BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

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In the Matter of Charges and Complaint Against GEORGE PETER CHAMBERS, Jr., M.D. Respondent.	**Case No. 22-27891-1**

FILED
OCT - 2 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

OFFICE OF THE GENERAL COUNSEL
Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521
(775) 688-2559

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-entitled matter came on regularly for decision before the Nevada State Board of Medical Examiners (Board), on September 15, 2023, at the Board's office located at 9600 Gateway Drive, Reno, Nevada, 89521, on the Complaint filed herein. George Peter Chambers, Jr., M.D., (Respondent), who was duly served with notice of the adjudication, was present and represented by his counsel, Liborius I. Agwara, Esq. The adjudicating members of the Board participating in these Findings of Fact, Conclusions of Law, and Order (FOFCOL) were: Aury Nagy, M.D., Ms. Maggie Arias-Petrel, Bret W. Frey, M.D., Col. Eric D. Wade, USAF (Ret.), Carl N. Williams, M.D., and Irwin B. Simon, M.D., FACS. Harry Ward, Esq., Deputy Attorney General, served as legal counsel to the Board.

The Board, having received and read the Complaint and exhibits admitted in the matter and filed into the record in this case, the "Findings and Recommendations/Synopsis of Record," (Findings and Recommendations) prepared by the Hearing Officer, Nancy Moss Ghusn, Esq., who presided over the hearing, and the transcript of the hearing, proceeded to make a decision pursuant to the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as applicable.

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The Board, after due consideration of the record, evidence and law, and being fully advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in this matter, as follows:

FINDINGS OF FACT

I.

Respondent held a license to practice medicine in the State of Nevada issued by the Board at all relevant times.

II.

On September 21, 2022, the Investigative Committee filed its formal Complaint in Case No. 22-27891-1, alleging Respondent violated the Medical Practice Act. Respondent was personally served with the Complaint on September 26, 2022. The Complaint alleged eight (8) violations of the Nevada Medical Practice Acts, including: two (2) violations of NRS 630.301(6) – Disruptive Behavior (Counts I and II); one (1) violation of NRS 630.306(1)(b)(1) - Engaging in Conduct Intended to Deceive (Count III); one (1) violation of NRS 630.3062(1)(a) - Failure to Maintain Accurate Medical Records (Count IV); two (2) violations of NRS 630.301(7) - Engaging in Conduct That Violates the Trust of a Patient and Exploits the Relationship with the Patient for Financial or Other Personal Gain (Counts V and VI); one (1) violation of NRS 630.306(1)(g) - Continual Failure to Practice Medicine Properly (Count VII); and one (1) violation of NRS 630.301(9) - Disreputable Conduct (Count VIII). Respondent filed an answer in response to the allegations set forth in the Complaint.

III.

An Order was filed on October 26, 2022, scheduling the Early Case Conference (ECC) for the pending matter for October 31, 2022. This Order was served upon Respondent's counsel at that time, Maria Nutile, Esq., by email and US Mail. The Early Case Conference was held at the scheduled time wherein all parties appeared telephonically. As a result of the ECC, the Pre-Hearing Conference was scheduled for November 21, 2022. Respondent's counsel at the time, Ms. Nutile, was served a copy of the Scheduling Order by email and US Mail. At the time fixed for the Pre-Hearing Conference, legal counsel for the Investigative Committee, Brandee

Mooneyhan, Deputy General Counsel, appeared, as well as the Hearing Officer, Nancy Moss Ghusn, Esq. and counsel for Respondent, Maria Nutile, Esq. At the Pre-Hearing Conference, counsel for the Investigative Committee and Respondent provided the Hearing Officer with the mandated Pre-Hearing Conference Disclosures and had copies of both the Pre-Hearing Conference Statement and the mandated Pre-Hearing Disclosures available for the parties. Respondent was timely and properly served with the Pre-Hearing Conference Statement and the mandated Pre-Hearing Disclosures in accord with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process. At the Pre-Hearing Conference, dates for hearing were set and an Order Setting Hearing was issued on December 6, 2022, with the formal hearing to commence on February 15 and 16, 2023. These hearing dates were eventually vacated and an Order Rescheduling Hearing was issued March 8, 2023, scheduling the formal hearing to commence May 2, 2023, May 3, 2023, and June 1, 2023.

IV.

On May 2, 2023, May 3, 2023, June 1, 2023, and June 2, 2023, a contested case hearing was held before the Hearing Officer to receive evidence and to hear arguments. The Hearing Officer received the complete Record of Proceedings, including the transcript of the testimony received and the exhibits admitted. Upon receipt of the Record of Proceedings, the hearing was closed. The Hearing Officer filed the Findings and Recommendations on August 21, 2023. The matter was scheduled for final adjudication on September 15, 2023, at a regularly scheduled Board meeting. The notice of the adjudication was mailed to Respondent on August 16, 2023, via US Certified Mail, with a copy by email as well. On August 21, 2023, Respondent was sent a copy of the Hearing Officer's Findings and Recommendations via Fed Ex 2-Day Mail, with a copy by email. Additionally, on September 5, 2023, via Fed Ex 2-Day mail, Respondent was given a copy of the Memorandum of and Disbursements and Attorneys' Fees and a packet of the materials to be presented as the scheduled Board meeting.

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V.

Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing Officer are hereby approved by the Board in their entirety and are hereby specifically incorporated and made part of this Order by reference. *See* **Exhibit 1**.

VI.

In accord with the Findings and Recommendations, the Board hereby finds that Counts V, VI, VII and VIII set forth in the Complaint, as recapitulated in Paragraph II above, have been established by a preponderance of the evidence.

VII.

If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law, it may be so construed.

CONCLUSIONS OF LAW

I.

The Board has jurisdiction over Respondent and the Complaint, and an adjudication of this matter by the Board members as set forth herein is proper.

II.

Respondent was timely and properly served with the Complaint, and all notices and orders in advance of the hearing and adjudication thereon, in accord with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process.

III.

With respect to the allegations of the Complaint, the Board concludes that Respondent has violated NRS 630.301(7), as alleged in Count V and VI; has violated NRS 630.306(1)(g), as alleged in Count VII; and has violated NRS 630.301(9) as alleged in Count VIII. Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

IV.

The Board finds that, pursuant to NRS 622.400, it may recover from Respondent reasonable attorneys' fees and costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings against Respondent as it hereby enters this Findings

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of Fact, Conclusions of Law, and Order finding that Respondent has violated the Medical Practice Act, which the Board has the authority to enforce.

V.

The Board has reviewed the Investigative Committee's Memorandum of Costs and Disbursements and Attorneys' Fees, and the Board finds them to be the actual fees and costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings against Respondent, and finds them to be reasonable based on: (1) the abilities, training, education, experience, professional standing and skill demonstrated by Board staff and attorneys; (2) the character of the work done, its difficulty, its intricacy, its importance, the time and skill required, the responsibility imposed and the prominence and character of the parties where, as in this case, they affected the importance of the litigation; (3) the work actually performed by the Board's attorneys and staff, and the skill, time and attention given to that work; and (4) the product of the work and benefits to the Board and the people of Nevada that were derived therefrom.

VI.

If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact, it may be so construed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore,

IT IS HEREBY ORDERED that:

1. Pursuant to NRS 630.352(4)(e) and NRS 622A.410(1), respectively, Respondent's license to practice medicine, License No. 10476, is immediately revoked and Respondent may not apply for reinstatement of a license for a period of two (2) years, with this revocation stayed pending Respondent's timely completion of the following items:

a. Sign an appropriate release with CPEP and complete and unconditionally pass the PROBE Ethics & Boundaries Course offered by CPEP on or before March 15, 2024.[1]

[1] Information about this course is available at https://www.cpepdoc.org/cpep-courses/probe-ethics-boundaries-program-united-states-2/.

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1 b. Satisfactorily complete the Professional Boundaries Program through
2 PACE at the University of San Diego by March 15, 2024.
3 c. Respondent shall reimburse the Board the reasonable costs and expenses
4 actually incurred in the investigation and prosecution of this case in the amount of fifty-four
5 thousand two hundred seventeen dollars and thirty-seven cents ($54,217.37) by
6 March 15, 2024; and
7 d. Respondent shall pay fines in the amount of one thousand five hundred
8 dollars ($1,500) for each count found proven, for a total of six thousand dollars ($6,000), by
9 March 15, 2024.
10 2. Respondent's license will be on probation for two (2) years and his license will be
11 subject to the following conditions until further order of the Board:
12 a. Respondent shall continue to strictly comply with the terms set forth in the
13 previously signed Stipulation and Order, filed February 22, 2023, specifically:
14 i. Respondent shall refrain from taking photos or videos of any
15 patient;
16 ii. In non-hospital settings, Respondent shall be accompanied by a
17 medical chaperone during the entirety of all patient interactions;
18 a. Respondent shall submit the names of proposed medical
19 chaperones to the Board's Compliance Officer at least three (3) days prior to utilizing them;
20 b. All chaperones will have documented training as a medical
21 chaperone, *see* https://pbieducation.com/courses/ctp-2/, with certificate of such training provided
22 to the Board's Compliance Officer prior to them acting as a chaperone;
23 c. Respondent shall be responsible for recording the first and
24 last name of the chaperone present in the record of every patient encounter;
25 d. Respondent shall notify the IC within twenty-four (24) hours
26 if there is a change to the identity or availability of the chaperone;
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e. Respondent shall allow Board personnel and/or a private monitoring company (for example, Strategic Management Services or similar) to review any patient records and/or interact with chaperones without prior notice to him; and

f. Respondent shall bear all costs related to the required chaperones.

iii. In hospital settings, Respondent will ensure the presence of a nurse during all patient examinations (including but not limited to pelvic examinations) and deliveries and be responsible for ensuring that the nurse's presence is recorded in the notes of all such encounters.

b. After two (2) years from the date of this Order, Respondent may petition the Board to appear at a public meeting to request the Board remove the foregoing conditions on his license.

3. Respondent shall immediately cease advertising or holding himself out, on his website, social media platforms, letterhead, or other communications to current or potential patients that he is "certified" in any area unless it is in strict compliance with the provisions of NRS 629.076(1).

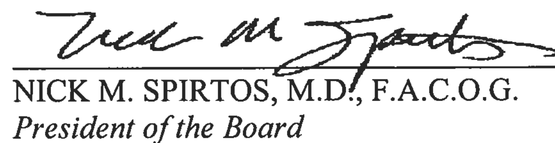
4. Respondent shall be issued a Public Letter of Reprimand; and

5. Respondent's discipline shall be reported to the appropriate entities, including the National Practitioner Databank (NPDB).

IT IS SO ORDERED.

DATED this 2nd day of October, 2023.

NEVADA STATE BOARD OF MEDICAL EXAMINERS



NICK M. SPIRTOS, M.D., F.A.C.O.G.
President of the Board

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CERTIFICATION

I certify that the foregoing is the full and true original FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER on file in the office of the Board of Medical Examiners in the matter of George Peter Chambers, Jr., M.D., Case No. 22-27891-1.

I further certify that Nick M. Spirtos, M.D., F.A.C.O.G., is the President of the Nevada State Board of Medical Examiners and that full force and credit is due to his official acts as such; and that the signature to the foregoing ORDER is the signature of said Nick M. Spirtos, M.D., F.A.C.O.G.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

DATED this 2nd day of October, 2023.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

MAGGIE ARIAS-PETREL
Secretary-Treasurer and Public Member of the Board

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EXHIBIT 1

EXHIBIT 1

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BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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In the Matter of Charges and Complaint Against

GEORGE PETER CHAMBERS, M.D.,

Respondent.

Case No. 22-27891-1

FILED
AUG 2 1 2023
NEVADA STATE BOARD OF MEDICAL EXAMINERS
By:

FINDINGS AND RECOMMENDATIONS/SYNOPSIS OF RECORD[1]

Introduction and History

This matter was heard on May 2, May 3, June 1, and June 2, 2023. This Hearing Officer was present in the Reno office of the Nevada State Board of Medical Examiners (the "Board") along with Donald White, J.D. on behalf of the Investigative Committee (the "IC"). Appearing and present in the Las Vegas office of the Nevada Board of Medical Examiners Respondent, George Peter Chambers, M.D. ("Respondent" or "Dr. Chambers") and co-counsel for the IC, Brandee Mooneyhan, J.D.

Patients A and B, and witnesses for the Board, were present and appeared from the Las Vegas office of the Board. The remaining witnesses were present and appeared in the Board's Reno office, except for the IC's witnesses Patient C and Ms. Casey Carden, and Respondent's expert witness, Michael Goodman, M.D., all of which appeared by *Zoom* videoconference.

