

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 Complaint**

Case No. 20-5783-1

6 **Against:**

FILED

7 **RICHARD ALLAN BARGEN, M.D.,**

OCT - 2 2023

8 **Respondent.**

NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

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

11 The above-entitled matter came on regularly for decision before the Nevada State Board of
12 Medical Examiners (Board), on September 15, 2023, at the Board's office located at 9600
13 Gateway Drive, Reno, Nevada, 89521, on the Complaint filed herein.
14 Richard Allan Bargen, M.D., (Respondent), was properly served with a notice of the adjudication,
15 including the date, time, and location. Respondent was not present personally or through an
16 attorney. The adjudicating members of the Board participating in these Findings of Fact,
17 Conclusions of Law, and Order (FOFCOL) were: Aury Nagy, M.D., Nick M. Spirtos, M.D.,
18 F.A.C.O.G., Ms. Maggie Arias-Petrel, Bret W. Frey, M.D., Carl N. Williams, M.D., and Irwin B.
19 Simon, M.D., FACS. Harry Ward, Esq., Deputy Attorney General, served as legal counsel to the
20 Board.

21 The Board, having received and read the formal Complaint (Complaint) and exhibits
22 admitted at the hearing of this matter, the Hearing Officer's Findings and Recommendations,¹ and
23 the transcript of the hearing, made its decision pursuant to its authority and provisions of the
24 Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter
25 630 (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 Nancy Moss Ghusn, 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 September 15, 1979, to July, 27, 2020.

8 **II.**

9 On June 10, 2020, the Investigative Committee filed its Complaint in
10 Case No. 20-5783-1, alleging Respondent violated the Medical Practice Act. The Complaint was
11 mailed to Respondent by certified mail with return receipt requested at his last known address in
12 Reno, Nevada, and was returned undelivered. Pursuant to NRS 630.344, if a Complaint cannot be
13 served on Respondent personally, or by registered or certified mail with return receipt requested,
14 addressed to the Respondent at his or her last known address, the Board shall cause notice to be
15 published once a week for four (4) consecutive weeks in a newspaper published in the county of
16 the last known address of the licensee or, if no newspaper is published in that county, then in a
17 newspaper widely distributed in that county. Respondent was served with the Complaint by
18 publication in the Reno Gazette-Journal, a newspaper published at Reno, Nevada, on
19 February 7, 2023, February 14, 2023, February 21, 2023, and February 28, 2023.

20 The Complaint alleges one (1) violation of the Medical Practice Act that constitutes
21 grounds for initiating disciplinary action against a licensee, as follows: one (1) count of
22 NRS 630.301(4) Malpractice (Count I), one (1) count of NRS 630.306(1)(b)(2) Violation of
23 Standards of Practice (Count II), and one (1) count of NRS 630.3062(1)(a) Failure to Maintain
24 Complete Medical Records (Count III).

25 Respondent did not answer or file a response to the allegations set forth in the Complaint.
26 Pursuant to NAC 630.460(4), the allegations of the Complaint are deemed generally denied if an
27 answer is not filed.

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III.

An Order Setting Early Case Conference was filed on March 9, 2023, scheduling the Early Case Conference for the pending matter for April 3, 2023, at 11:30 a.m. This Order was mailed via USPS Certified Mail, postage pre-paid, to Respondent's address of record, and returned undelivered.

On April 3, 2023, Hearing Officer Nancy Moss Ghush, Esq., conducted a telephonic Early Case Conference (ECC) in this matter. Deonne Contine, General Counsel, was present on behalf of the Investigative Committee (IC). Respondent did not participate in the proceeding, nor did he contact the Board, IC, or Hearing Officer regarding the proceeding. At the ECC dates for the Prehearing Conference, exchange of witnesses and documents, and the date for the Hearing were set.

On April 18, 2023, in compliance with NAC 630.465, a Scheduling Order setting the Prehearing Conference and Hearing was filed. Pursuant to that Order, the Prehearing Conference was set for May 8, 2023, at 11:00 a.m. The Scheduling Order was sent to Respondent's address on file with the Board and was also emailed to Respondent on April 18, 2023.

