

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

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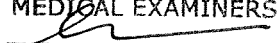
4 **In the Matter of Charges and**
5 **Complaint Against**
6 **RAFAEL MIRCHOU, M.D.,**
7 **Respondent.**

Case No. 19-10416-1

FILED

MAR 28 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

8
9 **COMPLAINT**

10 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board)
11 hereby issues this formal Complaint (Complaint) against Rafael Mirchou, M.D. (Respondent), a
12 licensed physician in Nevada. After investigating this matter, the IC¹ 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 1. Respondent was licensed by the Board, pursuant to the provisions of the Medical
17 Practice Act, on December 4, 1999, and is currently licensed in active status (License No. 9244).

18 2. Respondent owned and/or operated a medical practice at the following locations:
19 3264 North Civic Center Drive, Las Vegas, NV 89030 (Civic Ctr.) and 865 North Eastern Avenue
20 Las Vegas, NV 89101 (North Eastern). On or about March 2008, the medical practices at both
21 the Civic Ctr. and North Eastern Ave. practices were closed and the patient's medical records
22 from the aforementioned locations remained on site. In October of 2014, the North Eastern Ave.
23 practice medical records were transferred into electronic medical records. In July of 2015, the
24 Civic Ctr. office location was subject to a foreclosure and was subsequently sold to a third-party,
25 who had possession of all of the Respondent's patients' medical records that were at that location.
26 Subsequent to the transfer of ownership of the Civic Ctr. office, Respondent was not able to

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28 ¹ At the time filing of the Complaint was approved, the IC was composed of Theodore B. Berndt, M.D., Chairman,
Wayne Hardwick, M.D., and Mr. M. Neil Duxbury.

1 possess or act as the custodian of his patients' records located at the Civic Ctr. office since July 2,
2 2015.

3 **Count I**

4 **NRS 629.051 (Records Retention)**

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

7 4. NRS 629.051 provides for the retention of records, as each custodian of health care
8 records shall retain the health care records of patients as part of the regularly maintained records
9 of the custodian for 5 years after their production.

10 5. Respondent did not maintain custody of his patients' medical records at the Civic
11 Ctr. location as was his duty to perform pursuant to NRS 629.051 because Respondent was unable
12 to possess such due to his failure to remove those patient records prior to the foreclosure and/or
13 transfer of ownership of the Civic Ctr. office.

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

16 **Count II**

17 **NRS 630.306(1)(g) (Continual Failure to Exercise Diligence Regarding Records**
18 **Retention)**

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

21 8. NRS 630.306(1)(g) provides that continual failure to exercise the skill or diligence
22 or use the methods ordinarily exercised under the same circumstances by physicians in good
23 standing practicing in the same specialty or field constitutes grounds for initiating disciplinary
24 action.

25 9. Respondent continually failed to exercise the diligence required to fulfil his duty as
26 the custodian of his patients' medical records at the Civic Ctr. location for more than five years.

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WHEREFORE, the IC prays:

1. That the Board give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;
2. That the Board set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
3. That the Board determine what sanctions to impose if it finds and concludes that 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, to include sanctions to be imposed; and
5. That the Board take such other and further action as may be just and proper in these premises.

DATED this 28th day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

VERIFICATION

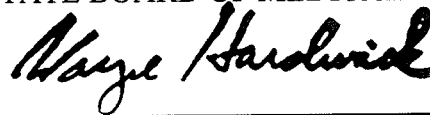
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STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Wayne Hardwick, M.D., 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 28th day of March, 2019.

INVESTIGATIVE COMMITTEE OF THE NEVADA
STATE BOARD OF MEDICAL EXAMINERS



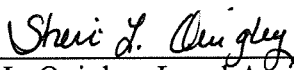
Wayne Hardwick, M.D., Chairman

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 9th day of April, 2019, I served a filed copy of the formal COMPLAINT, via USPS e-certified, return receipt mail to the following:

Rafael Mirchou, M.D.
7488 W. Sahara Avenue
Las Vegas, NV 89117

Dated this 9th day of April, 2019.



Sheri L. Quigley, Legal Assistant

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