The Complaint in this matter was filed by the IC on September 21, 2022, with the Answer and Notice of Defense filed by Respondent's former counsel on October 18, 2022. Both an Early Case Conference and a Prehearing Conference were held. Attorneys for Respondent withdrew as counsel of record on January 18, 2023, and requested a continuance of the hearing on behalf of the

[1] Incorporated herein by reference is the full Transcript of the Hearing Proceedings of the above dates, which is provided herewith as **Exhibit A** and referred to herein under the designation "TR," as well as the exhibits admitted at the hearing, which are indexed and provided herewith as numbers for the IC Exhibits and letters for Respondent's Exhibits.

Respondent, which was granted by the undersigned Hearing Officer, and, in the interest of due process, additional time was allowed for Respondent to retain counsel and to determine whether his Errors and Omissions/Malpractice Insurance would cover his representation. Respondent ultimately chose to represent himself in this proceeding.

Motions: Although other motions were filed in this matter, some were abandoned when Respondent's former counsel withdrew from representation. The motions of note that did reach decision were as follows: (1) IC's Motion to Protect Patient Likenesses, which was decided in the IC's favor. Exhibits 12, 19, 24, 26, and 28; and (2) Respondent's Motion to Exclude Testimony of Peer Reviewer Witness, which was decided in the IC's favor. Exhibits 13, 16, 25, 29. Also of note is the Stipulation and Order filed on February 22, 2023, addressing Pre-Hearing issues, such as the requirement for chaperones to be present, when the hearing was continued. Exhibit 22.

Media: The undersigned Hearing Officer is aware that this matter has garnered media attention but represents that she has no knowledge of the contents of any media reports outside any statements made by those involved with these proceedings. In addition, the media attended these hearings and was informed at the beginning of each session of Exhibit 28, the Order Granting Investigative Committee's Motion to Protect Patient Likenesses. The undersigned hearing officer was also contacted twice regarding dates for hearings and these Findings.

Approach: Given the scope of this matter, including approximately 22 hours of hearing over three days and 750 pages of hearing transcript, emphasis will be given to the summary of the testimony. Also of note, some of the witnesses were taken out-of-order or witness direct and cross-examination were broken up in order to be as efficient as possible and to accommodate witnesses' schedules.

All witnesses were sworn. The rule of exclusion was invoked.

Allegations

The Complaint alleges, charges and are premised upon as follows:

Count I, NRS 630.301(6), Disruptive Behavior, premised upon the taking photographs of Patient A;

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Count II, NRS 630.301(6), Disruptive Behavior, premised upon the allegation that Respondent told Patient A that he attempted to "fist" her;

Count III, NRS 630.306(1)(b)(1), Engaging in Conduct Intended to Deceive, premised upon the allegation that the Respondent used four fingers to examine Patient A but documented that he used only two fingers in the medical record;

Count IV, NRS 630.3062(1)(a), Failure to Maintain Proper Medical Records, premised upon the allegation that the Respondent used four fingers to examine Patient A but documented that he used only two fingers in the medical record;

Count V, NRS 630.301(7), Engaging in Conduct That Violates the Trust of a Patient and Exploits the Relationship of a Patient for Financial or Other Personal Gain, premised upon the allegation that the Respondent offered to pay Patient B $1000 if she would pose as a nude model while she was still in the examining room;

Count VI, NRS 630.301(7), Engaging in Conduct That Violates the Trust of a Patient and Exploits the Relationship of a Patient for Financial or Other Personal Gain, premised upon the allegation that the Respondent offered to pay Patient C $1000 if she would pose as a nude model while she was still in the examining room;

Count VII, NRS 630.306(1)(g), Continual Failure to Practice Medicine Properly, premised upon the allegation that "[b]y repeatedly engaging in sexual misconduct with Patients A, B, and C, as set forth above, Respondent has continually failed to exercise the skill and diligence and use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in his field of obstetrics and gynecology." *Complaint, p. 9, ll. 17-20*; and

Count VIII, NRS 630.301(9), Disreputable Conduct, premised upon the allegation that "by repeatedly engaging in sexual misconduct and by repeatedly violating his patients' trust and exploiting his relationship with them Respondent engaged in conduct that brings the medical profession into disrepute." *Complaint, p. 10, ll1-3.*

Witnesses and Testimony

In relation to the IC's case, the undersigned hearing officer heard from the following witnesses:

Johnna LaRue, Deputy Chief of Investigations and Compliance Officer of the Nevada State Board of Medical Examiners (Vol. I, TR 39-54; Recalled Vol. III, 174-195);

Respondent George Peter Chambers, M.D. (Vol. I, TR 56-97; Vol. II, 198-207;

Patient A (Vol. I, TR 100-154);

Patient B (Vol. II, 9-44);

IC's Expert Witness Richard Rafael, M.D. (Vol. II, 44-164);

Patient C (Vol 3, TR 163-172)

Casey Carden (Vol. 3, TR 128-160).

In relation to Respondent Dr. Chambers' case, the undersigned hearing officer heard from the following witnesses:

Respondent's Expert Witness Michael Goodman, M.D. (Vol. 3, TR 74-120; TR 197-254);

Brittany Turner (Vol. II, TR 188-197);

Respondent George P. Chambers, M.D. (Vol.2, TR 198-207; Vol. 3, TR 11-71; Vol. IV, TR 33-53).

MAY 2, 2023 HEARING

IC's Witnesses

NSBME Deputy Chief of Investigations Johnna LaRue

The first witness called by the IC was Johnna LaRue, the Deputy Chief of Investigations of the Nevada State Board of Medical Examiners, who the IC called to authenticate exhibits one through ten. Vol. I, TR 27-31.

Cross-examination of Investigator LaRue was utilized primarily to demonstrate her limited knowledge of the phrase "fisting," at issue in the case, although Ms. LaRue stated that she knew what it meant and based her answer on review of a photograph supplied by Patient A and her own personal opinion. Vol. I, TR 53-54.

Investigator LaRue was called later in the proceedings as a rebuttal witness with regard to Respondent's testimony about producing advertisements in Adult Video Network (AVN) publications. Vol. III, TR174-197.

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Respondent George Peter Chambers, M.D.

The second witness called and questioned by counsel Ms. Mooneyhan for the IC was Respondent Dr. Chambers himself. Vol. I TR 56-97.

Respondent was questioned and testified as to his professional credentials, i.e., that he was previously licensed in Colorado and New York in addition to being licensed in Nevada, but that he allowed those licenses to lapse as he did not intend to practice in those states again. Vol. I TR 57. Respondent also testified that he is both a fellow and Diplomat of the American College of Obstetricians and Gynecologists and described the process of his certification in sexual health and treatment by the American Academy of Antiaging, which training consisted of four to five days on each module in four different cities. Vol. I TR 59-61. In addition, Respondent answered questions about his professional affiliation and training with the National Society of Cosmetic Physicians. Vol. I TR 62.

Respondent described his current medical practice as encompassing the whole scope of OB-GYN including sexual health medicine which includes cosmetic gynecology. Vol. I TR 62-64. He also described the differences in how an exam by a sexual health specialist may differ from a general OB-GYN. Vol. I TR 64- 66.

When questioned about his encounter with Patient A, Respondent testified that she was referred by another physician and arrived with pages of questions. Vol. I TR 66. He believed that Patient A was there to be seen for cosmetic gynecological surgery. Vol. I TR 66, 69. He typed the records the same day or within a few days of the exam, as he types notes if it's a consult for another provider but will generally handwrite exam notes that remain in his office. Vol. I TR 69-70.

Respondent testified that he did conduct a physical examination of Patient A, and took photos of her examination, using her cell phone. He did so because he has always used illustrations to help his patients understand what was happening, sometimes images he drew himself or prepared illustrations. But when a patient suggested that he take a photo, he thought it was a good idea. If a patient was just in for a consultation and had not decided about surgery, he would suggest using the patient's own phone camera so that she could do what she wanted with the photos, whether the

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patient would discard the photos or share with another physician. Vol. I TR71-72. He took twelve photos of Patient A to get a good picture and then the others could be discarded. Vol. I TR72-73.

The initial meeting involves only verbal consent to take the photos during the exam. The Respondent testified that if a patient returns, he has her complete six written consents which include a consent for photography. Vol. I TR 73-74. He does not require written consent if the patient takes the photos with her, and/or is shopping for a cosmetic surgeon, but only if he's doing a procedure on the patient and keeps the photos in his office. Vol. I TR 74.

The Respondent and Counsel for the IC engaged in a discussion about the security of the photos of his patients and internet system as he does not trust technology and doesn't upload photos to "the cloud," but he uses secured office Wi-Fi to send the photos to the printer. Vol. I TR 74-76. Respondent has a policy of deleting the photos, usually the same day, that patients text to him if they aren't going to be used for surgery. Vol. I TR 76-78.

Respondent reviewed Exhibit 3, Patient A's medical records, and agreed that he sized Patient A's vagina with two fingers although he agrees that the photos show that he used four fingers. Vol. I TR78-79. He testified that he would sometimes use slang terms depending upon her vernacular as he thought it would be inappropriate and condescending to correct the patient's terminology. Vol. I TR 79-80. He would usually use the type of anatomical terminology the patient used. Vol. I TR 80. He would use slang terms with patients when describing sexual acts. Vol. I TR 80-81. The Respondent stated that he would not use the term "fisting" unless the patient engages in that activity. Vol. I TR 81.

Regarding the presence of a chaperone at Patient A's visit, Respondent testified that his office manager, Casey, stood in the doorway of the exam room and would move back to her reception desk where the exam table was still in sight. Vol. I TR 82-83; Exhibit 6. That was Patient A's only visit and he did not perform gynecological cosmetic surgery on her. *Id.*

Patient B was a regular patient of the Respondent for seven or eight years, and Respondent never performed gynecological surgery on her. Vol. I TR 84. According to Exhibit 7, Patient B saw the Respondent in October of 2018 for blood and nipple discharge. *Id.* He testified that he

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"probably did" offer Patient B money to pose in a nude photograph for an ad but does not know when. *Id.*

Regarding placing ads in the Adult Video Network (AVN) ads, Respondent placed ads in the AVN awards ceremony program three times beginning in 2012 with the last ad placed in 2020, and he also placed ads in the industry magazine approximately twelve times. Vol. I TR 85; Exhibit 6. There were two ads that were used for both publications. One was a profile photo of a nude woman in a prone position; the other was a profile of a (different) nude woman with her face shielded. The second woman was a patient. Vol. I TR 86-88.

Respondent took the first photograph, and a professional photographer took the second of a friend of a patient at Respondent's office although Respondent was not present. Vol. I TR 88. Respondent was trying to get an ad ready for the 2019 AVN ceremony but, although his office was in contact with AVN, he was too late to get it in the program. Vol. I TR 89. Respondent has taken photographs approximately five times and has had a professional photographer take photos approximately twelve times of patients in his office for ads that have not been used. Vol. I TR 89-90.

These photos were taken in Respondent's office, stored on the same air cam iPad and locked away, since approximately 2013 when he was trained in medical photography. Vol. I TR 91. Respondent considers the vaginal photos, which are on the walls in the restroom and one in the exam room, so he doesn't bring up the topic directly with patients, to be medical photography. *Id.*

Although the professional photographer who took these photos did not have training in medical photography, Respondent explained to her what he wanted. *Id* at 92. Everyone who posed for these photos had to sign a written consent, and they were paid $1000, usually in cash. *Id.* The nude photos are called "boudoir" photos, some of which included photos of genitals, some with lingerie. *Id. at 93.* Respondent had the ads professionally done, and the ads for AVN were designed by a company that Respondent was directed to use by AVN. *Id. at 94.*

With respect to Patient C, she had been a regular patient, but Respondent could not remember but thinks for approximately two or three times. *Id.* Respondent was aware that Patient C was having financial issues and offered her the same arrangement for posing for photos for $1000.

Id. Clarification that Exhibit 10, page 144 is a photo he took of a model who was not a patient for an advertisement. *Id. at 95-96.*

PATIENT A

Direct Examination

Initially, Ms. Mooneyhan, counsel for the IC, established the identity of Patient A without revealing her true name. Vol. I TR 99-101.

