

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

3 * * * * *

4 **In the Matter of Charges and Complaint**

Case No. 20-4041-1

5 **Against:**

6 **FRANK P. SILVER, M.D,**

7 **Respondent.**

FILED

NOV 17 2020

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9 **FIRST AMENDED COMPLAINT**

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

16 **Respondent's Licensure Status**

17 1. Respondent is currently licensed in active status (License No. 2641), and has been
18 licensed by the Board since August 8, 1972. Respondent is a medical doctor specializing in
19 gynecology and infertility. At all times alleged herein, Respondent was licensed in an active
20 status by the Board pursuant to the provisions of the Medical Practice Act.

21 **Statement of Nevada Law Applicable to "Medical Spas" and "Medical Doctors"**

22 **Delegating Practitioners, Medical Assistants, and the Unlicensed Practice of Medicine**

23 2. Pursuant to NRS 630.400(1)(d), it is unlawful for any person to practice medicine
24 without being licensed by the Board under NRS Chapter 630, or by another medical professional
25 licensing board pursuant to NRS Chapters 631 to 637, inclusive, 639, or 640.

26 ///

27 _____
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.

1 3. Pursuant to NRS 630.020, the “practice of medicine” means either (1) to diagnose,
2 treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or
3 other condition, physical or mental, by any means or instrumentality, including, but not limited to,
4 the performance of an autopsy, or (2) to apply principles or techniques of medical science in the
5 diagnosis or the prevention of any such conditions, or (3) to perform any of the acts described in
6 subsections (1) and (2) by using equipment that transfers information concerning the medical
7 condition of the patient electronically, telephonically or by fiber optics, including, without
8 limitation, through telehealth, from within or outside this State or the United States, or (4) to offer,
9 undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections
10 (1) and (2).

11 4. Pursuant to NRS 630.305(1)(e), a Nevada physician or physician assistant
12 (practitioner) may not aid, assist, employ or advise, directly or indirectly, any unlicensed person to
13 engage in the practice of medicine contrary to the provisions of the Medical Practice Act, and
14 doing so is grounds for initiating disciplinary action or denying licensure.

15 5. Pursuant to the Medical Practice Act, the only means by which a practitioner may
16 lawfully aid, assist, employ or advise, directly or indirectly, an unlicensed person to engage in the
17 practice of medicine is by delegating specific tasks to an adequately supervised and trained
18 “medical assistant.” Pursuant to NRS 630.0129, a “medical assistant” means a person who (a)
19 performs clinical tasks under the supervision of a physician or physician assistant; and (b) does
20 not hold a license, certificate or registration issued by a professional licensing or regulatory board
21 in this State to perform such clinical tasks; and the term does not include a person who performs
22 only administrative, clerical, executive or other nonclinical tasks.

23 6. Pursuant to NRS 630.306(1)(r), a practitioner must supervise adequately a medical
24 assistant, and failing to do so is grounds for initiating disciplinary action or denying licensure.

25 7. Pursuant to NAC 630.830, a delegating practitioner is professionally responsible
26 for the safety and performance of each task which is delegated to a medical assistant. Pursuant to
27 NAC 630.810(1), a delegating practitioner may not delegate tasks to a medical assistant unless: (a)
28 the delegating practitioner knows that the medical assistant possesses the knowledge, skill and

1 training to perform the task safely and properly; (b) the medical assistant is not required to be
2 certified or licensed to perform that task; (c) the medical assistant is employed by the delegating
3 practitioner or the medical assistant and the delegating practitioner are employed by the same
4 employer; and (d) the employer of the medical assistant has complied with the requirements of
5 subsection 2 as they relate to the task.

6 8. Pursuant to NAC 630.820, a delegating practitioner may not supervise remotely a
7 medical assistant, except in a specific case of emergency in a rural area.²

8 9. Except as otherwise provided in NAC 630.820, pursuant to NAC 630.810, if a
9 medical assistant is delegated a task which involves an “invasive procedure,”³ the delegating
10 practitioner must be immediately available to exercise oversight in person while the medical
11 assistant performs the task.

