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

* * * * *

In the Matter of Charges and Complaint

Case No. 21-8734-1

Against:

ABDEL MALICK KHALEK, M.D.,

Respondent.

FILED

DEC - 7 2021

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**

By: 

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This case was presented for adjudication and decision before the Nevada State Board of Medical Examiners (Board), during a regularly scheduled Board meeting on December 3, 2021, at 8:40 a.m., (Pacific Standard Time), located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. Abdel Malick Khalek, M.D. (Respondent), was properly served with a notice of the adjudication, including the date, time, and location. Respondent was not present personally or through an attorney. Rosalie M. Bordelove, Esq., Chief Deputy Attorney General, served as legal counsel to the Board. The adjudicating members of the Board rendering these Findings of Fact, Conclusions of Law (FOFCOL) and Order are: Victor M. Muro, M.D., Ms. Maggie Arias-Petrel, Ms. Pamela J. Beal, Nicola (Nick) M. Spirtos, M.D., FACOG, and Carl N. Williams, Jr., M.D., FACS.

The Board, having received and read the formal Complaint and exhibits admitted at the hearing of this matter, the Hearing Officer's Findings and Recommendations¹, and the transcript of the hearing, made its decision pursuant to its authority and provisions of the Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as applicable.

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¹ The Hearing Officer's Findings and Recommendations were prepared by Patricia Halstead, Esq., who was appointed as Hearing Officer under NRS 630.106 in this matter and presided over the hearing.

1 The Board, after due consideration of the record, evidence and law, and being fully
2 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND
3 ORDER in this matter, as follows:

4 **FINDINGS OF FACT**

5 **I.**

6 Respondent held a license to practice medicine in the State of Nevada issued by the Board
7 from August 14, 1993 to June 30, 2021.

8 **II.**

9 On February 1, 2021, the Investigative Committee filed its formal Complaint in
10 Case No. 21-8734-1, alleging Respondent violated the Medical Practice Act. Respondent was
11 served with the Complaint on February 18, 2021, at his address of record with the Board.
12 Pursuant to NRS 630.254, each licensee shall maintain a permanent mailing address with the
13 board to which all communications from the Board to the licensee must be sent. A licensee who
14 changes his or her permanent mailing address shall notify the Board in writing of the new
15 permanent mailing address within 30 days after the change.

16 The Complaint alleges two (2) violations of the Medical Practice Act that constitute
17 grounds for initiating disciplinary action against a licensee, as follows: one (1) violation of
18 NRS 630.306(1)(c), Unlawful Prescribing of Controlled Substances and Dangerous Drugs (Count
19 I); and one (1) violation of NRS 630.305(1)(e), Aiding and Assisting the Unlicensed Practice of
20 Medicine (Count II). Respondent did not answer or file a response to the allegations set forth in
21 the Complaint. Pursuant to NAC 630.460(4), the allegations of the Complaint are deemed
22 generally denied if an answer is not filed.

23 **III.**

24 An Order Scheduling Early Case Conference was filed on April 12, 2021, scheduling the
25 Early Case Conference for the pending matter for May 6, 2021, at 10:00 a.m. This Order was
26 mailed via USPS Certified Mail, postage pre-paid, on April 13, 2021 to Respondent's address of
27 record. In addition, Respondent was contacted several times by telephone, whereby he was
28 repeatedly informed of the proceedings, including the date, time and how to participate in the

1 telephonic Early Case Conference. An Affidavit describing attempts to contact Respondent was
2 filed on May 3, 2021, and was delivered on May 6, 2021, at 3:40 p.m., to Respondent's address of
3 record with the Board. On May 6, 2021, a telephonic Early Case Conference was conducted in
4 this matter. Aaron Bart Fricke, J.D., General Counsel, (Mr. Fricke) was present on behalf of the
5 Investigative Committee (IC) of the Board, with Hearing Officer Patricia Halstead, Esq.
6 Respondent did not appear or participate. The parties agreed to dates for the pre-hearing
7 conference, exchange of documents, and the hearing date.

8 In compliance with NAC 630.465, a Scheduling Order, setting pre-hearing and hearing
9 was filed on May 12, 2021, setting the pre-hearing conference for July 20, 2021, at 10:00 a.m.,
10 and setting the hearing for August 26, 2021, at 8:00 a.m., at the Office of the Nevada State Board
11 of Medical Examiners, 9600 Gateway Drive, Reno, Nevada 89521, and video conferenced to the
12 Board's Las Vegas Office, located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV
13 89119. The Scheduling Order was delivered to Respondent at his address of record via
14 USPS Certified Mail on May 17, 2021, at 1:27 p.m.

