# BEFORE THE BOARD OF MEDICAL EXAMINERS
# OF THE STATE OF NEVADA

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| **In the Matter of Charges and Complaint Against:** **WILLIAM DOUGLAS SMITH, M.D., Respondent.** | **Case No. 21-11398-1** |

FILED
APR - 1 2021
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

## COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board), by and through Robert Kilroy, Esq., General Counsel and attorney for the IC, having a reasonable basis to believe that William Douglas Smith, M.D. (Respondent) violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and allegations as follows:

1. Respondent was at all times relative to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 7897). Respondent was originally licensed by the Board on July 17, 1996.

2. Patient A'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.

3. On February 28, 2017, Patient A presented to Respondent for an extreme lateral interbody fusion (XLIF) on her spine. Respondent performed XLIF with a direct lateral approach from level T10 to level L5 (thoracic to lumbar). There was no MRI or EMG performed post-operatively until July 16, 2017, when an MRI of the thoracic spine was performed and indicated severe (spinal) canal compromise at the level of the malposition screws. On December 4, 2017, a

[1] The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), at the time this formal Complaint was authorized for filing, was composed of Board members Victor M. Muro, M.D., Chairman, April Mastrolucca, and Weldon Havins, M.D., J.D.

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CT scan indicated a malposition screw within the can of the upper fused instrumented segment which produced at least a fifty percent (50%) obliteration of the spinal cord at that level. On December 7, 2017, the CT scan, as interpreted by a radiologist, indicated a malposition screw which caused a mild spinal stenosis. Both the MRI and CT scan when viewed together indicate severe (spinal) canal compromise and deformation of the spinal cord.

**COUNT I**

**NRS 630.301(4) (Malpractice)**

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

5. NRS 630.301(4) provides that malpractice of a physician is grounds for initiating disciplinary action against a licensee.

6. NAC 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

7. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when he provided medical services to Patient A.

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

**COUNT II**

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

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

10. 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.

11. Respondent failed to maintain complete medical records relating to the diagnosis, 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.

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

**COUNT III**

**NRS 630.306(1)(b)(2) (Violation of Standards of Practice Established by Regulation)**

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

14. 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).

15. 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.

16. Respondent failed to timely seek consultation with regard to Patient A's medical condition. Respondent should have consulted with an appropriate care provider to address the aforementioned worsening conditions. This consultation could have enhanced Patient A's declining medical condition.

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

**WHEREFORE**, the Investigative Committee prays:

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

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

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;

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5. That the Board award fees and costs as outlined in NRS 622.400 for the investigation and prosecution of this disciplinary action; and

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

DATED this 16 day of March, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

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## VERIFICATION

STATE OF NEVADA )
: ss.
COUNTY OF CLARK )

Victor M. Muro, M.D. 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 16th day of March, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

V M Muro MD

Victor M. Muro, M.D., Chairman

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