

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

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In the Matter of Charges and Complaint

Case No. 23-28365-1

Against:

BARRY JAMES RIVES, M.D.,

Respondent.

FILED

NOV 15 2023

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By:

COMPLAINT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board), by and through Ian J. Cumings, Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Barry James Rives, 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. 10642). Respondent was originally licensed by the Board on September 16, 2003. Respondent’s specialty is listed as general surgery and abdominal surgery on the Board’s website.

2. Patient A² was a fifty-five (55) year-old female at the time of the events at issue.

3. On February 6, 2015, Patient A presented to a local hospital and underwent a para-esophageal hernia repair and nissen fundoplication performed by Respondent during which time, Respondent caused injury to Patient A’s stomach.

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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 Mr. M. Neil Duxbury, Aury Nagy, M.D., and Michael C. Edwards, M.D., FACS.

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.

1 4. On or about February 7, 2015, at 11:00 a.m., Respondent examined Patient A and
2 noted an unremarkable exam but failed to address Patient A's tachycardic heart rate of 112. By
3 5:20 p.m., Patient A's vital signs worsened which included a white blood cell count of 2.7, an
4 increased heart rate of 117 and a low blood pressure reading of 84/49 all of which indicated a
5 likelihood of an onset of sepsis.

6 5. Patient A was transferred to the intensive care unit and her condition deteriorated
7 rapidly. Patient A suffered respiratory distress and cardiac arrest which required intubation and
8 pressors to maintain her blood pressure.

9 6. On or about February 8, 2015, a computed tomography (CT) scan of Patient A's
10 abdomen was obtained which revealed fluid and free air at the surgery site, indicating post-
11 surgical changes and likely a perforation of her digestive system. Respondent examined the
12 patient but failed to recognize or document a cause of Patient A's sepsis or the possibility of post-
13 surgical complications.

14 7. From on or about February 9, 2015, until on or about February 16, 2015,
15 Respondent continued to document examinations of the patient but failed to mention any post-
16 surgical complications or sepsis, and did not order additional diagnostic imaging.

17 8. On or about February 17, 2015, another physician ordered an abdominal CT due to
18 Patient A's worsening white blood cell count of 20.1 and deteriorating condition. The CT
19 demonstrated mediastinal air and fluid collection which confirmed perforation of the patient's
20 esophagus or stomach. Respondent documented the concerning CT findings in the medical record
21 and ordered a Gastrografin upper gastrointestinal series which confirmed gastric perforation.

22 9. On or about February 17, 2015, Respondent performed an exploratory laparotomy
23 and gastric perforation repair, a full ten (10) days after Patient A's respiratory failure and cardiac
24 arrest.

25 10. Patient A's post-operative course was difficult, requiring a third procedure on or
26 about March 9, 2015. Ultimately Patient A suffered significant complications with a loss of blood
27 to her extremities resulting in the amputation of Patient A's feet, and multiple infections.

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COUNT I

NRS 630.301(4) - Malpractice

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

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

13. 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.”

14. 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 rendering medical services to Patient A by failing to recognize and/or appreciate clear post-surgical changes and clear signs of abdominal sepsis in Patient A and order appropriate diagnostic testing or surgical intervention from on or about February 7, 2015, until on or about February 17, 2015.

15. 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 Proper Medical Records

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

17. 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” constitute grounds for initiating discipline against a licensee.

18. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient A, by failing to correctly document or address Patient A’s signs and symptoms of sepsis, as well as tachycardia in her medical record on or about February 7, 2015.

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

3 **WHEREFORE**, the Investigative Committee prays:

4 1. That the Board give Respondent notice of the charges herein against him and give
5 him notice that he may file an answer to the Complaint herein as set forth in
6 NRS 630.339(2) within twenty (20) days of service of the Complaint;

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

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

11 4. That the Board award fees and costs for the investigation and prosecution of this
12 case as outlined in NRS 622.400;

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

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

17 DATED this 15th day of November, 2023.

18 INVESTIGATIVE COMMITTEE OF THE
19 NEVADA STATE BOARD OF MEDICAL EXAMINERS

20 By: 
21 IAN J. CUMINGS
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27 *Attorney for the Investigative Committee*
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VERIFICATION

STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Bret W. Frey, 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 15th day of November, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____



BRET W. FREY, M.D.
Chairman of the Investigative Committee