15 An Order Continuing Prehearing Conference was then filed on July 19, 2021, changing the
16 Pre-Hearing Conference to July 27, 2021, the remainder of the Scheduling Order filed on
17 May 12, 2021, remained the same. The Order Continuing Prehearing Conference was delivered to
18 Respondent at his address of record via USPS Certified Mail on July 24, 2021, at 1:44 p.m.

19 The Pre-Hearing Conference was held telephonically as noticed and ordered, at which
20 time, legal counsel for the IC, Mr. Fricke, appeared. Neither the Respondent nor any
21 representative of the Respondent appeared at the Pre-Hearing Conference.

22 **IV.**

23 On August 26, 2021, as duly noticed and ordered, a hearing was held before the Hearing
24 Officer to receive evidence and to hear the arguments of both parties. Legal counsel for the IC,
25 Mr. Fricke, appeared. Respondent did not attend the hearing, nor did he have counsel appear on
26 his behalf. Mr. Fricke presented the IC's case, offered documentary evidence and presented
27 witness testimony. Exhibits 1 through 16, were marked and admitted into evidence.

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1 Pursuant to NRS 622A.350(1) and (2), as Respondent did not appear and as a continuance
2 had not been scheduled, sought or granted, Mr. Fricke made an offer of proof on the record that
3 Respondent was given sufficient legal notice. Upon a determination by the regulatory body or
4 hearing panel or officer that the absent party was given sufficient legal notice, the regulatory body
5 or hearing panel or officer may proceed to consider and dispose of the case without the
6 participation of the absent party. Based thereon, good cause appearing, the Hearing Officer found
7 that sufficient legal notice had been provided to the Respondent, and therefore found that the
8 Board may accept the IC's allegations against the Respondent in the Complaint as true.

9 Notwithstanding the presumption afforded the Board pursuant to NRS 622A.350(2),
10 Mr. Fricke presented the IC's case in its entirety, thus establishing a record for the Board to
11 review the case on the merits.

12 The Hearing Officer provided the Findings and Recommendations, filed
13 October 21, 2021. This matter was scheduled for final adjudication on December 3, 2021, at a
14 regularly scheduled Board meeting.

15 The notice of the adjudication was sent via USPS Certified Mail on October 27, 2021, and
16 was delivered on Respondent's address of record on November 1, 2021, at 1:52 p.m.

17 A copy of the adjudication materials along with a copy of the Hearing Officer's Findings
18 and Recommendation, were mailed via USPS Certified Mail on November 2, 2021, and were
19 delivered to Respondent's address of record on November 5, 2021, at 3:35 p.m.

20 **V.**

21 Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing
22 Officer are hereby approved and adopted by the Board, in their entirety and without modification,
23 and are hereby specifically incorporated and made part of this Order by reference. A copy of the
24 Findings and Recommendations filed October 21, 2021, in this matter is attached hereto as
25 **Exhibit 1.**

26 **VI.**

27 The Board hereby finds that Counts I and II, as set forth in the Complaint, and as
28 recapitulated in Paragraph II above, have been established by a preponderance of the evidence.

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VII.

If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be so construed.

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent and the Complaint, and an adjudication of this matter by the Board members as set forth herein is proper.

II.

Respondent was timely and properly served with the Complaint, and all notices and orders in advance of the hearing and adjudication thereon, in accordance with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and all legal requirements of due process.

III.

With respect to the allegations of the Complaint, the Board concludes that Respondent has violated the Medical Practice Act, as alleged in the Complaint, as follows: one (1) violation of NRS 630.306(1)(c), Unlawful Prescribing of Controlled Substances and Dangerous Drugs (Count I); and one (1) violation of NRS 630.305(1)(e), Aiding and Assisting the Unlicensed Practice of Medicine (Count II). Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

IV.

The Board finds that, pursuant to NRS 622.400, recovery from Respondent of reasonable attorneys' fees and costs incurred by the Board as part of its investigation and disciplinary proceedings against Respondent is appropriate. The Board has reviewed the Investigative Committee's Memorandum of Costs and Disbursements and Attorneys' Fees, and the Board finds them to be the actual fees and costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings against Respondent, and finds them to be reasonable and necessary based on: (1) the abilities, training, education, experience, professional standing and skill demonstrated by Board staff and attorneys; (2) the character of the work done, its difficulty, its intricacy, its importance, the time and skill required, the responsibility imposed and the prominence and character of the parties where, as in this case, they affected the importance of

1 the litigation; (3) the work actually performed by the Board’s attorneys and staff, and the skill,
2 time and attention given to that work; and (4) the product of the work and benefits to the Board
3 and the people of Nevada that were derived therefrom.