Patient A testified that she was referred to Respondent Dr. Chambers by her regular OB-GYN for perineum discomfort and possible repair and had just one appointment with him on November 17, 2020. *Id. at 103-104.* Patient A thinks that although her regular gynecologist did perform perineoplasty surgery, she referred Patient A because Patient A had also asked about labiaplasty. *Id. at 105.*

Patient A was well-prepared for her appointment and had researched and had looked at Respondent's website and thus knew that he performed all the procedures that could possibly help with her issues. *Id.* Because she is a very thorough person and tends to get nervous at medical appointments, she prepared notes with symptoms and questions. *Id.* Patient A didn't remember exactly how long the appointment was as it was two and a half years ago but estimates that both she and Dr. Chambers were thorough, and it probably took 15 or 20 minutes. *Id. at 107.*

After the initial discussion, Respondent, Dr. Chambers, asked Patient A to wait to ask her questions until after the exam when he gave her his opinion. *Id.* Respondent then asked Patient A to keep her phone nearby and, although she wasn't surprised about the photos, she thought it was unusual and odd that he would be using her phone, but that is what he needed to address her health. *Id. at 108.*

Patient A expressed hesitation when Respondent then asked if could leave the door ajar, but he reassured her that no one else was in the office and that the doors were locked. Vol. I TR 109. Patient A testified that no one else was in the room and that she was aware of only the "office girl", who came to the room at one point to see if Respondent would be able to see another patient. *Id.*

Patient A testified that the Respondent did not take her weight or blood pressure or any other vital signs. *Id. at 110.* She then described the exam, testifying that Dr. Chambers explained that

1 he would be feeling around and assessing for nerve damage to try to determine if that was the cause
2 of her pain and discomfort, and she gave him her phone. *Id.* Patient A does not remember Q-tips
3 on a nearby tray but recalls that he did not use a speculum. *Id. at 111.* Patient A again states that
4 since it has been two- and one-half years, she does not remember the sequence of events exactly
5 with respect to the exam and the taking of photos. *Id.*

6 She recalled that he did feel around with his fingers and asked her if she felt any pain and
7 that he took photos of her vulva from different angles with his fingers inserted. *Id.* She did not feel
8 "zinger" pain but felt a great deal of pressure and discomfort. *Id. at 112.* Patient A testified that "I
9 felt his knuckles inserted into my vagina," and when she told him that it was very uncomfortable,
10 he pulled his hand out, and that Respondent also did a rectal exam. *Id.*

11 At that point, the exam was over, and the Respondent asked Patient A to show him the
12 photos, and he asked her to text two of them to him. Vol. I TR 113. Patient A was uncomfortable
13 with this as she was concerned that it may not be secure and the photos could be texted to someone
14 else, but that he was doing it for her medical care. *Id. at 112-113.*

15 Patient A testified that Respondent said to be very careful with the phone number and told
16 her a story about photos mistakenly sent to the wrong person. *Id. at 113.* When the Respondent
17 left the room so she could dress, she texted her husband that it was "weird" and her husband told
18 her that it was probably okay but that she could ask if she was worried about it, but she was too
19 embarrassed to do so and also still trusting that she was receiving medical care. *Id. at 113-115.*

20 Patient A testified that when Dr. Chambers returned to the exam room, he told her and
21 demonstrated that he engaged in "fisting" during the exam and indicated that he used his hand up
22 to between his knuckles and his fist, but that he indicated with two fingers the size of a man's penis.
23 *Id. at 115.* This information had a profound negative effect on Patient A's sexual confidence,
24 leaving her humiliated and embarrassed, and she did not want to share the information with what
25 she perceived was wrong with her body with her husband. *Id. at 116.* Patient A also testified that
26 Dr. Chambers used the term "lips" when referring to the labia when discussing labiaplasty, although
27 she uses only anatomically correct terms. *Id. at 117.*

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1 Patient A testified that the Respondent to keep the remaining ten photos of the exam in a
2 secure folder on her phone and not to let her husband see them or "they would mess with his head."
3 *Id.*; *see,* Exhibit 4.
4 After the examination, Patient A described that she was in pain and that there was swelling,
5 and she felt like she had small tears and lumps around her vaginal opening. *Id. at 118.* Patient A
6 stated that the pain and discomfort lasted a couple of weeks. *Id.* Because of her discomfort after
7 the exam with Dr. Chambers, she made an appointment with her regular gynecologist, Dr. Lewis,
8 four days later which was scheduled for approximately a week after the appointment with the
9 Respondent, although she felt better at the time of the follow-up appointment with Dr. Lewis. *Id.*
10 At the appointment with Dr. Lewis, she asked about the term "fisting," and Dr. Lewis told
11 her that she had never heard of the term. *Id. at 119.* Patient A also asked Dr. Lewis about
12 Respondent's statement that he would be stimulating her clitoris during the surgery and "not to hold
13 back" because he wanted to make sure that he was not cutting any nerves. *Id.* Patient A related to
14 Dr. Lewis that she asked him about it because he had previously assured her that the surgery would
15 not lead to any loss of clitoral sensation, but that he brushed off her question. *Id.* Patient A testified
16 that Dr. Lewis told her that "[t]here was no reason to ever do that during surgery." *Id.*
17 Patient A related that the Respondent proposed to perform a perineoplasty, vaginoplasty,
18 rectocele, vaginal reduction, and labiaplasty. *Id. at 119.* She confirmed that she did not make an
19 appointment for cosmetic reasons but just to address the discomfort she was experiencing, but that
20 she had asked about labiaplasty. *Id.* She was concerned about the risk of losing sensation, however,
21 and decided against labiaplasty. *Id. at 120.* Patient A testified that she had no concerns about her
22 clitoris, but that the Respondent commented that "[w]omen would kill for a clitoris like yours." *Id.*
23 She also testified that her "labia [is] bent on one side," and she "thinks that [she] remembers" that
24 the Respondent proposed excising some tissue from one side of her labia to make it perfectly
25 symmetrical. *Id. at 120-121.*
26 Psychologically, Patient A stated that she "knew what had happened was wrong", was
27 sexual assault and not for her medical care. *Id. at 121.* This had a profound effect on her in that
28 she believed that something was wrong with her vagina and that she was disgusting. *Id.* She stated

1 that she suffers from PTSD and anxiety, and that she had counseling through the Rape Crisis Center.
2 *Id. at 122.* Due to this event, Patient A testified, she still hasn't had any surgery to address her
3 perennial pain, but she hasn't been able to go through with it although she has found a good doctor
4 at UCLA and will pursue it at some point. *Id.*

5 **Cross-Examination of Patient A by Respondent**

6 On cross-examination, the Respondent tried to ask what Patient A said to the media and to
7 the police, over objection by counsel for the IC, which was overruled, but the Respondent did not
8 follow-through with the question. However, with respect to a question from the Respondent about
9 possible contradictory statements to the media and/or law enforcement, Patient A did state "I'm just
10 trying to remember what I said to the police." Vol. I TR 125.

11 The Respondent then asked Patient A, in respect to the allegation of "fisting," whether she
12 screamed, whether she saw how he prepared his hands for her examination, or whether she saw how
13 many gloves he put on for her examination. *Id. at 125-126.* Patient A answered "No" to each of
14 these questions. *Id.* There was then some discussion about the amount of lubrication needed to
15 "fist" that was not resolved and the undersigned hearing officer explained that the testimony was
16 more appropriate and would be permitted in the Respondent's case-in-chief. *Id. at 127-128.*

17 When the Respondent asked Patient A whether she had heard of the term "lips" when
18 referring to the labia, she replied, "probably." *Id. at 129.*

19 Patient A confirmed that Exhibit 3 NSBME 0024 entitled "Vagina Repair Consultation"
20 was the document of questions and information she prepared for and gave to the Respondent at her
21 appointment, which addressed many matters including her history, pain, and sexual issues. *Id. at*
22 *131.* A discussion, objections and rulings occurred thereafter regarding the allowable scope of the
23 Respondent's cross-examination. *Id. 132-134.*

24 The Respondent questioned whether a discussion of Patient A's sexual function was not
25 unexpected considering the list of questions and statements Patient A supplied to him, and Patient
26 A replied that "discussing sexual matters wasn't a problem for me." *Id. at 135; Exhibit 3 NSBME*
27 *0024.* The Respondent then questioned Patient A whether she asked him about Dr. Red Alinsod,
28 whether she had heard of Dr. Alinsod's techniques, and how many of these procedures the

Respondent had himself performed, and Patient A responded that she did not recall, she may have, she probably did since she wrote it down, she assumed she looked at Dr. Alinsod's website, and she didn't know if she had looked at Dr. Alinsod's photo gallery on his website. *Id. at 136-137.* When Dr. Chambers asked whether he could introduce photos from Dr. Alinsod's website to compare to the photos taken of Patient A, all agreed that it would be more appropriate to introduce said photos in Respondent's case-in-chief and with his expert witness. *Id. at 139-140.*

Upon further questioning and review of the photographs, Patient A agreed that the photo showed that his fingers were only partially inside her vagina. *Id. at 141.* Although Patient A does not recall a Q-Tip being used during the examination, she recalls that the Respondent asked her if she felt pain. *Id.* She also recalls that he did an exam that included a finger in her anus. *Id. at 142.*

The Respondent questioned Patient A about whether she remembered that he referred her to a urogynecologist, and Patient A testified that she remembered, she did have an appointment with urogynecologist Dr. Wasserman, that Dr. Wasserman examined her and recommended surgery for perineal and posterior repair. Patient A recalled that the Respondent made the referral so that Patient A's insurance would cover the procedures, although Dr. Chambers recalled that Patient A would return for the "outer stuff" and Patient A recalled that she didn't want to have the labiaplasty of she was going to lose sensation. Again, Patient A responded that "I'm trying to remember. I haven't' thought about this in—it was over two years ago." *Id. at 143-144.*

Finally, Respondent asked Patient A about what happened after the appointment, and Patient A testified that she did not immediately depart but talked with Casey, the receptionist about Dr. Chambers, and recalls Dr. Chambers being present, didn't say anything about pain except she did about the discomfort during the exam itself, and agreed that the conversation between the three of them was "probably" jovial. *Id. at 145.*

Re-Direct, Re-Cross, and Follow-up Questions of Patient A

Upon re-direct by Ms. Mooneyhan, counsel for the IC, Patient A clarified that she believed that her discomfort was separate from the insertion of Respondent's fingers during the examination to be two separate events. *Id. at 146-147.* Patient A also answered that they discussed the questions that she brought to the exam with her after the exam and when the Respondent told her his diagnosis

and treatment recommendations. *Id. at 147.* When asked whether they had discussed questions about lubrication and sex, Patient A stated three more times that she couldn't remember. *Id. at 147-148.*

Upon re-cross by the Respondent, Patient A clarified that she gave him the form of questions at the very beginning of the appointment. *Id. at 149.*

In response to questioning by the undersigned Hearing Officer and follow-up questions by the Dr. Chambers and Ms. Mooneyhan, Patient A stated that she returned to her regular gynecologist Dr. Lewis about six days after her appointment with Dr. Chambers because of her pain but does not recall the date that she saw Dr. Wasserman. *Id. at 150.* Patient A further explained that she saw Dr. Wasserman on Dr. Chambers' recommendation, that she questioned Dr. Chambers about the referral if it was the exact same procedure and that Dr. Chambers replied that her insurance wouldn't cover it because he, Dr. Chambers, did the procedure in-office. *Id. at 150-151.* Patient A further clarified that Dr. Wasserman could do the rectocele and perineal repairs but not the cosmetic portions, and that her intention was not to seek a cosmetic procedure. *Id. at 152.* However, Patient A recalls, and the Respondent directed her attention to her own list of questions, that a labiaplasty procedure could help with her discomfort. *Id. at 152-154.*

MAY 3, 2023 CONTINUED HEARING

PATIENT B

Direct Examination

Dr. Chambers was Patient B's physician for over seven years for her yearly exams and when she was pregnant and after she had her son, with her last appointment in 2018. Vol. II, TR 10. Patient B was aware that Dr. Chambers did cosmetic gynecological surgery as there were posters in his office, although she never inquired about it. *Id. at 11.*

Patient B testified that she discontinued seeing Dr. Chambers as her primary gynecologist after her last appointment with him in 2018 for a couple of reasons, including that she felt that she had trusted him with her personal history, and he had shared that information with medical students. *Id. at 11-12.*

