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

\* \* \* \* \*

In the Matter of Charges and Complaint

**Against:** 

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NABIL ELKHOURY, M.D.,

Respondent.

Case No. 23-49864-1

JUN 2 7 2023

**NEVADA STATE BOARD OF** 

### **COMPLAINT**

The Investigative Committee<sup>1</sup> (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 Nabil Elkhoury, 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 medical doctor holding an active license to practice medicine in the State of Nevada (License No. 18715). Respondent was originally licensed by the Board on March 8, 2019.
- Patient A<sup>2</sup> was a thirty-three (33) year-old pregnant female at the time of the events 2. at issue.
- 3. On January 10, 2020, Patient A presented to Respondent for obstetrical care early in the first trimester of her pregnancy.
- Ultrasound testing confirmed Patient A had an estimated delivery date of September 2, 2020 and that she was pregnant with dichorionic diamniotic twins.

<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 her privacy, but is disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

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- On February 24, 2020, Patient A was referred to a high-risk pregnancy physician 5. for supervision of her pregnancy.
- 6. On June 26, 2020, Patient A switched to another high-risk pregnancy physician, with regular visits to Respondent for her obstetrical care for the remainder of her pregnancy. These visits included regular ultrasounds to monitor growth and the health of the pregnancy due to the increased risk of complications due to a twin pregnancy.
- 7. On July 20, 2020, the high-risk pregnancy physician noted there was polyhydramnios, which is the presence of too much amniotic fluid, in the medical note to the Respondent. The high-risk pregnancy physician recommended Patient A be delivered from weeks thirty-seven and zero days (37/0) to thirty-seven and three days (37/3).
- 8. On August 3, 2020, ultrasound testing demonstrated an isolated growth restriction on Twin A. The high-risk pregnancy physician again recommended that Patient A be delivered from weeks thirty-seven and zero days (37/0) to thirty-seven and three days (37/3).
- 9. On August 13, 2020, further ultrasound testing confirmed worsening growth restriction of Twin A, with the high-risk pregnancy physician maintaining their recommendation for the thirty-seven and zero days (37/0) to thirty-seven and three days (37/3) delivery window.
- 10. On August 10, 2020, despite clear recommendations to the contrary, Respondent requested and scheduled a cesarean section to take place on August 17, 2020, at thirty-seven weeks and five days (37/5).
- On August 12, 2020, Patient A was seen by Respondent to discuss the most recent 11. ultrasound report and the risks associated with the scheduled cesarean section. Respondent did not change the date of the delivery, despite recent ultrasound testing and the recommendation of the high-risk pregnancy physician, nor did he document any medical reasoning for deviating from the delivery recommendation.
- On August 16, 2020, Patient A presented to the hospital with vaginal bleeding and 12. pain. Ultrasound testing demonstrated Twin A had no heartbeat, due to intrauterine fetal demise and placental abruption. An emergency cesarian section was performed to deliver Twin B.

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### **COUNT I**

### NRS 630.301(4) - Malpractice

- 13. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- NRS 630.301(4) provides that malpractice of a Physician is grounds for initiating 14. disciplinary action against a licensee.
- 15. 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."
- 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 when he disregarded delivery date recommendations provided by the high-risk pregnancy physician, and delayed the cesarian section which resulted in the intrauterine fetal demise of one of Patient A's children.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 17. provided in NRS 630.352.

### **COUNT II**

# NRS 630.3062(1)(a) - Failure to Maintain Proper Medical Records

- All of the allegations contained in the above paragraphs are hereby incorporated by 18. reference as though fully set forth herein.
- NRS 630.3062(1)(a) provides that the "failure to maintain timely, legible, accurate 19. and complete medical records relating to the diagnosis, treatment and care of a patient" constitute grounds for initiating discipline against a licensee.
- Respondent failed to maintain complete medical records relating to the diagnosis, 20. treatment and care of Patient A, by failing to correctly document any medical reasoning for disregarding the delivery recommendation offered by the high-risk pregnancy physician.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 21. provided in NRS 630.352.

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### WHEREFORE, the Investigative Committee prays:

- That the Board give Respondent notice of the charges herein against him and give 1. 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);
- That the Board determine what sanctions to impose if it determines there has been 3. a violation or violations of the Medical Practice Act committed by Respondent;
- That the Board award fees and costs for the investigation and prosecution of this 4. 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
- That the Board take such other and further action as may be just and proper in these 6. premises.

DATED this 27th day of June, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

IAN J. CUMINGS

Deputy General Counsel 9600 Gateway Drive Reno, NV 89521

Tel: (775) 688-2559

Email: icumings@medboard.nv.gov Attorney for the Investigative Committee

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

# VERIFICATION

STATE OF NEVADA		)
COUNTY OF WASHOE	: ss. .)	

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 27 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