

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

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In the Matter of Charges and Complaint

Case No. 15-20478-1

Against:

FILED

BINH MINH CHUNG, M.D.

SEP 25 2024

Respondent.

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The above-entitled matter was presented for adjudication and decision before the Nevada State Board of Medical Examiners (Board), during a regularly scheduled Board meeting on September 13, 2024, at 8:45 a.m. (Pacific Standard Time) at the Board's office located at 9600 Gateway Drive, Reno, Nevada, 89521, video conferenced to 325 E. Warm Springs Road, Suite 225, Las Vegas, NV 89119. Binh Minh Chung, M.D., (Respondent), was duly served with notice of the adjudication, including the date, time and location. Respondent was not present personally or through counsel. The adjudicating members of the Board participating in these Findings of Fact, Conclusions of Law, and Order (FOFCOL) were: Nick M. Spirtos, M.D., F.A.C.O.G., Ms. Maggie Arias-Petrel, Chowdhury H. Ahsan, M.D., Ph.D, FACC, Ms. Pamela J. Beal, Irwin B. Simon, M.D., FACS, Joseph Olivarez, P.A.-C, Jason B. Farnsworth, RRT, MBA, and Hugh L. Bassewitz, M.D., FAAOS. Henna Rasul, Esq., Senior Deputy Attorney General, served as legal counsel to the Board.

The Board, having received and read the First Amended Complaint and exhibits admitted at the hearing of this matter, the Hearing Officer's Summary of Evidence and Recommendation to the Board¹, the transcript of the hearing, and all pleadings filed into the record, made its decision pursuant to the provisions of Nevada Revised Statutes (NRS) Chapter 630 and Nevada Administrative Code (NAC) Chapter 630 (collectively, the Medical Practice Act), NRS Chapter 622A, and NRS Chapter 233B, as applicable.

¹ The Hearing Officer's Synopsis of Record After Formal Hearing were prepared by Charles B. 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 advised
2 in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER in
3 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 January 3, 2005, through June 23, 2015.

8 **II.**

9 On June 23, 2015, the Investigative Committee (IC) of the Board filed an Order of Summary
10 Suspension in Case No. 15-20478-1 and it was served on Respondent on June 23, 2015. On July 9,
11 2015, a formal Complaint was filed, alleging Respondent violated the Medical Practice Act.
12 Respondent was served with the Complaint by an employee of the Board on July 14, 2015. The
13 Complaint alleges as follows: Count I, violation of NRS 630.301(5), Engaging in Sexual Activity
14 with a Patient; Count II, violation of NRS 630.301(9), Engaging in Activity that Brings the Medical
15 Profession into Disrepute. Respondent did not answer or file a response to the allegations set forth
16 in the Complaint. Pursuant to NAC 630.460(4), the allegations of the Complaint are deemed
17 generally denied if an answer is not filed.

18 **III.**

19 On July 17, 2015, and on July 20, 2015, respectively, a Stipulation and Order for Indefinite
20 Summary Suspension and an Order for Immediate Suspension were filed allowing Respondent's
21 medical license to be indefinitely suspended by the Board.

22 **IV.**

23 On July 18, 2019, a First Amended Complaint was filed alleging as follows: Count I,
24 violation of NRS 630.301(1), Conviction of a Felony Relating to the Practice of Medicine. The
25 First Amended Complaint was served on Respondent on November 13, 2019.

26 **V.**

27 An Order was filed on November 23, 2021, scheduling the Early Case Conference for the
28 pending matter for December 10, 2021, and was served on Respondent. An Amended Order

1 Scheduling the Early Case Conference was filed on December 13, 2021, and was served on
2 Respondent.

3 On December 29, 2021, at 10:00 a.m., Hearing Officer Charles B. Woodman, Esq.,
4 conducted a telephonic Early Case Conference in this matter. Counsel for the IC was present along
5 with Respondent who appeared telephonically, without counsel. As a result of the Early Case
6 Conference, a Status Conference was scheduled for June 24, 2022, at 10:00 a.m. An Order
7 Scheduling Status Conference was issued by the Hearing Officer and was also served on
8 Respondent.

9 On June 24, 2022, a status conference was conducted, indicating the matter was stayed
10 pending an upcoming appeal Respondent had with the Court. On November 16, 2022, Respondent
11 was transferred from the Lovelock prison in Northern Nevada to High Desert prison in Southern
12 Nevada. On July 26, 2023, a telephonic status conference took place with Respondent, counsel for
13 the IC and the Hearing Officer all attending. On August 28, 2023, another telephonic status
14 conference took place with Respondent, counsel for the IC, and the hearing officer all attending.

