

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

3 * * * * *

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

Case No. 22-9436-1

6 **Against:**

FILED

7 **OSAMA OMAR HAIKAL, M.D.,**

MAR 16 2023

8 **Respondent.**

**NEVADA STATE BOARD OF
MEDICAL EXAMINERS**

By: 

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

11 This case was presented for adjudication and decision before the Nevada State Board of
12 Medical Examiners (Board), during a regularly scheduled Board meeting on March 3, 2023,
13 located at 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119 (Las Vegas Office) video
14 conferenced to 9600 Gateway Drive, Reno, NV 89521 (Reno Office). Osama Omar Haikal, M.D.
15 (Respondent), was properly served with a notice of the adjudication, including the date, time, and
16 location. Respondent was not present at the meeting. The adjudicating members of the Board
17 participating in these Findings of Fact, Conclusions of Law (FOFCOL) and Order were: Bret W.
18 Frey, M.D., Chowdhury H. Ahsan, M.D., Ph.D., FACC, Ms. Pamela J. Beal, Col. Eric D. Wade,
19 USAF (Ret.), and Carl N. Williams, Jr., M.D., FACS. Rosalie Bordelove, Esq., Chief Deputy
20 Attorney General, served as legal counsel to the Board.

21 The Board, having received and read the Complaint and exhibits admitted at the hearing of
22 this matter, the Hearing Officer's Findings and Recommendations (Synopsis of Record)¹, and the
23 transcript of the hearing, made its decision pursuant to its authority and provisions of the Nevada
24 Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630
25 (collectively, the Medical Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as
26 applicable.

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¹ The Hearing Officer's Findings and Recommendations were prepared by Charles Woodman, Esq., who was appointed as Hearing Officer under NRS 630.106 in this matter and presided over the hearing.

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 from December 7, 1985, to present.

8 **II.**

9 On June 23, 2022, the Investigative Committee filed its formal Complaint in Case No.
10 22-9436-1, alleging Respondent violated the Medical Practice Act. Respondent was served with
11 the Complaint on June 27, 2022, at his address of record with the Board. Pursuant to
12 NRS 630.254, each licensee shall maintain a permanent mailing address with the board to which
13 all communications from the Board to the licensee must be sent. A licensee who changes his or
14 her permanent mailing address shall notify the Board in writing of the new permanent mailing
15 address within thirty (30) days after the change.

16 The Complaint alleges one (1) violation of the Medical Practice Act that constitutes
17 grounds for initiating disciplinary action against a licensee, as follows: one (1) violation of
18 NRS 630.3065(2)(a) Failing to Comply with a Lawful Order of the Investigative Committee.

19 Respondent filed an answer to the allegations set forth in the Complaint on
20 August 8, 2022.

21 **III.**

22 An Early Case Conference was conducted August 31, 2022 at 4:00 p.m. PDT. Donald K.
23 White, Senior Deputy General Counsel, was present on behalf of the Investigative Committee (IC)
24 of the Board, and Respondent, who was not represented by counsel, appeared telephonically along
25 with the Hearing Officer Charles Woodman, Esq. The parties agreed to dates for the prehearing
26 conference, exchange of documents, and the hearing date.

27 In compliance with NAC 630.465, a Notice and Order Scheduling Prehearing and Hearing,
28 was filed on September 6, 2022, setting the prehearing conference for October 26, 2022, at

1 10:00 a.m. PDT, and setting the hearing for December 7, 2022, at 9:00 a.m. PST, at the Board's
2 Reno Office with video conferencing provided to the Board's Las Vegas Office. The Scheduling
3 Order was filed and mailed to Respondent via USPS Certified Mail [tracking no.
4 9171969009350254761570] on September 6, 2022.

5 The Prehearing Conference was held telephonically as noticed and ordered, at which time,
6 legal counsel for the IC, Donald K. White, Senior Deputy General Counsel, appeared.
7 Respondent appeared telephonically along with Hearing Officer Charles Woodman, Esq.
8 Respondent was timely and properly served with the IC's Prehearing Conference Statement and
9 exhibits, filed and served October 18, 2022, in accordance with NRS and NAC Chapters 630,
10 NRS Chapters 241, 622A and 233B, and the requirements of due process, by FedEx 2-Day service
11 [tracking no. 770248689419] on October 19, 2022.