Respondent was timely and properly served with the Prehearing Conference Statement and the mandated prehearing disclosures in accordance with NRS and NAC Chapters 630, NRS Chapters 241, 622A and 233B, and the requirements of due process, by US Certified Mail, to Respondent address of record on April 26, 2023. A copy of the Prehearing Conference Statement with disclosures was also emailed to Respondent on April 26, 2023.

The Prehearing Conference was held telephonically as noticed and ordered, at which time, legal counsel for the IC, Ms. Contine, appeared. Neither the Respondent nor any representative of the Respondent participated in the Prehearing Conference, nor did Respondent contact the Board, IC, or Hearing Officer regarding the proceeding.

IV.

On May 15, 2023, as duly noticed and ordered, a Hearing was held before the Hearing Officer to receive evidence and to hear arguments of both parties. Legal counsel for the IC, Ms. Contine, appeared. Respondent did not attend the Hearing, nor did counsel appear on his

1 behalf. Ms. Contine presented the IC's case and offered Exhibits 1 through 6, which were marked
2 and admitted into evidence.

3 The Hearing Officer provided Findings and Recommendations, which were filed
4 July 7, 2023. This matter was scheduled for final adjudication on September 15, 2023, at a
5 regularly scheduled Board meeting.

6 The notice of the adjudication was sent via US Certified Mail to Respondent's address of
7 record and by email.

8 A copy of the adjudication materials along with a copy of the Hearing Officer's Findings
9 and Recommendation were mailed via US Certified Mail to Respondent's address of record on
10 September 5, 2023, with an additional copy by email.

11 V.

12 Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing
13 Officer are hereby approved by the Board, and are hereby specifically incorporated and made part
14 of this Order by reference. A copy of the Findings and Recommendations filed July 7, 2023, in
15 this matter are attached hereto as **Exhibit 1**.

16 VI.

17 The Board hereby finds that Counts I, II and III, as set forth in the Complaint, and as
18 recapitulated in Paragraph II above, has been established by a preponderance of the evidence.

19 VII.

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

22 **CONCLUSIONS OF LAW**

23 I.

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

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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 NAC Chapter 630, and NRS Chapters 630, 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) count of NRS 630.301(4) Malpractice (Count I), one (1) count of NRS 630.306(1)(b)(2) Violation of Standards of Practice (Count II), and one (1) count of NRS 630.3062(1)(a) Failure to Maintain Complete Medical Records (Count III). 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 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 and necessary 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.

V.

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), a written public reprimand shall be issued to Respondent;

2. Pursuant to NRS 630.352(4)(d), Respondent's license to practice medicine is hereby revoked, and in accord with NRS 622A.410(1), the Board hereby prescribes a period of three (3) years during which the Respondent may not reapply for licensure in the State of Nevada;

3. Respondent is hereby ordered to reimburse the Board the reasonable and necessary costs and expenses actually incurred in the investigation and prosecution of this case in the amount of four thousand two hundred forty-nine dollars and thirty-four cents (\$4,249.34), which amount Respondent shall pay immediately upon reapplication for licensure in the State of Nevada; and

4. Discipline shall be reported to the appropriate entities, including the National Practitioner Databank.

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 **RICHARD ALLEN BARGEN, M.D.**, Case No. 20-5783-1.

