

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

3 * * * * *

4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **DEVENDRAKUMAR I. PATEL, M.D.,**
8 **Respondent.**

Case No. 18-29352-2

FILED

FEB - 1 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

9
10 **FIRST AMENDED COMPLAINT**

11 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners
12 (Board), by and through Aaron Bart Fricke, Esq., Deputy General Counsel and attorney for the IC,
13 having a reasonable basis to believe that Devendrakumar I. Patel, M.D. (Respondent) violated the
14 provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code
15 (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating
16 the IC's charges and allegations as follows:

17 1. Respondent is a physician licensed to practice medicine in the State of Nevada
18 (License No. 11068). He was originally licensed by the Board on July 23, 2004.

19 **A. Enhanced External Counterpulsation (EECP) for the Treatment of Angina**

20 2. EECP is a noninvasive therapy developed for the treatment of end-stage angina
21 pectoris that is refractory to conventional therapy (i.e., surgery, angioplasty) for acute myocardial
22 infarction and cardiogenic shock. EECP involves the sequential compression (inflation/deflation)
23 of cuffs wrapped around the patient's calves, thighs, and buttocks. By timing the
24 inflation/deflation sequence to the patient's cardiac cycle, the intention of EECP is to increase
25 diastolic aortic pressure, thereby increasing coronary perfusion pressure possibly by enhancing the
26 development of coronary collateral circulation and reducing the workload of the heart. Treatment

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28 ¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of the
Complaint was approved, was composed of Theodore B. Berndt, M.D., Wayne Hardwick, M.D., and Mr. M. Neil
Duxbury.

1 usually consists of one-hour sessions, five days a week, for seven weeks. EECp has been
2 approved by the U.S. Food and Drug Administration (FDA) for management of refractory angina.

3 3. End-stage angina pectoris is defined as “disabling angina” (class III or class IV),
4 and is indicated for those who, in the opinion of a cardiologist or a cardiovascular surgeon, are not
5 readily amenable to surgical intervention.

6 4. Angina is the sensation of chest pain or pressure often with radiation to the left arm
7 or jaw that comes on with exertion or stress and is relieved with rest or medication. It can feel like
8 smothering shortness of breath or severe indigestion. It is caused when the heart muscle outworks
9 its blood supply.

10 5. Chronic stable angina is the occurrence of angina with predictable levels of
11 exertion, usually lasting less than five minutes. It is reproducible and usually is predictable.

12 **B. Respondent’s Treatment of Patient A**

13 6. Patient A was a 71-year-old female when she presented to Respondent for medical
14 care in November 2013. Patient A’s true identity is not disclosed herein to protect her privacy, but
15 is disclosed in the Patient Designation served upon Respondent along with a copy of this
16 Complaint.

17 7. On November 8, 2013, Patient A presented to Respondent with progressively
18 increasing malaise, fatigue, and shortness of breath at less than normal exertion. Patient A had a
19 history of coronary artery disease, diabetes, hypertension, hyperlipidemia, rheumatoid arthritis,
20 chronic pain, osteoarthritis, hypothyroidism, and prior deep venous thrombosis, and lived a
21 sedentary lifestyle. A stress test was conducted on November 13, 2013, which was abnormal. A
22 left heart catheterization, selective coronary artery angiography, and left ventriculogram were
23 performed at Northeastern Nevada Regional Hospital on November 10, 2013, which revealed
24 substantial coronary artery disease. Accordingly, coronary artery bypass surgery (CABG) was
25 performed in Salt Lake City, Utah, on December 18, 2013.

26 8. On July 18, 2014, Patient A presented to Respondent again for progressively
27 increasing shortness of breath and fatigue at less than usual exertion over the past 5-6 years, and
28 recent back pain and low blood pressure. Respondent recommended EECp therapy, and Patient A

1 underwent EECF therapy at Respondent's medical practice during August and September 2014.
2 Respondent billed Patient A \$600 for each session, for at least seventeen sessions, for a total of
3 \$10,200.