4 **V.**

5 If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it
6 may be so construed.

7 **ORDER**

8 Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause
9 appearing therefore,

10 IT IS HEREBY ORDERED that:

11 1. Pursuant to NRS 630.352(4)(e), the Board shall administer a written public
12 reprimand to Respondent.

13 2. Pursuant to NRS 630.352(4)(d), Respondent’s license to practice medicine is
14 hereby revoked. In accord with NRS 622A.410(1), the Board hereby prescribes a period of two
15 (2) years, during which Respondent may not apply for reinstatement of this license;

16 3. Pursuant to NRS 630.352(4)(h), Respondent is hereby ordered to pay a fine of two
17 thousand five-hundred dollars (\$2,500.00) per violation of the Medical Practice Act, for a total
18 fine in the amount of five thousand dollars (\$5,000.00), to be paid within sixty (60) days of
19 service of this Order; and

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4. Respondent is hereby further ordered to reimburse the Board the reasonable and necessary costs and expenses actually incurred in the investigation and prosecution of this case in the amount of eleven thousand five hundred seventy dollars and sixty-eight cents (\$11,570.68), to be paid within sixty (60) days of service of this Order. The Board, and/or its designee, are granted the authority to collect any and all funds due under this Order.

IT IS SO ORDERED.

DATED this 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
VICTOR M. MURO, M.D.
President of the Board

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CERTIFICATION

I certify that the foregoing is the full and true original **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** on file in the office of the Board of Medical Examiners in the matter of **ABDEL MALICK KHALEK, M.D.**, Case No. 21-8734-1.

I further certify that Victor M. Muro, M.D., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing ORDER is the signature of said Victor M. Muro, M.D.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

DATED this 7th day of December, 2021.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Maggie Arias-Petrel
MAGGIE ARIAS-PETREL
Secretary-Treasurer and Public Member of the Board

EXHIBIT 1

EXHIBIT 1

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

3 * * * * *

4
5 **In the Matter of Charges and**
6 **Complaint Against**

Case No. 21-8734-1

FILED

OCT 21 2021

7 **ABDEL MALICK KHALEK, M.D.,**

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

8 **Respondent.**

By: 

9
10 **FINDINGS AND RECOMMENDATIONS**

11 TO: Aaron Bart Fricke
12 Senior Deputy General Counsel
13 Nevada State Board of Medical Examiners
14 9600 Gateway Drive
15 Reno, Nevada 89521

16 Abdel Malick Khalek, M.D.
17 320 N. Nellis Blvd., Ste 6
18 Las Vegas, NV 89509

19 This matter came for hearing on August 26, 2021. Present were Aaron Fricke, Esq. on
20 behalf of the Investigative Committee (the "IC") and the undersigned hearing officer. Respondent
21 Abdel Malick Khalek, M.D. ("Dr. Khalek") did not appear nor otherwise participate.

22 Notice to Dr. Khalek was confirmed on the record. Specifically, proof was submitting
23 indicating that the Scheduling Order, filed May 12, 2021, which contained notice of the hearing
24 was sent by certified mail to Dr. Khalek at his last known address on file with the Nevada State
25 Board of Medical Examiners (the "Board"). See NRS 630.254; NRS 630.255; NRS 630.344; and
26 Volume 1, Exhibits 6-7. While Dr. Khalek had communications with the Board, the record
27 indicates that he did not provide an alternative address, was aware of the proceedings, and did not
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1 engage in the proceedings despite several notices and attempts to contact him.¹ See Volume 1,
2 Exhibits 1-11. No continuance of the hearing was requested by any interested party.

3 With Dr. Khalek having failed to appear and no continuance having been requested nor
4 granted, the matter was heard as scheduled pursuant to NRS 622A.350, which provides:

5 1. If a party fails to appear at a scheduled hearing and a continuance
6 has not been scheduled or granted, any party who is present at the hearing may
7 make an offer of proof that the absent party was given sufficient legal notice. Upon
8 a determination by the regulatory body or hearing panel or officer that the absent
9 party was given sufficient legal notice, the regulatory body or hearing panel or
officer may proceed to consider and dispose of the case without the participation of
the absent party.

10 2. If the licensee fails to appear at a hearing, the regulatory body or
11 hearing panel or officer may accept the allegations against the licensee in the
charging document as true.

