

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

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4
5 **In the Matter of Charges and**
6 **Complaint Against**
7 **MARYANNE DEFOREST PHILLIPS, M.D.,**
8 **Respondent.**

Case No. 21-10032-1

FILED

OCT - 5 2023

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: 

9
10 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

11 The above-entitled matter came before the Nevada State Board of Medical Examiners
12 (Board) for decision at a regularly scheduled meeting on September 15, 2023, at the Board’s
13 office located at 9600 Gateway Drive, Reno, Nevada, 89521, on the Second Amended Complaint
14 filed herein. Maryanne Deforest Phillips, M.D., (“Respondent”), who was duly served with notice
15 of the adjudication, was present and represented by counsel, Leo Flangas, Esq. The adjudicating
16 members of the Board participating in these Findings of Fact, Conclusions of Law, and Order
17 (“FOFCOL”) were Nick M. Spirtos, M.D., F.A.C.O.G., Bret W. Frey, M.D., Col. Eric D. Wade,
18 USAF (Ret.), Irwin B. Simon, M.D., FACS, and Carl N. Williams, Jr., M.D., FACS. Harry B.
19 Ward, Esq., Deputy Attorney General, served as legal counsel to the Board.

20 The Board, having received and read the Second Amended Complaint and exhibits
21 admitted in the matter and filed into the record in this case, the “Hearing Officer’s Synopsis of
22 Evidence, Conclusions, and Recommendations,” prepared by the hearing officer,
23 Charles Woodman, Esq., who presided over the hearing, and the transcript of the hearing,
24 proceeded to make a decision pursuant to the provisions of Nevada Revised Statutes (NRS)
25 Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical
26 Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as applicable.

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

4 **FINDINGS OF FACT**

5 **I.**

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

8 **II.**

9 On June 28, 2021, the Investigative Committee of the Nevada State Board of Medical
10 Examiners (“IC”) filed an Order of Summary Suspension, which was delivered to Respondent
11 through her counsel on June 28, 2021. A Summary Suspension Hearing was held in front of a
12 hearing officer on August 18, 2021, to determine if the Respondent’s license should remain
13 suspended throughout the formal hearing process. The hearing officer, on November 24, 2021,
14 issued an order continuing the suspension of Respondent’s license to practice medicine in the
15 State of Nevada until the further order of the Board or the IC.

16 **III.**

17 A formal Complaint was filed on August 17, 2021, alleging 251 counts of violations of
18 NRS 630. On September 16, 2021, the IC filed their First Amended Complaint charging an
19 additional five (5) counts of violation by the Respondent of NRS 630, for a total amount of 256
20 counts. Respondent filed her Answer to the First Amended Complaint on January 6, 2022,
21 through her recently retained legal counsel Leo Flangas, Esq. of the Flangas Law Firm, Ltd. On
22 September 20, 2022, the Investigative Committee filed the governing Second Amended Complaint
23 (“Complaint”), alleging Respondent violated the Medical Practice Act. Respondent was
24 personally served with the Complaint by USPS Certified Mail to her attorney of record on
25 September 20, 2022. The Complaint alleges as follows: Counts 1-72, violations of NRS 630.373,
26 Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited
27 Location. Counts 73-133, violations of NRS 630.3062(1)(a), Failure to Maintain Proper Medical
28 Records, Counts 134-194, violations of NRS 630.306(1)(b)(2), Violation of Standards of Practice

1 Established by Regulation. Counts 195-255, violations of NRS 630.306(1)(p), Engaging in Unsafe
2 or Unprofessional Conduct. Count 256, violation of NRS 630.305(1)(e), Aiding in the Unlicensed
3 Practice of Medicine. Count 257, violation of NRS 630.301(9), Engaging in Conduct that Brings
4 the Medical Profession into Disrepute, Count 258, violation of NRS 630.3065(2)(a), Violation of a
5 Board Order, and Counts 259-260: violations of NRS 630.301(4) Malpractice. Respondent filed
6 an Answer to the Complaint which responded to the allegations set forth.

7 IV.

8 An order scheduling an Early Case Conference (“ECC”) was filed on December 13, 2021,
9 served on Respondent the same day as the order was filed. The ECC was held on
10 January 12, 2022, telephonically. The Notice and Order Scheduling Pre-Hearing and Hearing
11 (“Scheduling Order”) was filed on March 4, 2022. The Scheduling Order set the prehearing
12 conference for July 13, 2022, and the formal hearing for August 15, 16, and 17, 2022.

13 V.

14 An Order was filed on December 13, 2021, scheduling the Early Case Conference for the
15 pending matter for January 12, 2022. This Order was served upon Respondent by email and
16 US Mail the same date it was filed. The Early Case Conference was held on January 12, 2022, at
17 which Respondent appeared by and through her attorney Leo Flangas, Esq. As a result of the
18 Early Case Conference, the Pre-Hearing Conference was scheduled for July 13, 2022, with the
19 formal hearing calendared to commence on August 15, 2022, and was to continue through
20 August 17, 2022, from day to day until the hearing was concluded. Respondent was served
21 Scheduling Order by email on the same date it was filed. A verbal stipulation to continue the dates
22 set for hearing was entered into by counsel for the IC and Respondent’s counsel on July 13, 2022.
23 Additionally, on July 13, 2022, at the time fixed for the Pre-Hearing Conference, legal counsel for
24 the Investigative Committee, Donald K. White, Senior Deputy General Counsel, appeared.
25 Respondent appeared by and through her legal counsel. At the Pre-Hearing Conference, counsel
26 for the Investigative Committee and Respondent provided the hearing officer with the mandated
27 Pre-Hearing Conference Disclosures and had copies of both the Pre-Hearing Conference
28 Statement and the mandated Pre-Hearing Disclosures available for the parties. Respondent was