4 9. Based on the medical evidence available to him, specifically, without an
5 assessment for and diagnosis of angina or angina class (such as how far Patient A could walk
6 before symptoms occur, or other physical assessments), without evidence of how Patient A had
7 responded to standard therapies or treatments, such as CABG, and without assessment or changes
8 in symptoms following CABG, the use of and recommendation of EECF was not indicated.

9 10. On information and belief, Respondent's conduct in recommending and performing
10 EECF on Patient A was intentional, and made for his own financial benefit and pecuniary gain.

11 **COUNT I**

12 **NRS 630.301(4) (Malpractice)**

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

15 12. Malpractice is grounds for disciplinary action against a licensee pursuant to
16 NRS 630.301(4).

17 13. NAC 630.040 defines malpractice as the failure to use the reasonable care, skill, or
18 knowledge ordinarily used under similar circumstances when treating a patient.

19 14. As demonstrated by, but not limited to, the above-outlined facts, Respondent
20 committed malpractice with respect to his treatment of Patient A by failing to use reasonable care,
21 skill or knowledge in recommending and performing EECF on Patient A.

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

24 **COUNT II**

25 **NRS 630.301(7) (Violating Patient's Trust for Financial Gain)**

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

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1 17. Engaging in conduct that violates the trust of a patient and exploits the relationship
2 between the physician and the patient for financial or other personal gain is grounds for
3 disciplinary action against a licensee pursuant to NRS 630.301(7).

4 18. As demonstrated by, but not limited to, the above-outlined facts, Respondent
5 violated Patient A's trust and exploited their physician-patient relationship for financial gain
6 recommending, performing and billing for EECp.

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

9 **COUNT III**

10 **NRS 630.301(8) (Failure to Offer Appropriate Procedures for Financial Benefit)**

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

13 21. The failure to offer appropriate procedures or studies, when the failure occurs with
14 the intent of positively influencing the financial well-being of the practitioner, is grounds for
15 disciplinary action against a licensee pursuant to NRS 630.301(8).

16 22. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
17 to offer appropriate procedures to Patient A; rather, Respondent offered inappropriate procedures
18 to Patient A by recommending, performing, and billing for EECp, and did so with the intent of
19 positively influencing his own financial well-being.

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

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

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

26 2. That the Board set a time and place for a formal hearing after holding an
27 Early Case Conference pursuant to NRS 630.339(3);
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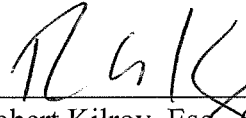
3. That the Board determine the sanctions it will impose if it finds Respondent violated the Medical Practice Act;

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

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

DATED this 1 day of February, 2018.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
Robert Kilroy, Esq., General Counsel
Aaron Bart Fricke, Esq., Deputy General Counsel
Donald K. White, Esq., Deputy General Counsel
Attorneys for the Investigative Committee

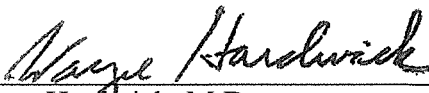
OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
1105 Terminal Way #301
Reno, Nevada 89502
(775) 688-2559

VERIFICATION

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

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

11 DATED this 1st day of February, 2018.

12 
13 _____
14 Wayne Hardwick, M.D.
15 Chairman, Investigative Committee
16 Nevada State Board of Medical Examiners

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

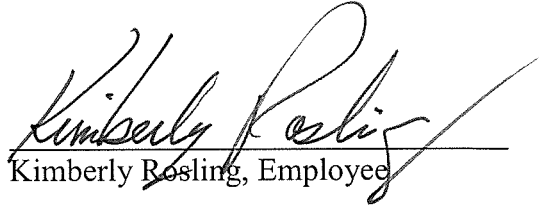
CERTIFICATE OF SERVICE

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I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 1st day of February, 2018, I served a file-stamped copy of the FIRST AMENDED COMPLAINT and PATIENT DESIGNATION, via USPS e-certified return receipt mail (9171 9690 0935 0096 2374 00) to the following:

Devendrakumar I. Patel, M.D.
NORTHERN NEVADA CARDIOLOGY PC
674 North Cedar Street
Elko, NV 89801

DATED this 1st day of February, 2018.


Kimberly Rosling, Employee