BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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Against:

Respondent.

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In the Matter of Charges and Complaint Case No. 21-21202-1 FILED

FEB - 8 2021

NEVADA STATE BOARD OF MEDICAL EXAMINERS By:

COMPLAINT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners ("Board") hereby issues this formal Complaint against Arturo Marchand, Jr., M.D. (hereinafter referred to as Respondent), a licensed physician in Nevada. After investigating this matter, the IC has a reasonable basis to believe that Respondent has violated provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act).

The IC alleges the following facts:

ARTURO MARCHAND, JR., M.D.,

1. Respondent is currently, and was at all times relevant to this Complaint, licensed in active status (License No. 9892). Respondent was issued his license from the Board on July 17, 2001, pursuant to the provisions of NRS Chapter 630.

Patient A

- 2. Patient A was a sixty-one (61) year-old female at the time of the events at issue. Her 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.
- 3. On April 14, 2016, Patient A first presented to Respondent for an outpatient clinic visit at Nevada Heart and Vascular Center (NHVC). Laboratory results on December 29, 2015,

¹ The Investigative Committee of the Nevada State Board of Medical Examiners, at the time the filing of this Complaint was approved, was composed of Wayne Hardwick, M.D., Mr. M. Neil Duxbury, and Aury Nagy, M.D.

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revealed an international normalized ratio (INR) of 1.3, which is below normal range for persons with prosthetic heart valves. This demonstrated possible subtherapeutic anticoagulation with her prescribed Warfarin (Coumadin). However Respondent did not report in medical records any details with regards to whether Patient A was noncompliant taking her prescribed Warfarin.

- On June 2, 2016, Patient A presented again to Respondent for a follow-up visit at 4. NHVC. Respondent did not report in the medical records any details whether Patient A was noncompliant taking her prescribed Warfarin. Laboratory results thereafter on June 17, 2016, revealed an INR of 1.4. This demonstrated possible subtherapeutic anticoagulation with her prescribed Warfarin.
- On October 6, 2016, Patient A presented again to Respondent at NHVC. 5. Respondent made the determination that Patient A was not in compliance with taking her Warfarin therapy and INR.
- On October 6, 2016, Respondent changed Patient A's prescription from Warfarin 6. to Pradaxa, despite knowing that Patient A had a mechanical mitral valve prosthesis. The medical records indicate that Respondent discussed with Patient A that she needed to be compliant with her anticoagulation, and that Patient A had significant risk factors. But the medical records do not provide any indication that Respondent discussed the risks nor had Patient A sign an informed consent for switching to Pradaxa, or that there was a discussion about the contraindications associated with the use of Pradaxa by a patient with a mechanical mitral valve prosthesis.²
- On October 28, 2016, Patient A presented to the Emergency Department at Desert 7. Springs Hospital complaining of severe retrosternal chest pain. During her stay at Desert Springs Hospital, Patient A was successfully treated with an aspiration thrombectomy.
- On October 29, 2016, Patient A was restarted on Warfarin while still at the hospital 8. and was discharged from the hospital on November 3, 2016.

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² Use of Pradaxa is contraindicative in patients with mechanical mitral valve prostheses and the FDA has issued a black box warning.

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COUNT I

NRS 630.3065(2)(a) (Knowing or Willful Failure to Comply with a Regulation of the Board)

- 9. All of the allegations in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- NRS 630.3065(2)(a) provides that knowingly or willfully failing to comply with a 10. regulation of the Board is grounds for initiating disciplinary action against a licensee.
- NAC 630.615(3) provides that if a licensee offers a treatment which is not considered to be conventional, documentation of written informed consent by the patient for each treatment plan, including, without limitation, documentation that the risks and benefits of the use of both the conventional and the other means or instrumentality of treatment were discussed with the patient or guardian.
- Respondent knowingly and willfully failed to comply with NAC 630.615(3) (a 12. regulation of the Board) when he changed Patient A's prescription from Warfarin to Pradaxa, despite knowing that Patient A had a mechanical mitral valve prosthesis and did not obtain written informed consent or document the risks and benefits of changing to the use of Pradaxa other than Respondent's records indicate that he discussed with Patient A she needed to be compliant with her anticoagulation and that Patient A had significant risk factors.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 13. provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

- That the Nevada State Board of Medical Examiners give Respondent notice of the 1. 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;
- That the Nevada State Board of Medical Examiners set a time and place for a 2. formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);
- That the Nevada State Board of Medical Examiners determine what sanctions to 3. impose if it determines there has been a violation or violations of the Medical Practice Act committed by Respondent;

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

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- 4. That the Nevada State Board of Medical Examiners make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and
- 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 8th day of February, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

Donald K. White, Esq., Deputy General Counsel Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

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 day of February, 2021.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

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M. Neil Duxbury, Chairman