12 As well as pursuant to NAC 630.470(2), which provides: "If a licensee fails to appear at a
13 scheduled hearing and no continuance has been requested and granted, the evidence may be heard
14 and the matter may be considered and disposed of on the basis of the evidence before the Board,
15 panel or hearing officer in the manner required by this section."

16 In so proceeding, undersigned heard evidence from the IC in support of the Complaint
17 allegations that consist of: Count I, NRS 630.306(1)(c), Unlawful Prescribing of Controlled
18 Substance and Dangerous Drug; and Count II, NRS 630.305(1)(e), Aiding and Assisting the
19 Unlicensed Practice of Medicine, premised upon controlled substances being addressed by
20 unlicensed practitioner Vinay Kumar Bararia, M.D. by and through credentials held by Dr.
21 Khalek. Through sworn testimony of Senior Investigator for the Nevada State Board of Medical
22 Examiners Kim Friedman, and through the admission of Volume 1, Exhibits 1-11 and Volume II,
23 Exhibits 1-16, the IC established as follows:
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28 ¹ In this respect, there are no filings in the record on behalf of Dr. Khalek including, but not limited to, an Answer to the Complaint.

1 1. Dr. Khalek was employed by Goldsmith Healthcare, Ltd., a medical clinic located
2 in Las Vegas, Nevada, which was sold to Nevada Health Services, LLC in August 2018. *See*
3 Volume II, Exhibit 14.

4 2. Nevada Health Services, LLC did business as “TrimCare” and was owned and
5 operated by Vinay Kumar Bararia, M.D. (“Bararia”), who had surrendered his Nevada medical
6 license in March 2013, in the midst of an indictment in the State of Arizona for seven counts of
7 violating 21 USC §841 and §846 and conspiring to distribute controlled substances, possession of
8 controlled substances with the intent to distribute, and distribution of controlled substances. In
9 relation to such charges, Bararia was convicted on September 18, 2014 of two counts of
10 Distribution of a Controlled Substance, a violation of 21 USC §841(a)(1) and (b)(1)(c). *See*
11 Volume II, Exhibits 2, 4, 6, and 7.

12 3. Financial dealings beyond an employer/employee relationship occurred as between
13 Bararia and Dr. Khalek whereby Dr. Khalek provided Bararia with a cashier’s check for \$75,000
14 issued on October 16, 2018, approximately two months after Bararia’s purchase of Goldsmith
15 Healthcare, Ltd. *See* Volume II, Exhibit 14, Exhibit B. Dr. Khalek indicates the money was
16 provided to Bararia as a loan in support of Bararia’s purchase of Goldsmith Healthcare, Ltd.;
17 however, evidence provided by Dr. Khalek and submitted the IC indicates that the sums were
18 provided in contemplation of a 50/50 partnership in Nevada Health Services, LLC (DBA
19 TrimCare), which is supported by the purchase price for Goldsmith Healthcare, Ltd. being
20 \$150,000,² of which the money provided by Dr. Khalek equals exactly half. *See* Volume II,
21 Exhibit 14, Exhibits C and D, *see also* the August 26, 2021, Transcript of Hearing Proceedings,
22 pp. 105-107. The partnership was never finalized in writing and, in November 2018, Bararia
23 agreed to repay the \$75,000 to Dr. Khalek. *See* Volume II, Exhibit 14, Exhibit D.

24 4. Dr. Khalek continued to work for Nevada Health Services, LLC through April
25 2019 when he quit. *See* Exhibit 14.

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28 ² This figure was stated in argument and not testified to. *See* the August 26, 2021, Transcript of Hearing Proceedings,
p. 19.

1 5. Commencing in late 2018 and through early 2019, prior to leaving Nevada Health
2 Services, LLC, Dr. Khalek began to lodge complaints against Bararia with regulatory agencies
3 such as the Board and the Nevada State Board of Pharmacy, alleging “multiple felonies” being
4 committed by Bararia, which included, but was not limited to, practicing medicine without a
5 license and unlawful distribution of controlled substances. *See, e.g.*, Volume II, Exhibit 11; the
6 August 26, 2021, Transcript of Hearing Proceedings, pp. 63-67.

7 6. Dr. Khalek reported that Bararia was meeting and treating patients unsupervised by
8 a licensed physician and in so doing was improperly utilizing Dr. Khalek’s credentials and access
9 to distribute and prescribe controlled substances. *Id.* Dr. Khalek was aware of the same but failed
10 to stop Bararia from doing so by not seeking to eliminate Bararia’s access to the controlled
11 substances for which Dr. Khalek was responsible and by failing to report his dispensing
12 credentials as compromised, amongst other possible remedies Dr. Khalek could have availed
13 himself of. *Id.* and the August 26, 2021, Transcript of Hearing Proceedings, pp. 67-69.