12 **IV.**

13 On December 7, 2022, as duly noticed and ordered, a hearing was held before the Hearing
14 Officer at the Board's Reno Office with videoconferencing to the Board's Las Vegas Office to
15 receive evidence and to hear arguments of both parties. Legal counsel for the IC, Mr. White,
16 appeared. Respondent appeared in the Las Vegas Office and continued to represent himself
17 without legal counsel. Mr. White presented the IC's case, offered documentary evidence and
18 presented witness testimony. Exhibits one (1) through five (5), were marked and admitted into
19 evidence.

20 The Hearing Officer provided the Synopsis of Record, filed February 7, 2023 which was
21 properly served to the Respondent the same day via USPS Certified Mail [tracking no.
22 9171969009350254766537]. This matter was scheduled for final adjudication on March 3, 2023,
23 at a regularly scheduled Board meeting.

24 The notice of the adjudication was delivered via FedEx 2-Day service to Respondent on
25 February 2, 2023 [tracking no. 771189248000].

26 A copy of the Investigative Committee's Memorandum of Costs Disbursements and
27 Attorneys' Fees was mailed via USPS Certified Mail [tracking no. 9171969009350254766605] on
28 February 22, 2023.

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V.

Pursuant to NRS 622A.300(5)(a), the Synopsis of Record of the Hearing Officer is hereby approved by the Board without modification and is hereby specifically incorporated and made part of this Order by reference and attached hereto as **Exhibit 1**. The Board accepted and adopted the findings and recommendations made by the Hearing Officer with respect to the sole count in the Complaint, Count I.

VI.

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 all legal requirements of due process.

III.

With respect to the allegations of the Complaint, the Board concludes that Respondent has violated the Medical Practice Act, as alleged in the Complaint, as follows: one (1) violation of NRS 630.3065(2)(a) Knowingly or Willfully Failing to Comply with a Lawful Order of the Investigative Committee. Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

IV.

The Board finds that, pursuant to NRS 622.400, recovery from Respondent of reasonable attorneys' fees and costs incurred by the Board as part of its investigation and disciplinary proceedings against Respondent is appropriate. The Board has reviewed the Investigative Committee's Memorandum of Costs and Disbursements and Attorneys' Fees, and the Board finds

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

10 V.

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

13 **ORDER**

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

16 IT IS HEREBY ORDERED that:

17 1. Respondent has violated the Medical Practice Act, as alleged in the Complaint, as
18 follows: one (1) violation of NRS 630.3065(2)(a) Knowingly or Willfully Failing to Comply with
19 a Lawful Order of the Investigative Committee (Count I).

20 2. Pursuant to NRS 630.352(4)(b), the Board shall administer a written public
21 reprimand to Respondent.

22 3. Respondent shall submit to and pass all five (5) sections of the Ethics and
23 Boundaries Assessment Services (EBAS) examination within one hundred twenty (120) days of
24 the date of the Board's finding of a violation which was March 3, 2023, which examination shall
25 be paid for at the expense of the Respondent. Proof of completion of this examination within the
26 time period ordered shall be provided to the Compliance Officer 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 **OSAMA OMAR HAIKAL, M.D.**, Case No. 22-9436-1.

I further certify that Aury Nagy, M.D., 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 Aury Nagy, M.D.

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 16th day of March, 2023.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: Maggie Arias-Petrel
MAGGIE ARIAS-PETREL
Secretary-Treasurer and Public Member of the Board

EXHIBIT 1

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

3
4 In the Matter of Charges and
5 Complaint Against
6 OSAMA OMAR HAIKAL, M.D.,
7 Respondent.

CASE NO. 22-9436-1
FORMAL HEARING
December 7, 2022

FILED

FEB - 7 2023

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: _____

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9 **HEARING OFFICER'S SYNOPSIS OF RECORD OF HEARING**

10 A formal hearing on the case noted above was held at the Northern Nevada office of
11 the Board of Medical Examiners of the State of Nevada ("Board") on December 7, 2022.
12 Donald K. White, Counsel for the Board appeared on behalf of the Investigative Committee
13 ("IC") of the Board at the Northern Nevada office, and Dr. Haikal appeared via video-
14 conference from the Board's Southern Nevada office. Dr. Haikal represented himself.