12 10. The term “medical director” is not recognized or defined under any Nevada law or
13 regulation pertaining to the professional conduct and responsibility of licensed medical
14 professionals, and no law authorizes so-called “medical directors” to violate or circumvent the
15 aforementioned statutes and regulations of the Medical Practice Act.

16 11. Accordingly, pursuant to NRS 630.400(1)(d), NRS 630.305(1)(e), and
17 NRS 630.0129, and NAC 630.800 to NAC 630.840:

18 a. If a practitioner, whether by serving as a so-called “medical director” or by
19 some other relationship or circumstance, aids, assists, employs or advises, directly or
20 indirectly, any unlicensed person to engage in the practice of medicine, then the practitioner
21 may lawfully do so only by delegating tasks to an adequately supervised, competent and properly
22 trained medical assistant.

23
24 ² Remote supervision of a medical assistant is prohibited unless: (a) the patient is located in a rural area; (b)
25 the delegating practitioner is physically located a significant distance from the location where the task is to be
26 performed; (c) the delegating practitioner determines that the exigent needs of the patient require immediate attention;
27 (d) the patient and the delegating practitioner previously established a practitioner-patient relationship; and (e) the
delegating practitioner is immediately available by telephone or other means of instant communication during the
performance of the task by the medical assistant. As used in NAC 630.820, “rural area” means any area in this State
other than Carson City or the City of Elko, Henderson, Reno, Sparks, Las Vegas or North Las Vegas.

28 ³ The Medical Practice Act does not define “invasive procedure,” however, NAC 449.9733, pertaining to
Medical Facilities, defines “invasive procedure” as “a medical procedure involving entry into the human body by
puncture or incision or by insertion of an instrument,”

1 b. If a practitioner, whether by serving as a so-called “medical director” or by
2 some other relationship or circumstance, aids, assists, employs or advises, directly or
3 indirectly, any unlicensed person to engage in the practice of medicine, and if the practitioner
4 has not done so by delegating specific tasks to an adequately supervised, competent and properly
5 trained medical assistant, then: (1) that unlicensed person has violated NRS 630.400(1)(d), by
6 practicing medicine without a license; and (2) that practitioner has violated NRS 630.305(1)(e),
7 and is subject to discipline for aiding and assisting the unlicensed practice of medicine.

8 c. If a practitioner delegates a medical task to a medical assistant, whether by
9 serving as a so-called “medical director” or by some other relationship or circumstance, then
10 the practitioner remains professionally responsible for the safety and performance of each task,
11 and remains professionally responsible for ensuring that the proper employment relationships
12 exist, that the medical assistant is properly knowledgeable, trained and skilled, that the medical
13 assistant is adequately supervised, and that the practitioner is nearby to supervise the specific
14 medical tasks delegated, and, if it is an invasive medical task, then he or she must be
15 immediately available to exercise oversight in person while the medical assistant performs the
16 task.

17 d. If a practitioner delegates a medical task to a medical assistant, whether by
18 serving as a so-called “medical director” or by some other relationship or circumstance, and if
19 the practitioner fails to adequately supervise that medical assistant as required under the
20 circumstances, then that physician or physician assistant has violated NRS 630.306(1)(r), and is
21 subject to discipline for failing to adequately supervise a medical assistant.

22 **Cosmetologists, “Medical Spas,” “Medical Estheticians,” & Unlicensed Practice of Medicine**

23 12. Pursuant to NRS 644A.030, a licensed “cosmetologist” is not authorized by such
24 license to practice medicine in any way. Rather, a licensed cosmetologist is authorized to perform
25 only non-medical, cosmetological services, such as cleansing, stimulating or massaging the scalp
26 or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions
27 or creams, cutting, trimming or shaping the hair, removing hair by the use of electrolysis,
28 depilatories, waxing, or sugaring, except for the permanent removal of hair with needles,

1 manicuring nails, massaging the skin, giving facials, and other miscellaneous non-medical,
2 cosmetological services. Likewise, pursuant to NRS 644A.065, a licensed “esthetician” is not
3 authorized to practice medicine in any way. Instead, pursuant to NRS 644A.075, a licensed
4 esthetician is licensed to engage in “[b]eautifying, massaging, cleansing or stimulating the skin of
5 the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams or any
6 device, electrical or otherwise, for the care of the skin,” “[a]pplying cosmetics, eyelash extensions
7 or eyelashes to any person, tinting eyelashes and eyebrows, eyelash perming and lightening hair
8 on the body,” and “[r]emoving superfluous hair from the body of any person by the use of
9 depilatories, waxing, tweezers or sugaring.”

