BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF NEVADA

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Against:

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Respondent.

MATTHEW ELLIOT APEL, M.D.,

In the Matter of Charges and Complaint

Case No. 24-45123-1

FILED

MAY 3 1 2024

NEVADA STATE BOARD OF

COMPLAINT

The Investigative Committee¹ (IC) of the Nevada State Board of Medical Examiners (Board), by and through Alexander J. Hinman, Deputy General Counsel and attorney for the IC, having a reasonable basis to believe that Matthew Elliot Apel, 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:

- Respondent was at all times relative to this Complaint a medical doctor holding an 1. active license to practice medicine in the State of Nevada (License No. 16424). Respondent was originally licensed by the Board on April 19, 2016, with a specialty in surgery.
 - Patient A² was a thirty-eight (38) year-old female at the time of the events at issue. 2.
- On September 7, 2016, Respondent evaluated Patient A for discharge following 3. gastric band removal and revision to a sleeve gastrectomy performed by another surgeon the day before.

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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 Chowdhury H. Ahsan, M.D., Ms. Pamela J. Beal, and Irwin B. Simon, M.D., FACS.

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

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- On September 12, 2016, at Patient A's second postoperative clinic presentation, 4. Patient A was experiencing dehydration and was seen by Respondent. Patient A was treated with IV fluids, IV medications, and prescribed oral steroids.
- 5. On September 14, 2016, Patient A was scheduled for an upper endoscopy with Respondent as she was not progressing as expected and continued to remain intolerant to adequate oral fluid intake. No physical examination nor vital signs were documented.
- 6. On September 15, 2016, Respondent performed an upper endoscopy procedure and diagnosed a partial obstruction at the proximal gastric sleeve. Respondent then took Patient A to the operating room for surgery that same day and performed reduction and repair of a re-herniated sleeve, evacuation of a localized abscess, omentopexy of the sleeve to prevent twisting, and an upper endoscopy thereafter.
- 7. Respondent only prescribed one dose of preoperative prophylactic antibiotics. Furthermore, despite the identification of a localized abscess in a revisional bariatric case with complications, he did not prescribe postoperative antibiotics, place a surgical drain, nor properly evaluate Patient A prior to discharge.
- 8. As revisional bariatric surgery is of elevated risk and this was Patient A's second revisional procedure only nine (9) days postoperatively; a higher level of care and evaluation was necessary.
- 9. As noted above, Patient A was prescribed steroids preoperatively by Respondent which could potentially impair healing and should have been taken into consideration in his plan of care for Patient A.
- The postoperative record does not reveal an actual examination by Respondent, but 10. rather a template inserted into the discharge summary that is inconsistent with a post-surgical assessment that would be standard in such a patient.
- On information and belief, Respondent did not evaluate Patient A prior to 11. discharge. Further, Respondent did not order any postoperative laboratory tests which may have suggested the beginning of abnormalities associated with perforation following his complex revisional procedure.

- 12. Respondent did not prescribe post operative antibiotics, nor did he place a surgical drain following the evacuation of the localized abscess.
- 13. Respondent did not perform upper gastrointestinal imaging preoperatively or postoperatively despite assuming the management of a complication revisional bariatric surgical case.
- 14. On September 18, 2016, Patient A was brought by ambulance to Centennial Hills Hospital by ambulance and was experiencing extreme sepsis. She was hypotensive with metabolic acidosis and emergency resuscitative measures were initiated.
- 15. An abdominal CT revealed findings consistent with peritonitis (inflammation of the lining of the abdomen) with significant fluid and free air present. Patient A was emergently admitted to the Intensive Care Unit (ICU) where she was treated and transferred to North Vista Hospital on September 19, 2016.
- 16. On September 19, 2016, Patient A was taken to an operative room by another surgeon and was she was found to have extensive peritonitis with one (1) liter of purulent material in the abdomen which was washed out. Drains were placed and she was returned to the ICU; however, Patient A was in severe sepsis with multisystem organ failure and required intensive management from multiple medical specialists and mechanical ventilation.
- 17. Due to the medications necessary to save Patient A's life, the circulation to her hands and feet were compromised and she developed necrosis.
- 18. On October 11, 2016, Patient was discharged after a complex intensive course of treatment and life supportive measures. Patient A subsequently had to undergo several additional treatments, wound care, hospital admissions, and procedures on her necrotic extremities. Definitive wound management and treatment included partial amputation and skin grafting of her necrotic fingers, toes, and partial foot amputation.

COUNT I

NRS 630.301(4) - Malpractice

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

- 21. 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."
- 22. 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 rendering medical services to Patient A, when he only prescribed one dose of preoperative prophylactic antibiotics, and despite the identification of a localized abscess in a revisional bariatric case with complications, he did not prescribe postoperative antibiotics, place a surgical drain, nor properly evaluate Patient A prior to discharge.
- 23. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT II

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

- 24. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.
- 25. 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.
- 26. Respondent failed to maintain complete medical records relating to the diagnosis, treatment and care of Patient A, by failing to document a physical examination nor document any vital signs when he saw Patient A on September 14, 2016, and Respondent's other documentation during his care for Patient A was extremely limited in actual content, and his rationale for treatment was often absent in a situation of high complexity. As a result, Patient A's medical records were not timely, legible, accurate, and complete.
- 27. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

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

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);
- 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 315th day of May, 2024.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

ALEXANDER J. HINMAN

Deputy General Counsel

9600 Gateway Drive

Reno, NV 89521

Tel: (775) 688-2559

Email: ahinman@medboard.nv.gov
Attorney for the Investigative Committee

OFFICE OF THE GENERAL COUNSEL Nevada State Board of Medical Examiners

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COUNTY OF CLARK

Chowdhury H. Ahsan, M.D., Ph.D., FACC, 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.

VERIFICATION

DATED this 31st day of May, 2024.

INVESTIGATIVE COMMITTEE OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

By:

) : ss.

CHOWDHURY H. AHSAN, M.D., PH.D., FACC

Chairman of the Investigative Committee