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1 In addition, she had made the appointment for a second opinion about a lump in her breast
2 and need scans to be ordered. *Id. at 13.* The nurse also had her undress from the waist down, and
3 the nurse and the two students, both women, were in the exam room. *Id.*.
4 Patient B had had breast implants since her last appointment with Dr. Chambers, and he
5 asked her to sit up so that he could look and asked her about them. *Id.* He then asked the students
6 to leave, and Patient B thought he wanted to talk to her about something privately, and she still
7 trusted him although she felt it was awkward as she was still exposed from the waist up. *Id. at 14.*
8 At that point, the Respondent asked Patient B if she had ever posed nude before and that some of
9 his patients were models for him for his ads. *Id. at 15.* She knew immediately "that it was incredibly
10 inappropriate. It was crossing so many ethical boundaries", and it was a very uncomfortable
11 situation to be in. *Id.*
12 Patient B stated that the Respondent went on and told her how he wanted real women and
13 that it would be empowering for her to do this because of her history. *Id. at 15-16.* He showed her
14 a photo on his phone that was filtered and that he said was one of his patients. *Id. at 16.* The
15 Respondent also told Patient B that if she did pose for him, that she couldn't tell her husband. *Id.*
16 *at 16-17.* Patient B also testified that she told him that she had had laser hair removal in her genital
17 area and that he asked to see, stating that was even more perfect. *Id. at 17.* The conversation
18 continued, and Patient B testified how the Respondent described how his other patients who posed
19 as models enjoyed the process and became seductive with the camera, that he is the photographer
20 and paid $1000. *Id. at 17-18.* Patient B testified that it was a fairly short conversation, that she was
21 still naked, that she was nervous and uncomfortable and just kind of laughed, and that the
22 conversation ended, and he left the room when the Respondent told her and they agreed that she
23 would just to text a simple "yes" or "no" regarding the project without any details. *Id. at 18-19.*
24 Patient B then left the office, and it was a friendly goodbye, and she realized that was inappropriate
25 because he was her doctor that she trusted with personal details of her sex life and other personal
26 details. *Id. at 19-20.*
27 Patient B later discussed the incident with her sisters, friends, and her therapist, who agreed
28 that it was inappropriate and violating, and she texted her answer to the Respondent from her

therapist's office, which said that the project would be highly unethical and that she would be seeing another gynecologist. *Id. at 20, 21.* Patient B stated that Dr. Chambers texted back that he did not think that it crossed patient boundaries and that it was the only way he could recruit models, he was worried that he may lose some patients because of this, and that he wished her well. *Id. at 21.* Patient B added that she and Dr. Chambers had previously texted about medical matters and voting for him for Top Doctor Awards, which she did. *Id. at 21, 22.* Subsequent to the incident there were texts only about Patient B's scans. *Id. at 22.*

Cross-Examination of Patient B by Respondent

Respondent asked which of them initiated the discussion about the photos, and Patient B replied that Dr. Chambers asked, and she also implied that there may not have been ads for which he was taking photographs. Vol. II TR 22-23.

During Patient B's testimony, there was a great deal of interrupting each other, some confusion and contradiction while the Respondent was attempting to ask Patient B about why he was asking her about sexual matters, with Patient B stating that she never raised the issue but would answer Dr. Chambers' questions during appointments. *Id. at 23-24.* The Respondent attempted to demonstrate that she contradicted herself as his exam notes on the date of one of her appointments show that Patient B did in fact raise concerns about her sexual life. *Id. at 24-32; NSBME Exhibit 7, p. 105;* typewritten in NSBME Case File Pleadings 27, p. 3.

Upon being given some latitude, and although she was reluctant to agree or to answer in the affirmative, Patient B testified that with respect to the statement and information recorded by Dr. Chambers in his exam notes, "it was a long time ago, but I can't say there's not truth to this," and "there isn't any untruth to this," and "[i]t looks like something that I would have said, because when I read it, it's the truth," and "I know that this is how I feel...about my sexual struggles," and "I would have not said any of this, just like I'm saying this now. So, this is the truth I trusted you with." *Id. 30-32.*

The cross-examination continued back-and-forth between the Respondent and Patient B, and Patient B testified that she did discuss with others about her discussions with Dr. Chambers

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about her sexual life, and that he did not wait for her to ask the questions, but he asked very personal questions which made her feel awkward. *Id. at 34-35.*

When the Respondent asked that, based on the notes and history, whether he had had a basis for asking detailed questions about her sexual life, Patient B had difficulty answering. *Id. at 36-39.*

Because of Respondent's difficulty in asking and getting responses from Patient B during her testimony, and because Respondent stated that he felt that it had become argumentative and that he was in a detrimental "he said she said" position, he declined to cross-examine Patient B further. *Id. at 38-39.*

On re-direct, IC counsel asked, and Patient B clarified that she had never seen the medical record of Dr. Chambers' notes and that she had no control about how he characterized her visit. *Id. at 39-40.* On re-cross examination, Respondent asked, and Patient B testified that she had read physician notes at the end of a medical appointment but did not look at any of Dr. Chambers' notes about her. *Id. at 40.*

IC'S EXPERT WITNESS RICHARD RAFAEL, MD

Direct Examination

Dr. Richard Rafael was called as the IC's expert witness. Dr. Rafael was initially questioned and testified about his education, training, practice, expertise, experience, professional affiliations and descriptions of the organizations, current professional activities, and education and position as chief resident, and affiliations to remain current in his chosen specialty. Vol. II, TR 44-58. Dr. Rafael's CV can be found at IC's Exhibit 16. Dr. Rafael also described his work for ProAssurance Indemnity Company claims underwriting committee, and a list of CMEs he had taken throughout his career, and how he chose OB-GYN as his specialty. TR 58-61.

Dr. Rafael was asked about and discussed a series of hypothetical scenarios related to a patient's sexual health. TR 62-65. Dr. Rafael then testified about a sub-specialty and training in sexual health, and whether an OB-GYN would be able to perform female genital plastic surgery or whether that would require a specialty in plastic surgery. TR 65-67.

Regarding marketing, Dr. Rafael testified that his practice was marketed by word of mouth and that he did not have models or use ads in his office. TR 67.

Dr. Rafael further testified about the recommended use of chaperones, how that changed over time, and his use of chaperones, how at times a chaperone wasn't present and how that declination was documented. TR 68-71; IC Exhibit 11, p. 160.

Dr. Rafael testified that the ACOG's opinions and guidance are the accepted standard of care in OB-GYN. *Id. at 72-72.* After reviewing the paragraph entitled "sexual impropriety" in Exhibit 11, Dr. Rafael opined that he believed that there was sexual impropriety in the cases of Patients A, B, and C. TR 72; IC Exhibit 11, p. 160.

Dr. Rafael was then asked about IC's Exhibit 3, which is Respondent Dr. Chambers' medical records and notes for Patient A, which he reviewed in preparation for testifying in the instant matter. TR 74. When asked about his review of the records, Dr. Rafael responded, "Well, first I'd like to state that this is a thorough history and physical performed by Dr. Chambers." TR 74.

Dr. Rafael was further questioned and discussed Patient A's presentation, history, questions, and concerns when she saw Dr. Chambers. *Id. at 74-76.* Dr. Rafael testified that he had done two labiaplasties during his career, and he did them with a colleague who had taken courses from Dr. Red Alinsod, and he did them for functional rather than cosmetic purposes. TR 76.

Dr. Rafael was then asked about and testified about instances when labiaplasty could be beneficial for a patient, and that insurance should cover the procedure. TR 77. He also was asked, based on Patient A's medical records, to analyze her case based on his review of the records and how else he might have treated her, and gave a significant statement, which should be reviewed. TR 77-83.

In his assessment, Dr. Rafael shared a generally positive impression of Dr. Chambers' evaluation of Patient A. *Id.*

The questions and testimony then turned to Respondent Dr. Chambers' use of Patient A's cell phone to photograph her vulva. TR 83-84. Dr. Rafael testified that he personally would never do that, and that, without being an authority on this, he believes that the ACOG's rules are, first, to de-identify the patient and, second, that the phone is encrypted. TR at 84. He opined that the patient's cell phone was not encrypted and that was a way to identify someone. *Id.* In Dr. Rafael's

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career, he would not use photos of his patients in preparation for surgery, but just his notes, and he would use illustrations in his practice to inform patients. TR 85-86.

Dr. Rafael commented on the medical notes of Dr. Wasserman (to whom Dr. Chambers referred Patient A following their appointment). After reviewing Dr. Wasserman's notes, Dr. Rafael testified that it appeared that Dr. Wasserman did not believe that Patient A needed labiaplasty or a clitoral hood reduction. TR86-88; Exhibit 3, p. 26.

When asked to review IC's Exhibit 4, a photo of Patient A's vulva taken, Dr. Rafael states that there appears to be a small hematoma, which could have been caused during an examination, and compares the photo to an earlier photo taken four minutes earlier that did not show a hematoma. TR 88-90; Exhibit 4, pp. 33, 38.

Regarding ten of the twelve photos that Respondent Dr. Chambers did not choose to keep if Patient A proceeded with the surgeries, Dr. Rafael stated that "I want to be fair. Dr. Chambers has taken a course from Dr. Red Alinsod, who's a renowned—I don't know if he's a urogynecologist, but he's held in esteem within the cosmetic surgery community. And Dr. Alinsod teaches medical photography, and Dr. Chambers has taken courses to improve his surgical technique and surgery in this sexual gynecological female genital cosmesis. And in that course, Dr. Alinsod has papers and recommendations to take photos." TR 91.

When asked if it's acceptable to use four fingers in a pelvic exam, Dr. Rafael testified, "Yes." *Id.*

When asked his opinion about the Respondent noting that he used two fingers in Patient A's pelvic exam but the photo using four fingers, Dr. Rafael responded that he would not have documented using four fingers, and that "[c]ertain things are done on an everyday basis" and "this exam, in my opinion, is a perfectly normal exam" and also "I don't see anything abnormal with his exam" and sometimes "these things are so common", such as using a speculum, that not everything is dictated into the notes. TR92-93.

Regarding the use of non-medical terms, Dr. Rafael testified that patients do use non-medical terms, and he was trained not to use big words that could be confusing to patients. TR 94.

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Dr. Rafael would never use the term "fisting" or ever discuss his personal intimate life, nor show photos of other patients. *Id.* Dr. Rafael testified that using four fingers is not referred to as "fisting" in ACOG or anywhere else and he believes would be demeaning to a patient. TR 95.

Regarding labiaplasty, Dr. Rafael testified that it is useful to reduce pain and discomfort for different patients, and that since the 1990's, "there's been a dramatic increase in interest and demand" for cosmetic labiaplasty and it's a matter of choice. TR 95-96. Dr. Rafael also discussed an "O-shot". *Id.* at 96.

Dr. Rafael testified that he did have a problem with the apparent lack of identification encryption by using the patient's phone and thought that could put the patient at risk. TR 98.

Dr. Rafael testified that he "is aware of the fact that in her allegation that he (sic) states that Dr. Chambers talks about fisting or—it's not clear whether—exactly what he said." TR 98. Dr. Rafael added, "[b]ut she does mention the word 'fisting,' and the way I read it was that, perhaps, somehow he said, well, this isn't fisting, because she was in pain during the time of exam. TR 98.

Dr. Rafael agreed that "fisting" would be an inappropriate term to use. TR 98-99. When asked whether he thought that using the term "fisting" could lead to disruptive behavior by the doctor or a disruptive exam, Dr. Rafael did not either agree or disagree but defined his concept of "disruptive behavior" is whether it interferes with the patient-physician relationship or whether it affects the patient's perception of the physician's integrity. TR 99.

Dr. Rafael was asked about "sexual impropriety" per ACOG Opinion 796, IC's Exhibit 11, and he agrees with counsel for the IC, again, that using the term "fisting" would be an inappropriate comment and could be construed as making sexual comments and could be sexually demeaning; and that taking photos of the patient's cell phone and texting to her could be disrespectful of her privacy. TR 99-100.

It is unclear whether he believes that they happened during the visit when asked specifically. TR 100, ll. 9-13.

Additional IC Exhibits 14 and 15 that Dr. Rafael relied upon for review were then introduced and admitted into evidence. TR101-102.

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The questions then turned to Exhibit 7 relating to Patient B and Dr. Rafael had difficulty reading Respondent's medical notes. Dr. Rafael answered questions that he has never used models, would never offer to pay somebody to model for him, and would not post an advertisement in his practice advertising for models as he thought it would be disrespectful and inappropriate, bring disrepute to medicine, would be demeaning and violate the trust that a patient would have in him as an ethical physician. TR 104-105.

Dr. Rafael stated that offering to pay Patient B $1000 for photos was "[u]nprofessional, unethical, against the Code of Conduct, against society's rules, in my opinion" and violate the trust of a patient. TR 107-108; Exhibit 5. Dr. Rafael reviewed IC Exhibit 6, Respondent's response letter addressed to NSBME, and testified that there was no doubt that Respondent had offered to pay $1000 for photos for an advertisement. TR 108; Exhibit 6.

Likewise, Dr. Rafael testified that there was no question that the Respondent offered Patient C $1000 to model for an advertisement and that husbands and boyfriends were not allowed at a photo shoot. TR108-109; Exhibits 8 and 9.

Finally, Dr. Rafael questioned whether NSBME's allegation letter was exactly what Patient A had stated, but he opined that it isn't "particularly appropriate" or "particularly professional" to tell Patient A that her vagina was too big for a man's penis. TR 111-112.

In wrapping up direct examination, Dr. Rafael testified that he did not believe that Dr. Chambers committed sexual violence, but that Dr. Chambers committed sexual impropriety with all three patients because he fulfilled the criteria laid out in section 158 of the ACOG's definition. TR. 112-113.

