

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

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4
5 **In the Matter of Charges and Complaint**
6 **Against**
7 **RICHARD WASHINSKY, M.D.,**
8 **Respondent.**

Case No. 20-8462-1

FILED

SEP 14 2020

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
10 **COMPLAINT**

11 The Investigative Committee¹ (IC) 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 Richard Washinsky, 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 medical doctor holding an
18 active license to practice medicine in the State of Nevada (License No. 6547). Respondent was
19 originally licensed by the Board on July 1, 1992.

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

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

23 3. Respondent believed Patient A suffered from severe ulcerative colitis, chronic
24 abdomen pain and severe cramping from numerous adhesions. Respondent treated Patient A by
25 prescribing controlled substances (Percocet), without medical justification. Respondent stated that
26 Patient A had been on this opioid medication for eight years and was "pain free."
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28 ¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this formal Complaint was authorized for filing, was composed of Board members Wayne Hardwick, M.D., Chairman, Mr. M. Neil Duxbury and Aury Nagy, M.D.

COUNT I

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

5. Violation of a standard of practice adopted by the Board is grounds for initiating disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

6. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the Federation of State Medical Boards of the United States, Inc. (Model Policy).

7. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from the policies set forth in the July 2013, *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* (Model Policy) adopted by reference in NAC 630.187.

8. On information and belief, Respondent wrote prescriptions to Patient A for opioid analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations included, but were not limited to, the following: 1) prescribing excessively high doses of opioid therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of high dosages of opioid medication; 3) failing to review the PMP prior to, during, and after the encounters with Patient A; 4) failing to assess Patient A for alternative non-opioid treatments; 5) failing to assess and discuss with Patient A the risks versus benefits of opioid therapy; 6) failing to assess Patient A's concurrent medications interactions with the opioid therapy; 7) failing to assess Patient A for possible drug abuse, drug diversion or any other non-medical related activity; 8) failing to assess Patient A for possible drug screens on a consistent basis.

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

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COUNT II

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

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

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

12. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient A, by failing to document his actions in complying with the Model Policy, including, but not limited to, failing to document the following: physical examinations before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics; urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical examination findings; treatment objectives to evaluate treatment progress; monitoring and adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

B. Respondent's Treatment of Patient B

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

15. Respondent believed Patient B suffered from a history of multi-level foraminal spinal stenosis involving her cervical spine and multi-level degenerative disc disease with severe and chronic pain resulting from the spinal stenosis. Respondent treated Patient B by prescribing controlled substances (Oxycodone), without medical justification.

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COUNT III

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

17. Violation of a standard of practice adopted by the Board is grounds for initiating a disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

18. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the Federation of State Medical Boards of the United States, Inc..

19. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* adopted by reference in NAC 630.187.

20. On information and belief, Respondent wrote prescriptions to Patient B for opioid analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations included, but were not limited to, the following: 1) prescribing excessively high doses of opioid therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of high dosages of opioid medication; 3) failing to review the PMP prior to, during, and after the encounters with Patient B; 4) failing to assess Patient B for alternative non-opioid treatments; 5) failing to assess and discuss with Patient B the risks versus benefits of opioid therapy; 6) failing to assess Patient B's concurrent medications interactions with the opioid therapy; 7) failing to assess Patient B for possible drug abuse, drug diversion or any other non-medical related activity; 8) failing to assess Patient B for possible drug screens on a consistent basis; and, 9) prescribing a combination of benzodiazepines and opioids without documenting the medical justification.

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

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COUNT IV

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

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

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

24. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient B, by failing to document his actions in complying with the Model Policy, including, but not limited to, failing to document the following: physical examinations before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics; urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical examination findings; treatment objectives to evaluate treatment progress; monitoring and adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

C. Respondent's Treatment of Patient C

26. Patient C'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.

27. Respondent believed Patient C suffered from a femur fracture (from an automobile accident), which required a rod insertion to repair this fracture, and injured his spine, which may have caused severe degenerative disc disease to his cervical and lumbar spine. Respondent treated Patient C by prescribing controlled substances (Duragesic patch and Oxycodone) without medical justification.

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COUNT V

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

29. Violation of a standard of practice adopted by the Board is grounds for initiating disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

30. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the Federation of State Medical Boards of the United States, Inc. (Model Policy).

31. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* adopted by reference in NAC 630.187.