10 13. Pursuant to NAC 644A.790 a cosmetologist and esthetician is further explicitly
11 prohibited from performing “invasive procedures,” which is defined as “an act that affects the
12 structure or function of the skin other than the uppermost layers of the skin,” and which for the
13 sake of regulating the practice of cosmetologists and estheticians includes, without limitation, (a)
14 the application of electricity for the sole purpose of contracting a muscle, (b) the application of a
15 topical lotion, cream or other substance which affects anything other than the uppermost layers of
16 the skin, (c) the penetration of the skin by needles, and (d) the abrasion of the skin below the
17 uppermost layers of the skin.

18 14. There is no such license as “medical esthetician”⁴ or “medical cosmetologist”
19 authorized by any Nevada law or issued by any Nevada sanctioned professional licensing body.
20 The term “medical esthetician” is not recognized or defined under any Nevada law or regulation
21 pertaining to the professional conduct and responsibility of licensed medical professionals, and no
22 law authorizes cosmetologists or estheticians to violate or circumvent the aforementioned statutes
23 and regulations of the Nevada Medical Practice Act by referring to themselves as “medical
24 estheticians” or “medical cosmetologists.”⁵

25 ///

26 _____
27 ⁴ Esthetician is sometimes spelled “aesthetician.” Nevada law in NRS Chapter 644A refers to “esthetician,”
and, accordingly, this spelling is used throughout this Complaint.

28 ⁵ In fact, use of the title “medical esthetician” or “medical cosmetologist” by individuals licensed by the
Nevada State Board of Cosmetology (NSBC) is prohibited in Nevada. It is grounds for disciplinary action by the
NSBC if a licensee uses the term “expert,” “advanced,” or “medical” in connection with the description of his or her
practice. *See* NAC 644A.870(2).

1 15. Accordingly, a Nevada licensed cosmetologist or esthetician may not practice
2 medicine in any way, or perform invasive medical procedures or medical services of any kind,
3 except as a “medical assistant” to a Nevada licensed medical professional, i.e., either as the
4 medical assistant of a Nevada licensed physician or physician assistant pursuant to
5 NRS 630.0129, et. seq., and NAC 630.800 to NAC 630.830, as described above, or similarly as
6 another type of professional “assistant,” “hygienist,” “technician,” or other such designation,
7 who is delegated tasks by and under the direct supervision of another medical professional
8 who is duly licensed pursuant to NRS Chapters 631 to 637, inclusive, 639, or 640.

9 16. If a cosmetologist or esthetician practices or purports to practice medicine in any
10 way, unless he or she acts as a medical assistant and is delegated tasks and is properly
11 supervised by a professional medical practitioner, then he or she is violating
12 NRS 630.400(1)(d) by practicing medicine without a license.

13 **Nevada Pharmacy Laws Regarding Dangerous Drugs and Hypodermic Devices**

14 17. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation
15 adopted by the Nevada State Board of Pharmacy (Pharmacy Board) is grounds for initiating
16 disciplinary action against a licensee.

17 18. Pursuant to NRS 454.201, a “dangerous drug” is “any drug, other than a controlled
18 substance, unsafe for self-medication or unsupervised use, and includes, the following, (1) any
19 drug which has been approved by the Food and Drug Administration for general distribution and
20 bears the legend: ‘Rx Only’; (2) procaine hydrochloride with preservatives and stabilizers
21 (Gerovital H3) in injectable doses and amygdalin (laetrile) which have been licensed by the State
22 Board of Health for manufacture in this State but have not been approved as drugs by the Food
23 and Drug Administration; or (3) any drug which, pursuant to the Board’s regulations, may be sold
24 only by prescription because the Board has found those drugs to be dangerous to public health or
25 safety.”