<u>**Cross-Examination of Dr. Rafael by Respondent**</u>

In answering questions posed by Respondent Dr. Chambers, Dr. Rafael testified that his knowledge of sexual health was acquired post-residency and very little time was spent on it. Vol. II, TR 115-116.

Dr. Rafael testified that a physician discussing sexual desires and fantasy is not a form or sexual misconduct except under certain circumstances, and additional questions are appropriate if a patient seemed to have persistent and recurrent sexual dysfunction. TR 116.

1 Dr. Rafael also stated that he was aware that Patient A went to the urogynecologist that
2 Respondent Dr. Chambers referred her to, despite Patient A's allegation that Respondent abused
3 her. TR 116-117.

4 Regarding chaperones, Dr. Rafael agreed with Dr. Chambers that ACOG opinion was a
5 recommendation rather than a mandate and that at times, such as an emergency or with the patient's
6 permission, it is acceptable to examine a patient without the presence of a chaperone. TR119-120;
7 IC Exhibit 11, p. 160.

8 Dr. Rafael stated that he believed that a chaperone should be in the examination room despite
9 the risk of COVID-19 and Respondent Dr. Chambers' safety protocols at the time of Patient A's
10 examination. TR 120-125.

11 Regarding labiaplasties, Dr. Rafael answered that, as he had previously testified, he had
12 done just one labiaplasty and worked with an assistant/colleague who had trained with Dr. Red
13 Alinsod. *Id. at 125.* Dr. Rafael agreed that his colleague was appropriately trained because she had
14 taken courses offered by Dr. Alinsod. TR 125-126.

15 Regarding examinations and the Respondent's question of being trained to look at aesthetics
16 or for pathology, Dr. Rafael responded that the first thing is to look for aesthetics of the vulva, note
17 if something seems wrong and move to a functional evaluation. TR 126. Dr. Rafael agreed with
18 Dr. Chambers that there are many variations of a normal vulva and that a plastic surgeon and a
19 gynecologist looking at the same photo would probably not have the same impression. TR 126-
20 127.

21 Regarding the possible bruising in the photos of Patient A, Dr. Rafael only observed and
22 commented that it was not in a photograph from four minutes earlier and would not offer conjecture
23 about how much force would be required during an exam to create that bruising and agreed that
24 pain is not the same as discomfort. TR 129-130.

25 Dr. Rafael agreed that it is acceptable for plastic surgeons to have before and after photos
26 and that Dr. Chambers had taken courses in medical photography "and that I thought it was
27 acceptable for the photos that you took before and after" and that it is acceptable to use photos of a
28 patient's vulva to teach and explain. TR 131.

1 Dr. Rafael has sized his patients' genitalia, and described the process, as an OB-GYN, and
2 thought that Dr. Chambers "did a thorough history and physical, and I thought your pelvic exam
3 was certainly appropriate." TR 132-133.

4 Regarding the allegation of "fisting," Dr. Rafael noted and agreed that Patient A made an
5 allegation of "fisting" but that there was no proof within the records. TR134-135.

6 Regarding the "Q-Tip test", Dr. Rafael agreed that it is possible for a patient with chronic
7 pelvic pain, etc., to feel something and couldn't identify exactly what it was, such as Respondent's
8 four fingers, and using four fingers can be appropriate. TR 135.

9 **Redirect, Recross, and Further Questions**

10 On redirect, Dr. Rafael was asked and answered questions already covered in earlier
11 testimony, and there was redundancy, including the following:

12 Dr. Rafael would discuss sexual fantasies if raised by the patient. TR136;

13 Dr. Rafael agrees that a chaperone should be in the exam room and that the ACOG does not
14 mandate, and it is a good idea for both patient and physician to have a chaperone in the room. TR
15 136-137;

16 Dr. Rafael would document if there wasn't a chaperone in the room in an emergency
17 situation and did not see that documented in the Respondent's medical notes. TR 137; Exhibit 3;

18 There is a range of normal in female genitalia. TR 138;

19 Dr. Rafael believed that the photos on Patient A's phone could put her at risk and the
20 potential for abuse and could be disrespectful to patient privacy. TR 139;

21 Dr. Rafael stated that using the term "fisting" "in and of itself is lewd language." *Id.*

22 On recross, Dr. Rafael defined his understanding of "fisting" and agreed that a great deal of
23 lubrication would be needed and a standard pack of lubrication that OB-GYN's usually use during
24 an exam would not be enough. TR 140-141;

25 Dr. Rafael states that, based upon the definition of fisting and the amount of lubrication
26 needed, stated that, although it is speculation, "I would say, sir, do think it's likely that you fisted
27 her? No, I don't think it's likely you fisted her." TR 142;

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In answering questions from the undersigned hearing officer, Dr. Rafael reiterated his earlier testimony and, in addition, stated that his greatest concerns were about "integrity, the code of conduct, boundaries and unprofessional language, suggestive sexual language" and believes that this behavior fulfills the requirements of "disruptive behavior" found in NRS 630.301(6). TR 147-148.

Dr. Rafael again reiterated that he did not think that the four finger/two finger issue was a problem as time is always a concern when seeing patients. TR 154-155. And, when invited by the Hearing Officer to state his conclusions, Dr. Rafael stated the following:

1. Dr. Chambers did not commit medical malpractice (although that was not an allegation). TR 156;

2. Dr. Chambers actions met the definition of sexual misconduct and sexual inappropriateness. TR 157;

3. Dr. Chambers did not commit sexual violence, although that is not alleged in the complaint. TR 157-158.

Dr. Rafael clarified that he did not think that Patient A was traumatized, but that Patient A *felt* that she was traumatized. TR 159. Dr. Rafael's opinion is that the Respondent's treatment of Patients A, B, and C brings the medical profession to disrepute and meets the definition of "disruptive behavior." TR 159-160. Dr. Rafael was more ambivalent about Count IV, Continual Failure to Practice Medicine Properly, but stated that "I think each of these patients did not feel that they were treated in a professional manner," so agreed that Count IV was fulfilled. TR 160-161. In response to the Respondent's question, Dr. Rafael stated that it would not surprise him that Dr. Chambers noted that he used two fingers in the exam because that was the photo that was in front of him when he was charting his notes. TR162.

RESPONDENT'S EXPERT WITNESS MICHAEL GOODMAN, M.D.

Over IC's objections that the offer of Dr. Goodman's CV was untimely, this Hearing Officer admitted Dr. Goodman's CV. As counsel for the IC wished for additional time to review the CV, and the complication of less-than-optimal video and audio connection, Dr. Goodman's testimony was rescheduled to June 1, 2023, a date already set aside for another witness.

RESPONDENT'S WITNESS MS. BRITTANY TURNER

Ms. Turner is a patient of Respondent Dr. Chambers and is an adult film actress. TR 188. Ms. Turner testified that Dr. Chambers has always used proper medical terminology at her appointments. TR 189-190.

Ms. Turner is familiar with "fisting," has fisted but has never been fisted herself and is "an expert" with the practice. TR 190-191. Ms. Turner stated with conviction that the amount of lubrication used in a normal pelvic exam is "no way" near enough to fist someone. TR 191. Respondent Dr. Chambers then asks Ms. Turner to describe the practice of "fisting", which was allowed over objection that Dr. Chambers wasn't actually accused of fisting, but that he was accused of saying that he had "fisted" Patient A. In response, Respondent stated that "I'm trying to show that, while I haven't' been accused, I have been accused of saying that I attempted to fist. So I'm trying to be respectful and not say that it's ridiculous--a ridiculous accusation. I'm trying to show that it makes no sense that I would say something like that, if I didn't attempt to do it or did it." TR 192. Ms. Turner proceeded to answer Respondent's questions and described the process of "fisting", including her testimony regarding lubrication. TR 193.

Regarding posing nude, Ms. Turner agreed that partners or husbands are not allowed on the set because "they overstep boundaries or the model may not be comfortable doing certain things, so it's a closed set." TR 193-194. Ms. Turner further testified that how she is paid for modeling nude depends on the job, and models could be on payroll for larger companies, but smaller companies may pay a model by check or cash. TR at 194.

IC's Cross-Examination

On cross-examination, Ms. Turner acknowledged that she wasn't present at any of the appointments of the patients in this matter and does not consider herself an expert in the ethical behaviors of OB-GYNs. TR at 194. Ms. Turner was cross-examined and testified that she had been a patient of Dr. Chambers since 2016 and she had had a good experience with his care-that he had experience and knowledge treating her as an adult film actress. TR 195. Other than being his patient, she has no other personal or financial relationship with the Respondent. *Id.*

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Respondent Dr. Chambers delivered Ms. Turner's daughter in 2017, did not perform any surgeries on Ms. Turner, has never taken any photos of her, only used medical terms to describe body parts. TR 196-197.

RESPONDENT DR. CHAMBERS' SELF DIRECT EXAMINATION

Note: As Dr. Chambers did not have legal representation, he chose to give a statement as his direct testimony at the end of the day on May 3, 2023 at approximately 4:35 p.m., with knowledge that the hearing needed to conclude before 5:00 p.m. This statement/testimony is very brief and should be reviewed as a whole by the Decision Makers/Board rather than summarized. TR 198-207.

Dr. Chambers explained that the reason that he had his chaperone, receptionist Casey Cardin, at the entry of the exam room was trying to protect his patients, his family, and himself because he was very fearful of getting COVID-19 at the beginning of the pandemic;

At the time, his son was a year and a half, and his daughter was three; and

Dr. Chambers worked in the hospital at the beginning of the pandemic.

JUNE 1, 2023 (CONTINUED) ADMINISTRATIVE HEARING (via *Zoom*)

RESPONDENT DR. CHAMBERS (Continued Testimony)

IC's Cross Examination

Respondent did not ask patients to take photos of their own genitalia but asked to use their phones and he would take the photos if they were seeing him for a consultation (unless international patients had to leave Las Vegas, then he would have them send post-operative photos to check healing). TR 11-12.

Dr. Chambers typed his consultation notes if he knew they were going to other providers, such as a referral. TR 12. Respondent Dr. Chambers' practice is to have a patient text certain, not all, photos to him to send to another provider without identifying them but without knowing if they're encrypted. TR 13-14. He testified that it could be difficult to trace the photos back to a patient because they could also be downloaded and edited photos and has considered how bad it could be if such photos ended up in the wrong hands. TR 14-15. Dr. Chambers does not recall

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having the conversation with Patient A that one of his patients had texted their pictures to the wrong person. *Id.* Respondent has thought about how the photos could fall into the wrong hands. TR 15.

Respondent testified that spouses or boyfriends are excluded at nude photo shoots because they could cause a disruption for the photographer and the models may be less relaxed, so closed set, but at Respondent's office. TR15-16. Respondent also stated that the only way he solicits patients to be models is by posting an ad on the lavatory door and the patient herself inquires. TR 16.

Dr. Chambers testified that outside of the pandemic, family members were allowed in the office for a consultation but that he was very careful during COVID-19 as no one knew what was going on and so he, along with hospitals, made up their own rules in response. TR 17.

Dr. Chambers understood that he wasn't being accused of "fisting" but of telling Patient A that he tried to do something called "fisting" and that it made her uncomfortable, but questions Patient A's testimony that she had never previously heard that term. TR 18.

Dr. Chambers practices the full scope of OB-GYN with added sexual health medicine and cosmetic gynecologist surgery. TR 19. A labiaplasty would have alleviated some of Patient A's pain and discomfort but not her perineal pain. TR 20. Dr. Chambers would have done the perineal surgery. TR 21.

Reviewing Respondent's Exhibit Q/17, ACOG Opinion 795 regarding consent, Dr. Chambers testified that he went over the risks of cosmetic surgery with his patients on their second visit, when they filled out three consent forms. TR24.

Patients of Dr. Chambers who choose to proceed with the surgery would receive the amount of the consultation fee deducted from the surgery fee. TR 26. Most patients are well informed about a cosmetic procedure when they arrive for their first consultation. TR 26-27. Reviewing page 105 of Exhibit Q, Respondent Dr. Chambers agrees that the ACOG encourages OB-GYNs to warn their patients that there may not be any benefits that outweigh the risks of cosmetic surgery. TR 28.

Respondent answered the question that was he aware that his completion of the Master's course in 2013 "did not even qualify for CME's for this board" by saying that the course was not

meant to be a CME. TR 30-31; Exhibit 2. Dr. Chambers' next training was "Sexual Health and Treatment" with Dr. Jennifer Landa is not recognized by the American Board of Medical Specialty by the Antiaging Board. TR 31; Exhibit C. Dr. Chambers also confirmed that he was a member and received CMEs from the National Society of Cosmetic Physicians. TR 32-33; Exhibit D. Respondent has not taken any more CMEs related to female genital cosmetic surgery since 2014. TR 33.