32. On information and belief, Respondent wrote prescriptions to Patient C for opioid analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations included but were not limited to the following: 1) prescribing excessively high doses of opioid therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of high dosages of opioid medication; 3) failing to review the PMP prior to, during and after the encounters with Patient C; 4) failing to assess Patient C for alternative non-opioid treatments; 5) failing to assess and discuss with Patient C the risks versus benefits of opioid therapy; 6) failing to assess Patient C's concurrent medications interactions with the opioid therapy; 7) failing to assess Patient C for possible drug abuse, drug diversion or any other non-medical related activity; 8) failing to assess Patient C for possible drug screens on a consistent basis.

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

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COUNT VI

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

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

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

36. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient C, by failing to document his actions in complying with the Model Policy, including, but not limited to, failing to document the following: physical examinations before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics; urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical examination findings; treatment objectives to evaluate treatment progress; monitoring and adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

D. Respondent's Treatment of Patient D

38. Patient D'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.

39. Respondent believed Patient D suffered from severe cervical and lumbar degenerative disc disease which resulted from severe multi-level spinal stenosis and severe peripheral neuropathy. Respondent treated Patient D by prescribing controlled substances (Percocet), without medical justification.

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COUNT VII

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

41. Violation of a standard of practice adopted by the Board is grounds for initiating disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

42. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the Federation of State Medical Boards of the United States, Inc. (Model Policy).

43. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* adopted by reference in NAC 630.187.

44. On information and belief, Respondent wrote prescriptions to Patient D for opioid analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations included but were not limited to the following: 1) prescribing excessively high doses of opioid therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of high dosages of opioid medication; 3) failing to review the PMP prior to, during, and after the encounters with Patient D; 4) failing to assess Patient D for alternative non-opioid treatments; 5) failing to assess and discuss with Patient D the risks versus benefits of opioid therapy; 6) failing to assess Patient D's concurrent medications interactions with the opioid therapy; 7) failing to assess Patient D for possible drug abuse, drug diversion or any other non-medical related activity; 8) failing to assess Patient D for possible drug screens on a consistent basis.

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

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COUNT VIII

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

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

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

48. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient D, by failing to document his actions in complying with the Model Policy, including, but not limited to, failing to document the following: physical examinations before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics; urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical examination findings; treatment objectives to evaluate treatment progress; monitoring and adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

E. Respondent's Treatment of Patient E

50. Patient E'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.

51. Respondent believed Patient E suffered from a herniated disc at lumbar spine location L-5/S-1, which resulted in a disc osteophyte complex at that level. Respondent treated Patient E by prescribing controlled substances (opioids) without medical justification.

COUNT IX

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

53. Violation of a standard of practice adopted by the Board is grounds for initiating a disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

1 54. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the*
2 *Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the
3 Federation of State Medical Boards of the United States, Inc. (Model Policy).

4 55. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of
5 writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from
6 the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of*
7 *Chronic Pain* adopted by reference in NAC 630.187.

8 56. On information and belief, Respondent wrote prescriptions to Patient E for opioid
9 analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations
10 included but were not limited to the following: 1) prescribing excessively high doses of opioid
11 therapy over 90 MME in violation of the Model Policy July 2013; 2) failing to justify the use of
12 high dosages of opioid medication; 3) failing to review the PMP prior to, during and after the
13 encounters with Patient E; 4) failing to assess Patient E for alternative non-opioid treatments;
14 5) failing to assess and discuss with Patient E the risks versus benefits of opioid therapy; 6) failing
15 to assess Patient E's concurrent medications interactions with the opioid therapy; 7) failing to
16 assess Patient E for possible drug abuse, drug diversion or any other non-medical related activity;
17 8) failing to assess Patient E for possible drug screens on a consistent basis.

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

20 COUNT X

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

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

24 59. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate
25 and complete medical records relating to the diagnosis, treatment and care of a patient is grounds
26 for initiating disciplinary action against a licensee.

27 60. Respondent failed to maintain complete medical records relating to the diagnosis,
28 treatment and care of Patient E, by failing to document his actions in complying with the Model

1 Policy, including, but not limited to, failing to document the following: physical examinations
2 before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics;
3 urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical
4 examination findings; treatment objectives to evaluate treatment progress; monitoring and
5 adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

8 **F. Respondent's Treatment of Patient F**

9 62. Patient F's true identity is not disclosed herein to protect her privacy, but is
10 disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

11 63. Respondent believed Patient F suffered from severe lower back pain resulting from
12 a lumbar degenerative disc disease and spinal stenosis. Respondent treated Patient F by
13 prescribing controlled substances (Hydrocodone/opioids) without medical justification.