15 **The Evidence**

16 Board Senior Investigator Trent Hiatt testified that he mailed an Order dated
17 September 2, 2021, which was issued by the Board's IC to Dr. Haikal, requiring him to appear
18 at a hearing before the IC at 1:30 p.m. on November 10, 2021. The Order authorized Dr.
19 Haikal to appear telephonically if he chose to do so. Transcript ("T") 10-15.

20 Mr. Hiatt further testified that in response to sending the Order to Dr. Haikal, he
21 received a return letter from Dr. Haikal dated September 9, 2021, advising the Board that Dr.
22 Haikal would be available to communicate with the IC on November 10, but not at the time
23 designated by the IC. Dr. Haikal proposed two alternate times which would accommodate his
24 schedule. T.15-17. Mr. Hiatt responded to Dr. Haikal's letter with another letter advising Dr.
25 Haikal that he was provided sufficient time to arrange his schedule to coordinate with the time
26 set by the IC. That letter referenced NRS 630.3065(2)(a), which states:

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1 The following acts, among others, constitute grounds for initiating disciplinary
2 action or denying licensure:

3 2. Except as otherwise provided in NRS 630.2672, knowingly or willfully
4 failing to comply with:

(a) A regulation, subpoena or order of the Board or a committee designated
5 by the Board to investigate a complaint against a physician;

6 Mr. Hiatt received confirmation that Dr. Haikal's office received and signed for the
7 letter on September 23, 2022. T.17-20. In response, Mr. Hiatt received another letter signed
8 by Dr. Haikal, this one dated October 13, 2021. T.21-22. Again Dr. Haikal reiterated that he
9 would not be available at the time designated by the IC. T.22-23. In his letter, Dr. Haikal
10 advised that if the IC deemed his refusal to make himself available at the time designated by
11 the IC as a violation of NRS 630, then a judge would have to decide who is correct. T.22-24.

12 At the hearing, In his responsive argument to an evidentiary objection, Dr. Haikal
13 stated what turned out to be his overall defense, i.e., that while he had plenty of notice of the
14 telephonic hearing with the IC to reschedule patients so as to be able to attend at the time set
15 by the IC, he did not do so. His rationale for refusing to answer questions at the time set by
16 the IC was that he needed to accommodate his patients, because, in his opinion, a physician's
17 responsibility "is to keep his office open for service of his patients." T.29-31, 82.

18 The Hearing Officer mentions here that, throughout the formal hearing, Dr. Haikal was
19 concerned with what he described as underlying allegations which he stated were made by two
20 disgruntled employees. Dr. Haikal referred to those allegations as "whistleblower"
21 complaints. The undersigned Hearing Officer repeatedly assured Dr. Haikal that any such
22 complaints were not presently before this tribunal, had never been reviewed by this Hearing
23 Officer, and accordingly were completely irrelevant to this proceeding. Dr. Haikal repeatedly
24 acknowledged that he understood. However, Dr. Haikal raised the issue a number of times
25 throughout the hearing. See e.g., T. at 31-34, 37-40, 72, 86.

26 The Board's Deputy Chief of Investigations Johnna LaRue testified that she attempted
27 to call Dr. Haikal, but was only able to speak with his staff. She left a message that the IC had
28 issued an order, including a date and specific time for Dr. Haikal to be available to answer
29 questions, and that she wanted to make sure Dr. Haikal appreciated the gravity of the situation.

1 T.45-46.

2 During his examination of Ms. LaRue, Dr. Haikal stated to this Hearing Officer that:

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4 the record showed that I was never told why [the Board is] busy at noon or
5 3:30. It just was because that's what we [the Board] want. That's what we [the
6 Board] said. And I see that as abuse of power and a form of intimidation.
7 T.63

8 On direct examination by counsel for the IC, Dr. Haikal admitted that he in fact knew
9 the time the IC had ordered that he appear to answer questions, and that he knew such more
10 than two months prior to the date on which he was to appear. T.67-68. He also gave a
11 reasonable explanation for why the time designated by the IC would clash with his normal
12 daily schedule/routine. (T.73-74) But the record is clear that he did not appear as ordered,
13 and the record is also clear that he does not believe he violated the statute by failing to appear
14 at the time set by the IC, because he provided two alternate times. T.83, 85.