Respondent Dr. Chambers joined the National Society of Cosmetic Physicians—a society of doctors from different specialties-- to learn, educate, and to advance the field of cosmetic OB-GYN surgery, and "to learn things that were already within my scope of practice of gynecology," rather than the other areas that were offered, such as Botox or liposuction, lip fillers, etc. TR 33-34. It does not concern him that that society does not have a website as there are very reputable and well-esteemed physicians that are a part of that group. *Id.* He didn't join other organizations because "we would be spending $50,000 a year" in fees, and he didn't want to just join organizations to them on his CV. TR 35.

Returning to the subject of chaperones, Dr. Chambers maintains that, with respect to Patient A, he had a chaperone who stood in the doorway, and "I was not alone in a locked room with a patient", and "I've always used a chaperone…I deviated during the onset of COVID-19, and when everybody got immunized via vaccine or natural immunity for the protection of people who are in my office including myself." TR 36. Dr. Chambers is very much aware that the ACOG recommends that you have a chaperone present for all breast, genital and rectal examinations. TR 37; Exhibit 11, p. 156.

Respondent Dr. Chambers explained that he received his certification in sexual health from the American Academy of Antiaging Medicine from attending four modules over a one-year period at four different times for a total of 16 days. TR 37-38. However, he does not purport to be a sexual health therapist, although he does in the matters in which he "was trained as a clinical sexual health expert treating hormonal diseases of female sexual health, surgical treatment, counseling of sexual health problems, and giving certain advice that's within the scope of my training. Anything else

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gets referred out." TR 38-39. He testified that he did it to help his patients and, although it has been approximately ten years since his training, there have been very few changes. TR 39.

Upon questioning, Dr. Chambers explained his professional background with a group and call groups and why he left. TR 39-42.

Upon additional questioning regarding the appointment with Patient A, Dr. Chambers testified that he most definitely addressed her pain and again detailed how he did so, and her records were again discussed. Dr. Chambers was asked why this wasn't documented, and Dr. Chambers replied that "no OB-GYN writes that down" and writing every exam process and discussion is unrealistic. We just do our work and write our findings down. [There is extensive discussion about Patient A's appointment and his general approach to exams that should be reviewed]. TR42-49.

Regarding his office assistant, Ms. Cardin, Dr. Chambers testified that he gave her time off, that she would test herself, she came down with COVID-19 more than once because of her daughter. TR 50.

Regarding Patient B, Dr. Chambers testified that she saw the ad on the lavatory door, inquired, and he told her how much it paid. TR 50-51. Dr. Chambers wouldn't have done it if it were illegal, and if a patient inquired while there were students in the room, he would answer her question. TR 51-52. Dr. Chambers did not have a copy of the ad but described it. TR 52-53. Dr. Chambers explained that he was "livid" by Patient B's text in which she was angry that her boyfriend couldn't be present and that the Respondent might be up to no good. TR 54. In his response to the letter from the NSBME about the ad and this text from Patient B's, he testified that she did not have to inquire or pose and most of his patients never even inquired about the ad. TR 54-55; Exhibit 6, pp. 45-46.

With respect to his response to the IC's investigator Ms. LaRue, Dr. Chambers does not want to change his accusation of Patient C of being a liar because he did not call her but tried to leave a written message but did not call. TR 57-58. Dr. Chambers testified that, at the end of the visit, Patient C asked him about being paid to pose nude after she saw the ad in the bathroom. TR 58-59.

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On Respondent Dr. Chambers re-direct of himself, he made a brief statement addressing his skills and training should be reviewed. TR 62-63.

The undersigned Hearing Officer then asked some questions of Dr. Chambers, who answered as follows:

During the first six months to a year of COVID-19, Dr. Chambers lost much of his staff because he could not compete with the payments from the government, so Ms. Cardin was his only remaining staff member. When Ms. Cardin became ill, there was a nurse practitioner who sublet a space in his office who filled in as a chaperone when Ms. Cardin wasn't available. The nurse practitioner also stood in the doorway during that time. When the nurse practitioner was not available to assist him as a chaperone, Dr. Chambers would close his office and reschedule patients. TR 63-64.

The nurse practitioner did aesthetic work such as facials, but she sometimes assisted Dr. Chambers with certain procedures. The nurse practitioner was braver about COVID-19 and not as strict about masks as Dr. Chambers. TR 64-65.

During COVID-19, his doors were locked and there would be at most two patients in his office at a time and the person acting as chaperone. Prior to COVID-19, Dr. Chambers would have all six exam rooms filled and would go room-to-room with his chaperone. TR 65.

Dr. Chambers eased his restrictions "once there was sufficient evidence from the CDC that people were getting immunized, when I was confident and comfortable that most of my patients were getting the vaccines." TR 66. He started allowing chaperones back into the exam room after Ms. Cardin left the practice but does not remember when that was. TR 67.

Because of the way his office was designed, a chaperone was able to see into the exam rooms if the doors were open from up to 15 feet away and from the receptionist's desk. TR 67-68.

The ACOG recommends that a chaperone is in the room; Dr. Chambers does not believe that a chaperone must be in a certain position in relation to the patient, but he prefers them to be at "the business end" in the event that there is an allegation. TR 69-70.

Everyone-doctor, patient, chaperones-were required to be masked in his office, and patients were not seen if they did not mask. TR 69.

Dr. Chamber of course took other CMEs to meet licensing requirements and also to satisfy his curiosity, and although there were not courses in the areas that he was looking to learn, he had plenty of CMEs and did not care. TR 71.

RESPONDENT'S EXPERT WITNESS DR. MICHAEL GOODMAN

Direct Examination by Respondent Dr. Chambers

Dr. Goodman's education and training are explored, he is still practicing part-time, he is board certified by the ABOG and a fellow of the ACOG; he's a certified menopause clinician by the North America Menopause Society; affiliate of the American Academy of Cosmetic Surgery, an elected fellow of the International Society of the Study of Women's Sexual Health; a published author in peer-reviewed publications and gives examples of the publications, edited and contributed to textbooks. Vol. II, TR 75-78.

Dr. Goodman's trained specialty is obstetrics and gynecology, special training in endoscopic surgery. TR 79.

Dr. Goodman reviewed cases for the California Medical Board for approximately ten years in the '80s and '90s, presented in approximately 80 local and national medical conferences, taught and proctored many gynecologists in advanced operative laparoscopy; received several professional awards; and is considered to be one of the pioneers in cosmetic GYN surgery. TR 79-81.

Dr. Goodman testified that a cosmetic gynecologist is a general gynecologist who has undergone additional training in the specific area of cosmetic gynecology. TR 81.

Dr. Goodman responded that cosmetic gynecology is not recognized by the American Medical Boards because there are many boards that exist to regulate their subspecialties, and this is one of them that is self-policing and training board. TR 81-82.

Dr. Goodman stated that it was his pleasure to train Dr. Chambers in cosmetic GYN surgery. TR 82.

Dr. Goodman described at length the training that plastic and gynecologic surgeons receive in his formal courses and what is covered. TR 82-87.

These procedures are done in the office under local anesthesia because they're safer, it can be a better procedure and be more cost effective. TR 86.

Dr. Goodman describes his understanding of Dr. Chambers' medical practice. TR 91.

Dr. Goodman believes that the training Dr. Chambers received from him was sufficient to do cosmetic gynecology work and complemented Dr. Chambers as having good hands, intellect, understanding and training, although he hasn't seen Dr. Chambers' recent work. TR 92.

Dr. Goodman describes how GYNs measure vaginas with their fingers in gynecology and in cosmetic gynecology. TR 92-94.

Dr. Goodman states that it is standard for GYNs and cosmetic GYNs to ask a patient to do Kegel exercises while the physician's fingers are inside the vagina. TR 94.

Dr. Goodman states that the term "fisting" is used in cosmetic GYN as it applies to measurement, and he could see a trainee might use the term, but he doesn't deal with a patient population that engages in fisting so does not expound further. TR 95.

Regarding preoperative and postoperative photos that are necessary in cosmetic GYN surgery, Dr. Goodman states that he will note operate on women who do not allow photos, and that is the case with most experienced cosmetic surgeons as preoperative photos are very important both medically and legally as part of documentation and part of the medical record like office notes. TR 96.

Dr. Goodman testified that with permission, a signed disclaimer, it is appropriate to show these photographs of other people as part of a gallery of the physician's work as part of an initial consultation, although some patients do not give permission to share the photos. TR 96-97.

Dr. Goodman sees nothing wrong with physicians marketing their services, although if may differ depending on the type of practice or specialty. TR 98.

Regarding marketing of a traditional GYN practice versus a cosmetic GYN practice, Dr. Goodman testified that sometimes the nature of the practice and how medicine has changed requires a physician to market their services. TR 99-100.

Dr. Goodman, trained in sexual health medicine, discusses the term "sexual medicine" and its place in GYN care and in medicine in general, how it has been stigmatized but is "creeping" into mainstream medicine, and that is why he is a member and fellow of a multi-specialty organization, "International Society for the Study of Women's Sexual Health". TR 100-101.

Dr. Goodman testified about how physicians and patients rarely discuss sexual dysfunction treatment and how he addresses it in his practice, and how he opens the door to discussion. TR 103-104.

Dr. Goodman explained the purpose of the cosmetic organizations that connect physicians from different medical specialties including OB-GYN. TR 104-105.

Dr. Goodman assessed and was impressed and complimentary about Respondent Dr. Chambers' consultation notes of Patient A. TR 106.

Dr. Goodman discusses the use of fingers for measuring vaginas and how it varies and is not exact and opines that much has been made of Dr. Chambers using two versus four fingers in his exam and notes of Patient A is "a red herring, to be honest with you." TR 106-107.

Dr. Goodman discusses the O-shot, platelet-rich plasma, and urinary incontinence. TR108-114.

Dr. Goodman discussed his transition from general OB-GYN to cosmetic gynecologist and the difference in how cosmetic GYNs view female genitals. TR 14-117.

Insurance doesn't cover cosmetic gynecology so cosmetic GYNs do not accept insurance unless there's a functional issue, and Dr. Goodman thinks that is wrong. TR 117-119.

Dr. Goodman believes that Respondent Dr. Chambers should be judged as a general OB-GYN but also as a sub-specialist who has made the effort to obtain additional training as a cosmetic GYN that general OB-GYNs do not have just as a GYN Oncologist has additional training. "And a general OB-GYN, as intelligent and well-meaning as well-trained as that individual may be, is ill-suited to judge you in those areas in my opinion." TR 119-120.

IC'S WITNESS/DIRECT EXAMINATION OF CASEY CARDEN

Respondent Dr. Chambers was Ms. Carden's doctor for approximately eight to ten years, until last year, and then she worked for him as a receptionist for less than a year, although she does not remember the exact timeframe. TR 128-129.

Ms. Carden remembers wearing a mask during COVID-19; she spoke to Dr. Chambers in the last few weeks to let him know that she would be a witness for the IC so he wouldn't be blindsided.

1 Ms. Carden left her job with Dr. Chambers because she felt like she didn't get paid consistently and
2 "it was just time." TR 129-130.
3 Ms. Carden remembers acting as a chaperon for Dr. Chambers' practice not every day, "but
4 I'd say like it was like semi-consistent like I don't know. Not like terribly often, but not like, you
5 know, only like once a month. I'd say it was irregular, but I don't know. Maybe like a couple of
6 times a month if there was like an underage patient or someone like he just wanted me to be in the
7 room." TR 130-131.
8 Ms. Carden testified that she didn't act as a chaperone with every patient as she was a
9 receptionist; that there was also someone "doing insurance stuff"; that there was another nurse doing
10 "her own plastic surgery practice" that was there towards the end of Ms. Carden's employment; that
11 she worked "like—it was more part-time. Like maybe 30 hours a week…it varied because, you
12 know, he would leave if he got called to the hospital…."; that she didn't have any training about
13 acting as a chaperone. TR 131-132.
14 Ms. Carden had COVID-19 multiple times but doesn't remember whether she got it while
15 working for Dr. Chambers but "I think the first time I got it was after I was done working for him,
16 I think, but I'm—honestly, I don't think so." TR 132. Ms. Carden remembers a written COVID-
17 19 policy in the office, and "I remember he was strict about patients wearing masks, but I don't—I
18 don't know." *Id.*
19 When she did act as a chaperone, she stood in the doorway or behind Dr. Chambers or off
20 to the side. *Id.*
21 Ms. Carden testified that when she chaperoned from the doorway, she had a view of what
22 was going on as if she were in the room—she would be inside the doorway. TR 133.
23 Ms. Carden remembers Patient A's appointment but was doing charts and didn't chaperone
24 during her appointment, and "I think the door was closed. I don't recall seeing into the room, but-
25 -" [here Ms. Carden's answer was cut off by IC counsel's next question about whether she could
26 hear the conversation in the room]. TR 134. Ms. Carden could hear voices but not what they were
27 discussing. TR 133-134.
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Ms. Carden had conversations with Patient A both before and after Patient A's appointment and testified that after her exam, Patient A was very excited about doing the surgery and that "she was finally going to do something for herself". Ms. Carden does not believe that Dr. Chambers was present during that conversation. TR 135-136.