14 **COUNT XI**

15 **NRS 630.306(1)(b)(2) (Violation of Standards of Practice)**

16 64. All of the allegations in the above paragraphs are hereby incorporated by reference
17 as though fully set forth herein.

18 65. Violation of a standard of practice adopted by the Board is grounds for initiating
19 disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

20 66. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the*
21 *Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the
22 Federation of State Medical Boards of the United States, Inc. (Model Policy).

23 67. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of
24 writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from
25 the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of*
26 *Chronic Pain*, adopted by reference in NAC 630.187.

27 68. On information and belief, Respondent wrote prescriptions to Patient F for opioid
28 analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations

1 included but were not limited to the following: 1) prescribing excessively high doses of opioid
2 therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of
3 high dosages of opioid medication; 3) failing to review the PMP prior to, during and after the
4 encounters with Patient F; 4) failing to assess Patient F for alternative non-opioid treatments;
5 5) failing to assess and discuss with Patient F the risks versus benefits of opioid therapy;
6 6) failing to assess Patient F's concurrent medications interactions with the opioid therapy;
7 7) failing to assess Patient F for possible drug abuse, drug diversion or any other non-medical
8 related activity; 8) failing to assess Patient F for possible drug screens on a consistent basis.

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

11 **COUNT XII**

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

13 70. All of the allegations contained in the above paragraphs are hereby incorporated by
14 reference as though fully set forth herein.

15 71. NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate
16 and complete medical records relating to the diagnosis, treatment and care of a patient is grounds
17 for initiating disciplinary action against a licensee.

18 72. Respondent failed to maintain complete medical records relating to the diagnosis,
19 treatment and care of Patient F, by failing to document his actions in complying with the Model
20 Policy including, but not limited to, failing to document the following: physical examinations
21 before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics;
22 urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical
23 examination findings; treatment objectives to evaluate treatment progress; monitoring and
24 adapting his treatment plan; progress toward discontinuation of opioid therapy.

25 73. By reason of the foregoing, Respondent is subject to discipline by the Board as
26 provided in NRS 630.352.

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1 **G. Respondent's Treatment of Patient G**

2 74. Patient G's true identity is not disclosed herein to protect his privacy, but is
3 disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

4 75. Respondent believed Patient G suffered from severe osteoarthritis involving both
5 of his knees. Respondent treated Patient G by prescribing controlled substances
6 (Oxycodone/opioids), without medical justification.

7 **COUNT XIII**

8 **NRS 630.306(1)(b)(2) (Violation of Standards of Practice)**

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

11 77. Violation of a standard of practice adopted by the Board is grounds for initiating a
12 disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

13 78. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the*
14 *Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the
15 Federation of State Medical Boards of the United States, Inc. (Model Policy).

16 79. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of
17 writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from
18 the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of*
19 *Chronic Pain, July 2013*, adopted by reference in NAC 630.187.

20 80. On information and belief, Respondent wrote prescriptions to Patient G for opioid
21 analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations
22 included but were not limited to the following: 1) prescribing excessively high doses of opioid
23 therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of
24 high dosages of opioid medication; 3) failing to review the PMP prior to, during and after the
25 encounters with Patient G; 4) failing to assess Patient G for alternative non-opioid treatments;
26 5) failing to assess and discuss with Patient G the risks versus benefits of opioid therapy; 6) failing
27 to assess Patient G's concurrent medications interactions with the opioid therapy; 7) failing to
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1 assess Patient G for possible drug abuse, drug diversion or any other non-medical related activity;
2 8) failing to assess Patient G for possible drug screens on a consistent basis.

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

5 **COUNT XIV**

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

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

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

12 84. Respondent failed to maintain complete medical records relating to the diagnosis,
13 treatment and care of Patient G, by failing to document his actions in complying with the Model
14 Policy, including, but not limited to, failing to document the following: physical examinations
15 before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics;
16 urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical
17 examination findings; treatment objectives to evaluate treatment progress; monitoring and
18 adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

21 **H. Respondent's Treatment of Patient H**

22 86. Patient H's true identity is not disclosed herein to protect his privacy, but is
23 disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

24 87. Respondent believed Patient H suffered from severe osteoarthritis, cervical and
25 lumbar degenerative disc disease and severe chronic pain syndrome. Respondent treated Patient
26 H by prescribing controlled substances (Oxyocodone/opioids) without medical justification.