26 ///

27 ///

28 ///

1 19. Pursuant to NRS 454.316 and NRS 454.321, it is unlawful to possess, dispense or
2 furnish a dangerous drug except when furnished to the person by a pharmacist pursuant to a legal
3 prescription or by a practitioner.

4 20. Pursuant to NRS 454.009, a “hypodermic” device is “any syringe, needle,
5 instrument, device or implement intended or capable of being adapted for the purpose of
6 administering drugs by subcutaneous, intramuscular or intravenous injection.”

7 21. Pursuant to NRS 454.510, it is unlawful for any person to have in his or her
8 possession or under his or her control any hypodermic device (that is restricted by federal law to
9 sale by or on the order of a physician), unless the person has acquired possession of such device in
10 accordance with the provisions of NRS 454.480 to NRS 454.530, inclusive, that is, by sale
11 from a licensed pharmacist, on the prescription of a physician or other practitioner, which
12 prescription is filled as required by NRS 639.236, and may be refilled as authorized by the
13 prescriber.

14 22. Accordingly, pursuant to NRS 454.009, NRS 454.201, NRS 454.316, NRS 454.321
15 and NRS 454.510, a Nevada licensed cosmetologist and/or aesthetician is not permitted by
16 Nevada law to possess, control, access, prescribe, administer, and/or dispense dangerous drugs or
17 hypodermic devices, except as a medical assistant under the direct supervision of a Nevada
18 licensed physician, physician assistant, or other licensed medical professional, and then only if
19 otherwise permitted and in compliance with laws of regulating pharmacies and pharmaceuticals.

20 23. NAC 639.742(1) provides that a practitioner who wishes to dispense
21 dangerous drugs must apply to the Pharmacy Board for a certificate of registration to dispense
22 dangerous drugs. A practitioner must submit a separate application for each site of practice,
23 including, without limitation, telepharmacy, remote site or satellite consultation site, from which
24 the practitioner wishes to dispense dangerous drugs.

25 24. NAC 639.742(2) provides that if a facility from which the practitioner intends to
26 dispense dangerous drugs is not wholly owned and operated by the practitioner, the owner or
27 owners of the facility must also submit an application to the Pharmacy Board for a license to do
28 so.

1 25. NAC 639.742(3) provides, in pertinent part, that a dispensing practitioner and, if
2 applicable, the owner or owners of the facility, shall ensure that:

- 3 (a) All drugs are ordered by the dispensing practitioner;
4 (b) All drugs are received and accounted for by the dispensing
5 practitioner;
6 (c) All drugs are stored in a secure, locked room or cabinet to
7 which the dispensing practitioner has the only key or lock
8 combination;
9 (d) All drugs are dispensed in accordance with NAC 639.745.⁶
10 (e) No prescription is dispensed to a patient unless the dispensing
11 practitioner is on-site at the facility;
12 (f) All drugs are dispensed only to the patient personally at the
13 facility;
14 (g) The price of each drug dispensed to a patient is separately
15 itemized on any bill or statement provided to the patient.
16 (h) All drugs are dispensed only for medically necessary purposes
17 and according to prevailing standards of care for practitioners
18 practicing in the specialty claimed or practiced by the dispensing
19 practitioner; and