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 the 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

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

EXHIBIT 1

EXHIBIT 1

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

3 * * * * *

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5 **In the Matter of Charges and**

Case No. 20-5783-1

6 **Complaint Against**

7 **RICHARD ALLAN BARGEN, M.D.,**

8 **Respondent.**

FILED

JUL - 7 2023

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

9
10 **FINDINGS AND RECOMMENDATIONS**

11 TO: Deonne E. Contine, Esq.
12 Deputy General Counsel
13 Nevada State Board of Medical Examiners
14 9600 Gateway Drive
Reno, Nevada 89521

15 Richard Allan Bargaen, M.D.
16 490 HIGHLAND AVE. #24
Reno, NV 89512

17 This matter came for hearing on May 15, 2023. Present were Deonne E. Contine, Esq. on
18 behalf of the Investigative Committee (the "IC") of the Nevada State Board of Medical Examiners
19 ("NSBME"), and the undersigned hearing officer. Respondent Richard Allan Bargaen, M.D. ("Dr.
20 Bargaen") did not appear nor otherwise participate.

21 Notice to Dr. Bargaen was confirmed on the record. Specifically, proof was submitting
22 indicating that the Scheduling Order, filed April 18, 2023, which contained notice of the hearing
23 was sent by certified mail to Dr. Bargaen by Ms. Mercedes Fuentes on April 19, 2023, at his last
24 known address on file with the Nevada State Board of Medical Examiners (the "Board"). See
25 NRS 630.254; NRS 630.255; NRS 630.344; Scheduling Order, p. 4. While Dr. Bargaen had
26 communications with the Board, the record indicates that he did not provide an alternative
27 address, was aware of the proceedings, and did not engage in the proceedings despite several
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1 notices and attempts to contact him.¹ See Volume 1, Exhibit 2. No continuance of the hearing
2 was requested by any interested party.

3 With Dr. Bargen having failed to appear and no continuance having been requested nor
4 granted, the matter was heard as scheduled pursuant to NRS 622A.350, which provides:

5 1. If a party fails to appear at a scheduled hearing and a continuance
6 has not been scheduled or granted, any party who is present at the hearing may
7 make an offer of proof that the absent party was given sufficient legal notice. Upon
8 a determination by the regulatory body or hearing panel or officer that the absent
9 party was given sufficient legal notice, the regulatory body or hearing panel or
officer may proceed to consider and dispose of the case without the participation of
the absent party.

10 2. If the licensee fails to appear at a hearing, the regulatory body or
11 hearing panel or officer may accept the allegations against the licensee in the
charging document as true.

12 As well as pursuant to NAC 630.470(2), which provides: "If a licensee fails to appear at a
13 scheduled hearing and no continuance has been requested and granted, the evidence may be heard
14 and the matter may be considered and disposed of on the basis of the evidence before the Board,
15 panel or hearing officer in the manner required by this section."

16 In so proceeding, undersigned heard evidence from the IC in support of the Complaint
17 allegations that consist of: Count I, NRS 630.301(4), Malpractice; and Count II, NRS
18 630.306(1)(b)(2), Violation of Standards of Practice; and Count III, NRS 630.3062(1)(a), Failure
19 to Maintain Complete Medical Records), premised upon controlled substances being prescribed
20 and administered by an unknown provider, by and through credentials held by Dr. Bargen, and by
21 Dr. Bargen himself. Through sworn testimony of Chief Investigator for the Nevada State Board
22 of Medical Examiners Ernesto Diaz, and through the admission of Exhibits 1-6, the IC established
23 as follows:

24 1. Dr. Bargen was employed as a locums for Dr. Gary Ridenour, a physician located
25 in Fallon, Nevada. See Volume I, Exhibit 2.

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28 ¹ In this respect, there are no filings in the record on behalf of Dr. Bargen including, but not limited to, an Answer to
the Complaint.

1 2. While investigating to file a Complaint against another physician, Dr. Gary
2 Ridenour, a peer review from Robert Gong, MD, dated January 6, 2020, referenced Dr. Richard
3 Barga as a physician whose treatment fell below the standard of care. *See* Volume I, Exhibit 1,
4 p. 1, paragraph 10; Transcript of Hearing Proceedings, p. 9.

5 3. Multiple attempts were made by the IC to reach Dr. Barga, to no avail. *See*
6 Volume I, Exhibit 1, 2, 4, 5, and 6; Transcript of Hearing Proceedings, pp. 9-17.

