BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

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In the Matter of Charges and Complaint Against: DANIEL GENE LIBKE, M.D., Respondent.	Case No. 24-48915-1

FILED

MAR 20 2024

NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

COMPLAINT

The Investigative Committee[1] (IC) of the Nevada State Board of Medical Examiners (Board), by and through Donald K. White, Senior Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Daniel Gene Libke, M.D. (Respondent) violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), hereby issues its Complaint, stating the IC's charges and allegations as follows:

1. Respondent was at all times relative to this Complaint a medical doctor holding an active license to practice medicine in the State of Nevada (License No. 18072). Respondent was originally licensed by the Board on July 10, 2018.

2. Patient A[2] was a thirty (30) year-old male at the time of the events at issue.

3. On June 9, 2019 Patient A presented to a freestanding emergency facility at Green Valley Ranch complaining of sudden leg pain with swelling and had a history of osteomyelitis. Respondent evaluated Patient A and noted he had tachycardia, was in severe pain, had hyperesthesia and marked swelling in his lower leg.

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[1] The Investigative Committee of the Nevada State Board of Medical Examiners, at the time this formal Complaint was authorized for filing, was composed of Board members Aury Nagy, M.D., Nick M. Spirtos, M.D., and Ms. Maggie Arias-Petrel.

[2] Patient A's true identity is not disclosed herein to protect his privacy, but is disclosed in the Patient Designation served upon Respondent along with a copy of this Complaint.

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4. Patient A was given a series of diagnostic films and tests performed to rule out deep vein thrombosis (DVT).

5. Respondent ordered laboratory testing on Patient A's, which revealed a severe anion gap acidosis, elevated blood glucose, low sodium, low potassium, low chloride, and low bicarbonate. Patient A's kidney function was normal.

6. Respondent ordered Patient A to have a serum lactic acid level test but did not order a serum beta-hydroxybutyrate test, which may have revealed the possibility Patient A was experiencing sepsis and diabetic ketoacidosis, respectively.

7. Patient A's blood test results revealed an imbalance of electrolytes, which Respondent believed to be caused by Patient A's bout of recent vomiting and diarrhea. However, Patient A's vomiting and diarrhea had resolved itself three (3) days before Patient A's visit to the emergency facility.

8. Respondent only considered plain radiographs to rule out acute osteomyelitis and/or a deep lower leg soft tissue infection, which are not adequate tests.

9. Respondent's records for Patient A lacked documentation of family history and review of systems and failed to document whether or not Respondent had verified pulses distal to the area of concern, i.e., dorsalis pedis and posterior tibial arteries, to rule out the possibility of an ischemic limb.

10. Patient A was discharged on July 3, 2019, with orders to follow up with an orthopedic surgeon, an infectious disease specialist, an endocrinologist, and a primary care physician.

COUNT I

NRS 630.301(4) - Malpractice

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

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

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13. NAC 630.040 defines malpractice as "the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances."

14. As demonstrated by, but not limited to, the above-outlined facts, Respondent failed to use the reasonable care, skill or knowledge ordinarily used under similar circumstances when Respondent failed to properly analyze the results of the blood tests ordered on Patient A, specifically the elevated blood glucose and low potassium levels, as well as not ordering additional necessary blood tests, such as a serum beta-hydroxybutyrate test, which may have revealed the possibility the Patient A was experiencing sepsis and diabetic ketoacidosis. Respondent failed to consider alternative diagnoses, such as Diabetes Mellitus or Diabetic Kidney Acidosis when treating Patient A.

15. Respondent also failed to adequately diagnose or rule out acute osteomyelitis and/or a deep lower leg soft tissue infection, and in doing so, failed to admit or transfer Patient A to a facility capable of completing the necessary testing, including obtaining an MRI or tagged WBC study.

16. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT II

NRS 630.306(1)(b)(2) - Violation of Standards of Practice Established by Regulation

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

18. Violation of a standard of practice adopted by the Board is grounds for disciplinary action pursuant to NRS 630.306(1)(b)(2).

19. NAC 630.210 requires a physician to seek consultation with another provider of health care in doubtful or difficult cases whenever it appears that consultation may enhance the quality of medical services.

20. Respondent failed to timely seek consultation with regard to Patient A's medical condition. Respondent should have consulted with an appropriate care provider to address the

doubtfulness of the diagnosis of Patient A's medical condition and such a timely consultation would have confirmed or denied such a diagnosis and may have enhanced the quality of medical care provided to Patient A with regard to his unusual laboratory blood results while at the emergency facility. Respondent also failed to consult with an orthopedic surgeon to discuss the findings and any possible need for further imaging and evaluation of acute osteomyelitis.

21. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT III

NRS 630.3062(1)(a) - Failure to Maintain Proper Medical Records

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

23. NRS 630.3062(1)(a) provides that the "failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient" constitute grounds for initiating discipline against a licensee.

24. Respondent failed to maintain complete medical records related to the diagnosis, treatment and care of Patient A, by failing to properly document his actions when the medical records lacked documentation of family history and review of systems and failed to document whether or not Respondent had verified pulses distal to the area of concern, i.e., dorsalis pedis and posterior tibial arteries, to rule out the possibility of an ischemic limb.

25. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

WHEREFORE, the Investigative Committee prays:

1. That the Board give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2) within twenty (20) days of service of the Complaint;

2. That the Board set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS 630.339(3);

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3. That the Board determine what sanctions to impose if it determines there has been a violation or violations of the Medical Practice Act committed by Respondent;

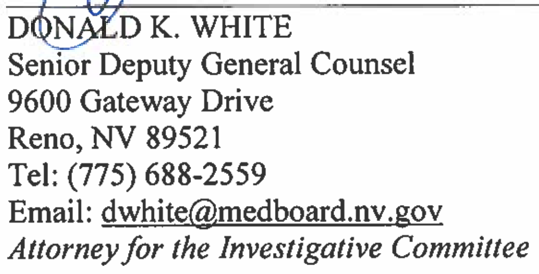
4. That the Board award fees and costs for the investigation and prosecution of this case as outlined in NRS 622.400;

5. That the Board make, issue and serve on Respondent its findings of fact, conclusions of law and order, in writing, that includes the sanctions imposed; and

6. That the Board take such other and further action as may be just and proper in these premises.

DATED this 26th day of March, 2024.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By: 

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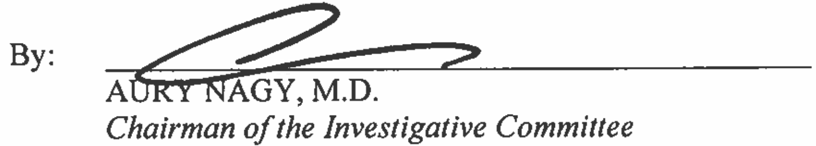
VERIFICATION

STATE OF NEVADA)
: ss.
COUNTY OF CLARK)

Aury Nagy, M.D., having been duly sworn, hereby deposes and states under penalty of perjury that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered in the course of the investigation into a complaint against Respondent, he believes that the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

DATED this 20 day of March, 2024.

INVESTIGATIVE COMMITTEE OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

AURY NAGY, M.D.
Chairman of the Investigative Committee

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