13 ⁶ NAC 639.745 Duties of certain practitioners concerning dispensing of controlled substances and dangerous
14 drugs. (NRS 639.070, 639.0727) 1. Each practitioner who is registered with the Board to dispense controlled
15 substances and dangerous drugs, including, without limitation, a dispensing practitioner, and who dispenses such
16 products for use by the practitioner's patients outside his or her presence shall: (a) Keep complete, accurate and
17 readily retrievable records of each controlled substance and dangerous drug purchased and dispensed. The record for
18 each such product dispensed to a patient must include: (1) The name of the patient and, if not readily available from
19 the practitioner's records, the patient's address; (2) The name, strength and quantity of the prescribed controlled
20 substance or dangerous drug; (3) The directions for use; (4) The date the prescription was issued; and (5) A
21 unique identifying number. (b) Maintain a separate file for the records concerning the purchase of each controlled
22 substance listed in schedule II and a separate file for the records concerning the dispensing of each controlled
23 substance listed in schedule II. Each prescription for a controlled substance or dangerous drug must be maintained in a
24 separate file pursuant to the requirements set forth in NAC 453.480. (c) Keep all controlled substances and
25 dangerous drugs in a locked storage area. Access to the storage area must be restricted to the persons described in
26 NRS 453.375. (d) Ensure that each package or container, in which a controlled substance is dispensed, except
27 samples in the manufacturer's packages, is clearly labeled pursuant to the requirements set forth in NRS 639.2801.
28 (e) Ensure that the package or container in which a controlled substance or dangerous drug is dispensed complies with
all state and federal packaging requirements. (f) Be deemed to be a pharmacy as that term is used in NAC 639.926
and shall comply with that section. 2. A practitioner may dispense dangerous drugs or controlled substances only
after the patient has been informed by the practitioner that the patient may request a written prescription and have it
filled at another location of the patient's choosing. 3. A record regarding the dispensing of a controlled substance
or dangerous drug made and kept pursuant to this section must be maintained on paper or in a computer. If the record
is: (a) Maintained on paper, the record must: (1) Include all the information required to be on the prescription
pursuant to NRS 639.2353 and NAC 453.440; (2) Set forth on the front of the prescription a certification initialed
and dated by the patient that the patient has been informed by the practitioner in accordance with subsection 2 and that
the patient has agreed to have the practitioner dispense the controlled substance or dangerous drug; and (3) Be
serially numbered and kept in numerical order in a single file for all dispensing practitioners, including, without
limitation, physician assistants and advanced practice registered nurses, practicing at the same location. (a)
Maintained in a computer, the record must: (1) Include all the information required to be on the prescription
pursuant to NRS 639.2353 and NAC 453.440; (2) Contain a certification, either in the computer or a separate paper
document, initialed and dated by the patient that the patient has been informed by the practitioner in accordance with
subsection 2 and that the patient has agreed to have the practitioner dispense the controlled substance or dangerous
drug; and (3) Be searchable for any item required by paragraph (a) of subsection 1 to be included in the record.

1 (i) The certificate for each dispensing technician employed at the
2 facility is displayed in the room or cabinet in which drugs are
stored.

3 26. NAC 639.742(4)(a) to NAC 639.742(b) provides, in part, that with regard to the
4 filling and dispensing of a prescription at a facility, only the dispensing practitioner or a
5 dispensing technician may enter the room or cabinet in which drugs are stored, or remove drugs
6 from stock.

7 27. NAC 639.945(1) provides, in pertinent part, that the following acts or practices by
8 a holder of any license, certificate or registration issued by the Pharmacy Board or any employee
9 of any business holding any such license, certificate or registration are declared to be, specifically
10 but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

11 (a) Manufacturing, compounding, selling, dispensing or permitting
12 to be manufactured, compounded, sold or dispensed substandard
drugs or preparations.

13 (b) Except as otherwise provided in NRS 639.2583 to 639.2808,
14 inclusive, for substitutions of generic drugs, dispensing or causing
to be dispensed a different drug or brand of drug in place of the
15 drug or brand of drug ordered or prescribed, unless the express
permission of the orderer or prescriber is obtained and, in the case
of a written prescription, unless the following information is
recorded on the prescription by the person obtaining permission:

- 16 (1) The date on which the permission was granted;
17 (2) The name of the practitioner granting the
permission;
18 (3) The name of the person obtaining the permission;
19 (4) The name of the drug dispensed; and
(5) The name of the manufacturer or distributor of the
drug

20 (c) Using secret formulas.

21 (d) Except as otherwise provided by subsection 2 of
22 NRS 639.2396, failing strictly to follow the instructions of the
person writing, making or ordering a prescription or chart order as
to its filling or refilling, the content of the label of the prescription
or giving a copy of the prescription or chart order to any person
except as permitted by law.

23 (e) Failing to confer with the person writing, making or ordering a
24 prescription or chart order if there is an error or omission in it
which should be questioned.

25 (f) Operating a pharmacy at a location other than the location at
which the pharmacy is licensed to operate.

