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

\* \* \* \* \*

In the Matter of Charges and Complaint

SAMUEL RODOLFO CHACON, M.D.,

Respondent.

Against:

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Case No. 23-12762-3 FILED

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NEVADA STATE BOARD OF MEDICAL EXAMINERS BV:

### **COMPLAINT**

The Investigative Committee<sup>1</sup> (IC) of the Nevada State Board of Medical Examiners (Board), by and through its counsel, Deonne E. Contine, General Counsel and Ian J. Cumings, Deputy General Counsel and attorneys for the IC, having a reasonable basis to believe that Samuel Rodolfo Chacon, 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 physician holding an active license to practice medicine in the State of Nevada (License No. 9105). Respondent was originally licensed by the Board on July 27, 1999, with a specialty in Obstetrics/Gynecology.
  - 2. Patient  $A^2$  was a sixty-five (65) year-old female at the time of the events at issue.
- 3. Records indicate that Respondent first saw Patient A on February 24, 2021, when she presented with a right labial mass. The mass was determined to be a Bartholin cyst that had decreased in size over time and Patient A was given instructions on sitz baths. The records for Patient A from the Assessment and Diagnosis section for this

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

<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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visit indicated a plan to follow-up with a biopsy of a right-sided mole, which was presumably discovered during a gynecological examination that day.

- There was no documentation of urinary incontinence in any section of the February 4. 24, 2021, medical records from Respondent for Patient A.
- Respondent's medical records did not document any communication between 5. Patient A and Respondent or his staff regarding incontinence, bladder issues, or conducting urodynamics testing<sup>3</sup> prior to Patient A presenting to Respondent's office for her biopsy appointment on March 5, 2021.
- On March 5, 2021, within Respondent's notes in the Chief Complaint section of 6. Patient A's medical records, there was inclusion of Urodynamics testing. This testing was not discussed with Patient A prior to this visit.
- Patient A complained that when she presented for her appointment on 7. March 5, 2021, for the biopsy of the Bartholin cyst, the room was set up for a Urodynamics study. After Patient A argued with Respondent and his office staff regarding the actual purpose of her visit, Patient A ultimately convinced Respondent to perform the biopsy.
- Thereafter, over Patient A's objection that she had no bladder problems, 8. Respondent insisted that Patient A complete the bladder test anyway and proceeded to conduct the Urodynamics study immediately following collection of the biopsy specimen. Patient A's medical records did not include documentation of a written or oral consent to the Urodynamics study performed on March 5, 2021.
- Respondent scheduled the Urodynamics study prior to Patient A's March 5, 2021, 9. appointment. However, the first mention in Respondent's medical records of urinary incontinence and pelvic pressure for Patient A was from the March 5, 2021, visit.
- Respondent's records are inaccurate because Patient A did not discuss urinary 10. incontinence with Respondent at any time and, in fact, Patient A had never complained to Respondent of any problems with her bladder.

<sup>&</sup>lt;sup>3</sup> A Urodynamic study is a test used to help diagnose problems with urination or urinary incontinence. It involves insertion of a catheter into the bladder and may involve an additional catheter placed in a patient's vagina or rectum.

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- Patient A's medical records lacked any documentation of either subjective or 11. objective urinary incontinence evaluations nor documented any discussions between Respondent and Patient A about any degree of bother that urinary incontinence presented for her.
- With respect to the Urodynamics study results, the 3-Channel CMG 12. (cystometrogram) portion DOES NOT match the documented description from Patient A's March 5, 2021, records and the CMG tracing DOES NOT match the markings on the tracing.
- Following her March 5, 2021, appointment, Respondent's staff called Patient A to 13. schedule her return for her biopsy results; however, Patient A never returned to see Respondent for gynecological care.

### **COUNT I**

### NRS 630.301(4) - Malpractice

- All of the allegations contained in the above paragraphs are hereby incorporated by 14. reference as though fully set forth herein.
- NRS 630.301(4) provides that malpractice of a physician is grounds for initiating 15. disciplinary action against a licensee.
- NAC 630.040 defines malpractice as "the failure of a physician, in treating a 16. 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 17. to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when he performed an unindicated procedure (the Urodynamics study) on Patient A because he had no documentation of either subjective or objective urinary incontinence and no documented discussion regarding the degree of bother that urinary incontinence presented for Patient A. Patient A had never complained to or asked Respondent to address urinary incontinence because she did not have any bladder problems.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 18. provided in NRS 630.352.