15 Finally, it should be noted that in his own defense testimony, Dr. Haikal stated that

16
17 I did not violate the Nevada Statute that you are referring to. I was willing to
18 answer their questions. The only thing is my patients come ahead of the IC,
19 and they [the Board] need to realize that.
20 T.86.

21 Hearing Officer's Analysis

22 Each of the witnesses who testified at the Hearing was credible. The Hearing Officer
23 saw no prejudice or bias on the part of any who gave testimony. To be sure, Dr. Haikal
24 himself did not deny doing the act which the Board's Committee has charged him with -
25 although he certainly does not believe his refusal to attend the meeting at the ordered time was
26 in any way wrongful inasmuch as he proposed alternate times that coordinated better for his
27 ability to see patients.

28 This case is both factually and legally simple. While Dr. Haikal feels completely
justified in not attending a meeting with the IC at the time of day set in its Order - and the
basis for his justification is his duty to his patients - a noble cause to be sure - the reality is that
he did not do what he was ordered to do - despite his admitted knowledge that he knew what
he was ordered to do. Dr. Haikal opines that the IC has abused its power by refusing to

1 reschedule the time to meet with him, and that the Committee does not come before his
2 patients.

3 While one can argue that a physician's greatest duty is to his/her patients, one must
4 recognize that without the Board's authorization, a physician is not authorized to treat any
5 patient in Nevada. And while many practitioners from various professions may decry the
6 authority held over them by some governing body, and the seeming unfairness of the
7 practitioner having no input into who serves on that governing body, the law still provides for
8 the body, and grants the authority that body wields. Hence, if the State of Nevada is to be a
9 state governed by law, then one must recognize the authority vested in the entities which the
10 State authorizes and empowers. The Nevada State Board of Medical Examiners is one such
11 entity. Only a manifest abuse of discretion by the IC would validate a refusal to comply with
12 its order. The Hearing Officer does not see such an abuse, especially inasmuch as Dr. Haikal
13 admitted that he had sufficient time to reschedule his patients.

14 It is clear that the Board and its committees have authority to issue orders to govern the
15 practice of physicians who treat patients in Nevada. The Board's Investigative Committee
16 issued such an order to Dr. Haikal. Dr. Haikal received and understood the Order, but refused
17 to honor it. The Order at issue, and the refusal to alter it upon the demand of Dr. Haikal, was
18 not a manifest abuse of the IC's discretionary authority. The statute referenced and charged
19 makes such a knowing and willful act grounds for discipline. The Board will have to
20 determine what that discipline should be. Dr. Haikal can and should be praised for his sense
21 of duty to his patients. However, he must come to appreciate the legal structure that supports
22 his ability to see and treat those patients.

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The Investigative Committee did in fact prove the allegations in the Complaint. Dr. Haikal did knowingly and willfully refuse to follow an order issued by the Board's Investigative Committee.

DATED this 7th day of February, 2023.



CHARLES B. WOODMAN, Hearing Officer
Nevada State Board of Medical Examiners
548 W. Plumb Lane, Suite B
Reno, Nevada 89509
(775) 786-9800
hardywoodmanlaw@msn.com

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CERTIFICATE OF SERVICE

I certify that on this day, I personally delivered or mailed, postage pre-paid, at Reno, Nevada, a true file-stamped copy of the foregoing NOTICE AND ORDER SCHEDULING EARLY CASE CONFERENCE addressed as follows:

DONALD K. WHITE, J.D. SENIOR DEPUTY GENERAL COUNSEL
9600 GATEWAY DRIVE
RENO, NV 89521

OSAMA OMAR HAIKAL, M.D.
216 E. DESERT INN RD., SUITE A
LAS VEGAS, NV 89169

DATED this 7th day of February 2023.



MEG BYRD, Legal Assistant
Nevada State Board of Medical Examiners