26 (g) Supplying or diverting drugs, biologicals, medicines,
27 substances or devices which are legally sold in pharmacies or by
wholesalers, so that unqualified persons can circumvent any law
pertaining to the legal sale of such articles.

28 (h) Performing or in any way being a party to any fraudulent or
deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license,

1 certificate or registration issued by the Board, or as the owner of a
2 business or an entity licensed by the Board, in an incompetent,
3 unskillful or negligent manner.

4 (j) Aiding or abetting a person not licensed to practice pharmacy in
5 the State of Nevada.

6 (k) Performing any act, task or operation for which licensure,
7 certification or registration is required without the required license,
8 certificate or registration.

9 (l) Violating any term or condition of a subpoena or order issued
10 by the Board or the staff of the Board.

11 (m) Failing to provide any document, data or information that is
12 required to be made and maintained pursuant to chapters 453, 454,
13 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC
14 to a member of the Board or a member of the staff of the Board
15 upon his or her request.

16 (n) Dispensing a drug as a dispensing practitioner of a patient with
17 whom the dispensing practitioner does not have a bona fide
18 therapeutic relationship.

19 (o) Prescribing a drug as a prescribing practitioner to a patient
20 with whom the prescribing practitioner does not have a bona fide
21 therapeutic relationship.

22 28. NAC 639.945(2) provides that the owner of any business or facility licensed,
23 certified or registered by the Pharmacy Board is responsible for the acts of all personnel in his or
24 her employ.

25 29. NAC 639.945(3) provides that, for purposes of applying Pharmacy Board
26 regulations, a bona-fide therapeutic relationship between the patient and practitioner shall be
27 deemed to exist if the patient was examined in person, electronically, telephonically or by fiber
28 optics, by the practitioner within the 6 months immediately preceding the date the practitioner
dispenses or prescribes a drug to the patient and, as a result of the examination, the practitioner
diagnosed a condition for which a given drug therapy is prescribed.

30. Accordingly, any physician or physician assistant who—whether by serving as a
so-called “medical director” of, or by furnishing dangerous drugs or hypodermic devices to, or by
some other relationship or circumstance with any “medical spa” wherein dangerous drugs or
hypodermic devices are possessed, controlled, accessed, prescribed, administered, and/or
dispensed—engages in conduct that violates any regulation adopted by the Pharmacy Board,
including but not limited to NAC 639.742(1)–(3), (4)(a)–(b), or 639.945(1)–(3), has violated
the Nevada Medical Practice Act and is subject to discipline by the Board.

///

Respondent's Medical Directorship of Sandra Bledsoe

1
2 31. At all relevant times alleged herein, Respondent was an OB/GYN in Las Vegas,
3 Nevada.

4 32. On or about July 15, 2015, Respondent entered into an agreement (Agreement)
5 with an individual identified as Sandra Bledsoe (Bledsoe). This Agreement allowed Bledsoe to
6 inject Botox, Juvaderm and B12 Vitamin Complex to cosmetic clients, and Respondent acted as
7 supervising physician/Medical Director for VIP Faces, located at 1900 East Desert Inn Road, Las
8 Vegas, Nevada 89169, which was located within the offices of the Desert Inn Women's Clinic.
9 Desert Inn Medical Center owned and operated Desert Inn Women's Clinic at that time. This
10 Agreement provided VIP Faces would pay Desert Inn Medical Center one thousand dollars
11 (\$1,000.00) per month for utilization of two rooms for VIP Faces to perform cosmetic injections
12 using Botox and Juvederm. Also, VIP Faces agreed to refer to Respondent weight loss patients if
13 requested by the client. As Medical Director of VIP Faces, Respondent would examine some, but
14 not all, of VIP Faces clients.