Ms. Carden was surprised that she was not able to get in touch with Patient A after that and thought it was "weird because she was so—she was like overly excited about the surgery and she seemed really, you know, like she wanted to do it…." TR 136.

Dr. Chambers asked Ms. Carden if she would be interested in posing nude for pictures, she thought for an adult porn convention, and she declined. TR 137.

Ms. Carden did see a couple of photos of patient's genitals and the results of vaginal reconstructive surgeries, but not that many. TR 137-138.

Cross-Examination of Casey Carden by Respondent Dr. Chambers

Ms. Carden read her email to Dr. Chambers about her conversation with Patient A after the appointment and still could not recall whether Dr. Chambers was somewhere in the room or not- "I mean, I think you were in the back area, but like you were always kind of underfoot…I can't say for certain if you were like there or you weren't there…." TR 144-145; Exhibit 3, p. 28.

Regarding her recollection of dates, Ms. Carden did not have a text she purportedly sent to Dr. Chambers about having COVID-19 and she had difficulty remembering dates that she was employed by him and dates that she or her daughter had COVID-19, testifying that "to be very, very honest with you, I don't have a great memory, and like I am unsure about the dates that I worked for Dr. Chambers. That's the honest truth. So, the fact that I don't recall, it doesn't mean it wasn't sent." TR 146-150.

Ms. Carden recalls having to reschedule patients because they had COVID-19; she does not recall Respondent Dr. Chambers having to close the office because of COVID-19; she does not recall Dr. Chambers having COVID-19; Ms. Carden recalls that not all patients needed an exam.

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Follow-Up Questions/Redirect Examination

Questions from the undersigned Hearing Officer attempting to narrow down date ranges were only somewhat successful as Ms. Carden still seemed not to recall and was speculating. TR 152-153.

Ms. Carden was comfortable being a patient of Dr. Chambers. She did not recall why she stopped being his patient and speculated as to the reasons, such as she had to wait and also that she heard of another good doctor. TR 154.

Ms. Carden remembers that there was always a chaperone-his medical assistant or receptionist- while she was Dr. Chambers' patient for approximately nine years and doesn't recall if there was a time when there wasn't a chaperone present at her exams. TR 155-156.

Ms. Carden testified again that both she and her daughter have had COVID-19 multiple times but could not recall the dates. TR 157-158.

On Redirect examination, Ms. Carden testified that Dr. Chambers initiated the discussion, and it was by text message, as many of their communications were even after she quit, as he gave his number out to patients to text him if they had any medical issues. TR 159.

IC'S DIRECT EXAMINATION OF PATIENT C

Patient C's name and identity was first authenticated.

Patient C testified that she was not sure but believes that Respondent Dr. Chambers was her OB-GYN for approximately four to five visits, and reviews Exhibit 10, her medical records, which show her visits between September and November of 2019. TR 163-164; Exhibit 10.

Patient C testified that she made an appointment with Dr. Chambers because she was having extremely painful periods and chose him because she had looked online, and his reviews were excellent, and he took her insurance. TR 165.

Patient C testified that Dr. Chambers always had a chaperone present during her visits with him, was aware that he did cosmetic gynecological surgery but that she never inquired about it. TR 165. She believes that there was an ad in the bathroom but doesn't remember anything specific, but she did not see an ad about modeling for photos. TR 166.

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Dr. Chambers called her at home once offering her $1000 to model for photos although he did not say what kind of photos. She was concerned that they were for nude photos, but "I don't know exactly what was said, but I know that I was uncomfortable with it being somewhat implied that it would be nude because I was worried about distribution and how I could protect myself...." TR 167.

Patient C recalls that the phone call took ten to 15 minutes and occurred during the late afternoon, and that afterwards she told her partner and a friend to whom she had recommended Dr. Chambers and "I wanted her to be aware of his character as well." TR 168.

Patient C described how Respondent Dr. Chambers' call affected her at that time, especially since she was struggling financially, which Dr. Chambers was aware of, and how it affected her over time, including how her lack of trust in physicians has changed since then. TR 169-170.

RESPONDENT DR. CHAMBERS' CROSS EXAMINATION OF PATIENT C

Patient C testified that she has never had any contact with Patient A or B. TR 171.

IC'S RECALL OF WITNESS MS. LARUE AS A REBUTTAL WITNESS

IC Counsel recalled their first witness, IC Investigator Ms. Janna LaRue, as a rebuttal witness, offering it as evidence to possibly contradict Respondent Dr. Chambers testimony regarding taking photos for ads to be placed in the Adult Video Network (AVN) program. Vol III, TR 181.

Note: there was an abundance of discussion and argument regarding the admissibility of IC Exhibit 17 and Ms. LaRue's testimony. TR 173-195. However, the crux of the matter is the following:

Ms. LaRue's testified that she inquired in June of 2022, first, on AVN's portal and sent a request for public information about their publications, and then she received an email back from the vice-president of the AVN Media Network that more information was needed for AVN to provide information about Dr. Chambers ads, which Ms. LaRue sent. TR 181-182.

Ms. LaRue testified that AVN's VP, Ms. Newman, responded that Dr. Chambers had inquired once in 2016 about an expo with AVN but never submitted any artwork. The email

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exchange is IC's Exhibit 17. TR 182; Exhibit 17. Ms. LaRue inquired again in April of 2023 and received the same response. *Id.*

Respondent Dr. Chambers objected but was informed and chose to raise the information behind his objections during his re-direct that would occur later in the proceeding. TR 183.

CROSS-EXAMINATION OF RESPONDENT'S EXPERT WITNESS, DR. MICHAEL GOODMAN

Dr. Goodman completely agrees and does not like that his training was referred to as a mini-fellowship was previously referred to on an earlier version of his website. Vol. III, TR 200.

However, Dr. Goodman testified that he—and other experts agree-that a two-to-three course would work for someone who is already savvy in this field if they aren't in over their heads. TR 200-201. The master's course is AMA category one accredited for 14.5 hours and they worked hard to get that accreditation. TR 201-202.

Dr. Goodman has mixed feelings that these procedures are not and would like to see some covered by insurance, but they are cosmetic and are not. TR 204-205.

A cash-only business is more profitable, and Dr. Goodman does not accept insurance. TR 205.

Dr. Goodman agrees that he hopes those he trains to be properly trained, successful, safe, competent, etc., but also stated that different types of words may be used in sexual medicine for the patient's understanding, including the word "fisting" and other phrases that he describes as "semantics" and understands that there are such allegations against the Respondent. TR206-209.

Counsel for the IC continued to ask questions about the appropriate use of fisting which Dr. Goodman could not answer. TR 210-212.

Dr. Goodman wasn't aware one way or another whether Dr. Chambers performed surgery on any of the three patients in this case, and he never checked to see if Dr. Chambers knows how to do labiaplasty or any of Dr. Chambers' charts or records at his office, just what he was provided to review for this case, the same way someone who trains a resident or educates doesn't follow that person into their practice and look over their shoulder. TR 212.

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Dr. Goodman testified that he was a member of ACOG until approximately two years ago when he went inactive and agrees that it is the preeminent organization that provides guidelines for general OB-GYNs but not at all for cosmetic gynecology. TR 215.

Dr. Goodman agrees with ACOG committee opinion 795 discussing risks, etc., with and making sure women considering cosmetic gynecology are properly informed, but Dr. Goodman got into research and publishing because "ACOG has their head in the sand." TR 215-217; Exhibit Q.

Dr. Goodman's testimony on pages 216-217 regarding why he quit paying dues should be read in full. TR 216-217.

Dr. Goodman testified that he does not agree with the ACOG's continuing statement in its opinion regarding cosmetic gynecological procedures and should likewise be read in full. TR 218-219.

Dr. Goodman's published work is cited in ACOG Opinion 795, "Effective Female Genital Cosmetic Surgery," TR 220; Chambers Exhibit Q.

Discussion with Dr. Goodman testified that an opinion published by the ACOG critical of one of his studies misstated and editorialized, and he "a hundred percent disagree[s] with that because it did have a control group," another reason he stopped paying dues to the ACOG. TR 222-224.

Dr. Goodman believes that it is wonderful and exemplary when a physician continues medical education, and he encourages it. TR 224.

Dr. Goodman offers "brush up" training, and only three—not including Dr. Goodman—have returned. Dr. Goodman himself went back for extra training after learning these procedures. TR 224-226.

Dr. Goodman testified that it would concern him if any doctor might propagate body dysmorphia by telling vulnerable patients that see them for medical advice and possibly surgery that they have a problem, but that he sees no evidence that Dr. Chambers acted in such a way. TR 229-230.

Regarding the taking of preoperative photos, Dr. Goodman testified that some physicians, including experts in the field such as Dr. Alinsod, take as many as 20 photos with a black velvet

background, but Dr. Goodman takes a minimum number of photos unless, with the patient's consent, he's taking more for teaching or publishing purposes, he codes them, and he takes them himself most of the time, and now uses his cell phone and transfers them to his computer, but he likes Dr. Chambers' approach and thinks it may be more secure. TR 232-233. Dr. Goodman discusses whether there's a right or better approach to taking photos, and surmises that there may be some literature on the subject, possibly with plastic surgeons, but he does not know what is right and proper. TR 234.

Dr. Goodman testified that he wouldn't solicit patients to pose nude while they're still gowned, but that doesn't necessarily mean it's inappropriate, nor would he use a poster in the bathroom to solicit models for nude photos because that is not his patient population nor his style. He would not do it, but that doesn't mean it's improper. TR 236.

Dr. Goodman agrees that most doctors don't have the same kind of knowledge as a sexual therapist, and he testified that he does indeed refer patients to a sexual therapist. TR238-239.

Dr. Goodman agrees that his courses are nowhere like a hand fellowship for an orthopedic surgeon, a comparison he used earlier in his testimony, but he educates his trainees in many areas related to sexual medicine, and it's "the best we can do in the circumstances. It's better than nothing. TR 240-241.

Dr. Goodman has never practiced in Nevada and is not familiar with the statutes and regulations. TR 241.

Respondent Dr. Chambers' Redirect of Expert Witness Dr. Goodman

Dr. Goodman does not know how many OB-GYNs have been dual trained in sexual health medicine and cosmetic GYN surgery, but he doesn't believe that there are many. TR242.

Dr. Goodman describes his practice of treating patients that come from a distance to see him, including using photos, telephone calls, videoconferencing, local physicians to see if there's a problem. TR 243-244.

Hearing Officer's Questions

With acknowledgement that Dr. Goodman did not hear testimony from any of the patients and is not a Nevada physician, and over objection, Dr. Goodman was afforded the same opportunity

as IC's expert witness to render his opinion of the instant matter after his review of the allegations and the records. His statement, like Dr. Rafael's, with follow-up questions from the IC's counsel, should be reviewed in its totality. TR 247-254.

RESPONDENT DR. CHAMBERS' REDIRECT EXAMINATION

In response to rebuttal testimony about Respondent Dr. Chambers' interactions with AVN, Dr. Chambers testified that he never dealt with Ms. Beth Noonan, AVN VP in his other dealings with AVN. Vol. IV; TR 26.

Dr. Chambers testified that there was "a plethora of communication between me and AVN dating back to 2013." *Id.*

Dr. Chambers testified regarding emails exchanged with representatives of AVN, including the following: dated January 4 and 5, 2016, from Ms. Jessie Dena, graphic designer for the AVN, regarding a copy of the ad to be used; a January 29, 2016, that he exchanged with Ms. Sara Harter, AVN Media director of sales, regarding sending Dr. Chambers his copy of the 2016 show guide featuring his ad; a contract he signed for the AVN adult entertainment expo dated December 30, 2015; a photo of his ad of the 2014 awards show program; and more. TR 26-28.

Responding to earlier questions about the National Society of Cosmetic Physicians not having a website, Dr. Chambers testified that he had not been a member since 2015; that he met Drs. Goodman, Alinsod, and Plastic, founders of and highly published in their subspecialty of cosmetic GYN surgery, at the 7th Annual Congress on Aesthetic Vaginal Surgery in 2012, sponsored by the National Society of Cosmetic Physicians, so their lack of a website was of no importance to him. TR 28-29.