15 An Order setting an Early Case Conference was issued and filed on September 5, 2023,
16 scheduling the Early Case Conference to set a prehearing conference and hearing telephonically on
17 November 2, 2023, at 10:00 a.m. Respondent, counsel for the IC, and the Hearing Officer set the
18 Prehearing Conference date for March 18, 2024, at 10:00 a.m. and the hearing was set for two (2)
19 days, April 22-23, 2024, beginning at 9:00 a.m.

20 On November 7, 2023, a Notice and Order Scheduling Pre-Hearing and Hearing was filed
21 and was sent by USPS Certified Mail to the Respondent on or about November 8, 2023.

22 The Prehearing Conference was held telephonically as noticed and ordered at which time,
23 counsel for the IC, Donald K. White, Senior Deputy General Counsel, (Mr. White) and Respondent
24 appeared telephonically. At the Pre-Hearing Conference, counsel for the IC provided the Hearing
25 Officer with the mandated Pre-Hearing Conference Disclosures which had been served on
26 Respondent by USPS Certified Mail on March 14, 2024, in accord with NRS and NAC Chapters
27 630, NRS Chapters 241, 622A and 233B, and the requirements of due process.

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VI.

On April 22, 2024, at 9:00 a.m., 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, Mr. White, appeared. Respondent appeared telephonically, but excused himself before the hearing began on the advice of his attorney representing him in his criminal matter. Mr. White presented the IC's case and offered Exhibits 1-6, which were marked and admitted into evidence.

The Hearing Officer provided his findings and recommendations and issued a Summary of Evidence and Recommendation to the Board (Findings and Recommendations), which was filed June 21, 2024. The matter was scheduled for final adjudication on September 13, 2024, at a regularly scheduled Board meeting.

On August 13, 2024, a notice of the adjudication was mailed to Respondent via USPS Certified Mail, and Respondent received said notice on August 19, 2024. The Hearing Officer's Summary of Evidence and Recommendation to the Board was personally served on Respondent on June 21, 2024.

VII.

Pursuant to NRS 622A.300(5)(a), the Findings and Recommendations of the Hearing Officer are hereby approved by the Board and are hereby specifically incorporated and made part of this Order by reference, with modification to the discipline. A copy of the Findings and Recommendations filed June 21, 2024, in this matter are attached hereto as **Exhibit 1**.

VIII.

The Board hereby finds that Count I, as set forth in the First Amended Complaint, and as recapitulated in Paragraph IV 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.

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1 CONCLUSIONS OF LAW

2 I.

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

5 II.

6 Respondent was timely and properly served with the Complaint, and all notices and orders
7 in advance of the hearing and adjudication thereon, in accord with NRS and NAC Chapters 630,
8 NRS Chapters 241, 622A and 233B, and the requirements of due process.

9 III.

10 With respect to the allegations of the First Amended Complaint, the Board concludes that
11 Respondent has violated the Medical Practice Act, as alleged in the First Amended Complaint, as
12 follows: one (1) count of NRS 630.301(1), Conviction of a Felony Relating to the Practice of
13 Medicine. Accordingly, Respondent is subject to discipline pursuant to NRS 630.352.

14 IV.

15 The Board finds that, pursuant to NRS 622.400, recovery from Respondent of reasonable attorneys'
16 fees and costs incurred by the Board as part of its investigation and disciplinary proceedings against
17 Respondent is appropriate. The Board has reviewed the Investigative Committee's Memorandum
18 of Costs and Disbursements and Attorneys' Fees; and the Board finds them to be the actual fees and
19 costs incurred by the Board as part of its investigative, administrative and disciplinary proceedings
20 against Respondent, and finds them to be reasonable and necessary based on: (1) the abilities,
21 training, education, experience, professional standing and skill demonstrated by Board staff and
22 attorneys; (2) the character of the work done, its difficulty, its intricacy, its importance, the time and
23 skill required, the responsibility imposed and the prominence and character of the parties where, as
24 in this case, they affected the importance of the litigation; (3) the work actually performed by the
25 Board's attorneys and staff, and the skill, time and attention given to that work; and (4) the product
26 of the work and benefits to the Board and the people of Nevada that were derived therefrom.

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

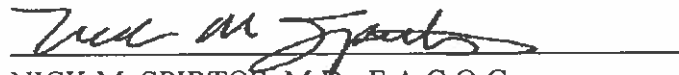
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5. Respondent's discipline shall be reported to the appropriate entities, including the National Practitioner Databank (NPDB).

IT IS SO ORDERED.

DATED this 25th day of September, 2024.

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 **BINH MINH CHUNG, M.D.**, Case No. 15-20478-1.

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 29th day of September, 2024.