15 33. On February 24, 2016, the Board's investigators and investigators from the
16 Pharmacy Board inspected VIP Faces located at 1900 E. Desert Inn Road, Las Vegas, NV.
17 Bledsoe was not present during this inspection. However, Respondent was present and stated the
18 following: that he was the supervising physician/Medical Director of VIP Faces, which was
19 owned by Bledsoe, whom he had known for about a year. Unlike his other OB-GYN patients,
20 Respondent did not have a physician-patient relationship with Bledsoe's VIP Faces cosmetic
21 patients. Respondent also stated that he did not examine Bledsoe's cosmetic patients and saw
22 them as they came out of VIP Faces rooms. Respondent did not establish a bona-fide medical
23 relationship with Bledsoe's clients unless they requested other medical care, such as weight loss or
24 gynecology. If a client requested a weight-loss program, then Respondent would examine the
25 patient and prescribe Phentermine as part of their weight loss program. Inspectors found in a
26 refrigerator one used vial of Botox one hundred (100) units with approximately fifty (50) units
27 remaining and two more unopened boxes of Botox units. Respondent admitted that he allowed
28 Bledsoe to act like a medical assistant in ordering products from drug makers Allergan and

1 McKesson utilizing Respondent's DEA number, but did not know exactly how much Bledsoe was
2 ordering for VIP Faces' use or her own personal use.

3 34. Bledsoe routinely injected clients with Botox, and Juvederm without Respondent's
4 medical supervision, and without Respondent's medical orders or instructions. Bledsoe also
5 injected B-12 vitamin for clients after approval by Respondent. VIP Faces held itself out to the
6 public as a "medical spa" "specializing" in injectable cosmetic procedures and "medical" weight-
7 loss.

8 35. Respondent was not a manager, agent, officer or employee of VIP Faces.

9 36. Respondent had no ownership or member interest in VIP Faces, but he had a
10 contractual authority, pursuant to the aforementioned Agreement. Respondent had a statutory duty
11 to manage the medical-related affairs of VIP Faces in compliance with the Medical Practice Act.

12 37. Neither Bledsoe nor other independent contractors of VIP Faces were employed by
13 Respondent during the time Respondent served as Medical Director of VIP Faces.

14 38. At all times relevant to the facts alleged herein, neither Bledsoe, nor her
15 independent contractors of VIP Faces were licensed by any Nevada professional licensing board
16 pursuant to NRS chapters 630 to 637, inclusive, 639 or 640 or licensed to practice medicine in the
17 State of Nevada.

18 39. Other than Respondent as Medical Director no person in any way affiliated with
19 VIP Faces held a medical license issued by the Nevada Medical Board.

20 40. Bledsoe was neither a Nevada licensed cosmetologist nor a Nevada licensed
21 esthetician.

22 41. During Respondent's supervision as Medical Director pursuant to the Agreement,
23 VIP Faces' records failed to indicate that Respondent adequately supervised, contacted or
24 consulted Bledsoe.

25 42. Respondent has been licensed in active status (License No. PD00433) by the
26 Pharmacy Board since September 12, 2013, to dispense prescription drugs at the following
27 location: 1900 E. Desert Inn Road, Suite B, Las Vegas, Nevada 89169.

28 ///

1 43. Respondent prescribed prescription-strength Botox; the aforementioned drugs and
2 hypodermic devices are available only by prescription, and are dangerous drugs as defined by
3 NRS 454.201. However, Respondent failed to supervise the amounts ordered and received by VIP
4 Faces, as Bledsoe solely controlled their possession.

5 44. As a result, Respondent, negligently through his lack of supervision, provided the
6 aforementioned dangerous drugs and hypodermic devices in the sole possession, custody and
7 control to Bledsoe.

8 45. During Respondent's agreement as Medical Director of VIP Faces, Bledsoe
9 provided medical treatment, and/or prescriptions, and/or administered dangerous drugs, and/or
10 utilized hypodermic devices, to VIP Faces' patients.

11 46. During Respondent's supervision pursuant to the Agreement, the conduct by
12 Bledsoe constitutes the practice of medicine in Nevada.

13 47. During Respondent's supervision pursuant to the Agreement on the date of
14 inspection, VIP Faces' medical records contained no entries for patient history, notes, examination
15 findings, procedures performed, or therapeutic procedures performed by Respondent, unless the
16 patient was referred by VIP Faces for weight loss or other gynecological procedures.

