BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In the Matter of Charges and Complaint Against: **SAMUEL RODOLFO CHACON, M.D., Respondent.**	**Case No. 23-12762-6**

FILED

NOV 03 2023

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

COMPLAINT

The Investigative Committee[1] (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 as 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 forty-three (43) year-old female at the time of the relevant events at issue in this Complaint.

3. On November 18, 2021, Patient A saw her family physician, Dr. Kimberly Clinite for abnormal uterine bleeding which had been ongoing for two (2) weeks. Patient A was concerned that her bleeding might be caused by her intrauterine device (IUD) and wished to have

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

[2] 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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the IUD removed. There was no pelvic organ prolapse noted on a detailed pelvic examination in the records for this appointment.

4. Dr. Clinite removed the IUD, however, the left arm broke off during extraction and Dr. Clinite was unable to retrieve it. Thereafter, she referred Patient A to Respondent for evaluation for removal of the retained IUD arm.

5. Patient A saw Respondent on December 15, 2021. In Patient A's intake paperwork, she indicated that her reason for the visit was "retained IUD parts." Similarly, Patient A identified her chief complaint as "retained IUD arm."

6. In Respondent's medical record for the December 15, 2021, appointment he notes Patient A's chief complaints to be retained IUD, irregular bleeding, pelvic pressure and incontinence.

7. On her New Patient Medical History form, which she completed at her December 15, 2021, appointment, Patient A answered no to a series of questions regarding abdominal or pelvic pain, concerns regarding sex, night urination, or any bulging sensation from her vagina.

8. Patient A answered yes to a single question on the New Patient Medical History form regarding loss of urine. However, Respondent's December 15, 2021, medical record does not document any specific history of urinary incontinence nor is there any notation in the medical records supporting that Patient A complained about stress urinary incontinence and that it negatively impacted her quality of life.

9. Despite no documented pelvic examination, no documented history of stress urinary incontinence, nor any documented complaint from Patient A that she suffered from urinary incontinence, during the December 15, 2021, visit, Respondent performed a urodynamics study.[3] There is no documentation of consent to perform the urodynamics study in Patient A's medical records. Patient A was never given any results of the urodynamics study and thereafter developed a urinary tract infection.

[3] 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.

10. The urodynamics study summary report that is included in Patient A's medical records contains irrational and inaccurate data, and it is not reliable for diagnostic purposes, clinical reasoning, or clinical decision making.

11. Respondent documented that Patient A complained of pelvic pain radiating to her back. His notes state that she would begin taking Vicodin for the pain. Even though Patient A lives in Susanville, California, Respondent noted that he would see her, or she would be seen in the emergency room after-hours if her pain worsened.

12. Elsewhere in Respondent's notes in the medical records of Patient A, it states "She will start her Vicodin which was prescribed today and may take before surgery if sig [sic] pelvic pain or pressure."

13. Respondent's Prescriber Activity Report from the Nevada Prescription Monitoring Program shows no prescriber activity by Respondent for Patient A on December 15, 2021, or at any other time.

14. At the December 15, 2021, 2021 visit Respondent documented that Patient A, "wishes to proceed with endometrial ablation in order to address cycles as she states that she has exhausted conservative options of management." In fact, records from that day document that Patient A had normal cycles. Additionally, Respondent noted that Patient A "wishes to proceed with bladder repair as she tried Kegel exercises in the past and that Patient A "wishes to proceed with surgical options at this time." There was no diagnosis documented at that time.

15. At the December 15, 2021, visit, although no specific diagnosis was documented in the medical records of Patient A other than the retained IUD arm, for which she was to have a hysteroscopy, Patient A was consented for the following additional surgical procedures: 1) salpingectomy 2) endometrial ablation; 3) sacrospinous vault suspension; 4) enterocele repair; 5) cystoscopy; 6) perineoplasty; 7) mid-urethral sling; and 8) any additional necessary procedures.

16. Respondent documented a pelvic examination of Patient A only in the preoperative history which was written and dictated in the early evening of December 15, 2021, after the appointment with Patient A had taken place and after the surgical procedure had been planned and Patient A had consented.

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17. All surgical procedures were scheduled for January 6, 2022, at Renown Regional Medical Center.

18. Prior to the January 6, 2022, appointment, Patient A canceled her scheduled surgeries with Respondent.

19. On January 4, 2022, Patient A saw a different OB/GYN physician ("second OB/GYN") regarding removal of the retained IUD and possible tubal ligation. General history notes from her January 4, 2022, appointment state that Patient A had no other complaints and she reported regular monthly cycles and no pelvic pain or pressure.

20. On January 20, 2022, Patient A saw the second OB/GYN where it was documented that she reported normal menses and no pelvic pain or pressure. Patient A indicated her desire to proceed with a bilateral laparoscopic salpingectomy and the hysteroscopy to remove the retained IUD arm and had consented to those surgical procedures during the January 20, 2022, appointment.

COUNT I

NRS 630.301(4) - Malpractice

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

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

23. 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."

24. 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 when he scheduled Patient A for an endometrial ablation; sacrospinous vault suspension; enterocele repair; cystoscopy; perineoplasty; mid-urethral sling; and any additional procedures despite there being no clinical indication or diagnostic testing supporting this treatment plan.

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

COUNT II

NRS 630.301(4) - Malpractice

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

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

23. 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."

24. 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 subjecting Patient A to the urinary dynamics testing when the data was not used for clinical decision making.

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

COUNT III

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

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

27. 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," constitutes grounds for initiating discipline against a licensee.

28. Respondent failed to maintain proper medical records relating to the diagnosis, treatment, and care of Patient A, by failing to correctly document his actions when he treated Patient A, whose medical records were not timely, legible, accurate, and complete, by, among

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other things, falsely documenting Patient A had stress urinary incontinence on a study, despite no such study having indicated such findings.

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

COUNT IV

NRS 630.306(1)(b)(2) - Violation of Standards of Practice Established by Regulation – Falsification of Medical Records

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

31. Violation of a standard of practice adopted by the Board is grounds for disciplinary action pursuant to NRS 630.306(1)(b)(2).

32. NAC 630.230(1)(a) provides that a physician shall not, "falsify records of health care."

33. Respondent falsified Patient A's medical records by, among other things, documenting in Patient A's medical records that Patient A had type 2 stress urinary incontinence as demonstrated on a urodynamics study as an indication for the recommended surgery, despite no such study having indicated such findings.

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

COUNT V

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

35. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

36. 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 the intent of positively influencing the financial well-being of the practitioner are grounds for discipline.

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37. As demonstrated by, but not limited to, the above-outlined facts, Respondent violated NRS 630.301(8), regarding Patient A's medical conditions when Respondent scheduled unindicated procedures on Patient A, specifically complex procedures to repair vaginal prolapse. Respondent's diagnosis and scheduling of the procedure occurred without a recognized medical purpose and with the intent of positively influencing the financial well-being of Respondent and his practice.

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

COUNT VI

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

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

40. NRS 630.301(7) provides that "engaging in conduct that violates the trust of a 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.

41. As demonstrated by, but not limited to, the above-outlined facts, Respondent violated the trust of, and exploited the relationship between, Respondent and Patient A by improperly diagnosing Patient A with type 2 stress urinary incontinence without subjective documentation or testing supporting Respondent's diagnosis of urinary incontinence and/or bladder problems.

42. 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;

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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

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

DATED this 3 day of November, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Deonne E. Contine

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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 3rd day of November, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: _____
AURY NAGY, M.D.
Chairman of the Investigative Committee

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