NEVADA STATE BOARD OF MEDICAL EXAMINERS

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

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

EXHIBIT 1

EXHIBIT 1

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

In the Matter of Charges and
Complaint Against
BINH MINH CHUNG, M.D.,
Respondent.

CASE NO.: 15-20478-1
FORMAL HEARING:
APRIL 22, 2024

FILED
JUN 21 2024
NEVADA STATE BOARD OF
MEDICAL EXAMINERS
By: _____

SUMMARY OF EVIDENCE AND RECOMMENDATION TO THE BOARD

This matter came on for formal hearing after due notice was provided to Respondent Dr. Chung and after a number of pre-hearing conferences. Dr. Chung was convicted by a jury in a criminal case which has significant application to this case. Dr. Chung's treatment of one of the victims in the criminal case is the principal subject of the Complaint and Amended Complaint on file with the State Board of Medical Examiners in this case.

The record in this case includes a history of postponing the formal hearing at Dr. Chung's repeated requests so that his habeas corpus petition in the criminal court system could run its course. After a number of significant delays, this hearing officer determined that it was appropriate to move forward with hearing of the Amended Complaint. That hearing occurred on April 22, 2024 at the conference room in the office of the Board of Medical Examiners of the State of Nevada ("Board"). At the outset of the hearing, Dr. Chung, appearing via telephone from prison, and declined to participate in the hearing on advice of his criminal counsel. Dr. Chung was advised that the hearing would occur in his absence, he acknowledged that he understood, and terminated the call.

Inasmuch as there was no opposition to the Board's case, Don White, Esq., counsel for the Board, presented the case in summary fashion. Six (6) exhibits were admitted, including: the criminal indictment which charged Respondent with multiple felony counts; a partial transcript of the jury trial including testimony of the victim identified in the Board's Amended Complaint; the verdict form whereby the jury convicted Dr. Chung of eleven (11) of fourteen

1 (14) charged felonies; court minutes from the sentencing hearing in the criminal case; the
2 formal judgment of criminal conviction, and; the Nevada Supreme Court Order affirming the
3 appealed conviction. (It is noted that Dr. Chung's ongoing habeas corpus petition is a separate
4 proceeding from the direct appeal which the Supreme Court denied.)

5 The convictions which apply directly to the instant case before the Board include
6 sexual assault, battery with intent to commit sexual assault, attempted sexual assault, and
7 kidnapping in the first degree. Dr. Chung was convicted of these charges based on facts that
8 he committed these criminal acts after he administered anesthesia to a patient while ostensibly
9 treating her for acne, and while the patient was unconscious or semi-conscious. He attempted
10 to hide his actions by claiming that the victim had an adverse reaction to the
11 medication/anesthetic. The jury which convicted Dr. Chung of these charges was required to
12 find him guilty beyond any and all reasonable doubt. That burden is the highest burden of
13 proof in American jurisprudence, and is certainly higher than the burden the Board bears in
14 proving the allegations in its Amended Complaint. Accordingly, this hearing officer finds that
15 those facts found by the jury which coincide with the facts alleged by the Board in this case,
16 which factual findings of the jury were upheld on direct appeal, are thus conclusively
17 established and adjudicated, and there is no need to re-prove them here. Obviously there was
18 no attempt to refute them by Dr. Chung.

19 In its Amended Complaint, the Board charged Dr. Chung with a single count of
20 violating NRS 630.301(1), Conviction of a Felony Relating to the Practice of Medicine. As
21 stated above, from such conclusively established facts which withstood appeal to the Nevada
22 Supreme Court, the Board' allegations and charges in its Amended Complaint are established.

23 There were no witnesses necessary in this case. Accordingly, there is no findings as to
24 credibility. This case is established pursuant to the criminal convictions of Dr. Chung. This
25 case is tragic. The breach of trust and the resulting stain on the medical profession is difficult
26 to articulate. The fallout to the victims is unquantifiable. Dr. Chung, should he ever be
27 released from custody, should not be allowed to practice medicine.

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1 Wherefore, it is hereby recommended to the Board that Dr. Chung's summarily
2 suspended license be permanently revoked. A copy of the exhibits relied upon by this hearing
3 officer is attached hereto, and incorporated herein.

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5 DATED this 21st day of June, 2024.



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7 CHARLES B. WOODMAN, Hearing Officer

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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 ORDER AFTER PRE-HEARING CONFERENCE addressed as follows:

DONALD K. WHITE, J.D.
Deputy General Counsel and Attorney for the Investigative Committee of the Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, Nevada 89521

BINH MINH CHUNG, M.D., c/o Nevada Dept. Of Prisons

9171 9690 0935 0252 5689 73

DATED this 21st day of June 2024.



Legal Assistant
Nevada State Board of Medical Examiners