OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 9600 Gateway Drive Reno, Nevada 89521

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and Complaint

Against:

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HOLMAN CHAN, M.D.,

Respondent.

Case No. 23-39993-1

FILED

JUN - 2 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 Deonne E. Contine, General Counsel and attorney for the IC, having a reasonable basis to believe that Holman Chan, 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. 14418). Respondent was originally licensed by the Board on June 20, 2012.
 - 2. Patient A^2 was a seventeen (17) year-old male at the time of the events at issue.
- 3. Patient A's care was transferred from another physician at Nevada Orthopedic & Spine Center (NOSC) to Respondent for evaluation for surgery on Patient A's left foot.
- 4. Respondent's medical records from November 8, 2019, when Respondent first saw Patient A, indicate in the History of Present Illness (HPI) section that Patient A "presents with a complaint of right foot pain."

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 Bret W. Frey, M.D., Col. Eric D. Wade, USAF (Ret.), and Carl N. Williams, Jr., M.D.

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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- Respondent's medical records from November 8, 2019, indicate in the HPI that 5. Patient A had been followed by a different physician at NOSC for left foot pain and that Respondent had reviewed a summary of care.
- 6. In the Physical Exam section of Respondent's medical records from November 8, 2019, Respondent notes that he examined Patient A's left lower extremity.
- In the Assessment and Plan section of Respondent's medical records from 7. November 8, 2019, Respondent notes that Patient A had weakness and pain involving his left foot coalition. Further, Respondent recommended a medial calcaneal slide osteotomy with possible lateral percutaneous achilles tendon lengthening.
- 8. Patient A presented to Sunrise Hospital for the left foot surgery on November 12, 2019.
- Medical records from Sunrise Hospital indicate that Respondent signed the History 9. and Physical Addendum which stated that he had reviewed the medical records from November 8, 2019, and that "the contents accurately reflect the patient's condition without any significant changes to be noted."
- Pre-Surgical / Pre-Admission Orders received by Sunrise Hospital and signed by 10. Respondent state the procedure as "Lt foot medial calcaneal slide osteotomy lateral calcaneal opening wedge osteotomy poss achilles lengthening".
- Patient A's mother signed the Pediatric Consent/Authorization for Operative and 11. Other Procedure(s) consent form to perform a "Lt foot medial calcaneal slide osteotomy lateral calcaneal opening wedge osteotomy possible achilles lengthening".
- 12. Respondent's operative report states, Respondent reviewed his November 8, 2019, medical records noting Patient A's complaint of right foot pain and marked Patient A's right foot.
- 13. Although a time-out was performed, Respondent verified the right foot and proceeded with the surgery on Patient A's right foot.

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Respondent realized the surgery was performed on the wrong side after the surgery 14. was complete and when he read his note from the November 8, 2019 medical records, which indicated that the surgery would address the weakness and pain involving Patient A's left foot coalition.

COUNT I

NRS 630.301(4) - Malpractice

- 15. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 16. 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 17. patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."
- As demonstrated by, but not limited to, the above-outlined facts, Respondent failed 18. to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient A when he performed surgery on Patient A's right foot when Respondent's medical notes, pre surgical orders and the surgical consent all stated the surgery would be performed on Patient A's left foot.
- 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;

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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 2 day of June, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

DEONNE E. CONTINE

General Counsel 9600 Gateway Drive Reno, NV 89521

Tel: (775) 688-2559

Email: <u>dcontine@medboard.nv.gov</u>
Attorney for the Investigative Committee

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(775) 688-2559

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 day of June, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

BRET W FREY, M.D.

Chairman of the Investigative Committee