

1 **BEFORE THE BOARD OF MEDICAL EXAMINERS**
2 **OF THE STATE OF NEVADA**

3 * * * * *

4
5 **In the Matter of Charges and Complaint**

Case No. 23-32659-1

6 **Against:**

FILED

7 **SCOTT RICHARD FERGUSON, M.D.,**

MAR 16 2023

8 **Respondent.**

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**

By: 

9
10 **COMPLAINT**

11 The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners
12 (Board), by and through Brandee Mooneyhan, Deputy General Counsel and attorney for the IC,
13 having a reasonable basis to believe that Scott Richard Ferguson, M.D., (Respondent) violated the
14 provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC)
15 Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's
16 charges and allegations as follows:

17 1. Respondent was at all times relative to this Complaint a medical doctor holding an
18 active license to practice medicine in the State of Nevada (License No. 12291). Respondent was
19 originally licensed by the Board on June 1, 2007.

20 2. Patient A was a forty-six (46) year-old female at the time of the events at issue.
21 Patient A's true identity is not disclosed herein to protect her privacy, but is disclosed in the
22 Patient Designation served upon Respondent along with a copy of this Complaint.

23 3. On the morning of December 4, 2017, Patient A traveled by ambulance to the
24 emergency room at St. Rose Dominican Hospital-Siena Campus (St. Rose) in Las Vegas, Nevada.
25 At the emergency room, Patient A complained of extreme leg pain, noting that both of her legs
26 had been severely cramping for at least an hour, and that both legs were swollen.

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28 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 Mr. M. Neil Duxbury, Michael C. Edwards,
M.D., and Aury Nagy, M.D.

1 4. Respondent was the admitting physician for Patient A’s emergency room visit.

2 5. The standard of care for a physician in an emergency department evaluating
3 extremity pain requires, in part, an examination for signs of ischemia, which is a “[l]ack of blood
4 supply to a part of the body” and “may cause tissue damage due to the lack of oxygen and
5 nutrients.”²

6 6. An examination for signs of ischemia would entail a physical examination of the
7 patient’s skin, for factors such as temperature, color, and capillary refill, and a neurovascular
8 examination, which would include evaluation of the quality and character of the peripheral pulses
9 in the affected extremities.

10 7. In addition to consistently complaining of leg pain, Patient A was exhibiting what
11 Respondent characterized as “bizarre behavior,” including “screaming,” “thr[owing] herself on the
12 ground” more than once and attempting to drink directly from the faucet of a sink.

13 8. In an apparent effort to calm Patient A and facilitate examination and treatment,
14 she was administered pain medication, antipsychotic medication, and benzodiazepines while
15 under Respondent’s care.

16 9. Respondent ultimately concluded that Patient A was suffering from a “brief
17 psychosis,” arranged for her to undergo a psychiatric examination, and placed her on a mental
18 health crisis hold pursuant to NRS 433A.160.

19 10. While acute psychosis can be life-threatening and should be emergently addressed,
20 Respondent failed to also adequately address Patient A’s other potentially emergent issue of
21 extreme leg pain by failing to examine her legs for signs of ischemia.

22 11. In pertinent part, while Respondent noted that he examined Patient A’s extremities
23 for edema and strength, he failed to document that he examined Patient A’s legs for signs of
24 ischemia by performing a physical examination of the skin on her legs or a neurovascular
25 examination of her legs.

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²See National Cancer Institute, <https://www.cancer.gov/publications/dictionaries/cancer-terms/def/ischemia>
(last visited March 14, 2023).

COUNT I

NRS 630.301(4) - Malpractice

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

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

14. 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.”

15. In failing to examine Patient A’s legs for signs of ischemia by conducting a physical examination of the skin of the patient’s legs and/or a neurovascular examination of her legs, Respondent failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when rendering medical services to Patient A.

16. 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

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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 16th day of March, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Brandee Mooneyhan

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VERIFICATION


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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 16th day of March, 2023.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 
BRET W. FREY, M.D.
Chairman of the Investigative Committee