1 timely and properly served with the Pre-Hearing Conference Statement and the mandated Pre-
2 Hearing Disclosures in accord with NRS and NAC Chapters 630, NRS Chapters 241, 622A and
3 233B, and the requirements of due process. However, discussion and coordination of the
4 continued hearing dates was undertaken, and an Amended Scheduling Order was issued by the
5 hearing officer resetting the formal hearing dates to November 2, 2022, and continuing through
6 November 4, 2022, day to day until the hearing was concluded. An additional stipulation to
7 continue the dates of the formal hearing was entered into between the IC's counsel and
8 Respondent's counsel and a Second Amended Scheduling Order was issued by the hearing officer
9 delaying the formal hearing to December 19, 2022, through December 21, 2022, from day to day
10 until the hearing was concluded. Additional Supplemental Prehearing Conference Statements
11 were exchanged between the parties with copies delivered to the hearing officer.

12 VI.

13 On December 19, 2022, December 20, 2022, and December 21, 2022, a contested case
14 hearing was held before the hearing officer to receive evidence and to hear arguments. On or
15 about January 19, 2023, the hearing officer received the complete Record of Proceedings,
16 including the transcript of the testimony received and the exhibits admitted. Upon receipt of the
17 Record of Proceedings, the hearing was closed. The Hearing Officer's Synopsis of Evidence,
18 Conclusions, and Recommendations ("Findings and Recommendations") was issued and filed on
19 May 16, 2023. The matter was scheduled for final adjudication on June 9, 2023, until it was
20 revealed there was not a quorum present after one (1) Board member recused himself at the
21 meeting. The notice of the adjudication was mailed to Respondent, through her attorney, on
22 May 9, 2023, via first class certified mail with return receipt requested, and Respondent's attorney
23 received and signed for said notice on May 12, 2023. This matter was once again scheduled for
24 final adjudication on September 15, 2023, at a regularly scheduled Board meeting. The notice of
25 the adjudication was mailed to Respondent on August 10, 2023, via first class certified mail with
26 return receipt requested, and Respondent received and signed for said notice on August 14, 2023.
27 The Findings and Recommendations were personally served upon Respondent on May 17, 2023,
28 through her attorney of record.

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VII.

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.

VIII.

In accord with the Findings and Recommendations, the Board hereby finds that each count set forth in the Complaint, except for Count 258 and 260, and as recapitulated in Paragraph III above, has been established by a preponderance of the evidence.

IX.

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 accordance 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 Counts 1-72, violations of NRS 630.373, Administering General Anesthesia, Conscious Sedation, or Deep Sedation at an Unaccredited Location. Counts 73-133, violations of NRS 630.3062(1)(a), Failure to Maintain Complete Medical Records. Counts 134-194, violations of NRS 630.306(1)(b)(2), Violation of Standards of Practice Established by Regulation. Counts 195-255, violations of NRS 630.306(1)(p), Engaging in Unsafe or Unprofessional Conduct. Count 256, violation of NRS 630.305(1)(e), Aiding in the Unlicensed Practice of Medicine. Count 257, violation of NRS 630.301(9), Engaging in Conduct that Brings the Medical

1 Profession into Disrepute, and Count 259: violation of NRS 630.301(4), Malpractice. Counsel for
2 the IC moved to dismiss Count 258, violation of NRS 630.3065(2)(a), Violation of a Board Order,
3 during closing argument, of which there was no objection. The hearing officer found that
4 Count 260 was duplicitous of Count 259 and did not recommend an affirmative finding to the
5 Board; and by the Board's acceptance of the Findings and Recommendations in its entirety,
6 Count 260 shall be dismissed.

7 IV.

8 The Board finds that, pursuant to NRS 622.400, it may recover from Respondent
9 reasonable attorneys' fees and costs incurred by the Board as part of its investigative,
10 administrative and disciplinary proceedings against Respondent as it hereby enters this FOFCOL
11 finding that Respondent has violated the Medical Practice Act, which the Board has the authority
12 to enforce.

13 V.

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

25 VI.

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

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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. 7635, is immediately revoked and Respondent may not apply for reinstatement of a license for a period of six (6) years;

2. Respondent shall pay a fine in the amount of fifty thousand dollars (\$50,000) to be hereupon stayed and shall be immediately due and payable in full upon Respondent's reapplication for licensure.

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

4. Respondent shall reimburse the Board the reasonable costs and expenses actually incurred in the investigation and prosecution of this case in the amount of twenty-eight thousand five hundred thirty-four dollars and seventy-nine cents (\$28,534.79) to be immediately stayed and shall be immediately due and payable in full upon Respondent's reapplication for licensure.

Dated this 5th day of October, 2023.

NEVADA STATE BOARD OF MEDICAL EXAMINERS



NICK M. SPIRTOS, M.D., F.A.C.O.G.

President of the Board

CERTIFICATION


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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 MARYANNE DEFOREST PHILLIPS, M.D., Case No. 21-10032-1.

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 5th day of October, 2023.



Maggie Arias-Petrel, Secretary-Treasurer
Nevada State Board of Medical Examiners