

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


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**In the Matter of Charges and
Complaint Against
Steven Don Folkerth, M.D.,
Respondent.**

Case No. 17-11283-1

FILED

MAY 10 2018

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

FIRST AMENDED COMPLAINT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners, hereby issues this formal Complaint against Steven Don Folkerth, M.D. (hereinafter referred to as Dr. Folkerth or Respondent), a previously 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 was licensed in active status pursuant to NRS Chapter 630 (License No. 7792) from June 6, 1996, until his license expired without application for renewal on June 30, 2015. NRS 630.298 provides that the expiration of a license by operation of law or by voluntary surrender of a license does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

2. On February 23, 2015, Respondent provided written notice to the Board that states he was closing his medical practice, and that his "new address" would be 10270 Atchison Road, Dayton, Ohio 45458 (Dayton Address). The notice states that it was effective February 20, 2015.

¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of this Complaint was approved, was composed of Rachakonda D. Prabhu, M.D., Ms. Sandy Peltyn, and Victor M. Muro, M.D.

1 The notice also states: "Medical records are being stored electronically. They will be available
2 either by mail to this address or at Steven.Folkerth@gmail.com."

3 3. The Dayton Address is that of a personal residence in Dayton, Ohio.

4 4. In February 2015, Patient A had been a patient of Respondent for approximately
5 four years. Patient A's true identity is not disclosed herein to protect his privacy, but is disclosed
6 in the Patient Designation served upon Respondent along with a copy of this Complaint.

7 5. Respondent provided no notice (written or otherwise) to Patient A, that Respondent
8 was terminating his medical care of Patient A, and Respondent made no arrangements for Patient
9 A's continued care.

10 6. In February 2015, Patient A called Respondent's medical office telephone number,
11 702-485-6442, but the number was disconnected. Patient A then visited Respondent's medical
12 office at 7425 West Azure Drive, #150, Las Vegas, NV 89130 (Las Vegas Office), where
13 Respondent had treated Patient A previously. The office was closed and vacant, and a note was
14 posted on the office door providing the same information set forth in Paragraph 2 above. That
15 posted notice also stated that patient medical records would be available after March 1, 2015. No
16 other contact information was provided, other than the aforementioned email address,
17 Steven.Folkerth@gmail.com, and the Dayton Address.

18 7. After March 1, 2015, Patient A sent an email to Steven.Folkerth@gmail.com
19 requesting his medical records. Patient A received a reply from that email address indicating that
20 the records would be provided.

21 8. After receiving no further response, Patient A sent multiple additional messages to
22 that email address, which messages were not returned.

23 9. On June 9, 2015, a Board investigator sent an email to Respondent at
24 Steven.Folkerth@gmail.com requesting information regarding the location of his medical records.
25 No response to that message was received.

26 10. On July 2, 2015, pursuant to NRS 630.267, a formal Notice of Expiration of
27 License to Practice Medicine as a Medical Doctor was sent via U.S. Mail by the Board addressed
28 to Steven Don Folkerth at the Dayton Address.

1 11. On July 9, 2015, a Board investigator mailed a letter to Respondent at the Dayton
2 Address, ordering Respondent to provide Patient A’s medical records to him and provide proof to
3 the Board that the records had been received by Patient A, and ordering a written response to the
4 allegation that Respondent had failed to provide these records as requested. The Respondent did
5 not comply or respond.

6 12. Also on July 9, 2015, the IC issued an Order to Produce Medical Records to the
7 Respondent demanding the he produce “properly authenticated and complete copies of all medical
8 records [for Patient A] from January 1, 2010 through the present date . . . [and] The name and
9 contact information for any entity, facility, or person that you believe may possess the medical
10 records of [Patient A] from January 1, 2010 through the present date.” Respondent was given 21
11 days to comply. The Order was mailed to Respondent to his Dayton Address. The Respondent
12 did not comply or respond.

13 13. On September 10, 2015, a Board investigator mailed a second letter to Respondent
14 at the Dayton Address, ordering Respondent to provide Patient A’s medical records to him and
15 provide proof to the Board that the records had been received by Patient A, and ordering a written
16 response to the Board of the allegation that Respondent had failed to provide these records as
17 requested. The Respondent did not comply or respond.

18 14. On November 3, 2015, the IC issued an another Order to Produce Medical Records
19 to the Respondent demanding that he produce “properly authenticated and complete copies of all
20 medical records [for Patient A] from January 1, 2010 through the present date . . . [and] The name
21 and contact information for any entity, facility, or person that you believe may possess the medical
22 records of [Patient A] from January 1, 2010 through the present date.” Respondent was given 21
23 days to comply. The Order was again mailed to Respondent to his Dayton Address. The
24 Respondent did not comply or respond.

25 15. Also on November 3, 2015, a Board investigator sent another email to
26 Steven.Folkerth@gmail.com wherein the investigator asked the Respondent to contact her as soon
27 as possible regarding this matter. The Order to Produce Medical Records dated November 3,
28 2015, was also attached to that email. The Respondent did not comply or respond.

1 16. Board staff searched for contact information for Respondent and discovered a
2 telephone number for Respondent's new medical practice in Ohio. On December 7, 2015, a
3 Board investigator called that number, spoke to Respondent, and informed him of the allegations
4 and the need to provide records to Patient A and respond to the Board's orders. Respondent
5 assured the investigator that the records would be provided to Patient A and the Board.
6 Respondent provided a new email address, sfolkerth@provmedgroup.com.

