

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

3 * * * * *

4 **In the Matter of Charges and**
5 **Complaint Against**
6 **ROSNER PATRICK LUSS, M.D.,**
7 **Respondent.**

Case No. 19-10860-1

FILED

MAR 28 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

9 **COMPLAINT**

10 The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board)
11 hereby issues this formal Complaint (Complaint) against Rosner Patrick Luss, 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 July 1, 1998, and is currently licensed in active status (License No. 8699).

18 2. Patient A's true identity is not disclosed herein to protect her privacy, but is
19 disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

20 3. On August 3, 2013, Patient A, a 70-year-old female, presented to St. Rose
21 Dominican Hospital and complained of shortness of breath with a past medical history of coronary
22 artery disease, asthma/COPD, insulin-dependent diabetes, obesity with sleep apnea, hypertension,
23 anemia, and a history of DVT on chronic anticoagulation therapy.

24 4. On August 4, 2013, Respondent took over care of Patient A without a "sign out"
25 and lacked information about this patient's medical condition. Respondent was contacted by the
26 nursing staff, informing him that he was now the attending physician. Respondent ordered IV

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

1 Solu-Medrol and epinephrine for the swelling and difficulty breathing, along with IV Hydralazine
2 for hypertension. Additionally, Respondent ordered an upper GI and MRI of the neck to evaluate
3 Patient A's dysphagia and neck swelling, and she was transferred to the ICU for close observation.
4 Patient A received a CT scan of her neck without contrast. As the ordering physician, the
5 Respondent did not indicate any findings within the medical records, from the ordered CT scan.
6 Respondent documented Patient A's condition of epiglottitis, but did not document the possibility
7 of an infectious etiology or suggest starting antibiotics, despite medical information indicating
8 Patient A's high risk. Respondent documented Patient A's white blood count spike on August 9,
9 2013 was attributed to the steroids ordered that morning, but Patient A's blood was drawn at
10 essentially the same time the steroids were given, and her white blood cell count spiked as her
11 steroids were being tapered.

12 5. Previous to the preparation of this Complaint, the Board solicited the services of an
13 independent medical expert (IME) to review Patient A's medical records and the care provided to
14 such patient by Respondent. This IME opined that Respondent's care of Patient A violated the
15 Medical Practice Act due to his acts and omissions when rendering care to Patient A and further
16 opined that it was below the standard of care for Respondent to have never addressed the CT scan
17 findings and not consider an infectious etiology.

18 **Count I**

19 **(Malpractice)**

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

22 7. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating
23 disciplinary action against a licensee.

24 8. NAC 630.040 defines malpractice as the failure of a physician, in treating a patient,
25 to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

26 9. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed
27 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when
28 rendering medical services to Patient A.

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

3 **Count II**

4 **(Failure to Maintain Complete Medical Records)**

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

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

10 13. Respondent failed to maintain complete medical records relating to the diagnosis,
11 treatment and care of Patient A, by failing to document his actions when he treated Patient A,
12 whose medical records were not timely, legible, accurate, and complete.

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

15 **WHEREFORE**, the IC prays:

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

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

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

23 4. That the Board make, issue and serve on Respondent its findings of fact,
24 conclusions of law and order, in writing, to include sanctions to be imposed; and

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

DATED this 20th 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

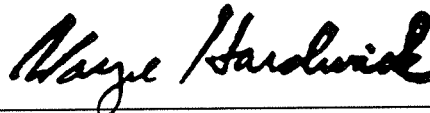
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STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

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

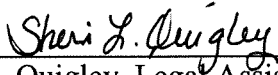
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CERTIFICATE OF MAILING

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:

**Rosner P. Luss, M.D.
161 E. Flamingo Road, Suite 16B
Las Vegas, NV 89119**

Dated this 9th day of April, 2019.



Sheri L. Quigley, Legal Assistant