

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

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

**Case No. 23-42281-1**

6 **Against:**

**FILED**

7 **DAVID KAYLE McCLEVE, PA-C,**

**MAY 30 2023**

8 **Respondent.**

**NEVADA STATE BOARD OF  
MEDICAL EXAMINERS**  
By: 

9  
10 **COMPLAINT**

11 The Investigative Committee<sup>1</sup> (IC) of the Nevada State Board of Medical Examiners  
12 (Board), by and through Deonne E. Contine, General Counsel and attorney for the IC, having a  
13 reasonable basis to believe that David Kayle McCleve, PA-C, (Respondent) violated the provisions  
14 of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter  
15 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges  
16 and allegations as follows:

17 1. Respondent was at all times relative to this Complaint a physician assistant holding  
18 an active license to practice medicine in the State of Nevada (License No. PA1526). Respondent  
19 was originally licensed by the Board on August 14, 2014.

20 2. At all times relative to this Complaint Schon Colby Roberts (NV License No. 17176)  
21 was Respondent's supervising physician. Dr. Roberts was originally licensed by the Board on  
22 July 1, 2017. Dr. Roberts's specialty is listed as Emergency Medicine on the Board's website.  
23 Plastic and Cosmetic Surgery are not specialties of Emergency Medicine.

24 3. Dr. Roberts's training in liposuction is limited to a two (2) day course in tumescent  
25 liposuction offered by Inspiring Physicians Worldwide and a certificate from a liposuction master  
26 class offered by Elite Medical, a company which, upon information and belief, no longer exists.

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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 Aury Nagy, M.D., Nicole (Nick) M. Spirtos,  
M.D.,F.A.C.O.G., and Ms. Maggie Arias-Petrel.

1           4.       Upon information and belief, Dr. Roberts did not perform liposuction surgery and  
2 delegated liposuction procedures to Respondent during the period he was Respondent's supervising  
3 physician.

4           5.       Respondent's training in liposuction is limited to a two (2) day course in tumescent  
5 liposuction offered by Inspiring Physicians Worldwide and a certificate from a liposuction master  
6 class offered by Elite Medical, a company which, upon information and belief, no longer exists.

7           6.       Respondent, as a physician assistant, has no formal surgical training in plastic or  
8 cosmetic surgery and is not board certified in any specialty.

9           7.       Respondent has had eight (8) supervising physicians since August 14, 2014, none of  
10 whom have formal surgical training in plastic or cosmetic surgery, nor have they ever been board  
11 certified in either of those specialty areas. According to the Board's website, their specialties  
12 include seven (7) with Emergency Medicine, one (1) with Internal Medicine.

13          8.       Patient A<sup>2</sup> was a sixty-two (62) year-old female at the time of the events in this  
14 Complaint.

15          9.       Respondent saw Patient A at MyShape Lipo for the first time on  
16 March 4, 2022, when she presented for liposuction surgery.

17          10.      It appears that Patient A completed a packet of preprinted forms on her arrival for  
18 her appointment on March 4, 2022. On her Patient Information form, Patient A indicated her past  
19 medical history included hypertension and hypercholesterolemia. She also indicated that she had  
20 two (2) prior liposuction surgeries. Under the Family History section, Patient A noted a family  
21 history of hypertension.

22          11.      Respondent's records are preprinted and highly templated. Respondent uses the  
23 Liposuction Procedure Report form to report, among other things, a patient's allergies,  
24 medications used, whether the patient is pregnant, vital signs, lidocaine, aspirate, and the lipo laser  
25 areas treated.

26          12.      This preprinted form also seems to have a templated narrative that is used on all  
27 Liposuction Procedure Reports.

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<sup>2</sup> 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           13.     The medical records lack documentation on Patient A’s blood pressure prior to or  
2 during her liposuction surgery.

3           14.     Respondent’s medical records lack any documentation that Respondent saw Patient  
4 A preoperatively to assess any preoperative medical conditions. He did not obtain preoperative  
5 labs or perform a preoperative risk assessment to determine whether Patient A was an appropriate  
6 candidate for liposuction surgery. Finally, there is no documentation that Patient A was prescribed  
7 preoperative antibiotics or given any post operative instructions prior to March 4, 2022.

8           15.     Upon information and belief, Respondent did not see Patient A preoperatively to  
9 assess any preoperative medical conditions, obtain preoperative labs or perform a preoperative  
10 risk assessment to determine whether Patient A was an appropriate candidate for liposuction  
11 surgery. Finally, Respondent did not prescribe Patient A preoperative antibiotics.

12           16.     The Liposuction Procedure Report notes that Patient A consented to the procedure  
13 after being informed of the risks and potential complications of tumescent liposuction.  
14 Respondent’s records lack documentation of consent to any other type of procedure.

15           17.     The Liposuction Procedure Report shows the Smart Lipo Laser procedure was  
16 performed.

17           18.     Upon information and belief, Patient A did not consent to the Smart Lipo Laser  
18 procedure.

19           19.     The Liposuction Procedure Report indicates that Patient A was given post  
20 operative instructions and medications. Respondent’s Practitioner Notes and Discharge Summary  
21 indicate Respondent told Patient A to provide her pharmacy location; however, the medical  
22 records lack documentation regarding the medications prescribed, dose, or date the prescriptions  
23 were requested to be filled by Respondent.

24           20.     In a postoperative note Respondent indicated he received a call from Walmart  
25 Pharmacy on March 6, 2022, two (2) days following Patient A’s surgery, for clarification on the  
26 prescriptions.

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1 21. Respondent's postoperative medical record notes that on March 7, 2022,  
2 Respondent spoke to an Intensive Care Unit physician at Mountain View Hospital who indicated  
3 Patient A was in pain, hypotensive, and that Patient A likely had necrotizing fasciitis.

4 22. Patient A was transferred to Sunrise Hospital on March 7, 2022, where she spent  
5 two (2) weeks. Patient A was discharged on March 21, 2022.

6 **COUNT I**

7 **NRS 630.301(4) - Malpractice**

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

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

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

15 26. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed  
16 to use the reasonable care, skill or knowledge ordinarily used under similar circumstances  
17 including failing to:

18 a. provide a preoperative assessment prior to the procedure date to adequately  
19 assess:

20 i. Patient A's medical history;

21 ii. determine whether further preoperative workup was needed;

22 iii. conduct a risk assessment to determine if Patient A was an  
23 appropriate candidate for liposuction surgery; and

24 iv. provide preoperative prescriptions and post operative instructions.

25 b. timely prescribe post operative medications; and

26 c. obtain consent for the Smart Lipo Laser procedure.

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

1 COUNT II

2 **NRS 630.3062(1)(a) - Failure to Maintain Appropriate Medical Records**

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

5 29. NRS 630.3062(1)(a) provides that the “failure to maintain timely, legible, accurate  
6 and complete medical records relating to the diagnosis, treatment and care of a patient” constitute  
7 grounds for initiating discipline against a licensee.

8 30. Respondent violated NRS 630.3062(1)(a) relating to the diagnosis, treatment and  
9 care of Patient A, by failing to correctly document his actions when he treated Patient A, whose  
10 medical records were not timely, legible, accurate, and complete because Respondent relied on  
11 preprinted, templated forms that contained a limited narrative and because he failed to document  
12 the required information and his records contained inconsistent and incorrect information.  
13 Additionally, Respondent failed to document any pre or post operative care.

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

16 COUNT III

17 **NRS 630.306(1)(e) – Practicing Beyond Scope of License**

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

20 33. Violation of a standard of practice adopted by the Board is grounds for disciplinary  
21 action pursuant to NRS 630.306(1)(e).

22 34. NAC 630.360(1) permits a physician assistant to perform only those medical  
23 services that are within the scope of the practice of his or her supervising physician.

24 35. Respondent violated NRS 630.306(1)(e) by providing medical services outside the  
25 scope of practice of his supervising physician, who was an emergency room physician with no  
26 formal training in plastic or cosmetic surgery, and whose liposuction training was limited to, at  
27 most, three (3) days, by performing liposuction surgery procedures on Patient A.

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1           36.    By reason of the foregoing, Respondent is subject to discipline by the Nevada State  
2 Board of Medical Examiners as provided in NRS 630.352.

3   **COUNT IV**

4   **NRS 630.306(1)(e) – Competence**

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

7           38.    Violation of a standard of practice adopted by the Board is grounds for disciplinary  
8 action pursuant to NRS 630.306(1)(e).

9           39.    NAC 630.360(1) permits a physician assistant to perform only those medical  
10 services that are commensurate with the education, training, experience and level of competence  
11 of the physician assistant.

12           40.    Respondent violated NRS 630.306(1)(e) by providing medical services not  
13 commensurate with his education, training, experience, and level of competence by performing  
14 liposuction surgery on Patient A because his education and training was limited to, at most, three  
15 (3) days. He was not adequately trained because he was supervised by an emergency room  
16 physician with no formal training in plastic or cosmetic surgery, and whose liposuction training  
17 was limited to, at most, three (3) days. Therefore, Respondent was not competent when  
18 performing liposuction surgery procedures on Patient A.

19           41.    By reason of the foregoing, Respondent is subject to discipline by the Nevada State  
20 Board of Medical Examiners as provided in NRS 630.352.

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

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

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

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

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

5. 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; and

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

DATED this 30<sup>th</sup> day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

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**VERIFICATION**


STATE OF NEVADA        )  
                                  : ss.  
COUNTY OF CLARK     )

Aury Nagy, 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 30<sup>th</sup> day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE  
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

  
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AURY NAGY, M.D.  
*Chairman of the Investigative Committee*