII

NRS 630.306(1)(p) (Unsafe or Unprofessional Conduct)

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

42. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board is grounds for disciplinary action against a licensee pursuant to NRS 630.306(1)(p).

43. As demonstrated by, but not limited to, the above-outlined facts, Respondent wrote prescriptions and dispensed appetite suppressants to himself in a manner that violated the professional standards for the prescription of appetite suppressants, and the Dietary Guidelines.

44. Respondent's conduct was unsafe and unprofessional.

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

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1 **C. Respondent's Violation of, and Failure to Ensure Compliance With,**
2 **Nevada Pharmacy Laws.**

3 46. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Lockette,
4 PA-C, dispensed controlled substances and dangerous drugs to patients of Respondent, from
5 Respondent's store of medications, while he was out of the country.

6 47. Respondent's physician assistants, Lindsay Hoffman, PA-C, and Adam Lockette,
7 PA-C, prescribed medication to patients of Respondent, without a bona fide therapeutic
8 relationship with said patients.

9 48. No person may prescribe and dispense controlled substances in Nevada except as
10 authorized by law. NRS 453.226; NRS 453.375(1); NRS 453.377; NRS 639.235(1);
11 NAC 639.742(1), (3) and (4); 21 CFR § 1301.11; 21 CFR § 1306.03.

12 49. NAC 639.742 states in relevant part:

13 1. A practitioner who wishes to dispense controlled substances or
14 dangerous drugs must apply to the Board on an application provided
15 by the Board for a certificate of registration to dispense controlled
substances or dangerous drugs.

16 . . .

17 3. Except as otherwise provided in NRS 639.23277 and
NAC 639.395, the dispensing practitioner and, if applicable, the
owner or owners of the facility, shall ensure that:

- 18 (a) All drugs are ordered by the dispensing practitioner;
- 19 (b) All drugs are received and accounted for by the
dispensing practitioner;
- 20 (c) All drugs are stored in a secure, locked room or cabinet
to which the dispensing practitioner has the only key or lock
21 combination;
- 22 (d) All drugs are dispensed in accordance with
NAC 639.745;
- 23 (e) No prescription is dispensed to a patient unless the
dispensing practitioner is on-site at the facility;
- 24 (f) All drugs are dispensed only to the patient personally at
the facility;

25 . . .

26 4. With regard to the filling and dispensing of a prescription at a
facility, only the dispensing practitioner or a dispensing technician
27 may:

- 28 (a) Enter the room or cabinet in which drugs are stored;
- (b) Remove drugs from stock;
- (c) Count, pour or reconstitute drugs;

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- (d) Place drugs into containers;
- (e) Produce and affix appropriate labels to containers that contain or will contain drugs;
- (f) Fill containers for later use in dispensing drugs; or
- (g) Package or repackage drugs.

50. NAC 639.945(1) provides, in pertinent part, that the following acts or practices by a holder of any license, certificate or registration issued by the Pharmacy Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

- (i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.
- (n) Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship.
- (o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

51. NAC 639.945(2) provides that the owner of any business or facility licensed, certified or registered by the Pharmacy Board is responsible for the acts of all personnel in his or her employ.

52. NAC 639.945(3) provides that, for purposes of applying Pharmacy Board regulations, a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist if the patient was examined in person, electronically or telephonically by the practitioner within the 6 months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner diagnosed a condition for which a given drug therapy is prescribed.

53. Pursuant to NAC 630.370(1)(d)(1)-(2), a supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure strict compliance with the provisions of the certificate of registration issued to his or her physician assistant by the Pharmacy Board, and Pharmacy Board regulations regarding controlled substances and dangerous drugs.

1 **Count VIII**

2 **NRS 630.306(1)(c) (Unauthorized Dispensing)**

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

5 55. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any
6 dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds
7 for discipline.

8 56. By allowing his physician assistants to dispense controlled substances and
9 dangerous drugs to patients when he was not on-site at his medical facility, Respondent violated
10 NAC 639.742 and NAC 639.945.

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

13 **Count IX**

14 **NRS 630.306(1)(c) (Unauthorized Prescribing)**

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

17 59. Pursuant to NRS 630.306(1)(c), dispensing any controlled substance, or any
18 dangerous drug as defined in chapter 454 of NRS, to others except as authorized by law is grounds
19 for discipline.

20 60. By allowing his physician assistants to prescribe medication to patients of
21 Respondent, without a bona fide therapeutic relationship with said patients, Respondent, pursuant
22 to NAC 630.370(1)(d)(1)-(2), violated NAC 639.945.

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

25 **Count X**

26 **NRS 630.3062(1)(a) (Failure to Maintain Complete Medical Records)**

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

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

4 64. Respondent failed to maintain complete and accurate medical records relating to
5 the diagnosis, treatment and care of the patients to whom Respondent and Respondent's staff
6 dispensed and prescribed controlled substances and dangerous drugs as described in this
7 Section C.

8 65. 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 Early
15 Case Conference pursuant to NRS 630.339(3);

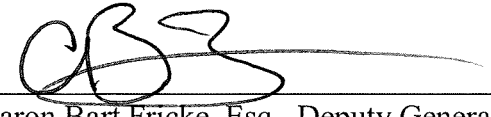
16 3. That the Board determine what sanctions to impose if it determines there has been
17 a violation or violations of the Medical Practice Act committed by Respondent;

18 4. That the Board make, issue and serve on Respondent its findings of fact,
19 conclusions of law and order, in writing, that includes the sanctions imposed; and

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

22 DATED this 17 day of October, 2018.

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

25 By: 
26 Aaron Bart Fricke, Esq., Deputy General Counsel
27 Attorney for the Investigative Committee
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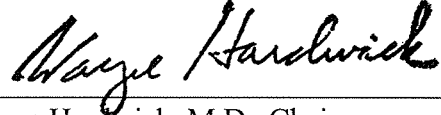
VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

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 17th day of October, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS



Wayne Hardwick, M.D., Chairman