14 7. Prescription Monitoring Reports related to Nevada Health Services, LLC dated
15 09/01/2018 to 06/04/2019 indicate that 657 prescriptions for controlled substances were issued
16 and attributed to 358 patients of which Dr. Khalek could only account for 57 of the patients. *See*
17 Volume II, Exhibits 14-16. Dr. Khalek reported that he does “not know how the remaining
18 patients may have obtained prescriptions dispensed under his name,” but this is belied by Dr.
19 Khalek’s own reports of Bararia improperly dispensing and prescribing controlled substances and
20 Bararia having Dr. Khalek’s credential information such as Dr. Khalek’s DEA licensing number.
21 *See, e.g.*, Volume II, Exhibits 8 and 11. Dr. Khalek also indicates that he did not want to disturb
22 the status quo, sort to speak, with Bararia pending being paid back the \$75,000. *See* Volume II,
23 Exhibit 16.

24 8. Records submitted and testified to further support that Bararia was permitted to
25 purchase controlled substances for distribution by using of Dr. Khalek’s credentials, which Dr.
26 Khalek would have had to provide to Bararia. *See* Volume II, Exhibits 8-12; the August 26, 2021,
27 Transcript of Hearing Proceedings, pp. 48-57.

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1 9. Testimony was further provided by Ms. Friedman that Dr. Khalek admitted to her
2 that he was aware of Bararia treating patients without supervision despite not being properly
3 licensed or supervised; writing prescriptions for patients seen by Bararia without having seen the
4 patients himself; allowing Bararia to have a key to the controlled substance storage area that held
5 controlled substances that were the charge of Dr. Khalek; and Nevada Health Services, LLC staff
6 having access to an e-prescribing phone whereby controlled substances were prescribed under Dr.
7 Khalek's credentials. *See* the August 26, 2021, Transcript of Hearing Proceedings, pp. 63-66.

8 WHEREFORE the undersigned hearing officer finds as follows:

9 Proper notice of the proceedings, inclusive of the evidentiary hearing, was provided to Dr.
10 Khalek and no continuance of the evidentiary hearing was sought nor granted;

11 Pursuant to NRS 622A.350(2) the undersigned accepts the allegations against Dr. Khalek
12 in the Complaint, filed February 1, 2001, as true;

13 Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer
14 finds that the IC established a violation of Count I, NRS 630.306(1)(c), Unlawful Prescribing of
15 Controlled Substance and Dangerous Drug, by establishing, as alleged, that Dr. Khalek allowed
16 Bararia to have access to, dispense, and prescribe controlled substances to patients with whom Dr.
17 Khalek had no bona fide therapeutic relationship by using Dr. Khalek's access and credentials,
18 and that Dr. Khalek further failed to monitor and evidence such transactions in accordance with
19 required reporting and record keeping, which compounded the improprieties engaged in by Dr.
20 Khalek with respect thereto. The foregoing establishes that Dr. Khalek administered, dispensed,
21 or prescribed controlled substances to others in a manner not authorized by law as contemplated
22 by NRS 630.306(1)(c).

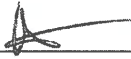
23 Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer
24 finds that the IC established a violation of Count II, NRS 630.305(1)(e), Aiding and Assisting the
25 Unlicensed Practice of Medicine, by establishing that Dr. Khalek furnished his credentials to
26 Bararia, an unlicensed person, and knowingly permitted Bararia to utilize the same in treating and
27 dispensing and otherwise prescribing to patients controlled substances nor tracked nor otherwise
28 managed by Dr. Khalek as was Dr. Khalek's obligation. The foregoing establishes that Dr.

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Khalek aided and assisted Bararia, an unlicensed person, to engage in the practice of medicine contrary to law.

BASED UPON THE FOREGOING, it is recommended that the Board find Dr. Khalek in violation of NRS 630.306(1)(c), Unlawful Prescribing of Controlled Substance and Dangerous Drug, as alleged in Count I of the Complaint filed on February 1, 2021; and NRS 630.305(1)(e), Aiding and Assisting the Unlicensed Practice of Medicine, as alleged in Count II of the Complaint filed on February 1, 2021.

RESPECTFULLY SUBMITTED this 18th day of October 2021.



Patricia Halstead, Esq., Hearing Officer for the
Nevada State Board of Medical Examiners
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Reno, NV 89509
(775) 322-2244
phalstead@halsteadlawoffices.com