Dr. Chambers testified that his staff has seen his gallery of work, before and after photos, that have been de-identified. TR 29.

Dr. Chambers testified that he has not gone back for a repeat course in cosmetic GYN surgery, as he has not gone back for a review course in how to perform a hysterectomy, a Caesarian section, or advanced operative laparoscopic surgeries because he is competent in those areas, and he's not inventing a surgical technique. *Id.*

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In response to the IC's previous questions about whether Dr. Chambers promoted body dysmorphia with the suggestion that Patient A gave Dr. Chambers her list of questions at the end of her exam, Dr. Chambers clarified that Patient A gave him the list of questions at the very beginning of her appointment and does not promote body dysmorphia. Vol. IV, TR 33; Vol. I, TR149.

Dr. Chambers restated and summarized Patient A's physical complaints and opines that it caused her significant physical and psychological trauma, which is why she was referred to him, stating "I turn away more patients than I operate on because they do not need surgery or they're depressed or they're, in fact, having body dysphoria, given the numerous cosmetic surgeries they have yet still dissatisfied with their body image. I stay clear of those people…this is the reason for my multiple office visits before the actual surgery…." Vol. IV, TR34.

Dr. Chambers testified that he is proud that he was elected to the Alpha Omega Alpha Honor Medical Society as he believes that there are not too many of such physicians working in Nevada. TR 35.

During COVID-19 in 2020 and 2021, Dr. Chamber experienced the impact on his practice, but he did not take money from the government to support his business, suffered through it and survived, making payroll even if it was difficult, even affecting his receptionist, Casey Cardin, and that is why she left. TR 35.

IC's Recross-Examination of Respondent Dr. Chambers

Counsel for the IC had questions about the timing of AVN ads in relation to the appointments of Patients A, B and C, regarding communication between Respondent Dr. Chambers and representatives of AVN, and Dr. Chambers responded to questions about the ads, testifying that he had contact with AVN, particularly emails with Sara Harter, regarding submitting ads almost every year. He responded to an ad from AVN for program submissions in 2020, but he testified that by the time he had the money and do the things to get his ad in, it was too late for the 2020 program. TR 38-40.

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1 Dr. Chambers testified that everyone that used the lavatory would have seen his ad offering
2 $1000 for nude models but that he does not remember how many people talked to him about it. TR
3 40-41.
4 Counsel for the IC and the Respondent engage in discussion about Respondent Dr.
5 Chambers' preparation of ads for various AVN publications and communications regarding the
6 same. TR 41-47.
7 **FINDINGS and VERACITY OF WITNESSES**
8 It is noted that, clearly, the very nature of the facts surrounding this proceeding could indeed
9 be upsetting and inflammatory. However, these same facts could also be interpreted differently by
10 reasonable minds, as the experts in this matter did, and still give the utmost respect and sensitivity
11 to the facts as described by Patients A, B, and C.
12 However, this must be balanced with the requirement that the facts gleaned from these
13 proceedings are viewed without an inflammatory lens in order for all to experience a fair hearing
14 without bias despite the nature of the allegations.
15 With that observation, the undersigned finds that Respondent gave credible and factual
16 testimony and explanations for the actions leading to the allegations in the IC's Complaint.
17 Likewise, regarding the credibility of the expert witnesses, the undersigned found both
18 experts to be informative and surprisingly in concert in some of their testimony, although, not
19 surprisingly, each came to different conclusions as to Respondent's culpability as to some of his
20 actions leading to the current allegations, as discussed in more detail below.
21 Regarding Patient's A, B, and C's testimony, the undersigned found each witness to be
22 credible and compelling, yet it is noted that some of their testimony was affected by the passage of
23 time and each witnesses' unique circumstance and subjective perception of her own experience.
24 Indeed, and as noted before, the IC's expert witness, Dr. Rafael, clearly stated that he did not believe
25 that Patient A had been traumatized, but that she *felt* (emphasis added) that she had been
26 traumatized. Vol. II, TR 159.
27 The undersigned will make the following findings about the core issues with references to
28 the record to be found in the transcript summary, above:

Chaperones: Much of the testimony and evidence dealt with whether the Respondent's use of a chaperone was lacking and/or insufficient. After hearing a great deal of testimony and reviewing the exhibits, the undersigned finds that, although not ideal, Respondent's use of a chaperone was adequate. Indeed, I found Respondent's testimony about the circumstances surrounding his office practice during the early days of the pandemic to be compelling and convincing in that he attempted to thread the needle to keep his patients, staff, and family -via himself- as safe as possible while adhering to a practice of having a chaperone present, or he would reschedule his patients. IC's witness Patient C testified that the Respondent always had a chaperone present during her exams. IC's witness Ms. Carden was the only witness other than the Respondent who was familiar with the regular operation of Respondent's medical practice, and, although she had difficulty remembering many things she was asked about, her testimony was mostly consistent with his. She did remember, among other things, that there were COVID-19 policies in place; that patients were rescheduled if ill; that, although not trained as a chaperone, she stood in the doorway or in the exam room; that a nurse practitioner was present toward the end of her employment as a receptionist; and that there was always a chaperone present when she had exams as a patient.

Photographs for Ads: The IC offered evidence to prove as untrue Respondent's position that he used models for nude photos to create ads for various AVN publications. To that end, evidence was offered that he hardly had contact with representatives of AVN that could lead to the conclusion that the solicitation of models for nude photos was for other reasons. However, in light of Respondent's testimony of ongoing contact with AVN throughout an approximate seven-year period that was corroborated by evidence of ads, drafts of ads, and email communication, the undersigned cannot reach the conclusion that Respondent's pursuit of models for nude photos was for nefarious purposes other than for ads promoting his practice in AVN publications, although reasonable minds can differ whether that is appropriate or not.

Solicitation of Patients B and C for nude photographs: The testimony is consistent that Respondent placed ads in the bathroom at his practice informing those who read them about his cosmetic GYN practice and procedures and his offer to pay $1000 for a nude photo shoot. The testimony is inconsistent about who raised the modeling question, with Respondent testifying that

he put the posters up in the bathroom and answered questions if posed by his patients. In contrast, Patients B and C's both testified that Respondent raised the issue of modeling for nude photos. In Patient B's case, she testified that she was still in the exam room in an examination gown and partially disrobed. There is no question that any patient in this position would feel vulnerable and exposed, both literally and figuratively. In Patient C's case, she testified that Respondent posed the question of modeling nude during a later phone call. In either case, any patient would find this to be highly unexpected and inappropriate in a regular exam situation that would undermine her trust and confidence in her physician. Although Respondent's expert Dr. Goodman stopped short of calling this practice inappropriate, stating that it depended upon how it was presented, he did testify that he would not do it in his own practice. Once again, these are "he-said-she-said" situations. However, regarding this specific issue, the undersigned found that the testimony of both Patient B and C was clear, unequivocal, and convincing.

"Fisting": There was an abundance of testimony and evidence offered on the issue of "fisting", the likelihood of fisting, and in numerous instances there was clarification that Respondent was not accused of "fisting" but of saying to Patient A that he "fisted" her, as set forth in the summary, above. The undersigned agrees with IC's expert witness Dr. Rafael, that he is aware of Patient A's allegation that she "states that Dr. Chambers talks about fisting or—it's not clear whether—exactly what he said....[b]ut she does mention the word 'fisting,' and the way I read it was that, perhaps, somehow he said, well, this isn't fisting, because she was in pain during the time of exam." Vol. II, TR 98.

Photos Taken During Exams: Neither expert, Dr. Rafael nor Dr. Goodman, were too concerned with the taking of "before-and-after" photographs, with consent. Both testified that it has become common in many specialties, but especially in cosmetic practices. Dr. Rafael testified that he did not use photos when he had an active practice. However, both experts testified about the risk of personal photos being misused or inadvertently shared and the importance of proper encryption and safeguarding of such personal photos. Dr. Goodman testified that taking multiple photos and choosing a few was accepted practice in his field.

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1 Thus, based on the credibility of the witnesses and the testimony rendered, I find as follows:

2 Count I, NRS 630.301(6), Disruptive Behavior, premised upon the taking photographs of 3 Patient A: Based on the evidence and testimony given, the undersigned finds that the IC did not 4 meet its burden of proof by a preponderance of the evidence that Respondent's taking of 5 photographs for purposes of establishing documentation of before and after patient conditions 6 amounts to Disruptive Behavior as described in NRS 630.301(6).

7 Count II, NRS 630.301(6), Disruptive Behavior, premised upon the allegation that 8 Respondent told Patient A that he attempted to "fist" her: As stated above, Patient A's testimony 9 was compelling, yet there was a great deal of conflicting testimony—a classic "he-said-she-said" 10 situation—regarding this issue. As such, with the IC having the burden of proof, the undersigned 11 finds that with the elements of this allegation have not been met by a preponderance of the evidence.

12 Count III, NRS 630.306(1)(b)(1), Engaging in Conduct Intended to Deceive, premised upon 13 the allegation that the Respondent used four fingers to examine Patient A but documented that he 14 used only two fingers in the medical record; both expert witnesses Dr. Rafael and Dr. Goodman 15 agreed separately that the Respondent's medical notes were thorough, and that physicians generally 16 do not document everything during a busy day seeing patients, this appears to be a non-issue, thus 17 the burden of proof demonstrating that Respondent engaged in conduct that intended to deceive that 18 would violate NRS 630.306(1)(b)(1) is not met.

19 Count IV, NRS 630.3062(1)(a), Failure to Maintain Proper Medical Records, premised upon 20 the allegation that the Respondent used four fingers to examine Patient A but documented that he 21 used only two fingers in the medical record: likewise, for the same reasons stated above in Count 22 IV, the testimony did not support a finding that Respondent failed to maintain proper medical 23 records by a preponderance of the evidence that would violate NRS 630.3062(1)(a).

24 Count V, NRS 630.301(7), Engaging in Conduct That Violates the Trust of a Patient and 25 Exploits the Relationship of a Patient for Financial or Other Personal Gain, premised upon the 26 allegation that the Respondent offered to pay Patient B $1000 if she would pose as a nude model 27 while she was still in the examining room; based on the evidence and testimony presented, the 28 ///

undersigned finds that the IC met its burden of proof and meets the requirements of NRS 630.301(7).

Count VI, NRS 630.301(7), Engaging in Conduct That Violates the Trust of a Patient and Exploits the Relationship of a Patient for Financial or Other Personal Gain, premised upon the allegation that the Respondent offered to pay Patient C $1000 if she would pose as a nude model while she was still in the examining room: based on the evidence and testimony presented, the undersigned finds that the IC met its burden of proof and meets the requirements of NRS 630.301(7).

Count VII, NRS 630.306(1)(g), Continual Failure to Practice Medicine Properly, premised upon the allegation that "[b]y repeatedly engaging in sexual misconduct with Patients A, B, and C, as set forth above, Respondent has continually failed to exercise the skill and diligence and use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in his field of obstetrics and gynecology." *Complaint, p. 9, ll. 17-20.*

Initially, the undersigned hearing officer notes that there is not a separate allegation of "sexual misconduct." The question becomes, then, even if the basis of "sexual misconduct" is removed from consideration, did the IC prove by a preponderance of the evidence that Respondent's actions in offering $1000 to Patients A, and B while at their appointments, some still in an examination gown and partially disrobed, and Patient C later by telephone, enough to demonstrate that his "continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field"? Respondent's expert witness, Dr. Goodman, testified in the affirmative and, although he did not believe it violated the standard of practice, he would not have engaged in that practice himself. That is enough to tip the scales to find that the burden of proof has been met as to Count VII.

Count VIII, NRS 630.301(9), Disreputable Conduct, premised upon the allegation that "by repeatedly engaging in sexual misconduct and by repeatedly violating his patients' trust and exploiting his relationship with them Respondent engaged in conduct that brings the medical profession into disrepute." *Complaint, p. 10, ll1-3.*

A similar analysis is appropriate regarding Count VIII, and the result is likewise that the IC has met its burden of proof.

CONCLUSION

As required of a hearing officer, I have provided a synopsis of the testimony and have made recommendations on the veracity of witnesses if there is conflicting evidence, or the credibility of a witness is a determining factor. Accordingly, I submit that it is within the purview of the Board to determine if the charges have been established by a preponderance of the evidence. To the extent my authority allows me to weigh in on that via a determination of credibility, I submit such a burden has not been met in this matter as to Counts I-IV but has been met in Counts V-VIII alleged in the Complaint against Respondent for the reasons set forth herein.

RESPECTFULLY SUBMITTED this 21st day of August 2023.

Nancy Moss Ghusn, Esq.
Hearing Officer for the
Nevada State Board of Medical Examiners
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Reno, NV 89509