7 17. Also on December 7, 2015, the IC issued another Order to Produce Medical
8 Records to the Respondent demanding the he produce "properly authenticated and complete
9 copies of all medical records [for Patient A] from January 1, 2010 through the present date . . .
10 [and] The name and contact information for any entity, facility, or person that you believe may
11 possess the medical records of [Patient A] from January 1, 2010 through the present date."
12 Respondent was given 21 days to comply. The Order was emailed to Respondent at the new
13 email address, sfolkerth@provmedgroup.com, and a read receipt request was appended to the
14 message. On February 4, 2016, the Board's email system notified Board staff that the message
15 was deleted before it was read. The Respondent did not comply or respond to the Order.

16 18. On February 4, 2016, a Board investigator called Respondent's medical office,
17 again, and was given Respondent's cellphone number, 937-430-7540. The investigator called that
18 number, and left a voicemail message demanding that Respondent comply with the IC's orders
19 and send Patient A's medical records to Patient A and to the Board, and respond to the allegations.
20 The Respondent did not comply or respond.

21 19. To date, Respondent has not complied or responded to any of the lawful orders of
22 the IC or the Board's investigator, nor has Respondent furnished to Patient A or the Board a copy
23 of Patient A's medical records, nor has Respondent made these records available to Patient A or
24 the Board.

25 20. Pursuant to NRS 629.061(1) a physician shall make the health care records of a
26 patient available for physical inspection by:

27 (a) The patient or a representative with written authorization from the patient;

28 . . .

1 (g) Any authorized representative or investigator of a state licensing board during
2 the course of any investigation authorized by law.

3 21. Also, pursuant to NRS 629.061(4), a physician shall furnish a copy of the records
4 to a patient or Board investigator who requests them.

5 22. Pursuant to NRS 629.051(1) a physician shall retain the health care records of his
6 or her patients as part of his or her regularly maintained records for 5 years after their receipt or
7 production.

8 **Count I**

9 **NRS 630.3062(4)**

10 **(Failing to Make Medical Records Available to a Patient)**

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

13 24. NRS 630.3062(4) provides that failing to make the medical records of a patient
14 available for inspection and copying by a patient, as required by NRS 629.061(a), is grounds for
15 initiating disciplinary action.

16 25. Respondent failed to make the medical records of Patient A available for inspection
17 and copying by Patient A.

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

20 **Count II**

21 **NRS 630.306(1)(b)(3)**

22 **(Failing to Make Medical Records Available to a Board Investigator)**

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

25 28. NRS 630.3062(4) provides that failing to make the medical records of a patient
26 available for inspection and copying by an authorized representative or investigator of the Board,
27 as required by NRS 629.061(g), is grounds for initiating disciplinary action.
28

1 29. Respondent failed to make the medical records of Patient A available for inspection
2 and copying by Board investigators.

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

5 **Count III**

6 **NRS 630.304(7)**

7 **(Terminating Medical Care without Adequate Notice to a Patient)**

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

10 32. NRS 630.304(7) provides that terminating the medical care of a patient without
11 adequate notice or without making other arrangements for the continued care of the patient is
12 grounds for initiating disciplinary action.

13 33. Respondent terminated the medical care of Patient A without adequate notice to
14 Patient A and without making any arrangements for Patient A's continued care.

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

17 **Count IV**

18 **NRS 630.3065(2)(a)**

19 **(Failing to Comply with a Lawful Order of the Investigative Committee)**

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

22 36. NRS 630.3065(2)(a) provides that knowingly or willfully failing to comply with
23 an order of a committee designated by the Board to investigate a complaint against a physician,
24 i.e., the IC, is grounds for initiating disciplinary action.

25 37. Respondent failed to comply with the IC's Order dated July 9, 2015.

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

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Count V

NRS 630.3065(2)(a)

(Failing to Comply with a Lawful Order of the Investigative Committee)

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

40. NRS 630.3065(2)(a) provides that knowingly or willfully failing to comply with an order of a committee designated by the Board to investigate a complaint against a physician, i.e., the IC, is grounds for initiating disciplinary action.

41. Respondent failed to comply with the IC's Order dated November 3, 2015.

42. 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 VI

NRS 630.3065(2)(a)

(Failing to Comply with a Lawful Order of the Investigative Committee)

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

44. NRS 630.3065(2)(a) provides that knowingly or willfully failing to comply with an order of a committee designated by the Board to investigate a complaint against a physician, i.e., the IC, is grounds for initiating disciplinary action.

45. Respondent failed to comply with the IC's Order dated December 7, 2015.

46. 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 VII

NRS 630.3062(1)

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

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

1 48. 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 49. Respondent failed to maintain timely, legible, accurate and complete medical
5 records relating to the diagnosis, treatment and care of Patient A, as outlined above.

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

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

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

12 2. That the Nevada State Board of Medical Examiners set a time and place for a
13 formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

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

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

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

22 DATED this 10 day of May, 2018.

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

25 By:  _____

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

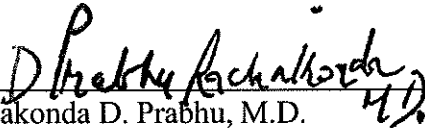
VERIFICATION

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STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

Rachakonda D. Prabhu, 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 First Amended Complaint against the Respondent herein; that he has read the foregoing First Amended 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 First Amended Complaint against Respondent are true, accurate, and correct.

DATED this 10th day of May, 2018.



Rachakonda D. Prabhu, M.D.

OFFICE OF THE GENERAL COUNSEL
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