

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 **KATHLEEN D. SMITH M.D.,**
8 **Respondent.**

Case No. 19-28205-1

FILED

SEP 19 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
10 **COMPLAINT**

11 The Investigative Committee (IC)¹ of the Nevada State Board of Medical Examiners
12 (Board), by and through Robert Kilroy, Esq., General Counsel and attorney for the IC, having a
13 reasonable basis to believe that Kathleen D. Smith, M.D. (Respondent) violated the provisions of
14 Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630
15 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and
16 allegations as follows:

17 1. Respondent was at all times relative to this Complaint a licensed medical doctor
18 holding an active license to practice medicine in the State of Nevada (License No. 10735).
19 Respondent was originally licensed by the Board on December 4, 2003.

20 2. On or about January 6, 2015, Respondent instructed her employee medical
21 assistant[s] to call in a prescription for herself for Human Chorionic Gonadotropin (HCG), a
22 controlled substance, falsely claiming that the prescription was authorized by Dr. Joel Washinsky,
23 who did not authorize the prescription. Respondent's staff did as instructed, and Respondent
24 subsequently acquired HCG from the pharmacy pursuant to that prescription.

25 3. On or about January 30, 2015, Respondent instructed her employee medical
26 assistant[s] to call in another prescription for herself for HCG, falsely claiming that the

27 ¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this formal Complaint
28 was authorized for filing, was composed of Board members Theodore B. Berndt, M.D., Chairman, Wayne Hardwick,
M.D., and Mr. M. Neil Duxbury.

1 prescription was authorized by Dr. Joel Washinsky, who did not authorize the prescription.
2 Respondent's staff did as instructed, and Respondent subsequently acquired HCG from the
3 pharmacy pursuant to that prescription.

4 4. On or about June 6, 2015, Respondent instructed her employee medical assistant[s]
5 to call in another prescription for herself for HCG, falsely claiming that the prescription was
6 authorized by Dr. Joel Washinsky, who did not authorize the prescription. Respondent's staff did
7 as instructed, and Respondent subsequently acquired HCG from the pharmacy pursuant to that
8 prescription.

9 5. On or about July 17, 2015, Respondent instructed her employee medical
10 assistant[s] to call in another prescription for herself for HCG, falsely claiming that the
11 prescription was authorized by Dr. Joel Washinsky, who did not authorize the prescription.
12 Respondent's staff did as instructed, and Respondent subsequently acquired HCG from the
13 pharmacy pursuant to that prescription.

14 6. Respondent failed to maintain complete medical records regarding her diagnosis,
15 treatment and care of herself as a patient, related to the HCG she ordered and acquired for herself,
16 except for dates and amounts of what was to be prescribed in a one-line entry into Respondent's
17 clinical notes.

18 COUNT I

19 NAC 630.230(1)(d)

20 (Acquiring ~~a~~ Controlled Substances from any Pharmacy or Other Source by 21 Misrepresentation, Fraud, Deception or Subterfuge)

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

24 8. Pursuant to NAC 630.230(1)(d), a licensed physician shall not acquire any
25 controlled substances from any pharmacy by misrepresentation, fraud, deception or subterfuge.

26 9. On or about January 6, 2015, January 30, 2015, ~~June~~ ~~6-17~~, 2015, and July 17,
27 2015, Respondent acquired HCG, a controlled substance, by misrepresentation, fraud, deception
28 and subterfuge.

1 unauthorized use of Dr. Washinsky's name as the prescriber pertaining to the four aforementioned
2 prescriptions for HCG.

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

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6 **COUNT IV**

7 **NRS 630.3062(1)(a) (Failure to Maintain Proper Medical Records)**

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

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

13 23. Respondent failed to maintain complete medical records relating to her diagnosis,
14 treatment and care of herself by failing to document any medical justifications for the four
15 aforementioned HCG prescriptions.

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

18 **WHEREFORE**, the IC prays:

19 1. That the Board give Respondent notice of the charges herein against her and give
20 her notice that she may file an answer to the Complaint herein as set forth in NRS 630.339(2)
21 within twenty (20) days of service of the Complaint;

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

24 3. That the Board determine what sanctions to impose if it finds and concludes that
25 there has been a violation or violations of the Medical Practice Act committed by Respondent;


26 4. That the Board make, issue and serve on Respondent its findings of fact,
27 conclusions of law and order, in writing, to include sanctions to be imposed; and
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5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 19 day of September, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
Robert Kilroy, Esq., General Counsel
Attorney for the Investigative Committee

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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Mr. M. Neil Duxbury, hereby deposes and states under penalty of perjury under the laws of the state of Nevada that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered during the course of the investigation into a complaint against Respondent, he believes the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

Dated this 19th day of September, 2019.

INVESTIGATIVE COMMITTEE OF THE NEVADA
STATE BOARD OF MEDICAL EXAMINERS

By: M. NEIL DUXBURY
M. Neil Duxbury, Chairman