7 4. The NSBME arranged with a process server, Legal Process Service, to personally
8 serve Dr. Barga at the last known address that he supplied to NSBME and the IC. *See* Volume I,
9 Exhibit 1, p. 3; Exhibit 2; Exhibit 5; Transcript of Hearing Proceedings, pp. 23-25.

10 5. When the NSBME was unable to contact Dr. Barga, it arranged for service by
11 publication. Volume I, Exhibit 6; Transcript of Hearing Proceedings 25-26.

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WHEREFORE the undersigned hearing officer finds as follows:

Proper notice of the proceedings, inclusive of the evidentiary hearing, was provided to Dr. Barga and no continuance of the evidentiary hearing was sought nor granted;

Pursuant to NRS 622A.350(2) the undersigned accepts the allegations against Dr. Barga in the Complaint, filed June 10, 2020, as true;

Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer finds that the IC established a violation of Count I, NRS 630.301(4), Malpractice, by establishing, as alleged, that Dr. Barga dispensed, and prescribed excessively high doses of controlled substances to Patient A and that Dr. Barga further failed to monitor, assess, or review the use of opioids or discuss alternatives with the patient, which compounded the improprieties engaged in by Dr. Barga with respect thereto. The foregoing establishes that Dr. Barga failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when he provided medical services to Patient A, in a manner not authorized by law as contemplated by NRS 630.306(4).


1 Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer
2 finds that the IC established a violation of Count II, NRS 630.306(1)(b)(2), Violation of Standards
3 of Practice, by establishing that Dr. Bergen furnished opioids to Patient A as described above, i.e.,
4 in excessively high doses while failing to justify changes in doses, in a combination with other
5 medications without documenting the medical justification, failing to review the PMP after
6 encounters with the patient, failing to assess the patient for alternative non-opioid therapy or to
7 assess the possible interaction of patient's concurrent medications with opioid therapy; failing to
8 assess the patient for possible drug abuse, drug diversion or other non-medical related activity,
9 failing to review the PMP data or to assess the patient for possible drug screens. The foregoing
10 establishes that Dr. Bergen engaged in behavior that violated the professional standards in the
11 practice of medicine contrary to law.

12 Aside from the authority granted by NRS 622A.350(2), the undersigned hearing officer
13 finds that the IC established a violation of Count III, NRS 630.3062(1)(a), Failure to Maintain
14 Complete Medical Records, by establishing that Dr. Bergen failed to maintain timely, complete,
15 legible, and accurate medical records relating to the diagnosis; treatment, and care of Patient A.

16
17 BASED UPON THE FOREGOING, it is recommended that the Board find Dr. Bergen in
18 violation of NRS 630.301(4), Malpractice, as alleged in Count I of the Complaint filed on June
19 10, 2020; NRS 630.306(1)(b)(2), Violation of Standards of Practice, as alleged in Count II of the
20 Complaint filed on June 10, 2020; and NRS 630.3062(1)(a), failure to Maintain Complete
21 Medical Records, as alleged in Count III of the Complaint filed on June 10, 2020.

22 RESPECTFULLY SUBMITTED this 3rd day of July 2023.

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Nancy Moss Ghush, Esq., Hearing Officer for the
Nevada State Board of Medical Examiners
675 West Moana Lane Ste. #107
Reno, NV 89509
(775) 772-5644
Nmg416@gmail.com

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CERTIFICATE OF SERVICE

I hereby certify that I am employed by the Nevada State Board of Medical Examiners and that on the 10th day of July, 2023, I served a file-stamped copy of the foregoing **FINDINGS AND RECOMMENDATIONS**, via U.S. Certified Mail, return receipt requested, to the following parties:

RICHARD ALLEN BARGEN, M.D.
490 Highland Ave. #24
Reno, NV 89512

Tracking No.: 9171 9690 0935 0255 6831 78

DATED this 10th day of July, 2023.


MERCEDES FUENTES
Legal Assistant
Nevada State Board of Medical Examiners