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### **COUNT II**

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

- All of the allegations contained in the above paragraphs are hereby incorporated by 19. reference as though fully set forth herein.
- NRS 630.3062(1)(a) provides that the "failure to maintain timely, legible, accurate 20. 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, 21. treatment and care of Patient A, by, among other things, failing to document either subjective or objective urinary incontinence or any discussion regarding the degree of bother that urinary incontinence presented for Patient A in support of him performing the Urodynamics study.
- Respondent's records are inaccurate because Patient A never discussed urinary 22. incontinence with Respondent and, in fact, Patient A had never complained to Respondent of any problems with her bladder.
- Finally, there are numerous additional inconsistencies, inaccuracies, and omissions 23. in Respondent's records for Patient A, whose medical records were not timely, legible, accurate, or complete.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 24. provided in NRS 630.352.

### COUNT III

### NRS 630.301(8) - Failure to Provide Procedures, Studies, Services, Referrals

- All of the allegations in the above paragraphs are hereby incorporated as if fully set 25. forth herein.
- NRS 630.301(8) provides that the failure to offer appropriate procedures or studies, to provided necessary services or to refer a patient to an appropriate provider, when the failure occurs with intent of positively influencing the financial well-being of the practitioner are grounds for discipline.

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- As demonstrated by, but not limited to, the above-outlined facts, Respondent 27. violated NRS 630.301(8) regarding Patient A's medical conditions when Respondent performed an unindicated procedure on Patient A, specifically the Urodynamics study. Respondent's performance of the aforementioned procedure occurred without a medical purpose and with the intent of positively influencing the financial well-being of the Respondent's practice.
- By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

### **COUNT IV**

### NRS 630.301(7) - Violation of Patient Trust and Exploitation of Physician and Patient Relationship for Financial or Personal Gain

- All of the allegations contained in the above paragraphs are hereby incorporated by 29. reference as though fully set forth herein.
- NRS 630.301(7) provides that "engaging in conduct that violates the trust of a 30. patient and exploits the relationship between the physician and the patient for financial or other personal gain" is grounds for initiating discipline against a licensee.
- As demonstrated by, but not limited to, the above-outlined facts, Respondent 31. violated the trust of and exploited the relationship between the Respondent and Patient A by performing the Urodynamics study on Patient A over her objection and despite having no objective or subjective documentation of urinary incontinence and no documented discussion with or complaint from Patient A regarding urinary incontinence or bladder problems.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 32. provided in NRS 630.352.

### COUNT V

### NRS 630.301(6) - Disruptive Behavior

- All of the allegations contained in the above paragraphs are hereby incorporated by 33. reference as though fully set forth herein.
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34.	NRS 630.301(6) provides that disruptive behavior with patients that interferes with
patient care	or has an adverse impact on the quality of care rendered to a patient is grounds fo
initiating dis	sciplinary action against a physician.

- Respondent's behavior by performing a Urodynamic study procedure of which 35. Patient A did not consent and which was conducted for no medical purpose, was demeaning, humiliating, and traumatizing to Patient A and thus adversely affected the quality of care rendered to her.
- By reason of the foregoing, Respondent is subject to discipline by the Board as 36. provided in NRS 630.352.

### **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;
- That the Board set a time and place for a formal hearing after holding an Early 2. 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;
- That the Board make, issue and serve on Respondent its findings of fact, 5. conclusions of law and order, in writing, that includes the sanctions imposed; and

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# OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners 8600 Gateway Drive Reno Nevada 89521

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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 8 day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

DEONNE E. CONTINE

General Counsel IAN J. CUMINGS

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Contine E. Contine

Attorneys for the Investigative Committee

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### VERIFICATION

) : ss. STATE OF NEVADA 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 8th day of September, 2023.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

AURY NAGY, M.D.

Chairman of the Investigative Committee