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Respondent.

THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In the Matter of Charges and **Complaint Against** HUY NGUYEN, M.D.,

Case No. 19-30254-1

FILED

MAY 2 7 2020

NEVADA STATE BOARD OF MEDICAL EXAMINERS

FIRST AMENDED COMPLAINT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board) hereby issues this First Amended Complaint against Huy Nguyen, M.D. (Respondent), a licensed physician in Nevada. After investigating this matter, the IC¹ has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statute (NRS) Chapter 630 and the Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act). The IC alleges the following facts:

- Respondent was licensed by the Board, pursuant to the provisions of the Medical 1. Practice Act, on July 15, 2005, and is currently licensed in active status (License No. 11525).
- Patient A's true identity is not disclosed herein to protect his privacy, but is 2. disclosed in the Patient Designation served upon Respondent along with a copy of this First Amended Complaint.
- 3. On August 24, 2012, Patient A, who was vacationing from Ohio, was admitted to the St. Rose Hospital via the emergency room (ER) for a headache and eye pain. Patient A stated that he went to the ER due to "left eye infection was burning, seeping and flaming red."

¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this First Amended Complaint was authorized for filing, was composed of Board members Mr. M. Neil Duxbury, Chairman,

Aury Nagy, M.D. and Michael C. Edwards, M.D., FACS.

- 4. On August 25, 2012, Respondent, who had the responsibility to evaluate Patient A's eyes, noted in the medical records that he "completed a full physical examination" and reviewed the workup from the ER with an understanding that Patient A presented with "left eye pain" and a history of pseudo tumor cerebri. Respondent's impressions were pseudo tumor cerebri, hypertension, diabetes, and obstructive sleep apnea. A neurologist was consulted subsequently. Respondent had a duty to perform an examination, including the conjunctiva, eyelids, and cornea with a simple fluorescein stain, that would be necessary to diagnose and treat an eye infection prior to prescribing steroids for Patient A's medical condition.
- 5. On August 26, 2012, at approximately 9:00 a.m., Respondent was concerned about a possible medical condition of uveitis in Patient A's left eye. However, there were no acts in furtherance by Respondent to confirm or deny the possibility of this condition of uveitis. A referral (consult) to an expert in ophthalmology for a slit-lamp examination and a dilated fundus examination are required to make a diagnosis of uveitis in patients suspected of uveal tract inflammation. No consultation for a slit-lamp examination or a dilated fundus examination were conducted by the Respondent nor did the Respondent conduct either of the aforementioned examinations. Apparently, Respondent did not have access to such equipment to perform an actual examination to diagnose uveitis. No consultation was offered or provided to confirm or deny the "probable uveitis of the left eye."
- 6. On August 27, 2012, Patient A was discharged with Respondent's prescription of steroid prednisolone eye drops (pred forte) and ciprofloxacin ophthalmic drops, and was instructed to follow up with an ophthalmologist the next day after discharge.
- 7. On May 13, 2013, Patient A required a cornea transplant after suffering a severe cornea ulceration of the left eye, which was not diagnosed by Respondent during his "full physical examination" on August 25, 2012.

Count I

(Malpractice)

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

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- NRS 630.301(4) provides that malpractice of a physician is grounds for initiating 9. disciplinary action against a licensee.
- NAC 630.040 defines malpractice as the failure of a physician, in treating a patient, 10. to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.
- As demonstrated by, but not limited to, the above-outlined facts, Respondent failed 11. to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when he provided medical services to Patient A, because when Respondent, without ruling out a herpetic or fungal infection during his full physical examination, started Patient A on the steroid (prednisolone) drops, it was a deviation from the appropriate standard of care, which requires the ruling out of opportunistic infections, because Respondent did not conduct a slit-lamp examination prior to having Patient A use the steroid drops.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 12. provided in NRS 630.352.

Count II

(Failure to Maintain Complete Medical Records)

- All of the allegations contained in the above paragraphs are hereby incorporated by 13. reference as though fully set forth herein.
- NRS 630.3062(1)(a) provides that the failure to maintain timely, legible, accurate 14. and complete medical records relating to the diagnosis, treatment and care of a patient is grounds for initiating disciplinary action against a licensee.
- Respondent failed to maintain complete medical records relating to the diagnosis, 15. treatment and care of Patient A, by failing to document his actions when he treated Patient A, whose medical records were not timely, legible, accurate, and complete.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 16. provided in NRS 630.352.

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(Violation of Standards of Practice Established by Regulation)

- All of the allegations contained in the above paragraphs are hereby incorporated by 17. reference as though fully set forth herein.
- Violation of a standard of practice adopted by the Board is grounds for imitating 18. disciplinary action pursuant to NRS 630.306(1)(b)(2).
- NAC 630.210 requires a physician to seek consultation with another provider of health care in doubtful or difficult cases whenever it appears that consultation may enhance the quality of medical services.
- Respondent failed to timely seek consultation with regard to Patient A's medical 20. condition of a "probable uveitis of the left eye," and Respondent should have consulted with an appropriate care provider to address the doubtfulness of the diagnosis of uveitis, and such a consultation would have confirmed or denied such a diagnosis.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 21. provided in NRS 630.352.

WHEREFORE, the IC prays:

- That the Board give Respondent notice of the charges herein against him and give 1. him notice that he may file an answer to the First Amended Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the First Amended Complaint;
- That the Board set a time and place for a formal hearing after holding an Early 2. Case Conference pursuant to NRS 630.339(3);
- That the Board determine what sanctions to impose if it finds and concludes that 3. there has been a violation or violations of the Medical Practice Act committed by Respondent;
- That the Board make, issue and serve on Respondent its findings of fact, 4. conclusions of law and order, in writing, to include sanctions to be imposed; and

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OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

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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 20th day of May, 2020.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By

Robert Kilroy, Esq.

General Counsel

Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

VERIFICATION

STATE OF NEVADA)
COUNTY OF WASHOE	: ss.)

Mr. M. Neil Duxbury, having been duly sworn, 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 First Amended Complaint against the Respondent herein; that he has read the foregoing First Amended 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 First Amended Complaint against Respondent are true, accurate and correct.

Dated this 20th day of May, 2020.

M. NEIL TOWNSURY

M. Neil Duxbury, Chairman