

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

3                                   \* \* \* \* \*

4   **In the Matter of Charges and Complaint**  
5   **Against:**  
6   **GAIL POPELKA KRIVAN, M.D.,**  
7                                   **Respondent.**

Case No. 21-11804-1

**FILED**

**MAR - 3 2021**

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

By: \_\_\_\_\_

9                                   **COMPLAINT**

10                   The Investigative Committee (IC)<sup>1</sup> of the Nevada State Board of Medical Examiners  
11 (Board), by and through Aaron Bart Fricke, Esq., Senior Deputy General Counsel and attorney for  
12 the IC, having a reasonable basis to believe that Gail Popelka Krivan, M.D., (Respondent),  
13 violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and the Nevada  
14 Administrative Code (NAC) Chapter 630 (collectively Medical Practice Act), hereby issues its  
15 Complaint (Complaint), stating the IC's charges and allegations as follows:

16                   1.       Respondent was at all times relative to this Complaint a licensed medical doctor  
17 holding an active license to practice medicine in the State of Nevada (License No. 9735).  
18 Respondent was originally licensed by the Board on March 20, 2001.

19                   2.       Patient A was a twenty-eight (28) year-old female at the time Respondent began  
20 treating her in November 2016. Her name is not disclosed in this Complaint to protect her  
21 identity, but is disclosed in the Patient Designation served on Respondent with a copy of this  
22 Complaint.

23                                   **COUNT I**

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

25                   3.       All of the allegations in the preceding paragraphs are hereby incorporated by  
26 reference as though fully set forth herein.

27  
28                   <sup>1</sup> 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 Victor M. Muro, M.D., Chair, Ms. April  
Mastroluca, and Weldon Havins, M.D., J.D.

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

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

6           6.       Pursuant to NAC 630.230(1)(k), a licensee shall not engage in the practice of  
7 writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that  
8 deviates from the Model Policy.

9           7.       Respondent treated Patient A for chronic pain with opioid analgesics. Patient A  
10 had a reported history of a brain aneurysm and chronic headaches, chronic neck and back pain,  
11 attributed to her work for a parcel delivery service.

12           8.       On November 2016, Respondent began prescribing to Patient A various opioid  
13 medications for pain control, including oxycodone/acetaminophen, Belbuca, hydromorphone, and  
14 hydrocodone/acetaminophen, and in January 2019, began prescribing one hundred eighty (180)  
15 tablets of Oxycodone-Acetaminophen 10-325 every thirty (30) days, which is a morphine  
16 milligram equivalent (MME) of ninety (90) per day and constitutes high-dose opioid therapy.

17           9.       Respondent prescribed to Patient A ninety (90) MME per day, and for more than  
18 ninety (90) days, without establishing the medical necessity of such a high-dose of opioid therapy.  
19 Respondent failed to develop a revised treatment plan and consider referring the patient to a pain  
20 management specialist.

21           10.      Respondent is not certified by the American Board of Pain Medicine and has no  
22 fellowship training in pain management, and is not otherwise qualified as a specialist in pain  
23 management.

24           11.      Respondent failed to conduct any detailed neurologic or musculoskeletal  
25 examinations that would establish an indication for Patient A to receive long-term, high-dose  
26 opioid medication for pain control.

27           12.      Respondent failed to recommend other conservative treatments before or  
28 concurrent with high-dose opioid therapy, including but not limited to, physical therapy, exercise

1 and movement, or massage therapy, among others, which may have alleviated these findings on  
2 physical examination.

3 13. Pursuant to the Model Policy, a physician's patient evaluation should include,  
4 without limitation: complete medical history and physical examination targeted to the pain  
5 condition, evaluation of the nature and intensity of the pain, and history of current and past  
6 treatments, including interventional treatments. Respondent consistently omitted such  
7 information in Respondent's medical records for Patient A.

8 14. Respondent's records do not contain and show no indication of recent or  
9 contemporaneous imaging (e.g. X-rays, MRIs, or CT scans) that would substantiate the need for  
10 high-dose opioids for pain control.

11 15. Based on but not limited to the foregoing, Respondent wrote prescriptions to  
12 Patient A for opioid analgesics to treat chronic pain in a manner that deviated from the Model  
13 Policy.

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

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1 WHEREFORE, the IC prays:

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

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


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

9 4. That the Board make, issue and serve on Respondent its findings of fact,  
10 conclusions of law and order, in writing, that includes the sanctions imposed; and

11 5. That the Board take such other and further action as may be just and proper in these  
12 premises.

13 DATED this 3 day of March, 2021.

14 INVESTIGATIVE COMMITTEE OF THE  
15 NEVADA STATE BOARD OF MEDICAL EXAMINERS

16 By:   
17 \_\_\_\_\_  
18 Aaron Bart Fricke, Esq., Senior Deputy General Counsel  
19 Attorney for the Investigative Committee  
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1 VERIFICATION

2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) : ss.

4 Victor M. Muro, M.D., having been duly sworn, hereby deposes and states under penalty  
5 of 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 3 day of March, 2021.

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

13 By:   
14 Victor M. Muro, M.D., Chairman

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

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**CERTIFICATE OF SERVICE**

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 3rd day of March, 2021, I served a file-stamped copy of the **COMPLAINT**, via U.S. Certified Mail, with a courtesy copy by electronic mail, to the following parties:

Lyn E. Beggs, Esq.  
Law Offices Of Lyn E. Beggs, PLLC  
c/o Gail Popelka Krivan, M.D.  
316 California Ave., #863  
Reno, NV 89509  
[lyn@lbeggslaw.com](mailto:lyn@lbeggslaw.com)

\*Certified Mailing No.: 9171 9690 0935 0243 8310 48

DATED this 3<sup>rd</sup> day of March, 2021.

  
Mercedes Fuentes, Legal Assistant  
Nevada State Board of Medical Examiners