

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and
Complaint Against
DIGBY MAXWELL PRESTON, M.D.,
Respondent.

Case No. 19-10778-1

FILED

OCT 18 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

COMPLAINT

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

1. Respondent was at all times relevant to this Complaint, a physician licensed to practice medicine in the State of Nevada (License No. 7415). His license was originally issued by the Board on May 11, 1995. Respondent's license expired on June 30, 2015. Pursuant to NRS 630.298, the expiration of a license does not deprive the Board of jurisdiction to proceed with disciplinary action.

A. Respondent's Treatment of Patient A

2. Patient A was a 61-year-old male when he presented to Respondent for medical care on August 21, 2014. Patient A's true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

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 Mr. M. Neil Duxbury, Chairman, Aury Nagy, M.D., and Michael C. Edwards, M.D.

1 3. Patient A presented to Respondent with back pain and right leg pain with right
 2 quadriceps weakness, posterior thigh tingling and numbness. Respondent received an MRI, which
 3 identified transitional lumbosacral junction with partial sacralization of L5 and showed a herniated
 4 disc and foraminal stenosis noted at the L3/4 level.

5 4. Respondent diagnosed the herniated disc and foraminal stenosis at L3/4 as the
 6 source of Patient A's pain. Respondent scheduled Patient A for a laminotomy decompression and
 7 discectomy at L3/4 on September 16, 2014.

8 5. On September 16, 2014, and September 17, 2014, Respondent performed surgery
 9 on Patient A, but did so at the wrong level of the spine, and Patient A suffered complications.

COUNT I

NRS 630.301(4) (Malpractice)

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

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

14 8. NAC 630.040 defines malpractice as a practitioner's failure to use the reasonable
 15 care, skill, or knowledge ordinarily used under similar circumstances when treating a patient.

16 9. As demonstrated by, but not limited to, the above-outlined facts, Respondent
 17 committed malpractice with respect to his treatment of Patient A.

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

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

21 1. That the Board give Respondent notice of the charges herein and give notice that
 22 an answer to the Complaint herein may be filed as set forth in NRS 630.339(2) within twenty (20)
 23 days of service of the Complaint;

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

26

OFFICE OF THE GENERAL COUNSEL

Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28


3. That the Board 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 Board make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes 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 18 day of October, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney for the Investigative Committee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

M. Neil Duxbury, 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 18th day of October, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

M. NEIL DUXBURY
M. Neil Duxbury, Chairman

CERTIFICATE OF MAILING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 18th day of October, 2019; I served a filed copy of the COMPLAINT (19-10778-1), via USPS e-certified return receipt mail to the following:

Thomas Doyle
Schuring Zimmerman & Doyle
400 University Avenue
Sacramento, CA 95825

Dated this 17th day of October, 2019.


Dawn DeHaven Gordillo
Legal Assistant