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

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In the Matter of Charges and Complaint
Against:
GAIL POPELKA KRIVAN, M.D.,
Respondent.

Case No. 21-11804-1

FILED
MAY 12 2021
NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

FIRST AMENDED COMPLAINT

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

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

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

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¹ 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.

COUNT I

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

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

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

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

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

7. Patient A had a reported history of a brain aneurysm and chronic headaches, chronic neck and back pain, attributed to her work for a parcel delivery service. Patient A had previously been prescribed opioids for pain, and was referred to Respondent by another provider in November 2016 for pain management.

8. In November 2016, Respondent began regularly prescribing to Patient A various opioid medications for pain control, including: oxycodone/acetaminophen 10-325 mg, 120 ct., 30 days (November 2016 through September 2018); Belbuca 300 mcg film, 60 ct., 30 days, hydromorphone 4 mg, 28 ct., 7 days, and hydromorphone 8 mg, 90 ct., 30 days (November 2018); hydrocodone/acetaminophen 10-325 mg, 56 ct., 14 days, and oxycodone/acetaminophen 10-325 mg, 108 ct., 18 days (December 2019). Also, in January 2019, Respondent began prescribing oxycodone/acetaminophen 10-325 mg, 180 ct., 30 days (January 2019 through July 2019), which is a morphine milligram equivalent (MME) of 90 per day and constitutes high-dose opioid therapy.

9. Respondent prescribed to Patient A 90 MME per day, and for more than 90 days (January 2019 through July 2019), without establishing the medical necessity of such a high-dose of opioid therapy. Respondent failed to develop a revised treatment plan.

1 10. Respondent failed to conduct any detailed neurologic or musculoskeletal
2 examinations that would establish an indication for Patient A to receive long-term, high-dose
3 opioid medication for pain control.

4 11. Respondent failed to recommend other conservative treatments before or
5 concurrent with high-dose opioid therapy, including but not limited to, physical therapy, exercise
6 and movement, or massage therapy, among others, which may have alleviated these findings on
7 physical examination.

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

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

16 14. Based on but not limited to the foregoing, Respondent wrote prescriptions to
17 Patient A for opioid analgesics to treat chronic pain in a manner that deviated from the Model
18 Policy.

19 15. By reason of the foregoing, Respondent is subject to discipline by the Board as
20 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 11th day of May, 2021.

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

16 By: 

17 AARON B. FRICKE, ESQ.
18 Senior Deputy General Counsel
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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 11 day of May, 2021.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
VICTOR M. MURO, M.D.
Chair of the Investigative Committee

CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 12th day of May, 2021, I served a file-stamped copy of the **FIRST AMENDED COMPLAINT**, via 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

DATED this 12th day of May, 2021.



MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners