## (775) 688-2559

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

\* \* \* \* \*

In the Matter of Charges and Complaint

Against:

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GARY EUGENE TURNER, M.D.,

Respondent.

Case No. 23-29548-1

FILED

MAY - 3 2023

**NEVADA STATE BOARD OF** MEDICAL EXAMINERS

### **COMPLAINT**

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), by and through William P. Shogren, Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Gary Eugene Turner, 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:

- Respondent was at all times relative to this Complaint a physician holding an active 1. license to practice medicine in the State of Nevada (License No. 11153). Respondent was originally licensed by the Board on September 14, 2004. Respondent's specialty is listed as diagnostic and neuroradiology radiology.
  - Patient A<sup>2</sup> was a sixty-five (65) year-old male at the time of the events at issue. 2.
- On July 4, 2020, Patient A, following a hernia surgery, presented to Carson Tahoe 3. Regional Medical Center emergency room with complaints of abdominal cramping, nausea, and abdominal swelling. That same day, Patient A underwent a computed tomography (CT) scan with contrast of his abdomen and pelvis.

<sup>&</sup>lt;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 Bret W. Frey, M.D., Carl N. Williams, Jr., M.D. FACS, Col. Eric D. Wade, USAF (Ret.).

<sup>&</sup>lt;sup>2</sup> Patient A's true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

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- 4. The CT scan from July 4, 2020, demonstrated a left kidney tumor and enlarged lymph nodes adjacent to the left kidney.
- 5. Respondent, acting as radiologist on duty at the hospital, interpreted the result of Patient A's CT scan from July 4, 2020, and found a mechanical small bowel obstruction.
- 6. Respondent did not note, at any time, Patient A's left kidney tumor or enlarged lymph nodes adjacent to the left kidney.
  - 7. On or about August 4, 2021, a CT scan of Patient A's abdomen was performed.
- 8. On or about September 1, 2021, a positron emission tomography (PET) scan of Patient A's abdomen was performed.
- 9. The August and September 2021 scans found there to be stable recurrent papillary renal cell carcinoma in the left kidney and adjacent nodes.
- 10. Thereafter, the CT scan from August 4, 2021, and the PET scan from September 1, 2021, were compared to the CT scan from July 4, 2020, in which it was found that Patient A's left kidney tumor was stable since July 4, 2020, but the lymph node had increased in size since the July 4, 2020 CT scan.

### **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.
- 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 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 identify and note the left kidney tumor and enlarged lymph nodes on Patient A's July 4, 2020 CT scan.

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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 Appropriate 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 and proper 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. Respondent's medical records were not accurate and complete by failing, on July 4, 2020, to note a recognition of Patient A's left kidney tumor and enlarged lymph nodes adjacent to the left kidney.
- 19. 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 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

# OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 9600 Gareway Drive Reno, Nevada 89521 (775) 688-2559

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

DATED this 2nd day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

WILLIAM P. SHOGREN Deputy General Counsel 9600 Gateway Drive Reno, NV 89521

Tel: (775) 324-9366

Email: <a href="mailto:shogrenw@medboard.nv.gov">shogrenw@medboard.nv.gov</a>
Attorney for the Investigative Committee

### OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

### 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 2nd day of May, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

BRET W. FR Y, M.D.

Chairman of the Investigative Committee