17 48. During Respondent's supervision pursuant to the Agreement, Bledsoe at her
18 discretion, ordered Botox and Juvederm prescribed by Respondent for utilization at VIP Faces
19 without adequate supervision by Respondent.

20 49. Botox and Juvederm were stored in a secure, locked room or cabinet to which
21 the Respondent and Bledsoe had access to. Respondent did not supervise Bledsoe's access to
22 these dangerous drugs and/or hypodermic devices.

23 50. Botox is introduced hypodermically, that is, subcutaneously.

24 51. During Respondent's supervision as Medical Director pursuant to the Agreement,
25 Bledsoe injected the aforementioned dangerous drugs and utilized hypodermic devices without a
26 dispensing license as required by the Pharmacy Board.

27 52. During Respondent's supervision as Medical Director pursuant to the Agreement,
28 Respondent was not always present when Bledsoe injected the aforementioned dangerous drugs.

1 53. During Respondent’s supervision as Medical Director pursuant to the Agreement,
2 Respondent neither received personally nor accounted for personally the dangerous drugs and/or
3 hypodermic devices utilized for injections administered by Bledsoe.

4 a. The dangerous drugs and the use of hypodermic devices were not
5 dispensed in accordance with NAC 639.745. Respondent did not have a bona-fide therapeutic
6 relationship with some of the VIP Faces patients at issue.

7 b. Respondent personally did not inject the drugs dispensed in VIP Faces’ two
8 rooms, Respondent failed to assure through supervision that they were dispensed only for
9 medically necessary purposes and according to prevailing standards of care, nor did he assure that
10 a certificate for each dispensing technician employed at the facility was displayed in the room
11 or cabinet in which drugs were stored.

12 54. Respondent failed to adequately supervise Bledsoe to ensure that she possessed the
13 knowledge, skill, and training to perform injections on clients and/or patients safely and properly.

14 **COUNT I**

15 **NRS 630.306(1)(r): Failure to Adequately Supervise**

16 55. All of the allegations in the above paragraphs are hereby incorporated as if fully set
17 forth herein.

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

21 57. By the conduct described herein, Respondent failed to supervise adequately, or
22 supervise properly Bledsoe, and any contractors of VIP Faces in their performance of medical
23 tasks as Medical Director pursuant to the Agreement.

24 58. By reason of the foregoing, Respondent is subject to discipline by the Nevada
25 State Board of Medical Examiners as provided in NRS 630.352.

26 ///

27 ///

28 ///

COUNT II

NRS 630.306(1)(b)(3): Engaging in Conduct That Violated Pharmacy Board Regulations

59. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

60. NRS 630.306(1)(b)(3) provides that engaging in conduct that violates a regulation adopted by the Pharmacy Board is grounds for initiating disciplinary action against a licensee.

61. By the conduct described herein, Respondent engaged in conduct that violates regulations adopted by the Pharmacy Board, specifically including, but not limited to NAC 639.742(1)-(3), (4)(a)-(b), 639.945(1)-(3).

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

WHEREFORE, the IC prays:

1. That the Nevada State Board of Medical Examiners 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 Nevada State Board of Medical Examiners set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

3. That the Nevada State Board of Medical Examiners determine the sanctions it will impose if it finds Respondent violated the Medical Practice Act;

4. That the Nevada State Board of Medical Examiners make, issue and serve upon the Respondent, in writing, its findings of fact, conclusions of law and order, which shall include the sanctions imposed; and,

///

///

///

///

///

///


OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. That the Nevada State Board of Medical Examiners take such other and further action as may be just and proper in these premises.

Dated this 7 day of November, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Mr. M. Neil Duxbury, 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 17 day of November, 2020.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

M. NEIL DUXBURY

M. Neil Duxbury, Chairman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 17th day of November, 2020, I served a file-stamped copy of the foregoing **FIRST AMENDED COMPLAINT**, via Electronic Mail to the following parties:

Valerie I. Fujii, Esq.
c/o Frank P. Silver, M.D.
Law Offices of Valerie I. Fujii & Associates
val@fujii-lawlv.com

DATED this 17th day of November, 2020.


Mercedes Fuentes, Legal Assistant
Nevada State Board of Medical Examiners