

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

3 * * * * *

4 **In the Matter of Charges and**
5 **Complaint Against**
6 **STUART SETH KAPLAN, M.D.,**
7 **Respondent.**

Case No. 19-28531-1

FILED

FEB - 5 2019

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

8
9 **COMPLAINT**

10 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board)
11 hereby issues this formal Complaint (Complaint) against Stuart Seth Kaplan, M.D. (Respondent), a
12 physician licensed in Nevada. After investigating this matter, the IC 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 is, and was at all times relevant to this case, a physician licensed to
17 practice medicine in the State of Nevada (License No. 10758). His license was originally issued
18 by the Board on December 30, 2003.

19 **A. Respondent's Treatment of Patient A**

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

22 3. Respondent evaluated and diagnosed Patient A with internal disruption at L4-5,
23 and recommended an anterior and posterior lumbar fusion with discectomy at the L4-5 level.

24 4. On December 17, 2012, Respondent performed surgery on Patient A, intending to
25 perform the aforementioned procedure at the L4-5 level. During the surgery, Respondent noted
26 that Patient A had transitional lumbar anatomy. The level was identified by Respondent in
27

28 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 Rachakonda D. Prabhu, M.D., Ms. Sandy Peltyn, and Victor
M. Muro, M.D.

1 cooperation with his flouroscopy technician, a medical assistant under Respondent's supervision,
2 using discography and plain films. However, the fluoroscopy technician misidentified the L5-6
3 level as the L4-5 level. Respondent failed to recognize that the wrong level had been identified,
4 and proceeded to perform the surgery at the L5-6 level.

5 **COUNT I**

6 **NRS 630.306(1)(r) (Failure to Supervise Adequately a Medical Assistant)**

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

9 6. NRS 630.306(1)(r) provides that a failure to adequately supervise a medical
10 assistant pursuant to the regulations of the Board is an act that constitutes grounds for initiating
11 disciplinary action against a licensee.

12 7. Pursuant to NAC 630.830, a delegating practitioner retains responsibility for the
13 safety and performance of each task which is delegated to a medical assistant.

14 8. By failing to detect and correct the misidentified operating level, Respondent failed
15 to adequately supervise his medical assistant in performing the tasks assigned, and Respondent
16 retains responsibility for the resulting misidentification and wrong-level surgery.

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

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

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

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

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

27 4. That the Board make, issue and serve on Respondent its findings of fact,
28 conclusions of law and order, in writing, that includes the sanctions 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 5 day of February, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 

Aaron Bart Fricke, Esq., Deputy General Counsel
Attorney 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 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 5th day of February, 2019.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS



Rachakonda D. Prabhu, M.D., Chairman

CERTIFICATE OF MAILING

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2 I hereby certify that I am employed by Nevada State Board of Medical Examiners and that
3 on 5th day of February, 2019; I served a filed copy of the COMPLAINT, via USPS e-certified
4 return receipt mail to the following:

5
6 Stuart Seth Kaplan, M.D.
7 c/o Adam A. Schneider, Esq
8 John Cotton & Associates
9 7900 W. Sahara, Suite 200
10 Las Vegas, NV 89117

11 Dated this 5th day of February, 2019.

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13 Dawn DeHaven Gordillo
14 Legal Assistant
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