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COUNT XV

NRS 630.306(1)(b)(2) (Violation of Standards of Practice)

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

89. Violation of a standard of practice adopted by the Board is grounds for initiating a disciplinary action against a licensee pursuant to NRS 630.306(1)(b)(2).

90. Pursuant to NAC 630.187, the Board adopted by reference the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*, July 2013, published by the Federation of State Medical Boards of the United States, Inc. (Model Policy).

91. Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of writing prescriptions for controlled substances to treat chronic pain in a manner that deviates from the policies set forth in the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* adopted by reference in NAC 630.187.

92. On information and belief, Respondent wrote prescriptions to Patient H for opioid analgesics to treat chronic pain in a manner that deviated from the Model Policy. Deviations included but were not limited to the following: 1) prescribing excessively high doses of opioid therapy over 90 MME in violation of the Model Policy, July 2013; 2) failing to justify the use of high dosages of opioid medication; 3) failing to review the PMP prior to, during and after the encounters with Patient H; 4) failing to assess Patient H for alternative non-opioid treatments; 5) failing to assess and discuss with Patient H the risks versus benefits of opioid therapy; 6) failing to assess Patient H's concurrent medications interactions with the opioid therapy; 7) failing to assess Patient H for possible drug abuse, drug diversion or any other non-medical related activity; 8) failing to assess Patient F for possible drug screens on a consistent basis.

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

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COUNT XVI

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

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

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

96. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient H, by failing to document his actions in complying with the Model Policy, including, but not limited to, failing to document the following: physical examinations before prescribing opioid analgesics; queries of the PMP before prescribing opioid analgesics; urinalysis before and after prescribing opioid analgesics; support for his diagnoses with physical examination findings; treatment objectives to evaluate treatment progress; monitoring and adapting his treatment plan; progress toward discontinuation of opioid therapy.

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

I. Respondent's Investigative Committee Order to Appear.

98. On June 15, 2020, Respondent was sent an Order to Appear (Order) by certified mail to his registered address on file with the Board. Due to Covid-19 protocols, Respondent's appearance was changed to a telephonic appearance. On July 15, 2020, Respondent was sent an email to his email address on file with the Board and the IC requested a good telephone number so that he could be called when his appearance time occurred. On July 17, 2020, a letter was sent to Respondent's office containing the same message as the July 15, 2020 email. On July 27, 2020, the assigned investigator called, and communicated with Respondent's office manager (spouse) and she stated that Respondent had received the Order and the July 17, 2020, letter. This office manager provided the IC's requested Respondent's phone number. Again, this investigator communicated the IC's Order that Respondent appear via telephonic means. Respondent failed to answer his number at the appointment time, as stated in the Order, after being informed of the

1 time, date and manner of this appearance Order. Multiple attempts to communicate with
2 Respondent were conducted, but he refused to answer the IC's call to him for his appearance.
3 Several calls were placed to the office manager of the Respondent, but she failed to answer the
4 IC's call for Respondent's appearance after she had been informed and acknowledged the time,
5 date and manner of this appearance Order. Respondent never appeared or called back despite
6 several voice mails being left.

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8 **COUNT XVII**

9 **NRS 630.3065(2)(a) (Failure to Comply with Investigative Committee Order to Appear)**

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

12 100. Pursuant to NRS 630.3065(2)(a), the following act of knowingly or willfully failing
13 to comply with an Investigative Committee Order to appear is grounds for initiating a disciplinary
14 action against a licensee of this Board.

15 101. Respondent knowingly and willfully failed to appear as he failed to answer his
16 phone at the appointed time and he did not respond to additional attempts to communicate with
17 him at the telephone number provided, and thus, Respondent failed to comply with such Order.

18 102. 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 against him and give
22 him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2)
23 within twenty (20) 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 3. That the Board determine what sanctions to impose if it determines there has been
27 a violation or violations of the Medical Practice Act committed by Respondent;


28 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

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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 14 day of September, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

VERIFICATION

1 STATE OF NEVADA)
2 : ss.
3 COUNTY OF WASHOE)

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

10 DATED this 14th day of September, 2020.

11 INVESTIGATIVE COMMITTEE OF THE
12 NEVADA STATE BOARD OF MEDICAL EXAMINERS

13 *M. NEIL DUXBURY*
14 By: _____
15 M. Neil Duxbury, Chairman
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